LAND DEVELOPMENT CODE
LEE COUNTY, FLORIDA

Republished in 2000 by Order of the Board of County Commissioners

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Adopted: April 20, 1994

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municode
Municipal Code Corporation • PO Box 2235 Tallahassee, FL 32316
info@municode.com • 800.262.2633

OFFICIALS

of

LEE COUNTY, FLORIDA

AT THE TIME OF THIS CODIFICATION

Ray Judah, District 3

Chairman

John Albion, District 5

Vice-Chairman

John Manning, District 1

Douglas R. St. Cerny, District 2

Frank Mann, District 4

Board of County Commissioners

_____

Donald Stilwell

County Administrator

_____

James Yeager

County Attorney

_____

Charlie Green

County Clerk

PREFACE

This Land Development Code constitutes a complete codification of the general and permanent land development ordinances of Lee County, Florida.

Source materials used in the preparation of the Land Development Code were the land development ordinances adopted by the Board of County Commissioners of Lee County, Florida. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Land Development Code. By use of the comparative tables appearing in the back of this Land Development Code, the reader can locate any section of any subsequent ordinance included herein.

The chapters of the Land Development Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Land Development Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Land Development Code is included at the back of this Land Development Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Land Development Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions

may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Land Development Code is a prefix system. The letters or numbers to the left of the dash represent a certain portion of the volume. The number to the right of the dash represents the number of the page in that portion. In the case of a chapter of the Land Development Code, the number to the left of the dash indicates the number of the chapter. In the case of an appendix to the Land Development Code, the letter immediately to the left of the dash indicates the letter of the appendix. The following are typical parts appearing in this Land Development Code at this time, and their corresponding prefixes:

LAND DEVELOPMENT CODE	1—1
LAND DEVELOPMENT CODE APPENDIX	A—1
LAND DEVELOPMENT CODE COMPARATIVE TABLE	CT—1
LAND DEVELOPMENT STATE LAW REFERENCE TABLE	SLT—1
LAND DEVELOPMENT CODE INDEX	I—1

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This republication was under the direct supervision of Anne Wilson and Janet Cramer, Editors, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Timothy Jones, Assistant County Attorney, Dawn E. Perry-Lehnert, Assistant County Attorney, and Charlotte Peters, Public Information Representative, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Land Development Code which will make the active land development law of the county readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the county's affairs.

ORDINANCE NO. 94-12

AN ORDINANCE ADOPTING AND ENACTING A GENERAL PROVISIONS CHAPTER, INCLUDING DEFINITIONS, RULES OF CONSTRUCTION, PENALTY FOR VIOLATION, MANNER OF AMENDMENT OR SUPPLEMENT, SEVERABILITY, ETC., FOR THE LEE COUNTY, FLORIDA, LAND DEVELOPMENT CODE; ADOPTING THE CODIFICATION OF ORDINANCES COMPRISING THE LAND DEVELOPMENT CODE OF LEE COUNTY, FLORIDA; PROVIDING FOR INCLUSION OF SUBSEQUENT ADDITIONS OR AMENDMENTS TO THE LAND DEVELOPMENT CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Section 1. The General Provisions controlling the enforcement and construction of the Lee County, Florida, Land Development Code will be set out in Chapter 1 of the publication entitled, "Land Development Code, Lee County, Florida," and is hereby adopted as follows:

Section 2. The codification of the Land Development ordinances entitled "Land Development Code, Lee County, Florida," published by Municipal Code Corporation consisting of chapter 1 through 34, each inclusive, is adopted. This Land Development Code, as adopted and subsequently amended or supplemented in accordance with the provisions herein, will be known as and considered the official codification of Lee County's land development regulations.

Section 3. All land development ordinances adopted on or before December 15, 1993, and not included in the Land Development Code or recognized and continued in force by reference therein, are repealed.

Section 4. The repeal provided for in section 3 hereof will not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 5. Additions or amendments to the Land Development Code when passed in the form as to indicate the intention of the Board of County Commissioners of Lee County to make the same a part of the Land Development Code will be deemed to be incorporated in the Land Development Code upon the date such ordinance becomes effective, so that reference to the Land Development Code includes the additions and amendments.

Section 6. Ordinances adopted after December 15, 1993, that amend or refer to ordinances that have been codified in the Land Development Code will be construed as if they amend or refer to like provisions of the Land Development Code.

Section 7. The provisions of the Land Development Code will be effective on the effective dates for each ordinance comprising this codification. This ordinance adopting the general provisions chapter and general penalty and codification will become effective upon receipt of official acknowledgement from the Office of the Secretary of State of Florida that this ordinance has been duly filed.

THE FOREGOING ORDINANCE was offered by Commissioner John E. Manning, who moved its adoption. The motion was seconded by Commissioner John Albion and being put to a vote, the vote was as follows:

JOHN MANNING	AYE
RAY JUDAH	AYE

DOUGLAS ST. CERNY	ABSENT
FRANKLIN MANN	AYE
JOHN ALBION	AYE

DULY PASSED AND ADOPTED THIS 20th day of April, 1994.

ATTEST: CHARLIE GREEN, CLERK	BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA
By: _____ Deputy Clerk	By: _____ Chairman
	APPROVED AS TO FORM
	By:/s/ Dawn E.P.-Lehnert Office of the County Attorney

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Land Development Code will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Date Adopted	Included/Omitted
Supp. No. 13		
10-30	8-24-10	Included
10-32	9-14-10	Included
11-01	3- 8-11	Included
11-06	6-14-11	Included
11-08	8- 9-11	Included
Supp. No. 14		
12-01	1-10-12	Included
12-07	4-10-12	Included
12-14	6-12-12	Included
12-16	8-28-12	Included
12-17	8-28-12	Omitted
12-18	8-28-12	Included
12-19	9-11-12	Included
12-20	9-11-12	Included

12-21	9-11-12	Included
13-01	2-12-13	Included
13-05	2-26-13	Included
13-06	3-12-13	Included
13-10	5-28-13	Included
Supp. No. 15		
14-07	3-18-14	Included
14-13	6-17-14	Included
Supp. No. 16		
14-19	9-16-14	Included
14-20	10-21-14	Included

LAND DEVELOPMENT CODE

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Land Development Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated as the "Lee County, Florida, Land Development Code," and also may be cited as the "Lee County Land Development Code."

(Ord. No. 94-12, § 1, 4-20-94)

State law reference— Requirement that county codify and publish its ordinances, F.S. § 125.68.

Sec. 1-2. Rules of construction and definitions.

(a) In the construction of this Land Development Code, and of all ordinances, the rules and definitions set out in this section must be observed, unless inconsistent with the manifest intent of the Board of County Commissioners. The rules of construction and definitions in this section do not apply to any section of this Land Development Code that contains express provisions excluding their application, or where the subject matter or context of such section may be repugnant thereto.

(b) *Generally.*

(1) All general provisions, terms, phrases and expressions contained in this Land Development Code will be liberally construed in order that the true intent and meaning of the Board of County Commissioners may be fully carried out.

(2) Terms used in this Land Development Code, unless otherwise specifically provided, have the meanings prescribed by the statutes of the state for the same terms.

(3) In the event of any difference in meaning or implication between the text of this Land Development Code and any caption, illustration, summary table or illustrative table, the text will control.

(4) Words used in the present tense include the future; and words in the singular number include the plural, and vice versa, unless the context clearly indicates the contrary; and words of the masculine gender will be construed to include the feminine gender and vice versa.

(5) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either . . . or," the conjunction will be interpreted as follows:

a. "And" indicates that all the connected terms, conditions, provisions or events apply.

b. "Or" indicates that the connected terms, conditions, provisions or events may apply singly but not in any combination.

c. "Either . . . or" indicates that the connected terms, items, conditions, provisions or events apply singly but not in combination.

(6) The provisions of this Land Development Code will be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.

(7) This Land Development Code constitutes the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where provisions of this Land Development Code conflict such that one provision causes greater restrictions to be imposed than another provision, the provision imposing the greater restriction or regulation will control.

State law reference— Construction of statutes, F.S. ch. 1.

(c) The following words, terms and phrases, when used in this Land Development Code, will have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Board of County Commissioners. The term "Board of County Commissioners" means the Board of County Commissioners of Lee County, Florida.

Circuit court. The term "circuit court" means the circuit court of the 20th Judicial Circuit in and for Lee County.

Clerk of the circuit court or *county clerk.* The terms "clerk of the circuit court" and "county clerk" mean the clerk of the circuit court of the 20th Judicial Circuit in and for Lee County.

Computation of time. In computing any period of time prescribed or allowed by ordinance, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation unless otherwise specifically provided under another section of this Land Development Code.

State law reference— Similar provisions, Florida Rules of Civil Procedure, rule 1.090(a).

County. The term "county" means Lee County, Florida.

County manager. The term "county manager" includes designees of the county manager.

Delegation of authority. A provision requiring the head of a department or some other county officer or employee to do some act or perform some duty is to be construed to authorize the head of the department

or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty.

F.A.C. The abbreviation "F.A.C." refers to the Florida Administrative Code.

F.S. The abbreviation "F.S." shall mean and refer to the latest edition or supplement of the Florida Statutes.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Health department and *county health department.* The terms "health department" and "county health department" mean the county public health unit organized pursuant to F.S. § 154.001 et seq.

Includes. The term "includes" does not limit a term to the specified example, but its meaning shall be extended to all other instances or circumstances of like kind or similar character.

Joint authority. Words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and *proprietor.* The terms "keeper" and "proprietor" include any person, firm, association, corporation, club or copartnership, whether acting alone or through a servant, agent or employee.

Land Development Code. The term "Land Development Code" means the Land Development Code, Lee County, Florida, as designated in section 1-1.

May. The term "may" shall be construed as being permissive and will mean "has discretion to," "is permitted to," or "is allowed to." "May not" shall be construed as being mandatory and will mean "is disallowed from," or "is not permitted to."

Month. The term "month" means a calendar month.

Must. The term "must" shall be construed as being mandatory and will mean "is required to (be)."

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Notary, notarize(d). Whenever the terms "notarize" or "notarized" appear, they expressly include and contemplate the use of the written declaration set forth under § 92.525, F.S., so long as the cited statutory requirements are met, except that written declarations may not include the words "to the best of my knowledge and belief" as this limitation is not permitted by the provisions of this Code.

Number. Words used in the singular number include the plural. Words used in the plural number include the singular.

Oath. The term "oath" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath; and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officer and *official.* Whenever reference is made to any officer or official, the reference shall be taken to be to such officer or official of Lee County, Florida.

Owner. The term "owner," as applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The term "person" shall extend and be applied to any individual, child, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, unincorporated association and all other groups and legal entities or combinations thereof.

State law reference— Similar provisions, F.S. § 1.01(3).

Property. The term "property" includes real and personal property.

Public health, safety and welfare. The phrase "public health, safety and welfare" shall include, but is not limited to, comfort, good order, appearance, convenience, law enforcement and fire protection, prevention of overcrowding of land, avoidance of undue concentration of population, facilitation of the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreation facilities, housing and other requirements and services; and conservation development, utilization and protection of natural resources.

Shall. The term "shall" will be construed as being mandatory and will mean "has a duty to." "Shall not" shall be construed as being mandatory and will mean "is disallowed from," or "is not permitted to."

State. The term "state" means the State of Florida.

Tables, illustrations, etc. In case of any difference of meaning or implication between the text of this Land Development Code and any caption, illustration, summary table or illustrative table, the text shall control.

Tenant or *occupant.* The terms "tenant" and "occupant," as applied to a building or land, include any person holding a written or oral lease of or who occupies the whole or part of such building or land, either alone or with others.

Used for. The term "used for" includes the term "arranged for," "designed for," "maintained for" or "occupied for."

Week. The term "week" means seven consecutive days.

Written or *in writing.* The terms "written" and "in writing" include any representation of words, letters or figures, whether by printing or otherwise.

Year. The term "year" means a calendar year.

(Ord. No. 94-12, § 1, 4-20-94; Ord. No. 94-24, § 2, 8-31-94; Ord. No. 99-05, § 1, 6-29-99; Ord. No. 09-23 , § 1, 6-23-09)

Sec. 1-3. Catchlines of sections; history notes, cross references and state law references; references to chapters, sections or articles.

(a) The catchlines of the several sections of this Land Development Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor, unless expressly so provided, shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) The history or source notes appearing in parentheses after sections in this Land Development Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section. Cross references and state law references which appear after sections or subsections of this Land Development Code or which otherwise appear in footnote form are provided for the convenience of the user of this Land Development Code and have no legal effect.

(c) All references to chapters, articles or sections are to chapters, articles and sections of this Land Development Code unless otherwise specified.

(Ord. No. 94-12, § 1, 4-20-94)

Sec. 1-4. Effect of repeal of ordinances.

(a) The repeal or amendment of an ordinance will not revive any ordinance or part thereof that was not in force before or at the time the ordinance repealed or amended took effect.

(b) The repeal or amendment of any ordinance will not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed or amended.

(c) Notwithstanding a more recent ordinance's express repeal of a pre-existing ordinance, the reenactment of any previously existing provisions, including any amendments, through the use of similar or identical provisions in the repealing ordinance will continue the reenacted provisions in full force and effect from their original effective date. Only those provisions of the previously existing ordinance that are not reenacted will be considered void and without further effect. Any new provisions of the repealing ordinance will operate as amendments to the reenacted, previously existing text and become effective as part of the repealing ordinance.

(Ord. No. 94-12, § 1, 4-20-94; Ord. No. 96-06, § 1, 3-20-96)

Sec. 1-5. General penalty; continuing violations.

(a) In this section, the phrase "violation of this Land Development Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

(b) In this section, the phrase "violation of this Land Development Code" does not include the failure of a county officer or county employee to perform an official duty unless it is provided that failure to perform the duly is to be punished as provided in this section.

(c) Except as otherwise provided, a person convicted of a violation of this Land Development Code will be punished by a fine not exceeding $500.00 per offense, by imprisonment in the county jail for a term not exceeding 60 days, or by both such fine and imprisonment. With respect to violations of this Land Development Code that are continuous with respect to time, each day the violation continues constitutes a separate offense in the absence of provisions to the contrary.

(d) Any violation of this Land Development Code that arose from provisions that are subsequently repealed and reenacted will continue to be a violation of this Code and any penalties imposed for those violations will continue to exist unless the subsequent amendment or repeal of the violated provisions clearly intends to make previous violations legal and expressly voids any penalties imposed for those violations.

(e) The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise, the imposition of civil penalties or other administrative actions.

(f) Violations of this Land Development Code may be abated by injunctive or other equitable or civil relief, and no bond nor proof of intent or scienter shall be required. The imposition of a penalty does not prevent equitable relief.

(Ord. No. 94-12, § 1, 4-20-94; Ord. No. 96-06, § 1, 3-20-96)

State law reference— Penalty for ordinance violations, F.S. § 125.69.

Sec. 1-6. Enforcement of Land Development Code.

Enforcement of the provisions of the Land Development Code is the responsibility of the county department or division most closely associated and familiar with the particular provision in question unless otherwise provided by this Land Development Code. The division of codes and building services, or its successor, shall assist in the enforcement of these provisions and in the presentation of unabated violations before the hearing examiner for determination.

(Ord. No. 94-12, § 1, 4-20-94)

Sec. 1-7. Severability of parts of Land Development Code.

It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase or portion of this Land Development Code or any ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Land Development Code or any ordinance. It shall be construed to have been the legislative intent to pass this Land Development Code or such ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Land Development Code or such ordinance after the exclusion of such part or parts shall be deemed and held to be valid as if such part or parts had not been included in this Land Development Code or ordinance. If this Land Development Code or any ordinance or any provision thereof is held inapplicable to any person, group of persons, property or kind of property, or circumstances or set of circumstances, such holding shall not affect the applicability of this Land Development Code to any other person, property or circumstance.

(Ord. No. 94-12, § 1, 4-20-94)

Sec. 1-8. Provisions considered continuation of existing ordinances.

The provisions of this Land Development Code, insofar as they are substantially the same as legislation previously adopted by the county relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

(Ord. No. 94-12, § 1, 4-20-94)

Sec. 1-9. Effect of Land Development Code on prior offenses, penalties and rights.

(a) Nothing in this Land Development Code or the ordinance adopting this Land Development Code shall affect any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Land Development Code.

(b) The adoption of this Land Development Code shall not be interpreted as authorizing any use or the continuance of any use of a structure or premises in violation of any ordinance of the county in effect on the date of adoption of this Land Development Code.

(Ord. No. 94-12, § 1, 4-20-94)

Sec. 1-10. Ordinances not affected by Land Development Code.

(a) Nothing in this Land Development Code or the ordinance adopting this Land Development Code, unless otherwise provided in this Land Development Code or such ordinance, shall affect any ordinance or portion of an ordinance:

(1) Promising or guaranteeing the payment of money for the county, or authorizing the issuance of any bonds of the county or any evidence of the county's indebtedness, or any contract or obligation assumed by the county.

(2) Granting any right or franchise or conveying any oil, gas or mineral rights.

(3) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way.

(4) Making any appropriation.

(5) Levying or imposing taxes or fees not codified in this Land Development Code.

(6) Amending any local law, i.e., special act which has been converted to an ordinance.

(7) Providing for local services or improvements and assessing taxes or other charges therefor.

(8) Dedicating, accepting or vacating any plat or subdivision.

(9) Rezoning specific property.

(10) Which is temporary, although general in effect.

(11) Which is special, although permanent in effect.

(12) The purpose of which has been accomplished.

(13) Which is included in the Lee County Code of Ordinances.

(b) The ordinances designated in subsection (a) of this section are recognized as continuing in full force and effect to the same extent as if set out at length in this Land Development Code.

(Ord. No. 94-12, § 1, 4-20-94)

Sec. 1-11. Lee Plan controls where conflict with Land Development Code exists.

All development, as that term is defined in F.S. § 380.04, in the unincorporated portion of the county must be consistent with the Lee Plan. Where there are apparent conflicts between the Lee Plan and any adopted rule, regulation or ordinance, the Lee Plan shall prevail.

(Ord. No. 94-12, § 1, 4-20-94)

Sec. 1-12. Editor's notes.

References and editor's notes following certain sections of the Land Development Code are inserted as an aid and guide to the reader, and are not controlling or meant to have any legal effect.

(Ord. No. 94-12, § 1, 4-20-94)

Sec. 1-13. Amendments to Land Development Code.

(a) All ordinances passed subsequent to this Land Development Code which amend, repeal or in any way affect this Land Development Code may be numbered in accordance with the numbering system of this Land Development Code and printed for inclusion in the Land Development Code, or, in the case of repealed chapters, sections and subsections or any part thereof repealed by subsequent ordinances, such repealed portions may be excluded from this Land Development Code by omission from reprinted pages affected thereby, and such subsequent ordinances, as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such

time that this Land Development Code and subsequent ordinances numbered or omitted are readopted as a new Land Development Code by the Board of County Commissioners.

(b) Every ordinance introduced which proposes to amend or repeal any portion of this Land Development Code must be enacted in accordance with F.S. § 125.66.

(Ord. No. 94-12, § 1, 4-20-94; Ord. No. 11-08 , § 1, 8-9-11)

Sec. 1-14. Supplementation of Land Development Code.

(a) By contract or by county personnel, supplements to this Land Development Code shall be prepared and printed whenever authorized or directed by the county. A supplement to the Land Development Code shall include all substantive permanent and general parts of ordinances passed by the Board of County Commissioners during the period covered by the supplement and all changes made thereby in the Land Development Code. The pages of a supplement shall be so numbered that they will fit properly into the Land Development Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Land Development Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Land Development Code, all portions of the Land Development Code which have been repealed shall be excluded from the Land Development Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Land Development Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Land Development Code printed in the supplement, and make changes in catchlines, heading and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Land Development Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____." The inserted section numbers will indicate the sections of the Land Development Code which embody the substantive sections of the ordinance incorporated into the Land Development Code; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Land Development Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Land Development Code.

(Ord. No. 94-12, § 1, 4-20-94)

Chapter 2 ADMINISTRATION [1]

FOOTNOTE(S):

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Cross reference— Construction board of adjustment and appeals, § 6-71 et seq.; development orders, § 10-81 et seq.; historic preservation board, § 22-71 et seq.; administration of zoning regulations, § 34-51 et seq. (Back)

ARTICLE I. IN GENERAL

Sec. 2-1. Requests for an interpretation of a code provision.

Where a question arises as to the meaning or intent of a section or subsection of this Code, a written request stating the area of concern and the explicit interpretation requested may be submitted to the director of the department of community development, on forms provided by the department.

(1) The director may render decisions of an administrative nature concerning items such as, but not limited to:

a. The proper zoning classification for a use not specifically addressed;

b. The manner in which the particular code provision is to be applied; and

c. The procedure to be followed in unusual circumstances.

(2) If, in the opinion of the director, the interpretation involves a policy issue, the director will bring the item forward for Board consideration on the agenda of a regularly scheduled meeting of the Board of County Commissioners.

a. If the question involves clarification of the legislative intent of this Code, the Board of County Commissioners may render a decision as an administrative action item.

b. Decisions involving policy issues or potential conflicts with the Lee Plan must be scheduled for a public hearing in accordance with section 34-231 et seq.

(3) Annotations of all decisions made by the director or Board of County Commissioners that may have an impact on future decisions will be periodically printed and made available to the general public.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-2. Compliance agreements.

(a) *Authority.* The County Manager or his designee has the authority to enter into compliance agreements to facilitate compliance with the terms and conditions of the Land Development Code. Compliance agreements may be executed at the discretion of the County Manager or his designee. However, the County Manager is under no obligation to enter in a compliance agreement.

(b) *Purpose.* The purpose of the compliance agreement is to provide an alternative means to reach compliance with the terms of this Code in the event a violation is discovered.

(c) *Procedure.* Compliance agreements may only be entered into prior to the violator's receipt of a notice of hearing for code enforcement action before the Lee County Hearing Examiner. The agreement must be in writing and executed in recordable form, after review and approval by the County Attorney's office. At minimum the agreement must specifically set forth the terms and obligations necessary to abate the violation. The agreement must also provide a specific abatement time frame. The County may, at its option, record the compliance agreement in the public records. If a copy of the agreement is recorded, the County will record a satisfaction or release of the agreement once the violation is deemed abated.

The parties must comply with all terms of the agreement, in the stated time frame, before the violation will be deemed abated. In the event the parties fail to comply with the terms of the agreement, the County may pursue code enforcement action. If the County pursues code enforcement action subsequent to the execution of the compliance agreement, the terms of the agreement will have no further effect on the parties and will not be binding on the Hearing Examiner.

(d) *Enforcement.* The terms and conditions of a compliance agreement may be enforced in a court of competent jurisdiction by injunction or an action for specific performance. In the event the parties execute, but do not perform all obligations under an agreement, the County may pursue Code

Enforcement Hearing Examiner action in accordance with Article VII. The Hearing Examiner is not responsible for the enforcement of compliance agreement obligations.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-3. Compliance with regulations.

All "development permits" as defined in F.S. § 163.3164, including but not limited to building permits, right-of-way permits, development orders, administrative deviations, special exceptions, variances, and zoning resolution approvals, must be consistent with the Lee Plan provisions in effect at the time the approval is issued. The application submittal date or timing of review does not affect compliance with this requirement.

(Ord. No. 07-24 , § 1, 8-14-07)

Sec. 2-4. Legal authority for development permit denials.

When the County denies an application for a development permit, written notice must be provided to the permit applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial in accord with F.S. § 125.022. For purposes of this section, the term "development permit" has the same meaning as set forth in F.S. § 163.3164.

(Ord. No. 09-23 , § 2, 6-23-09)

Secs. 2-5—2-40. Reserved.

ARTICLE II. CONCURRENCY MANAGEMENT SYSTEM

DIVISION 1. - CONCURRENCY MANAGEMENT PROVISIONS

DIVISION 2. - PROPORTIONATE FAIR-SHARE PROGRAM

DIVISION 1. CONCURRENCY MANAGEMENT PROVISIONS [2]

Sec. 2-41. Statutory authority.

The Board of County Commissioners has authority to adopt this article pursuant to article III of the constitution of the state and F.S. chs. 125, 163 and 380.

(Ord. No. 91-32, § 2, 10-16-91)

Sec. 2-42. Applicability of article.

This article applies to the unincorporated area of the County.

(Ord. No. 91-32, § 3, 10-16-91; Ord. No. 99-22, § 1, 12-14-99)

Sec. 2-43. Intent of article.

This article is intended to implement the requirements imposed by rule 9.J-5.0055, Florida Administrative Code; objectives 37.2 and 37.3 and policies 95.2.1, 95.1.3 (regulatory standards) and 71.2 (school concurrency) of the Lee Plan; and F.S. §§ 163.3177, 163.31777, 163.3202(1) and (2)(g), 163.3167(8), and 163.3180.

(Ord. No. 91-32, § 4, 10-16-91; Ord. No. 94-28, § 2, 10-19-94; Ord. No. 99-22, § 1, 12-14-99; Ord. No. 07-24 , § 1, 8-14-07; Ord. No. , § 1, 8-26-08)

Sec. 2-44. Purpose of article.

The purpose of this article is to ensure that public facilities and services 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 in the Lee Plan and required by F.S. §§ 163.3177 and 163.3180, and are available when needed for the development, while protecting the vested rights of persons guaranteed them by the Constitution of the United States of America, the state constitution and the laws of the state, and acknowledged by the state legislature in F.S. § 163.3167(8).

(Ord. No. 91-32, § 5, 10-16-91; Ord. No. 94-28, § 2, 10-19-94; Ord. No. , § 1, 8-26-08)

Sec. 2-45. Definitions.

(a) The following words, terms and phrases, when used in this article, will have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Board of County Commissioners means the Board of County Commissioners of Lee County, Florida, acting in a public meeting.

Building permit means an official document or certification that authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure.

Certificate of concurrency compliance means the certification issued by the director pursuant to section 2-46(d). This certification means that the director has determined that there is or will be sufficient public facilities to serve the development for which a development permit has been requested without violating the minimum concurrency standards set forth in the Lee Plan.

Certificate of concurrency exemption means the certification issued by the director pursuant to section 2-46(b). This certification means that the director has determined that a type of development order, or a specific development order issued for a proposed development permit, is exempt from the concurrency levels of service requirements of the Lee Plan. The issuance of a certificate of concurrency exemption does not exempt a developer from submission of project data required by the director unless specifically set forth in the certificate. Submission of project data assists the county in monitoring anticipated impacts on public facilities for the purposes of maintaining an inventory to evaluate new requests for development.

Concurrency certificate means a certificate of concurrency compliance, a certificate of concurrency exemption, a concurrency variance certificate or a conditional certificate of concurrency compliance.

Concurrency variance certificate means the certification issued by the director pursuant to section 2-51. This certification means that the director has determined that a variance from the strict concurrency requirements of the Lee Plan must be granted with respect to a specific development permit to avoid the unconstitutional taking of property without due process of law.

Conditional certificate of concurrency compliance means a certificate issued by the director pursuant to section 2-46(k). This certification means that the director has determined that:

(1) A development permit, which otherwise would violate the minimum concurrency requirements of the Lee Plan, can be issued consistent with the Lee Plan if certain conditions are attached to the permit; or

(2) The application for concurrency review is complete but for a particular document that can be submitted prior to the issuance of a building permit or certificate of occupancy.

Constrained roads means those roadway segments that cannot or will not be widened due to community scenic, historic, aesthetic, right-of-way or environmental constraints.

De minimus transportation impact means an impact created by a use that would not affect more than one percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the County. No impact will be considered de minimus if the impact would exceed the adopted level of service standard of an affected designated hurricane evacuation route.

Developer means any person, including a governmental agency, undertaking any development.

Development means the carrying out of building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels. It is intended to have the same meaning given in F.S. § 380.04.

Development order means any order granting or granting with conditions an application for a development permit.

Development permit means a building permit, subdivision approval, certification or variance or other official action of local government having the effect of permitting the development of land. This definition conforms to that set forth in F.S. § 163.3164(7), except that it does not include zoning permits, zoning variances, rezoning, special exceptions, preliminary plan approvals, and special permits which, by themselves, do not permit the development of land.

Director means the county manager, or any other person designated by the county manager to exercise the authority or assume the responsibilities given the director in this article.

Equivalent residential connections means the total number of meter equivalents using the methodology of the state public service commission. This term is synonymous with the term "equivalent residential units" used by the state public service commission.

Hearing examiner means an officer appointed by the Board of County Commissioners to hear all matters and exercise all duties set out in chapter 34, article II.

Lee Plan means the county comprehensive plan that was adopted pursuant to F.S. ch. 163 on January 31, 1989, and effective March 1, 1989, and all subsequent amendments thereto.

Long term transportation concurrency management system means a financially feasible system to ensure that existing deficiencies are corrected within a specified time frame and to establish priorities for addressing backlogged facilities in special concurrency district or areas.

Mobile home move-on permit means an official document or certification authorizing a purchaser, owner, mover, installer or dealer to move a mobile home onto a particular site. It also includes a permit authorizing the tiedown of a park trailer in a mobile home zoning district. Mobile homes and park trailers are defined in chapter 34.

Multimodal Transportation District means areas designated under the Lee Plan where community design features reduce the use of private vehicles and support an integrated multimodal transportation system. Multimodal transportation districts are designated in accordance with F.S. § 163.3180(15).

Permanent traffic means the traffic that a development can reasonably be expected to generate on a continuing basis upon completion of the development. It does not mean the temporary construction traffic.

Planned development rezoning means any rezoning to a planned development zoning district pursuant to chapter 34.

Preliminary development order means a preliminary development order issued pursuant to Ordinance No. 82-42, as amended.

Preliminary plan approval means a type of site plan approval pursuant to chapter 10 that does not authorize development and to which no concurrency vesting attaches.

Regulatory standards means the minimum acceptable level of service as set forth in the Lee Plan, policy 95.1.3, subsections 1 through 6.

Rule 9J-5.0055 means the rule and any subpart thereof published in the Florida Administrative Code.

School Concurrency means public school facilities needed to serve new development must be in place or under actual construction within three years after the local government approves a development permit, or its functional equivalent, that results in generation of students.

School Concurrency Service Areas means one of three possible zones established by the School Board for the purpose of assigning students to schools in a geographically approximate location to where those students reside. School concurrency service areas are co-terminus with the three school choice zones for elementary, middle, and high schools. (East Zone, West Zone, or South Zone)

Transportation concurrency means transportation facilities needed to serve new development must be in place or under actual construction within three years after the local government approves a development permit, or its functional equivalent, that results in traffic generation.

Transportation concurrency exception areas means areas designated under the Lee Plan that allow exceptions to the transportation concurrency management requirement to promote urban infill development, urban redevelopment, or downtown revitalization.

Transportation concurrency management areas means compact geographic areas designated under the Lee Plan with existing or proposed multiple, viable alternative travel paths or modes for common trips, which employ the use of an area-wide level of service standard and an accommodation and management of traffic congestion for the purpose of promoting infill development or redevelopment in a manner that supports more efficient mobility alternatives.

(Ord. No. 91-32, §§ 6, 7, 10-16-91; Ord. No. 94-28, § 3, 10-19-94; Ord. No. 99-22, § 1, 12-14-99; Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06; Ord. No. , § 1, 8-26-08; Ord. No. 10-25 , § 1, 6-8-10)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 2-46. Concurrency certification.

(a) *Review for compliance with level of service requirements.* All applications for development orders and building permits must be reviewed by the director for compliance with the level of service requirements set forth in the Lee Plan. Exceptions to this provision are development permits that are:

(1) Specifically exempted from concurrency review by County Administrative Code AC 13-9;

(2) Granted pursuant to a concurrency variance certificate under section 2-51

(3) A concurrency exemption certificate applies under section 2-49

(4) Related to development pursuant to a development order issued under F.S. §§ 380.06 and 380.061, and the DRI development order separately provides for concurrency compliance and analysis;

(5) Granted pursuant to a developer agreement in effect pursuant to Ordinance No. 90-29, as amended, and the development agreement makes separate provision for concurrency compliance and analysis; or

(6) granted pursuant to a developer's participation in the proportionate fair share program set forth in division 2 of this Article.

Upon application and payment of the application fee set by the Board of County Commissioners by Administrative Code, the director will determine whether the public facilities and services listed in F.S. § 163.3180 needed to support the development will be available concurrent with the impacts of that development, or whether the development should be exempted from such a determination, either because the development will not have an impact on the public facilities and services or because the applicant for the development permit has a vested right to receive a favorable determination of concurrency.

(b) *Determination of exemption.*

(1) *In General.* Certain types of development permits do not cause additional impacts on public facilities and services. These development permits should be exempt from concurrency compliance. Those development permits are set forth in an Administrative Code. It is not necessary for the director to issue a certificate of exemption for development permits listed in the Administrative Code. For development permits not listed in the Administrative Code, the director will be guided by the standards set forth in this article.

(2) *School Concurrency. Exemption from School Concurrency.* The following residential uses are exempt from the requirements of school concurrency:

a. Single-family lots having received final plat approval prior to August 26, 2008.

b. Multi-family residential development having received a final development order and concurrency certificate 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. Developments of Regional Impact approved pursuant to Chapter 380, Florida Statutes, approved prior to the effective date of this ordinance, but only as to the number of residential units authorized in the DRI Development Order as it existed on August 26, 2008.

(3) *Certificate of Concurrency Exemption.* If the director finds that the standards for exemption have been satisfied, he will certify his findings by a written statement, that identifies the development permit for which the specific determination of exemption has been made. The director's statement must recite the basis for his determination by reference to the facts upon which he is relying and the sections of this article he finds to be controlling. The director's statement will be known as a certificate of concurrency exemption, will identify a development order or will be limited to the exact development permit application for which he has issued his certificate. Applications for amendments to a development order granting a development permit for which a certificate of concurrency exemption has been issued will require another, separate concurrency review by the director.

(c) *Consideration of impacts.* If the director determines that a development permit is not exempt from the minimum concurrency requirements of the Lee Plan, the director will consider the impact the development will have on potable water, sanitary sewer, surface water management, solid waste disposal, parks and recreation, roadway facilities and public schools. The director will consider the type and intensity of use of the proposed development in relation to the demands the use can reasonably be expected to make on those 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 traffic (see definitions) and other similar continuing infrastructure demands of the development. The director will 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 this 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 person who disputes it.

To promote uniformity in the application of this subsection, the director may prepare administrative rules prescribing the methodology by which the impacts of a proposed development will be determined. Those rules will be set forth in an Administrative Code adopted by the Board of County Commissioners.

(d) *Determination of sufficient capacity.* Once the director has considered the impacts of a proposed development in accordance with subsection (c) of this section, he will then determine whether there will be sufficient capacity for these facilities to serve the development at the time the impacts of the development will occur without causing these facilities and services to function at a level of service below the minimum regulatory levels established for these facilities and services in the Lee Plan. Except for traffic impacts, which will be determined in accordance with the policies under objectives 37.3 and 37.4 of the Lee Plan, the director will add the expected impacts of the development to the levels of use of the facility at the time of the determination. Anticipated additional use will be derived from other reasonably foreseeable factors. If this sum is less than the capacity of the facility in question to operate during the effective period of a certificate of concurrency compliance at the minimum regulatory levels of services prescribed in the Lee Plan and the development's projected traffic is in compliance with objectives 37.3 and 37.4 of the Lee Plan, the director will certify the conclusion by a written statement. The written statement will identify the development in question and the development permit for which the certification has been made. The director's statement will be known as a certificate of concurrency compliance and is limited to the exact development permit application for which he has issued his certificate. Applications for an amendment to a development order granting a development permit for which a certificate of concurrency compliance has been issued will require another, separate concurrency review by the director.

(e) *Means of measuring level of service in relation to location of development.* When measuring the availability of a public facility to serve a development, the level of service at which the facility is

operating or is expected to operate will be measured in relation to its location to the development as follows:

(1) *Potable water.* Supply and treatment capacity will 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 will be measured at the point where the service enters the development or at the point from which the service will be extended.

(2) *Sanitary sewer.* The treatment and disposal capacity will 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 will be measured at the point where the service enters the development or at the point from which the service will be extended.

(3) *Surface water management.* Runoff will 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.

(4) *Solid waste disposal.* Capacity of the disposal facility will be measured in pounds (or equivalent volume) and applied Countywide.

(5) *Parks and recreation.* The quantity of regional parks will be measured in acres and applied to the total permanent and seasonal resident population in the County. The quantity of community parks will be measured in acres within the unincorporated area of the county and applied within each community park impact fee district to the permanent resident population within the unincorporated portion of that district.

(6) *Roads.* Concurrency on all roads will be determined on a roadway segment by segment basis consistent with the level of service standards set forth in Lee Plan Policy 37.1.1, except where the Board has:

a. Designated constrained roads,

b. Created transportation concurrency management areas,

c. Created transportation concurrency exception areas,

d. Created long-term transportation management systems pursuant to Florida Administrative Code 9J-5.0055, or

e. Designated multimodal transportation districts pursuant to F.S. § 163.3180(15) or similar allowable modifications to standard road concurrency.

(7) *Public Schools.* Public school capacity will be based on the annual school capacity and occupancy by school type and by concurrency service areas. The annual school capacity will 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. This information will be formally adopted into the local government's Yearly Concurrency Report.

(f) *Determination of capacity of potable water, sanitary sewer or solid waste facilities.* In determining the capacity of potable water, sanitary sewer or solid waste facilities, the director must 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. An enforceable development agreement may include but is not limited to development agreements pursuant to F.S. § 163.3220, or an agreement or development order issued pursuant to F.S. ch. 380. The director, in accordance with section 2-46(l), is also authorized to issue certificates of concurrency compliance subject to the condition that at the time of issuance of a certificate of occupancy, the necessary facilities must be in place and available to serve the new development.

(g) *Determination of adequacy of surface water management system.* In determining the adequacy of a surface water management system, the director will rely upon the reviews performed by the department of community development, the division of development services and the South Florida

Water Management District. The adequacy of a surface water management system will be conclusively demonstrated upon the issuance of a surface water construction and operating permit by the South Florida Water Management District.

(h) *For parks and recreation facilities, the development must meet one of the following two standards:*

(1) At the time of development order or permit is issued, the necessary facilities and services must be in place or under actual construction; or

(2) A development order or permit is issued with a stipulation that, at the time of the issuance of a certificate of occupancy or its functional equivalent, the acreage for the necessary facilities and services to serve the new development is dedicated to or acquired by the local government; and

a. The necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted Lee County five-year schedule of capital improvements; or

b. At the time the development order or permit is issued, the necessary facilities and services are the subject of a binding executed agreement that requires the necessary facilities and services to serve the new development to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent; or

c. At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to F.S. § 163.3220, or an agreement or a development order issued pursuant to F.S. ch. 380, to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent.

(i) *Determination of road facility capacity*. In determining the capacity of a road facility, the director will include existing roadways and committed improvements, as provided in Policy 37.3.2 of the Lee Plan.

(j) *Determination of public school capacity.* The School Board of Lee County will compile a school concurrency inventory report annually. The School Board will inventory current school capacity and current occupancy by school type and by concurrency service area. Existing capacity will 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 will then be subtracted from existing and expected capacity to calculate the available capacity by school type by concurrency service area. The School Board will transmit the school concurrency inventory to the County. Upon its receipt, the county will incorporate the school concurrency inventory into the County's Concurrency Report for all public facilities.

The County will utilize the information in the report to determine whether there is available capacity for each level of school to accommodate the proposed development based on the level of service standards and the concurrency service area. In determining the capacity of public school facilities, the director will include existing facilities and committed facilities, as provided in Policy 71.2.2. of the Lee Plan.

If the County's Concurrency Report reflects that there is not adequate capacity available in the concurrency service area, mitigation options may be explored by proposed developments that cannot meet 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; 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 and subject to guarantees that the facility will be conveyed to the School Board at no cost to the Board if the Charter School ceases to operate.

Proposed mitigation must 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 County and the School District must enter into an enforceable binding developer agreement with the developer. If mitigation cannot be agreed upon, the County must deny application based upon an inadequate school capacity.

Relocatable classrooms will not be accepted as mitigation.

(k) *Issuance of finding upon failure to qualify for certificate of concurrency compliance.*

(1) If a proposed development permit fails to qualify for a certificate of concurrency compliance under the criteria set forth in subsections (a) through (j) of this section, the director will issue a finding that the proposed development will meet concurrency requirements if it is subject to the condition that the facilities and services that will be necessary to serve the development will be in place when the impacts of the development occur without degrading the level of service of these facilities below the minimum level prescribed in the Lee Plan. When no solution can be identified to provide for the additional facility capacity required, the certificate will either be limited to reflect the then-available facility capacity, or the application will be denied. If the director issues a finding that limited development may proceed, to be known as a conditional certificate of concurrency compliance, no further development permits may be issued unless the additional facilities to serve further development are in place when the impacts of the development occur.

(2) The conditional certificate of concurrency compliance must identify the minimum additions to the then-existing facilities that must be built and operating, in addition to planned facilities meeting the criteria set forth in subsections (f), (g), (h), (i) and (j) of this section, before further development permits will be issued. 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 article, the director may issue a conditional certificate of concurrency compliance that establishes related periods of time when additional development permits will be granted if the additional facilities, identified by the director as the minimum additions to existing or planned facilities needed to serve each phase, are built and operating.

(3) Development permits issued based on conditional certificates of concurrency compliance must specify the next level or levels of permitting that may be granted before the condition or conditions of the permit must be satisfied.

(4) The director may also issue a conditional certificate of concurrency compliance where the proposed development will meet concurrency requirements provided certain documents, not submitted with the initial application, are subsequently delivered to the director, or the proposed development order is subject to the review of other county agencies and therefore likely to change, thereby requiring further concurrency review.

(l) *Validity of certificates of concurrency compliance and conditional certificates of concurrency compliance.* Certificates of concurrency compliance and conditional certificates of concurrency compliance are valid for three years from the date they are issued or for the remaining tenure of the underlying development order or development permit, whichever is less.

(m) *Validity of development permits.*

(1) Except for building permits, development permits that have been issued based upon a valid certificate of concurrency compliance or a conditional certificate of concurrency compliance will be valid for a period of three years from the date the certificate was granted or for the remaining duration of the development permit, whichever is less. This will enable the developer to begin the work permitted or to apply for additional development permits not inconsistent with the permit issued, using the concurrency certificate from the issued permit to satisfy the concurrency review requirements for the additional permits.

(2) Building permits issued based upon a valid concurrency certificate will be valid for the remaining duration of the building permit, so long as the permit is applied for while the certificate of

concurrency compliance or conditional certificate of concurrency compliance is valid, the permit application is substantially complete, and the building permit is ultimately issued in the ordinary course. The original permit may not be extended beyond the term of the concurrency certificate without triggering new concurrency review.

(3) If a building permit is not issued within six months of the expiration date of the applicable concurrency certificate, a rebuttable presumption will arise that the building permit has not been issued within the ordinary course as that term is used in this subsection.

(n) *Director's action not appealable pursuant to state law.* The director's action in issuing a concurrency certificate is not a development order that can be appealed pursuant to F.S. § 163.3215.

(o) *Requirements for activity affecting constrained roads.* Concurrency compliance for land development activity affecting constrained roads will be determined in accordance with Lee Plan objective 22.2 to the extent these policies provide additional restrictions that supplement other provisions of this article. The requirements of these policies are as follows:

(1) A maximum volume to capacity (v/c) ratio of 1.85 for all constrained roads.

(2) The director may not issue permits that cause the maximum volume to capacity ratio to be exceeded or that affect the maximum volume to capacity ratio once exceeded.

(3) Once the maximum volume to capacity ratio is achieved, permits may only be issued where capacity enhancements and operational improvements have been identified and commitments to implement those improvements are made that will maintain the volume to capacity ratio on the constrained segment at or below 1.85.

(p) *De minimus impact.* The Florida Legislature has found that a de minimus impact is consistent with Part II of Chapter 163. Therefore, the impact of a single-family home on an existing lot will constitute a de minimus impact on all roadways regardless of the level of deficiency of the roadway.

Other than single-family homes on existing lots, no impact will be de minimus if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility. Further, except for single-family homes on existing lots, no impact will be de minimus if it would exceed the adopted level of service standard of any affected designated hurricane evacuation route.

Lee County will maintain records to ensure that the 110 percent criteria is not exceeded. Annually, Lee County will submit to the State Land Planning Agency a summary of the de minimus records along with its updated Capital Improvements Element. In the event the State Land Planning Agency determines that the 110 percent criteria has been exceeded, the County will be notified of the exceedence and no further de minimus exceptions for the applicable roadway will be granted until the volume is reduced below the 110 percent. The County will provide proof of the reduction to the State Land Planning Agency prior to issuing further de minimus exceptions.

(Ord. No. 91-32, § 8, 10-16-91; Ord. No. 94-28, § 4, 10-19-94; Ord. No. 97-10, § 1, 6-10-97; Ord. No. 99-22, § 1, 12-14-99; Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06; Ord. No. 07-24 , § 1, 8-14-07; Ord. No. , § 1, 8-26-08; Ord. No. 10-25 , § 1, 6-8-10; Ord. No. 11-08 , § 2, 8-9-11)

Sec. 2-47. Concurrent development orders.

(a) *Development orders and amendments or extensions thereto.* A request or application for a development order, an amendment to a development order or an extension of a development order may be accepted by the director, the Hearing Examiner or the Board of County Commissioners prior to issuance of a valid concurrency certificate for the exact plan of development for which approval is sought. However, no development order, development order amendment or development order extension may be granted for a development unless the development in question is reviewed for compliance with the level of service requirements of the Lee Plan. If an amendment to a development

order, already approved for concurrency purposes, results in a reduction of anticipated impacts on public facilities and services, the director must approve the amendment unless to do so would be inconsistent with the Lee Plan.

(b) *Building permits and mobile home permits.* The director may not accept or approve application for a building permit or mobile home move-on permit unless it is exempt from the requirements of this article set forth in section 2-46(b) or accompanied by a valid concurrency certificate issued specifically for the structure for which permit approval is sought. Building permits or mobile home move-on permits will not be granted for structures that will cause more intensive impacts than those assumed by the director when issuing his concurrency certificate.

(c) *Subdivision plats.* An application for approval of a plat prepared in accordance with F.S. ch. 177 may be accepted by the director, but may not be approved by the Board of County Commissioners unless it is accompanied by a valid concurrency certificate issued specifically for the exact plan of development for which approval is sought. No plat may be approved for a development that would cause more intensive impacts than those assumed by the director when issuing his concurrency certificate.

(d) *Other development permits.* No other development order may be issued by the director, or by any other county official, for a development permit not included in subsections (a) through (c) of this section, when the order would permit an impact on facilities and services for which level of service standards have been adopted in the Lee Plan, unless the director has first issued a valid concurrency certificate.

(e) *Review of planned development rezoning applications.* In addition to the mandatory provisions of this article, the director is authorized at the request of staff or the applicant, to review planned development rezoning applications. In those cases where the director has determined that an approval could lead to excessive impacts on public facilities and services needed to support the development, he may issue an advisory opinion setting forth the basis of his determination. Approval of a development application subject to an advisory opinion must contain conditions to mitigate the identified impacts. Those conditions may include reduction of density or intensity, phasing of the project to match its impacts with planned expansion of public facilities, required improvements to public facilities, payment of a proportionate fair share contribution in accordance with Article II, Division 2, or other similar mitigating measures.

(f) *Developments of regional impact.* Application for local development orders on property located within a development of regional impact are subject to the concurrency levels of service requirements of the Lee Plan unless the DRI is vested pursuant to section 2-49(c) or 2-49(d).

(Ord. No. 91-32, § 9, 10-16-91; Ord. No. 94-28, § 5, 10-19-94; Ord. No. 99-22, § 1, 12-14-99; Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06)

Sec. 2-48. Greater Pine Island concurrency.

See special standards for Greater Pine Island in section 33-1011

(Ord. No. 91-32, § 13, 10-16-91; Ord. No. 97-10, § 1, 6-10-97; Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06; Ord. No. 07-19 , § 1, 5-29-07)

Sec. 2-49. Vested rights.

(a) No person has a vested right, by virtue of a development order issued on or after March 1, 1989, to receive a subsequent development order where the development permitted by the subsequent order would have an impact on the public facilities and services listed in F.S. § 163.3180(1), and for which regulatory levels of service are established in the Lee Plan.

(b) No person has a vested right, by virtue of any development order issued prior to March 1, 1989, to receive a subsequent development order without first submitting an application to the director for a formal determination of vested status and issuance of a certificate of concurrency exemption.

(c) Persons owning DRI development orders issued prior to March 1, 1989, are vested to complete developments in accordance with the specific provisions of those development orders, including mitigation of all impacts, without having to comply with the concurrency levels of service requirements of the Lee Plan, regardless of whether they have commenced development or have continued in good faith. The vested status of these DRI development orders will terminate on the expiration/termination date of the DRI development order.

(1) A determination of vesting pursuant to this subsection does not exempt a developer from submission of project data required by the director. Submission of project data assists the county in monitoring impacts on infrastructure as development progresses.

(2) Development orders vested pursuant to this subsection amended on or after March 1, 1989, will be subject to all concurrency requirements on those portions of the development changed. However, if an amendment to a DRI development order vested pursuant to this subsection results in a reduction of anticipated impacts on public facilities and services, the director, in his discretion, may find that the proposed amendment does not impair the overall vested status of the development.

(3) Notwithstanding 2-49(c)2., DRI development orders vested pursuant to this subsection, subsequently amended to extend the build out or termination dates by seven or more years from the original dates, will be subject to all concurrency level of service requirements of the Lee Plan. The amendment to the DRI development order to extend the expiration/termination date must be final prior to the expiration or termination date set forth in the development order.

(d) DRI's approved subsequent to March 1, 1989, may be vested to complete development in accordance with the terms of the development of regional impact development order for 10 years under the following circumstances:

(1) The transportation mitigation assessment amount has been determined by the Board of County Commissioners based on recommendations by County staff.

(2) The developer agrees to pay the full transportation mitigation assessment amount in advance through a time-certain schedule specified in a local government development agreement, which must be executed within 180 days of DRI development order approval. This assessment amount can represent either road impact fees or the proportionate share assessment, whichever is higher.

(3) The DRI development order expressly provides for vesting from the level of service standards set forth in the Lee Plan and provides limitations on changes to the project development parameters to maintain the validity of the traffic impact assumptions.

A DRI development order that complies with the conditions set forth above will be vested from concurrency for ten years without extensions. Subsequent requests to extend the phase end and buildout dates of the DRI will not automatically extend the vested status.

DRI's that start development under the terms of a Preliminary Development Agreement pursuant to Chapter 380, F.S., will be subject to concurrency level of service requirements of the Lee Plan until the mitigation analysis is complete and the developer provides for the payment of the full transportation mitigation assessment as set forth above.

Failure to pay the transportation mitigation assessment in accordance with the DRI development order conditions and the local government development agreement will result in further development order applications pursuant to the DRI to be subject to the level of service standards set forth in the Lee Plan.

(e) Persons owning county development orders, excluding development orders described in subsection (c) of this section, issued before March 1, 1989, will be vested to complete their developments in accordance with the terms of their development orders as approved in writing or shown on

accompanying plans without having to comply with the concurrency level of service requirements of the Lee Plan, provided development has commenced prior to September 1, 1989, and has continued in good faith. A determination of vesting pursuant to this subsection does not exempt a developer from submission of project data required by the director. Submission of project data assists the county in monitoring impacts on infrastructure as development progresses.

Any development order vested pursuant to this subsection amended on or after March 1, 1989, is subject to full concurrency requirements as to those portions of the development approved or changed. However, if an amendment to a development order vested pursuant to this subsection results in a reduction of anticipated impacts on public facilities and services, the director, in his discretion, may find that the proposed amendment does not impair the overall vested status of the development.

(f) Persons owning developed property for which the Lee Plan provides guaranteed rebuilding rights will be vested to rebuild to the extent guaranteed them without having to comply with the concurrency level of service requirements of the Lee Plan.

(g) A certificate of concurrency exemption issued pursuant to a determination of vested rights runs with the land and is not assignable or transferable, except to subsequent purchasers or inheritors of the property.

(h) Excepting development orders described in subsection (c) of this section, a determination of vested rights is valid for a period equal to the original maximum possible duration of a development order, but without extensions. The Board of County Commissioners may not grant the extension of a development order absent review by the director and a finding of concurrency eligibility.

(i) Excepting development orders described in subsection (c) of this section, a determination of vested rights for projects that have received an official determination by the county of exemption from Ordinance No. 82-42, as amended, will be valid for a period of five years from the date the development standards ordinance exemption determination was issued.

(Ord. No. 91-32, § 10, 10-16-91; Ord. No. 94-28, § 6, 10-19-94; Ord. No. 99-22, § 1, 12-14-99; Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06)

Sec. 2-50. Concurrency management information system.

(a) The director will compile, publish and update, at least once each year, beginning no later than October 1, 1990, an inventory of the maximum, utilized and available capacity of public facilities for which minimum regulatory levels of service are prescribed in the Lee Plan. This inventory must also contain a projection of future demand on the facilities due to anticipated growth and additions to capacity based upon construction in progress or under contract. This inventory must also contain the Greater Pine Island analysis as described in section 33-1011(d) and the public school concurrency inventory prepared by the School Board of Lee County. The inventory must be reviewed and approved by the Board of County Commissioners and, upon approval, will establish the availability and capacity of each facility to accommodate impacts from further development. This inventory will bind the county to the estimates of available capacity described in the inventory. Once approved by the Board, these estimates will empower the director to issue concurrency certificates for development permits requested where the estimates reasonably demonstrate sufficient infrastructure capacity will be available to serve all developments reasonably expected to occur during the period of time approved by the Board.

(b) The director will maintain a current cumulative list of all development orders issued by the county. The list will include the date of issuance of each development order.

(c) The director will maintain a list of all certificates issued pursuant to this article, or a copy of each certificate in chronological order by date of issuance in lieu of a list. These records may be removed to storage once the most recent certificate on the list is six months old.

(d) The director will maintain records to ensure the 110 percent criteria is not exceeded. Those records will be submitted to the State Land Planning Agency annually in accordance with section 2-46(p) and Florida Statutes, § 163.3180(6).

(Ord. No. 91-32, § 11, 10-16-91; Ord. No. 99-22, § 1, 12-14-99; Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06; Ord. No. 07-19 , § 1, 5-29-07; Ord. No. , § 1, 8-26-08)

Sec. 2-51. Variances.

(a) To provide for a reasonable economic use of land in those rare instances where a strict application of the concurrency requirements of this article would constitute an unconstitutional taking of property without due process of law, the director may issue a concurrency variance certificate. This certificate may be issued only if the director finds all of the following circumstances to be true:

(1) There are not sufficient facilities available to serve the development without violating the minimum concurrency requirements of this article;

(2) The project is not a candidate for participation in the Transportation Proportionate Fair Share Program described in this chapter;

(3) No reasonable economic use can be made of the property unless a development permit is issued;

(4) No reasonable economic use can be made of the property by conditioning the development permit upon sufficient facilities becoming available, as provided for in this article; and

(5) The request to vary from the concurrency requirements of this article is the minimum variance that would allow any reasonable economic use of the property in question.

The director may require the applicant to substantiate the circumstances set forth in subsections (a)(2) through (5) of this section by submitting a report prepared by a professional appraiser. Upon verifying the existence of each of the circumstances set forth in subsections (a)(2) through (5) of this section, the director may issue a concurrency variance certificate with the conditions he believes are reasonably necessary to protect the public health, safety and welfare and give effect to the purpose of this article while allowing the minimum reasonable use necessary to meet constitutional requirements. If the director has reason to question the truth of the circumstances as set forth in the appraiser's report, the director may hire an independent professional appraiser to verify whether reasonable economic use can be made of the property without the issuance of the permit requested by the applicant. Where the reports of the individual appraisers are inconsistent, the Board of County Commissioners will decide which appraiser's report will establish the minimum reasonable use of the property.

(b) Development orders issued based upon a concurrency variance certificate must be consistent with, and incorporate all of the conditions placed on the certificate.

(c) Concurrency variance certificates are valid for the lesser of three years from the date of issuance or the normal duration of the development permit.

(d) Except for building permits, development permits issued based upon a valid concurrency variance certificate will be valid for the period of three years from the date when the permit is granted or the normal duration of the development permit, whichever is less, thereby enabling the developer to begin the work permitted or to apply for additional development permits not inconsistent with the permit issued, using the concurrency certificate from the issued permit to satisfy the concurrency review requirements for additional permits.

Building permits issued based upon a valid concurrency variance certificate are valid for the normal duration of the building permit; however, the original permit may not be extended more than twice without triggering new concurrency review.

(e) The director's action in issuing a concurrency variance certificate is not a development order that can be appealed pursuant to F.S. § 163.3125.

(Ord. No. 91-32, § 12, 10-16-91; Ord. No. 99-22, § 1, 12-14-99; Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06)

Sec. 2-52. Appeals.

Except for challenges to development orders controlled by the provisions of F.S. § 163.3215, decisions made by the director in the course of administering this article may be appealed in accordance with those procedures set forth in chapter 34 for appeals of administrative decisions. In cases of challenges to development orders controlled by F.S. § 163.3215, no suit may be filed or accepted for filing until the development order giving rise to the complaint has become final by virtue of its having been issued by the director or by virtue of its having been ordered by the county Hearing Examiner on an appeal reversing the director's denial of the development permit, or by the Board of County Commissioners in cases where the Board has granted planned development zoning or an extension of a development order. Once a development order has been granted, the provisions of F.S. § 163.3215 will be the sole means of challenging the approval or denial of a development order, as that term is defined in F.S. § 163.3164(6), when the approval of the development order is alleged to be inconsistent with the Lee Plan. An action brought pursuant to F.S. § 163.3215 will be limited exclusively to the issue of comprehensive plan consistency.

(Ord. No. 91-32, § 15, 10-16-91; Ord. No. 94-28, § 7, 10-19-94; Ord. No. 99-22, § 1, 12-14-99; Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06)

Sec. 2-53. Revocation of concurrency certificates.

The director may revoke a concurrency certificate 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.

(Ord. No. 91-32, § 14, 10-16-91)

Sec. 2-54. Nonliability of director.

The director will not be held personally liable for incorrect decisions in administering this article. The county will, at its cost, defend the director in any action involving such decisions and will indemnify the director for any personal judgments that may be rendered against him.

(Ord. No. 91-32, § 16, 10-16-91; Ord. No. 99-22, § 1, 12-14-99)

Sec. 2-55. Furnishing false information.

Knowingly furnishing false information to the director, or any county official, on matters relating to the administration of this article will be punishable in accordance with section 1-5.

(Ord. No. 91-32, § 17, 10-16-91; Ord. No. 99-22, § 1, 12-14-99)

Secs. 2-56—2-65. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 06-20, § 2, adopted October 24, 2006, effective December 1, 2006, added the title, "Division 1. Concurrency Management Provisions." See also the Code Comparative Table. (Back)

DIVISION 2. PROPORTIONATE FAIR-SHARE PROGRAM

Sec. 2-66. Purpose and intent.

The purpose of this Division is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the Proportionate Fair-Share Program, as required by and in a manner consistent with §163.3180(16), F.S.

(Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06)

Sec. 2-67. Findings.

(a) Transportation capacity is a commodity that has a value to both the public and private sectors.

(b) The Lee County Proportionate Fair-Share Program:

(1) Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sector;

(2) Provides a means by which developers may proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their proportionate fair-share of the cost to improve/construct a transportation facility;

(3) Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the county to expedite transportation improvements by

supplementing funds currently allocated for transportation improvements in the Capital Improvement Element;

(4) Is consistent with §163.3180(16), F.S., and supports the policies under Goals 37 and 38 in the Lee Plan; and,

(5) Works within the county's existing concurrency management system.

(Ord. No. 06-20 , § 2, 10-24-06, eff. 12-1-06)

Sec. 2-68. Applicability.

The Proportionate Fair-Share Program applies to all developments in unincorporated Lee County that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility in the County Concurrency Management System, including transportation facilities maintained by FDOT or another jurisdiction that are relied upon for concurrency determinations, pursuant to the requirements of Section 2-69. The Proportionate Fair-Share Program is not available to developments of regional impact (DRIs) using proportionate fair-share under § 163.3180(12), F.S., or to developments exempted from concurrency as provided in 2-46(p).

(Ord. No. 06-20 , § 2, 10-24-06; Ord. No. , § 1, 8-26-08)

Sec. 2-69. General requirements.

(a) A developer may choose to satisfy the transportation concurrency requirements of the county by making a proportionate fair-share contribution, pursuant to the following requirements:

(1) The proposed development is consistent with the Lee Plan and applicable land development regulations; and,

(2) The five-year schedule of capital improvements in the County Capital Improvement Element (CIE) or the long-term schedule of capital improvements for an adopted long-term concurrency management system includes a transportation improvement(s) that, upon completion, will mitigate additional traffic generated by the proposed development. If the County transportation concurrency management system indicates that the capacity of the improvement has been consumed by the vested trips of previously approved development, then the provisions of 2-69(b) apply.

Commentary: Pursuant to §163.3180(16)(b)1, F.S., the transportation improvement in section (a)(2) above may be a programmed capital improvement that enhances the capacity of the transportation system to accommodate the impacts of development. For example, this may involve widening and/or reconstructing a roadway or where the primary roadway is constrained or widening is no longer desired, this could involve creating new reliever roadways, new network additions, new transit capital facilities (e.g., bus rapid transit corridor), or other major mobility improvements, such as expansion of bus fleets to increase service frequency. Local governments may, at their discretion, wish to make short-term operational improvements in advance of the capacity project. If the capacity of the planned improvement is fully committed, or there is no eligible project in an adopted work program, a developer could potentially still participate at the discretion of the local government pursuant to 2-69(b) below.

(b) The county may choose to allow a developer to satisfy transportation concurrency for a deficient road segment through the Proportionate Fair-Share Program by contributing to an improvement that is not contained in the five-year schedule of capital improvements in the Capital Improvement Element or a long-term schedule of capital improvements for an adopted long-term concurrency management system but which, upon completion, will satisfy the requirements of the County Transportation Concurrency Management System, where the following apply:

(1) The county conducts an advertised public hearing to consider the proportionate fair share agreement and corresponding future changes to the five-year CIP; and,

(2) The county adopts, by resolution or ordinance, a commitment to add the improvement to the 5-year schedule of capital improvements in the Capital Improvement Element (CIE) no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the Board and determined to be financially feasible pursuant to §163.3180(16) (b) 1, F.S., consistent with the Lee Plan, and in compliance with the provisions of this Article. Financial feasibility means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.

(c) If the funds allocated for the 5-year schedule of capital improvements in the County CIE are insufficient to fully fund construction of a transportation improvement required by the concurrency management system, the County may still enter into a binding proportionate fair-share agreement with a developer authorizing construction of that amount of development on which the proportionate fair-share is calculated, if in the opinion of Lee County DOT, the proposed proportionate fair-share amount is sufficient to pay for one or more improvements that will, by itself or in combination with other committed contributions, significantly benefit the transportation system. To qualify for consideration under this section, the proposed improvement must be contained in an adopted short- or long range county plan or program, MPO, FDOT or local or regional transit agency. Proposed improvements not reflected in an adopted plan or improvement program but that would significantly reduce access problems and congestion or trips on a major corridor, such as new roads, service roads, or improved network development and connectivity, may be considered at the discretion of the Board. The improvements funded by the proportionate fair-share component must be adopted into the 5-year capital improvements schedule for the Lee Plan in the next annual capital improvement element update.

(d) Any improvement project proposed to meet the developer's fair-share obligation must meet the county design standards for locally maintained roadways and those of the FDOT for the state highway system.

(Ord. No. 06-20 , § 2, 10-24-06)

Sec. 2-70. Intergovernmental coordination.

Pursuant to policies in the Intergovernmental Coordination Element of the Lee Plan and applicable policies in the Southwest Florida Regional Planning Council's Strategic Regional Policy Plan, the county will coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the county receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

(Ord. No. 06-20 , § 2, 10-24-06)

Sec. 2-71. Application process.

(a) Upon notification of a lack of capacity to satisfy transportation concurrency, the county must also notify the applicant/developer in writing of the opportunity to satisfy transportation concurrency in accordance with the requirements for the proportionate share program set forth in Section 2-69

(b) Prior to submitting an application for a proportionate fair-share agreement, the applicant must attend a pre-application meeting with the County Attorney and Directors of Planning and Lee County DOT to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the Strategic Intermodal System (SIS), then the applicant must notify and invite the Florida Department of Transportation (FDOT) to participate in the pre-application meeting.

(c) Eligible applicants must submit an application to the county that includes an application fee set forth in the fee manual and the following:

(1) Name, address and phone number of owner(s), developer and agent;

(2) Property location, including parcel identification numbers;

(3) Legal description and survey of property;

(4) Project description, including type, intensity and amount of development;

(5) Proposed phasing schedule, if applicable;

(6) Description of requested proportionate fair-share mitigation method;

(7) Copy of concurrency application;

(8) Copy of the project's Traffic Impact Statement (TIS); and,

(9) Location map depicting the site and affected road network.

(d) The director or the designee will review the application and certify that the application is sufficient and complete within 20 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair-Share Program as indicated in Section 2-69, then the county will notify the applicant in writing of the reasons for such deficiencies within 20 business days of submittal of the application. If the deficiencies are not remedied by the applicant within 20 business days of receipt of the written notification, then the application will be deemed abandoned. The director may, in his discretion, grant a one-time extension not to exceed 60 calendar days.

(e) Pursuant to §163.3180(16) (e), F.S., proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the agreement of the Florida Department of Transportation (FDOT). If an SIS facility is proposed for proportionate share mitigation, the applicant must submit a copy of the executed agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.

(f) When an application is deemed sufficient, complete, and eligible, the county will advise the applicant in writing. The county attorney will prepare a proportionate fair-share obligation and binding agreement. A draft agreement will be delivered to the appropriate parties for review, including a copy to the FDOT for proposed proportionate fair-share mitigation on SIS facilities, no later than 60 calendar days from the date the applicant received the notification of a sufficient application and no fewer than 14 calendar days prior to the meeting when the agreement will be considered.

(g) The county will notify the applicant regarding the date the agreement will be considered for final approval by the Board. No proportionate fair-share agreement will be effective until approved by the commission, or pursuant to staff approval for agreements below a certain dollar amount.

(Ord. No. 06-20 , § 2, 10-24-06)

Sec. 2-72. Determining proportionate fair-share obligation.

(a) Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.

(b) A development is not required to pay more than its proportionate fair-share unless the road impact fee obligation under the adopted fee schedule exceeds the proportionate fair share mitigation of the project. The fair market value of the proportionate fair-share mitigation for the impacted facilities will not differ regardless of the form of the mitigation.

(c) The methodology that will be used to calculate an applicant's proportionate fair-share obligation is stated in § 163.3180 (12), F.S., as follows:

"The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase divided by the change in the peak hour

maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."

OR

Proportionate Fair-Share = σ [(Development Trips;sub\sub;) / (SV Increase;sub\sub;)] × Cost;sub\sub;

(Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)

Where:

Development Trips;sub \sub; = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;

SV Increase;sub \sub; = Service volume increase provided by the eligible improvement to roadway segment "i" per section 2-69;

Cost;sub \sub; = Adjusted cost of the improvement to segment "i". Cost includes all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

Commentary: Under the definition of "development trips," only those trips that trigger a concurrency deficiency would be included in the proportionate fair-share calculation.

(d) For the purposes of determining proportionate fair-share obligations, the county will determine improvement costs based upon the actual cost of the improvement as reflected in the Capital Improvement Element, the MPO/Transportation Improvement program, or the FDOT Work Program. Where this information is not available, improvement cost will be determined by the Lee County Department of Transportation using one of the following methods:

(1) An analysis by the county or appropriate entity of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the commission. In order to accommodate increases in construction material costs, project costs will be adjusted by an inflation factor; or

(2) The most recent issue of FDOT Transportation Costs, as adjusted based upon the type of cross-section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT Work Program will be determined using this method in coordination with the FDOT District.

(3) An engineer's certified cost estimate provided by the applicant and accepted by the Director of Lee County DOT.

(e) If the county accepts a road improvement project proposed by the applicant, then the value of the improvement will be determined consistent with the method provided for in Article VI, Division 2 (Roads Impact Fee), section 2-275(3)(a). If the value of the road improvement proposed by the applicant is more than the county's estimate total proportionate fair share obligation for the development, then the county will issue road impact fee credits for the difference when the improvement is complete and accepted by the county, subject to the provisions of section 2-73(d).

(f) If the county accepts right-of-way dedication as the proportionate fair-share payment, credit for the dedication of the non-site related right-of-way will be valued consistent with the method provided for in Article VI, Division 2 (Roads Impact Fee), section 2-275(3)(b). If the estimated value of the right-of-way dedication proposed by the applicant (based on a county approved appraisal) is more than the county's estimated total proportionate fair share obligation for the development, then the county will issue road impact fee credits for the difference, subject to the provisions of section 2-73(d).

(Ord. No. 06-20 , § 2, 10-24-06; Ord. No. 07-24 , § 1, 8-14-07)

Sec. 2-73. Impact fee credit for proportionate fair-share mitigation.

(a) Proportionate fair-share mitigation will be applied as a credit against road impact fees assessed to the project to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the county's impact fee ordinance.

(b) Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. If the developer's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the developer or its successor must pay the remaining impact fee amount to the county in accordance with the governing fee schedule at the time of permitting.

(c) The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. Road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to another district unless the road improvement will provide relief in an adjacent district.

(d) Major projects, not included within the local government's impact fee ordinance that can demonstrate a significant benefit to the impacted transportation system, may be eligible for impact fee credit at the county's discretion consistent with the standards for Class 3 roadways set forth in section 2-275(a)(3).

(Ord. No. 06-20 , § 2, 10-24-06; Ord. No. 07-24 , § 1, 8-14-07)

Sec. 2-74. Proportionate fair-share agreements.

(a) Upon execution of a proportionate fair-share agreement (agreement) the applicant will receive a county certificate of concurrency approval. If the applicant fails to apply for a development permit within three years of the execution of the agreement, then the agreement will be considered null and void, and the applicant must reapply for a concurrency certificate. Once paid, proportionate share payments and impact fees are not refundable.

(b) Payment of the proportionate fair-share contribution is non refundable and due in full within 60 days of execution of the Agreement, or prior to the issuance of the first development order, whichever occurs first. If the payment is not made in the time frame stated above, then the proportionate share cost will be recalculated and a new agreement must be executed.

(c) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must be completed prior to issuance of the development order.

(d) Requested changes to a development project subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.

(e) Applicants may submit a letter to withdraw from the proportionate fair-share agreement prior to the execution of the agreement. The application fee and any associated advertising costs to the county will be non refundable.

(f) The county may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

(Ord. No. 06-20 , § 2, 10-24-06)

Sec. 2-75. Appropriation of fair-share revenues.

(a) The county will deposit proportionate fair-share revenues in the appropriate project account for funding of scheduled improvements in the County Capital Improvement Element, or as otherwise established in the terms of the proportionate fair-share agreement. At the discretion of the county, proportionate fair-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair-share revenues may also be used as the 50 percent local match for funding under the FDOT TRIP.

(b) If a scheduled facility improvement is removed from the Capital Improvement Element, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of section 2-69

(c) Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in Section 339.155, F.S., the county may coordinate with other impacted jurisdictions and agencies to apply proportionate fair-share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP. The coordination must be ratified by the county through an interlocal agreement establishing a procedure for earmarking the developer contributions for the purpose of improving the impacted regional facility.

(Ord. No. 06-20 , § 2, 10-24-06)

Sec. 2-76. Cross jurisdictional impacts.

Commentary: This section provides a concept to advance intergovernmental coordination objectives in local government comprehensive plans and applicable policies in adopted regional plans. It provides an opportunity for a local government to address the impacts of a proposed development in an adjacent local government that is at or near its border. It is intended as a means of managing development on a regional thoroughfare, and not for application to minor roadways. A regional transportation facility in this context would most likely be an arterial roadway, but could be a major collector roadway that is planned for expansion and reclassification as an arterial. To apply this method, each participating local government must first enter an interlocal agreement to incorporate the provision into their respective land development regulations. The permitting local government would use the methodology in this section to determine whether a significant impact may occur across its border and offer its neighbor an opportunity to evaluate the proposed development to determine if it would exceed their adopted LOS standards for concurrency. Where the proposed development would trigger a concurrency failure on the neighboring local government's roadway, that local government would use the proportionate fair-share methodology to determine the applicant's obligation. In this situation, the applicant would need to provide a proportionate fair-share contribution to the adjacent local government that experiences a concurrency deficiency, as well as to the permitting local government.

(a) In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the county may enter an agreement with one or more adjacent local governments to address cross jurisdictional impacts of development on regional transportation facilities. The agreement must provide for application of the methodology in this section to address the cross jurisdictional transportation impacts of development.

(b) A development application submitted to the county subject to a transportation concurrency determination meeting all of the following criteria will be subject to this section:

(1) All or part of the proposed development is located within five mile(s) of the area which is under the jurisdiction, for transportation concurrency, of an adjacent local government; and

(2) Using its own concurrency analysis procedures, the county concludes that the additional traffic from the proposed development would use [five percent or more of the adopted peak hour LOS maximum service volume] of a regional transportation facility within the concurrency jurisdiction of the adjacent local government ("impacted regional facility"); and

(3) The impacted regional facility is projected to be operating below the level of service standard, adopted by the adjacent local government, when the traffic from the proposed development is included.

(c) Upon identification of an impacted regional facility pursuant to subsection (b)(1)—(3), the county will notify the applicant and the affected adjacent local government in writing of the opportunity to derive an additional proportionate fair-share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.

(1) The adjacent local government has up to 90 days in which to notify the county of a proposed specific proportionate fair-share obligation, and the intended use of the funds when received. The adjacent local government must provide reasonable justification that both the amount of the payment and its intended use comply with the requirements of Section 163.3180(16), F.S. If the adjacent local government declines proportionate fair-share mitigation under this section, then the provisions of this section would not apply and the applicant would be subject only to the proportionate fair share requirements of the county.

(2) If the subject application is subsequently approved by the county, the approval will include a condition that the applicant provides, prior to the issuance of building permits covered by that application, evidence that the proportionate fair-share obligation to the adjacent local government has been satisfied. The county may require the adjacent local government to declare, in a resolution, ordinance, or equivalent document, its intent for the use of the concurrency funds to be paid by the applicant.

(Ord. No. 06-20 , § 2, 10-24-06)

Secs. 2-77—2-90. Reserved.

ARTICLE III. DEVELOPMENT AGREEMENTS [3]

Sec. 2-91. Statutory authority.

The Board of County Commissioners has the authority to adopt this article pursuant to article VIII, section 1(f), of the constitution of the state and F.S. §§ 125.01, 163.3220(5) and 163.3223.

(Ord. No. 90-29, § 2, 5-16-90)

Sec. 2-92. Applicability of article.

This article shall apply to the unincorporated area of the county.

(Ord. No. 90-29, § 3, 5-16-90)

Sec. 2-93. Intent of article.

This article is intended to enable the county to invoke the provisions of the Florida Local Government Development Agreement Act while retaining all of the home rule authority given it pursuant to article VIII of the constitution of the state and F.S. chs. 125, 163 and 380, to enter into other similar agreements beyond the provisions of the Florida Local Government Development Agreement Act, and to establish specific notice and hearing procedures when it makes certain such similar agreements pursuant to its home rule authority.

(Ord. No. 90-29, § 4, 5-16-90)

Sec. 2-94. Purpose of article.

(a) The purpose of this article is to invoke the authority recognized in the county by the state in F.S. § 163.3223, to enter into development agreements with any and all persons having legal or equitable interests in real property located in the unincorporated area of the county pursuant to the provisions of the Florida Local Government Development Agreement Act. Vendees under a specifically enforceable contract for the sale of real property shall be recognized as having a sufficient equitable interest so as to have legal capacity to become a party to a development agreement made pursuant to the Florida Local Development Agreement Act, but persons having only a mere option to purchase real property shall not be so recognized.

(b) It is also the purpose of this article to establish notice and hearing procedures similar to those set forth in the Florida Local Development Agreement Act when the county makes agreements pursuant to its home rule authority in those type of agreements which are defined in this article as home rule development agreements. Development agreements made pursuant to this article, whether they are home rule development agreements as defined in this article or agreements made pursuant to the Florida Local Government Development Agreement Act, are intended to protect and further the public health, safety and welfare by providing certain guarantees to land developers in exchange for their agreement to provide specified public facilities or services which are related to and consistent with the county's capital improvement planning and financing.

(Ord. No. 90-29, § 5, 5-16-90)

Sec. 2-95. Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Development agreement means either a home rule development agreement or a statutory development agreement.

Home rule development agreement means an agreement made by the county pursuant to its home rule powers, and not pursuant to the Florida Local Government Development Agreement Act, but only in those cases where development, as defined in F.S. § 163.3221(3), is to be undertaken by a person who is not a local government, as defined in F.S. § 163.3221(9), or an agency of the state or the United States of America. Moreover, home rule development agreements specifically do not mean agreements made between the county and other parties where the purpose of the agreement is exclusively to provide or pay for the construction, improvement, maintenance or other alteration of land or personalty by third parties where the property in question is owned or is to be owned by the county or some other governmental agency.

Statutory development agreement means any agreement made specifically pursuant to the Florida Local Government Development Agreement Act.

(b) All other terms which are used in any statutory development agreement made by the county pursuant to the Florida Local Government Development Agreement Act, as such act may be amended from time to time, shall be defined as set forth in F.S. § 163.3221, unless otherwise specifically defined in a particular statutory development agreement. Terms not so defined shall be given their ordinary and customary meanings.

(Ord. No. 90-29, §§ 6, 7, 5-16-90)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 2-96. Applications for development agreements.

No person shall have the right to apply for or receive development agreement approval, unless such right is so provided in an appropriate Administrative Code which establishes procedures for such applications. Should such an Administrative Code be adopted, then the Board of County Commissioners shall establish a schedule of fees and charges which shall be imposed for the filing and processing of each such application. Unless otherwise provided by Administrative Code, development agreements shall be considered by the Board of County Commissioners only upon the recommendation of the county administrator, who may submit a proposed development agreement, in written form, for consideration by the Board pursuant to the public hearing requirements of F.S. § 163.3225 and section 2-98. Each such proposed development agreement so submitted shall include the county administrator's recommendation as to whether the Board should become or decline to become a party to the agreement, or a modified form of the agreement, with such information as the county administrator deems necessary to support his recommendation.

(Ord. No. 90-29, § 8, 5-16-90)

Sec. 2-97. Minimum requirements of a statutory development agreement.

Statutory development agreements shall include, at a minimum, all of the items enumerated in F.S. § 163.3227, plus such conditions, terms, restrictions or other requirements which the parties to the agreement may desire to include and which are not otherwise prohibited by law or which exceed the authority of the parties. If a statutory development agreement provides that any public facilities are to be designed or constructed by the developer, then the agreement shall require that the design and construction be in

compliance with all applicable federal, state and county standards and requirements, including but not to be limited to guarantees of performance and quality and project controls, including scheduling, quality and quality assurance. When public facilities are to be designed or constructed by the developer, or when the developer agrees to dedicate land to the county, the statutory development agreement shall specifically state the extent to which such design or construction or dedication shall be eligible for impact fee credits pursuant to such impact fee ordinances as the county may have in effect at the time when the statutory development agreement is to become effective. Statutory development agreements also shall incorporate the administrative appeal process set forth in section 2-102.

(Ord. No. 90-29, § 9, 5-16-90)

Sec. 2-98. Notices and hearings.

No statutory development agreement may be made pursuant to this article unless and until all of the requirements of F.S. § 163.3225 relating to the agreement have been satisfied. To that end, an affected property owner, as the term is used in F.S. § 163.3225, means all owners of property, as reflected on the current year's tax roll, lying within 500 feet in every direction of the subject property. The Board of County Commissioners, by adopting an appropriate Administrative Code, may prescribe more stringent notice requirements. In addition, if a statutory development agreement is intended to rezone property, grant variances or accomplish any other approval which otherwise would be controlled by chapter 34, the notices required in chapter 34 must also be given. The same notice and hearing requirements also should be observed when making home rule development agreements. However, failure to satisfy all of notice and hearing requirements will not be grounds to invalidate a home rule development agreement.

(Ord. No. 90-29, § 10, 5-16-90; Ord. No. 01-03, § 1, 2-27-01)

Sec. 2-99. Amendment or cancellation of development agreement by mutual consent.

A statutory development agreement adopted pursuant to this article may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest utilizing the same public hearing and notice requirements as are prescribed for the adoption of development agreements pursuant to this article and any Administrative Code authorized by section 2-98.

(Ord. No. 90-29, § 11, 5-16-90)

Sec. 2-100. Reservation of home rule authority.

Nothing contained in this article shall be construed so as to prevent the county from entering into an agreement which is substantially similar to a development agreement adopted pursuant to the Florida Local Government Development Agreement Act but which is based upon the home rule authority granted the county pursuant to article VIII, section 1(f), of the constitution of the state and F.S. chs. 125, 163 and 380, and specifically recognized by the state legislature in F.S. § 163.3220(5).

(Ord. No. 90-29, § 12, 5-16-90)

Sec. 2-101. Conflicts between development agreement and other land development regulations.

To the extent that this Land Development Code may permit it and a development agreement purports to rezone land, grant deviations or variances from this Land Development Code, including article II of this chapter, grant preliminary development orders or final development orders or amendments to or extensions thereof equivalent to those which are available pursuant to chapter 10, implement development orders or amendments to development orders for developments of regional impact, or grant building permits or other

permits which specifically allow the physical alteration or improvement of land, the development agreement must explicitly identify each instance of conflict with other ordinances and expressly provide for the development agreement to control, or else all of the provisions of such other ordinances shall control to the extent that the development agreement fails to expressly provide otherwise. Any ambiguity with respect to whether a development agreement or an ordinance is to control shall be interpreted to favor the ordinance.

(Ord. No. 90-29, § 14, 5-16-90)

Sec. 2-102. Appeals.

No person may challenge the validity of a development agreement on the grounds that the agreement conflicts with the County's comprehensive plan except pursuant to the procedures set forth in F.S. § 163.3215. A party or a successor in interest to a party to a development agreement may bring suit to challenge the county's administration of a development agreement only after he has exhausted the administrative remedies prescribed in chapter 34 for appeals from administrative actions.

(Ord. No. 90-29, § 15, 5-16-90)

Secs. 2-103—2-140. Reserved.

FOOTNOTE(S):

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Cross reference— Development standards, ch. 10. (Back)

ARTICLE IV. TRANSFER OF DEVELOPMENT RIGHTS [4]

Sec. 2-141. Purpose of article.

The purpose and intent of this article is to recognize that there are environmentally sensitive lands categorized as wetlands by the County comprehensive plan that warrant protection in their undeveloped, natural state. Further it is the purpose and intent of this article to provide an alternative to development on these environmentally sensitive lands by providing an economic relief mechanism that encourages private property owners to utilize the transfer of development rights (TDR) concept. The transfer of development rights concept is designed to direct future growth in a logical. economical and efficient manner toward those areas of the county best suited to providing the public services and facilities necessary for the protection of the health, safety and welfare of the general public.

(Ord. No. 99-22, § 1, 12-14-99)

Sec. 2-142. Applicability of article. [5]

This article applies to all unincorporated areas of the County. Lee County has also established a second TDR program that allows the transfer of development rights from uplands as well as wetlands and creates additional TDR receiving areas (see chapter 32). The two TDR programs operate independently; TDR units created pursuant to chapter 2 may be used only on receiving parcels defined in chapter 2

(Ord. No. 99-22, § 1, 12-14-99; Ord. No. 10-25 , § 1, 6-8-10)

Sec. 2-143. Definitions.

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Acre means a horizontal area of land containing 43,560 square feet of surface area.

Comprehensive plan means the document, and its amendments, adopted by the Board of County Commissioners, which meets the requirements of F.S. §§ 163.3177 and 163.3178. The terms "comprehensive plan" and "Lee Plan" are synonymous.

Density bonus means an increase in the density of development that can be carried out on a parcel of land over and above the standard density range permitted by the comprehensive plan for the land use category in which it is located.

Department means that department charged with the planning and administration of zoning and development review for the unincorporated area of the county.

Developer means any individual, firm, association, syndicate, copartnership, corporation, trust or other legal entity commencing development.

Development and *to develop* have the meaning given in F.S. ch. 380.

Development right means any specific right to use real property which inures to an owner of real property through the common law, statutory law of real property, the United States and state constitutions and as further defined and delineated in this article.

Director means the administrative director of the department charged with the planning and administration of development services for the unincorporated area of the county.

Land use plan map means the map adopted by the Board of County Commissioners, which delineates land use categories of the comprehensive plan.

Maximum total density means the maximum dwelling units per gross residential acre as indicated in Table 1(a) Summary of Residential Densities, of the Lee Plan.

Owner means the person with legal or equitable title to real property.

Planned development means those zoning districts designated in Chapter 34 as PUD, RPD, MHPD, RVPD, CFPD, IPD, AOPD, CPD, or MPD.

Receiver parcel means a parcel of land on which a development right is used.

Sending parcel means a parcel of land from which a development right has been severed in accordance with this article.

Sever means the removal or separation of some specified right or use from the bundle of rights possessed by an owner of real property. The term connotes a removal or separation in perpetuity as distinguished from a restriction or limitation which may be overridden, deleted or subject to a time limitation.

TDR means transfer of development rights.

TDR unit means one dwelling unit or its equivalent density as set forth in Chapter 34.

Water, body of.

(1) *Artificial body of water* means a depression or concavity in the surface of the earth, other than a swimming pool, created, extended or expanded by human artifice and in which water stands or flows for more than three months of the year.

(2) *Natural body of water* means a depression or concavity in the part of the surface of the earth lying landward of the line of mean sea level (NAVD) which was created by natural geophysical forces and in which water stands or flows for more than three months of the year. Also included are the bays and estuaries lying between the County mainland and the barrier islands (Gasparilla Island, Cayo Costa, North Captiva Island, Captiva Island, Sanibel Island, Estero Island, Lovers Key, Big Hickory Island, Little Hickory Island and Bonita Beach) with the outermost boundary defined by the shortest straight line that can be drawn between these islands.

Wetlands means a land use category as defined by the comprehensive plan. For the purpose of this article, lands which otherwise would meet this definition but for the effects of unlawful clearing of vegetation or filling or excavation will be included in this definition, and all lands which meet these criteria will be considered wetlands regardless of whether they are explicitly identified as such on the Lee Plan land use map.

(Ord. No. 99-22, § 1, 12-14-99; Ord. No. 13-10 , § 1, 5-28-13)

Sec. 2-144. Administration of article.

The director is responsible for the administration and enforcement of this article.

(Ord. No. 99-22, § 1, 12-14-99)

Sec. 2-145. Conflicting provisions.

Whenever the requirements or provisions of this article are in conflict with the requirements or provisions of any other lawfully adopted ordinance, the most restrictive requirements will apply.

(Ord. No. 99-22, § 1, 12-14-99)

Sec. 2-146. Transfer of development rights concept; computation of units.

(a) *Legal concept.* The transfer of development rights idea is based upon the property law concept that the right to develop real estate is one of the bundle of rights included in fee simple ownership of land. Fee simple ownership of real estate allows the owner to sell, lease or trade any one or more, or all of the bundle of rights to their property. This bundle includes the right to use, lease, sell, or abandon the property or any of its components of ownership when not retained by a previous owner such as mineral,

oil, gas, air, or development rights. All rights of ownership are subject to the limitation and legislative powers of the local government.

(b) *Development rights defined.* A development right is an appurtenant right of land ownership. When lawfully established, a development right has an economic value separate from the land itself. It can be subject to reasonable regulation by local government under its police powers. The development right can be transferred by the owner to another property, through gift or sale. The landowner may sell the development rights and still retain the title to the land and the right to use the surface of the land on a limited basis.

(c) *Establishment of development rights.*

(1) For the purposes of this article, the owner of any vacant or undeveloped property that is designated wetlands under the comprehensive plan and that is not zoned or proposed to be zoned to a private recreational facilities planned development (PRFPD) district, may transfer the development rights allocated to the parcel of land to any person at any time, subject to the provisions of subsection (c)(2) of this section.

(2) Development rights may only be transferred to those parcels or portions of a parcels designated as receiving parcels. The maximum number of development rights that may be transferred to the receiver parcel must be determined in accordance with section 2-147(b) and 2-147(c) as well as the maximum bonus density permitted by its land use category as designated by the comprehensive plan.

(3) Rezoning to a private recreational facilities planned development (PRFPD) district extinguishes residential density rights applicable to the transfer, clustering, or assignment of density rights to another parcel of land. Development rights to residential density can be reestablished only by removing the private recreational facilities in their entirety, and eliminating all private recreational facility uses from the zoning district in effect.

(d) *Computation of transfer of development rights units (TDR units).*

(1) The development rights appurtenant to land categorized as wetlands, may be severed from the underlying fee and transferred to land that qualifies as a receiving parcels that is appropriate for density bonus, pursuant to this article. Development rights that are transferable pursuant to this article will be known as "Lee County transfer of development rights (TDRs)." TDRs may not be severed from land that is:

a. owned by a public agency;

b. subject to conservation easements;

c. or subject to other legal restrictions that would (or that have) precluded the physical development of the land on or before September 1, 1986 (the effective date of the ordinance 86-18 from which this article is derived.)

(2) Units of measure of TDRs are hereby established at one TDR unit per five acres of wetland. The county will not recognize TDR units smaller than one-tenth unit. The following table sets forth equivalent TDR units for various acreages or portions of an acre:

TABLE 1. FRACTIONAL TRANSFER OF TDR UNITS

Land Area (Acres)	0 to 0.4	0.5 to 0.9	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0
TDR units	0	0.1	0.2	0.4	0.6	0.8	1.0	1.2	1.4	1.6	1.8	2.0

(3) A single TDR unit is declared to be the right to place and use one dwelling unit or the density equivalent of one dwelling unit, (as defined and established in chapter 34) where applicable.

(4) A single-family lot or parcel designated as wetlands that holds an affirmative determination of the single-family residence provision, may be permitted to sever two TDR units in lieu of development.

(5) Under no circumstances will areas considered to be natural bodies of water be included in the calculation for TDR units.

(Ord. No. 99-22, § 1, 12-14-99; Ord. No. 00-14, § 1, 6-27-00)

Sec. 2-147. Transfer of development rights process.

(a) *Sending parcel.*

(1) The property owner of lands that are designated or can be defined as wetlands pursuant to the comprehensive plan may sever their development rights for TDR units provided the following procedures are completed:

a. The property owner must apply for an administrative determination in the designation of wetlands. As part of the administrative determination application, the property owner must submit a "certified sketch of description" of the property and a South Florida Water Management or U.S. Army Corps of Engineers wetlands jurisdictional determination. The purpose of this administrative determination is to ascertain how many TDR units the property owner is entitled to.

b. The department will make the determination as to the number of wetland acres and corresponding TDR units the subject property may support.

(2) Once the administrative determination is issued, the property owner must submit to the county a survey delineating the wetland areas in compliance with the administrative determination. The survey must be prepared by a surveyor and certified to the county. The legal description does not have to be an exact delineation of the wetlands, but must be a reasonably accurate representation of those affected lands. The county will review the survey for compliance with the administrative determination. After the county approves the survey, the property owner must submit a legal description and a legible 8½ by 11 inch accompanying sketch, sealed by the surveyor, and appropriate for attachment to documents for recording.

(3) The property owner must prepare a conservation easement agreement acceptable to the county attorney's office that expressly restricts the use of the wetland portion of the sending parcel to conservation and open space uses in perpetuity. The conservation easement document must state the total number of TDR units that are delineated wetlands and available to the property owner for transfer. The easement must be drafted and prepared in compliance with F.S. § 704.06, and granted to and expressly enforceable by the county.

(4) After the legal description and conservation easement have been accepted by the county attorney's office, it will be recorded in the Lee County public records at the property owner's expense.

(5) The sending parcel may only be used in a manner consistent with its conservation easement.

(6) After the legal description and conservation easement have been recorded, the property owner may sell, trade, barter, negotiate or transfer the TDR units. The owner of the sending parcel (grantor) must execute and record a deed of transfer before a transfer of TDR units can be completed. The deed of transfer must indicate:

a. how many TDR units are to be transferred by the property owner (grantor) to the buyer (grantee);

b. the total number of TDR units originally afforded to the sending parcel;

c. the number of TDR units that have been transferred to other buyers; and

d. how many TDR units remain attached to the sending parcel.

(b) *Receiving parcel.*

Density Increases. Except as provided in Section 2-148, the property owners of lands designated by the comprehensive plan as intensive development, central urban, or urban community, are eligible to receive TDR units: 1) by right; 2) by administrative approval if rezoning is not required; or 3) concurrent with a rezoning, pursuant to the conditions set forth below

(1) *TDR units By Right.* The transfer of TDR units is permitted by right, for receiving parcels located in the following conventional zoning districts, provided that the property development regulations concerning lot size, setbacks, and height are met:

TFC-1, TFC-2 and TF

RM-2 through RM-10

CT, C1-A, C1, C2-A, and C2

a. If the receiving parcel is one acre or less, TDR units may be used to add one dwelling unit.

b. If the receiving parcel is larger than one acre, TDR units may be used to add one dwelling unit per acre.

The resulting density may not exceed the maximum total density range for the land use category where located and the receiving parcel must already be zoned for the number and type of dwelling units that would result from adding the TDR units to the receiving parcel.

(2) *Administrative approval of density increases in conventional zoning districts.* The department director may administratively approve the use of TDR units to increase the density of a proposed development in a conventional zoning district provided:

a. The request does not exceed the maximum total density allowed by the Lee Plan for the applicable land use category; and

b. The director's written findings conclude that the proposed development is:

1. in compliance with the Lee Plan;

2. zoned for the type of dwelling units to be constructed;

3. designed so that the resulting development does not have substantially increased intensities of land uses along its perimeter, unless adjacent to existing or approved development of a similar intensity;

4. in a location where the additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road;

5. in a location outside of the Category 1 Storm Surge Zone for a land-falling storm as defined by the October 1991 Hurricane Storm Tide Atlas for Lee County prepared by the Southwest Florida Regional Planning Council.

6. not in a location where existing and committed public facilities are so overwhelmed that a density increase would be contrary to the overall public interest; and

7. will not decrease required open space, buffering, landscaping and preservation areas or cause adverse impacts on surrounding land uses.

The director's written approval may contain reasonable conditions to mitigate adverse impacts that could otherwise be created by the density increase. The director's decision may be appealed according to the provisions of chapter 34 for appeals of administrative decisions.

(3) *Planned development zoning districts.* In order to increase the approved density of an existing planned development using TDR units, the applicant must apply for an amendment to a planned development approval pursuant to section 34-380. The application must include, as part of the submittal documents, a revised master concept plan that clearly shows the location of the proposed additional density, and must also provide additional information as is needed to describe the changes in impact that the increased density will have over that which was contained in the application for the original approval.

(4) *Rezoning.* If a property owner or developer applying for planned development or conventional rezoning intends to use TDR units to increase densities above the Lee Plan standard density range, both the application for the rezoning and the transfer of TDR units may be submitted at the same time for concurrent review. The maximum density may not exceed the maximum total density for the land use category in which the property is located. The application process, including the TDR transfer, will follow the same procedures applicable to any other rezoning case.

(c) *Development/building permit approval.* After the property owner or developer has received approval to use TDR units, he may apply for final development orders or building permits, as applicable.

(1) Before a final development order is approved, the developer must provide sufficient evidence to the department director that the TDR units required for the increased density have been secured.

(2) Before the issuance of construction or building permits, the developer must provide to the department a copy of the recorded deed of transfer required in accordance with section 2-147(a)(6) encompassing the TDR units he intends to use. This deed must include a restriction on the development rights of the sending parcel in perpetuity.

(3) Upon issuance of construction or building permits for the units allowed using TDR units, the property owner or developer must provide the county an executed deed transferring the TDR units to the receiving parcel. The department may issue an extinguishment document to the sending parcel property owner indicating the number of TDR units transferred to the receiving parcel. The extinguishment document and deed transferring the TDR units will be recorded in the public records of the county and made available to the county property appraiser. This process completes the development rights transaction. The TDR units transferred remain with the receiver parcel in perpetuity.

(Ord. No. 99-22, § 1, 12-14-99; Ord. No. 05-14 , § 1, 8-23-05)

Sec. 2-148. Limitations.

(a) Development rights authorized and severed by another governmental unit may not be used in the County.

(b) The County may limit the number of TDR units that can be transferred to the receiver parcel to an intensity lower than the amount requested by the developer if, during the zoning or development review process, the County determines that the receiver parcel for development reflects unique or unusual circumstances or is surrounded by uses such that a development of the parcel at an increased density or at a density bonus would be contrary to the public health, safety and welfare, and inconsistent with the comprehensive plan. The Board of County Commissioners or the director must, as part of any development order issued limiting the use of TDR units to less than the amount requested by the property owner or developer, include specific findings of fact to support the limitation and specify what

changes, if any, that would make the parcel proposed for development eligible for additional development rights.

(c) Areas defined as wetlands that are approved as part of any development order for open space or water management purposes are not eligible to sever or receive TDR units.

(d) The barrier or coastal islands, including but not limited to Gasparilla Island, Cayo Costa, North Captiva, Captiva Island, Sanibel Island, Estero Island, Lovers Key, Big Hickory Island, Little Hickory Island, Buck Key, Black Island, Bonita Beach, Pine Island, Little Pine Island and Matlacha, are not eligible to receive TDR units.

(Ord. No. 99-22, § 1, 12-14-99)

Secs. 2-149—2-190. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 99-22, § 1, adopted Dec. 14, 1999, amended Art. IV, in its entirety, to read as herein set out in §§ 2-141—2-148. Prior to inclusion of said ordinance, Art. IV pertained to similar subject matter. See the Code Comparative Table. (Back)

Cross reference— Development standards, ch. 10; environment and natural resources, ch. 14; wetlands protection, § 14-291 et seq. (Back)

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Note—[The last two sentences of § 2-142, as adopted in LCO 10-25, will have no force or effect until the date the Lee Plan amendments adopted by ordinances 10-19 and 10-21 become effective in accordance with F.S. ch. 163.] (Back)

ARTICLE V. UNAUTHORIZED COMMUNICATIONS [6]

Sec. 2-191. Unauthorized communications.

(a) *Definitions.* The following words, terms and phrases, when used in this section, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Application and appeal means for purposes of this section, an application filed with the Department of Community Development that will be presented to the Hearing Examiner for a final decision or issuance of a recommendation to be considered by the Board of County Commissioners; and, any appeal that may follow or result from the decision of the Hearing Examiner or Board regarding the application.

Hearing Examiner means the County Hearing Examiners or any member of the Hearing Examiner's staff, including Hearing Examiners pro tempore.

Unauthorized communication (Hearing Examiner) means communication in any form, whether written, verbal, or graphic, with the Hearing Examiner or the Hearing Examiner's staff, by any person outside of a public hearing and not on the record, concerning substantive issues in any proposed, anticipated, or pending matter relating to appeals, variances, special permits, rezonings, special exceptions or any other matter assigned by statute, ordinance or administrative code to the hearing examiner for discussion or recommendation, except as permitted in the County Administrative Code. Communications regarding procedural aspects of a proceeding are not deemed unauthorized.

Unauthorized communication (County Commissioners) means communication in any form, whether written, verbal or graphic, with a County Commissioner, or County Commissioner executive assistant, by any person outside of a public hearing concerning substantive issues in any proposed, anticipated, or pending matter relating to appeals, rezonings, and variance or special exception cases that are a part of an active F.S. § 70.51, proceeding. Communications regarding procedural aspects of a proceeding are not deemed unauthorized.

(b) *Unauthorized communications prohibited.*

(1) *Unauthorized communication with a County Commissioner.* No person may communicate with an individual Commissioner or a Commissioner's assistant regarding the substance (non-procedural aspects) of a pending rezoning action or appeal that will be considered by the Board under sections 34-83(b)(1) and (6), to include:

a. Rezoning actions (conventional rezoning and planned developments);

b. Development of regional impact applications;

c. Special exceptions meeting the development of county impact thresholds;

d. Special exceptions and variances to be decided in conjunction with a zoning request;

e. Code enforcement proceedings requiring a rezoning to achieve compliance; and

e. Reinstatement or extension of a master concept plan.

(2) *Unauthorized communication with a County Hearing Examiner.* No person may communicate with a Hearing Examiner or the Hearing Examiner's staff regarding the substance (non-procedural aspects) of a pending rezoning action or appeal to be considered by the Hearing Examiner under sections 2-420 through 2-429, or 34-145. This prohibition includes communications on the substance of:

a. Code enforcement proceedings;

b. Rezoning actions (conventional rezoning and planned developments);

c. Rehearings on remand from the Board;

d. Developments of regional impact;

e. Special exceptions;

f. Variances; and

g. Appeals brought from administrative decisions.

(3) *Limited communications to and from a Hearing Examiner.* Under certain limited circumstances communication with a Hearing Examiner during the pendency of a zoning action, or other proceeding defined in section 2-191(2), is permitted as follows:

a. Written communications specifically requested by the Hearing Examiner pursuant to an order or in compliance with section 34-378 (24 hour rule).

b. *Advice from a disinterested expert.* A Hearing Examiner may obtain the advice of a disinterested expert other than another County Hearing Examiner or employee of the County (except a member of the Hearing Examiner's staff) concerning a matter of law, planning or zoning applicable to a proceeding before the Hearing Examiner. A Hearing Examiner must give notice of the intention to solicit such an opinion to all interested parties who appeared at the public hearing personally, by agent or through counsel, or have filed documents or statements in the public record under consideration in the pending matter; forward copies of the written opinion received as a result of the request to each party; and afford all interested parties reasonable opportunity to respond to and rebut the opinion on the record prior to rendering a decision.

(4) This section does not prohibit the discussion of pending or proposed cases or appeals by and between the Hearing Examiners or between a Hearing Examiner and any employee of the office of the Hearing Examiner.

(c) *Penalties.* Any person who intentionally makes or attempts to initiate an unauthorized communication to or with a Hearing Examiner, a member of the Hearing Examiner's staff, a county commissioner or an assistant to a county commissioner, or any Hearing Examiner or county commissioner who fails to publicly disclose and report an unauthorized communication or an attempt to initiate an unauthorized communication, may be subject to the following penalties:

(1) *Criminal penalties.* Such person may be subject to punishment as provided for in section 1-5

(2) *Civil penalties.* Such person may be subject to:

a. Revocation, suspension or amendment of any permit, variance, special exception or rezoning granted as a result of the Hearing Examiner action that is the subject of the unauthorized communication, and,

b. Any other relief available at law or in equity.

Each unauthorized communication or attempt to initiate an unauthorized communication constitutes a separate offense under the provisions of this section.

(Ord. No. 88-35, § 3, 7-20-88; Ord. No. 90-12, § 1, 3-21-90; Ord. No. 92-33, 7-15-92; Ord. No. 00-14, § 1, 6-27-00; Ord. No. 02-20, § 1, 6-25-02; Ord. No. 10-28 , § 1, 6-22-10; Ord. No. 11-08 , § 2, 8-9-11)

Secs. 2-192—2-230. Reserved.

FOOTNOTE(S):

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Cross reference— Unauthorized communications, § 34-52. (Back)

ARTICLE VI. IMPACT FEES

DIVISION 1. - GENERALLY

DIVISION 2. - ROADS IMPACT FEE

DIVISION 3. - REGIONAL PARKS IMPACT FEE

DIVISION 4. - COMMUNITY PARKS IMPACT FEE

DIVISION 5. - FIRE PROTECTION AND EMERGENCY MEDICALSERVICES IMPACT FEE

DIVISION 6. - SCHOOL IMPACT FEES

DIVISION 1. GENERALLY

Sec. 2-231. Compliance with Florida Impact Fee Act.

(a) In accordance with the Florida Impact Fee Act adopted as part of F.S. Ch. 163, the county will provide for accounting and reporting of impact fee collections and expenditures. The county will account for the revenues and expenditures of impact fees that address infrastructure needs in a separate accounting fund.

(b) Audits of county financial statements that are performed by a certified public accountant in accordance with F.S., § 218.39, and submitted to the auditor general, must include an affidavit signed by the chief financial officer of the county confirming that the county has complied with the annual financial audit reporting requirements of the Uniform Local Government Financial Management and Reporting Act and the Florida Impact Fee Act.

(c) The calculation of impact fees must be based on the most recent and localized data available.

(d) The administrative charges for the collection of impact fees must be limited to actual costs.

(Ord. No. 06-19 , § 1, 10-24-06)

Secs. 2-232—2-260. Reserved.

DIVISION 2. ROADS IMPACT FEE

Sec. 2-261. Statutory authority.

The Board of County Commissioners has the authority to adopt this division pursuant to article VIII of the constitution of the state, F.S. ch. 125 and F.S. §§ 163.3201, 163.3202 and 380.06(16).

(Ord. No. 89-17, § 1(1), 6-7-89)

Sec. 2-262. Applicability of division.

This division applies in the unincorporated areas of the county. It also applies in municipalities within the county that have entered into interlocal agreements with the county for the collection of roads impact fees.

(Ord. No. 89-17, § 1(1), 6-7-89; Ord. No. 00-07, § 1, 4-25-00)

Sec. 2-263. Intent and purpose of division.

(a) This division is intended to implement and be consistent with the Lee Plan.

(b) The purpose of this division is to regulate the use and development of land to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide roads in the county as contemplated by the Lee Plan.

(Ord. No. 89-17, § 1(2), 6-7-89; Ord. No. 00-07, § 1, 4-25-00)

Sec. 2-264. Definitions and rules of construction.

(a) For the purposes of administration and enforcement, unless otherwise stated in this division, the following rules of construction apply to the text of this division:

(1) Any road right-of-way used to define roads impact fee district boundaries may be considered to be within any district it bounds for purposes of using these funds.

(2) All transportation terms used in this division have the same meaning as in the Lee Plan, and in chapter 34 and chapter 10, unless otherwise indicated.

(b) The following words, terms and phrases, when used in this division, will have the meanings ascribed to them in this subsection and the latest edition of the Institute of Transportation Engineers (ITE) Trip Generation, except where the context clearly indicates a different meaning.

Access road means an access street, frontage street or reverse frontage street as defined in chapter 10.

Approved road means an arterial road, collector road, freeway or expressway, including sidewalks bordering such roads and access roads, that if constructed in whole or in part by a nongovernmental entity, or the right-of-way of which is dedicated to the county or some other government approved by the county, that may entitle the person constructing the road or dedicating the right-of-way to a roads impact fee credit equal to all or a portion of the value of the land dedicated or the cost of construction. Approved roads are divided into class 1 roads, class 2 roads and class 3 roads, which are defined in this section. Approved roads do not include site-related improvements.

Building official means that officer who is so defined in chapter 6, article II. Within any participating municipality, the term "building official" means that person whose duties and authority are similar to that of the county's building official, regardless of the title given such person.

Building permit means an official document or certification issued by the building official authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. In the case of a change in use or occupancy of an existing building or structure, the term specifically includes certificates of occupancy and occupancy permits, as those permits are defined or required by county ordinance. The terms "building permit" and "certificate of occupancy permit" also mean those municipal permits that are equivalent to these county permits, regardless of the names by which they are called within a municipality.

Building with mixed uses means a building containing more than one principal use, as that term is defined in chapter 34.

Capital improvements means preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any non-site-related road construction project, including but not limited to:

(1) Constructing new through lanes;

(2) Constructing new turn lanes;

(3) Constructing new frontage or access roads;

(4) Constructing new bridges;

(5) Constructing new drainage facilities in conjunction with roadway construction;

(6) Purchasing and installing traffic signalization (including both new installations and upgrading signalization);

(7) Constructing curbs, medians, sidewalks, bicycle paths and shoulders in conjunction with roadway construction;

(8) Relocating utilities to accommodate new roadway construction; and

(9) Constructing on-street and off-street parking when such parking is intended for and designed to protect or enhance the vehicular capacity of the existing network of approved roads.

Class 1 road means an approved road shown on Map 3A of the transportation element of the Lee Plan that is included as a county-funded road construction or improvement project on the five-year schedule of improvements within the Lee Plan's capital improvements element adopted and amended from time to time in accordance with F.S. §§ 163.3177(3)(b) and 163.3187. Class 1 roads include access roads shown on the access road location map if the county requires their construction as a condition of development order approval or a specific written condition of the zoning approval. Class 1 road also means any arterial or collector road included in the road network established in the transportation element of the comprehensive plan of any participating municipality, if the road construction or improvement project is also included in the annual capital improvement program of the municipality to be funded through the use of roads impact fees. Notwithstanding their inclusion on the access road location map, Class 1 roads do not include site-related

improvements such as access roads constructed to achieve site location standards for commercial development or to provide for internal circulation when such roads would not otherwise be required by the county pursuant to criteria in chapter 10.

Class 2 road means an approved road shown on Map 3A of the Lee Plan transportation element that is scheduled for construction as a county-funded project in any ten-year capital improvement, but which is not included on the five-year schedule of improvements within the capital improvements element of the Lee Plan.

Class 3 road means an approved road shown on Lee Plan Map 3A that is not included for construction or improvement within the capital improvements element of the Lee Plan or any five- or ten-year capital improvement plan of the County. Class 3 roads include all arterial and collector roads on Gasparilla Island, Pine Island, and Captiva, Sanibel and Estero Island or any road that provides a reasonable alternative route for traffic that otherwise would travel a specific road shown on Lee Plan Map 3A.

County manager means the county manager, or the county or municipal officials that the county manager may designate to administer the various provisions of this division.

Duplex has the same meaning given it in chapter 34.

Elderly/disabled housing means dwelling units qualified to receive Federal assistance through Section 202 (supportive housing for the elderly, authorized under the Housing Act of 1959, Section 210 of the Housing and Community Development Act of 1974, and the National Affordable Housing Act) or Section 811 (supportive housing for persons with disabilities, authorized under the National Affordable Housing Act of 1990, as amended by the Housing and Community Development Act of 1992, the Rescission Act and the American Homeownership and Opportunity Act of 2000) programs.

Expansion of the capacity of a road means all road and intersection capacity enhancements, and includes but is not limited to extensions, widening, intersection improvements and upgrading signalization.

Fast food restaurant has the same meaning given it in chapter 34.

Feepayer means a person commencing a land development activity that will generate or attract traffic, and who is applying to the county or a participating municipality for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for a type of land development activity specified in section 2-266(a), regardless of whether the person owns the land to be developed.

General office means any type of office except a medical office. A general office building may contain accessory uses such as a beauty or barber shop, snack bar, cafeteria, day care or other use that primarily serves tenants of the office building and their employees, provided that such accessory uses do not account for more than ten percent of the gross floor area of the building.

Hotel/motel has the same meaning given it in chapter 34.

Industrial means the use of a building or structure primarily for the storage, packaging or distribution of goods; the assembly, fabrication or manufacture of goods, either from raw materials or other goods; and the basic processing of foodstuffs.

Land development activity means any change in land use, or any construction of buildings or structures, or any change in the use of any building or structure that attracts or produces vehicular trips.

Lee Plan means the county comprehensive plan adopted pursuant to F.S. ch. 163, as amended from time to time.

Level of service means a qualitative measure that represents the collective factors of speed, travel time, traffic interruption, freedom to maneuver, driving comfort and convenience provided by a highway facility under a particular volume condition. Levels of service vary from A to F. (Level of service D, for example, represents high-density, but stable, flow. Speed and freedom to maneuver are severely restricted, and the driver or pedestrian experiences a generally poor level of comfort and convenience. Small increases in traffic flow or disruptions will generally cause substantial increases in delay and decreases in

travel speed, the influence of congestion becomes more noticeable, longer delays result at traffic signals and stop signs, and crossing movements face a high probability of conflict.)

Living unit has the same meaning given it in chapter 34.

Medical office has the same meaning given it in chapter 34.

Mobile home has the same meaning given it in chapter 34. Mobile homes not located within an established mobile home park will be treated as a single-family residence for impact fee calculation purposes.

Mobile home move-on permit means an official document or certification authorizing any purchaser, owner, mover, installer or dealer to move a mobile home onto a particular site. It also includes a permit authorizing the tiedown of a park trailer in a mobile home zoning district.

Multiple-family building has the same meaning given it in chapter 34.

Permit, interior completion means any permit issued by the building official, that will permit completion of a shell building, or unit within a shell building, by authorizing work to finish interior units, so that the building may receive a certificate of occupancy.

Park trailer has the same meaning given it in chapter 34.

Participating municipality means any municipality which enters into an interlocal agreement with the county to collect within the municipality the impact fees imposed by this division.

Recreational vehicle has the same meaning given it in chapter 34.

Recreational vehicle development order means a final development order, as that term is used in chapter 10, permitting the placement of recreational vehicles on any area of land. It also means those municipal permits or orders equivalent to a county recreational vehicle development order, regardless of the names by which those permits are called within a municipality.

Retail means the use of a building or structure primarily for the retail or wholesale sale of goods or foods that have not been made, assembled or otherwise changed in ways generally associated with manufacturing or basic food processing in the same building or structure.

Road has the same meaning given it in F.S. § 334.03(17).

Shell building means any commercial or industrial building, or portion of a building, so constructed to consist exclusively of exterior walls and unfinished interior units with rough staged utilities so as to preclude occupancy. This definition does not include agricultural or residential buildings.

Shopping center means an integrated group of commercial establishments planned, developed, owned or managed as a unit. A shopping center consists primarily of retail establishments, but may also contain some other uses, such as restaurants, medical or general offices. Shopping center outparcels will be treated as separate uses.

Single-family residence has the same meaning given it in chapter 34.

Site-related improvements means capital improvements and right-of-way dedications for direct access improvements to the development in question. Direct access improvements include but are not limited to the following:

(1) Site driveways, roads, and bicycle and pedestrian facilities.

(2) Median cuts made necessary by those driveways or roads;

(3) Right turn, left turn, and deceleration or acceleration lanes leading to or from those driveways or roads;

(4) Traffic control measures for those driveways or roads;

(5) Access or frontage roads that are not shown as planned county-built or publicly owned roads on the county's access road location map, as amended;

(6) Roads or intersection improvements whose primary purpose at the time of construction is to provide access to or within the development;

(7) Unless required by the county pursuant to the criteria in section 10-283 of this code, access or frontage roads that enable a parcel to achieve site location standards for commercial development; and

(8) Unless required by the county pursuant to the criteria in section 10-283 of this code, roads that provide frontage for newly created lots that would not normally have frontage.

Timeshare has the same meaning given it in chapter 34.

Townhouse has the same meaning given it in chapter 34.

Two-family attached has the same meaning given it in chapter 34.

(Ord. No. 89-17, § 1(3), (4), 6-7-89; Ord. No. 90-24, § 2, 4-18-90; Ord. No. 94-19, § 2, 7-20-94; Ord. No. 94-28, § 8, 10-19-94; Ord. No. 96-17, § 1, 9-18-96; Ord. No. 96-25, § 1, 12-18-96; Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00; Ord. No. 01-18, § 1, 11-13-01; Ord. No. 03-22, § 1, 10-28-03; Ord. No. 07-24 , § 1, 8-14-07; Ord. No. 13-10 , § 1, 5-28-13)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 2-265. Imposition.

(a) Except as provided in sections 2-272 through 2-275, any person who, after September 16, 1985, seeks to develop land by applying to the county or any participating municipality for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for the purpose of making an improvement to land for one of the uses specified in section 2-266, which will generate or attract additional traffic, is required to pay a roads impact fee in the manner and amount set forth in this division.

(b) No building permit, mobile home move-on permit or recreational vehicle development order for any activity requiring payment of an impact fee pursuant to section 2-266 may be issued by the county or any participating municipality until the roads impact fee required by this division has been paid.

(c) In the case of structures, mobile homes or park trailers that are moved from one location to another, a roads impact fee will be collected for the new location if the structure, mobile home or park trailer constitutes one of the land development uses listed in section 2-266, regardless of whether roads 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 so moved is replaced by an equivalent use, no roads impact fee is owed for the replacement use. In every case, the burden of proving past payment of roads impact fees or equivalency of use rests with the feepayer.

(Ord. No. 89-17, § 1(5), 6-7-89; Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00)

Sec. 2-266. Computation of amount.

(a) At the option of the feepayer, the amount of the roads impact fee may be determined by the schedule set forth in this subsection. 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, noncommon 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

final development order. The reference in the schedule to mine refers to the number of cubic yards excavated.

ROADS IMPACT FEE SCHEDULE

Land Use Type	Unit	Roads Impact Fee Due at 100% of Actual Full Cost
Residential		**Local Roads**
Single-family residence	Dwelling unit	$6,701
Multiple-family building, duplex, townhouse, two-family attached	Dwelling unit	$4,659
Mobile home/RV park	Pad/park site	$3,499
Elderly/disabled housing	Dwelling unit	$2,435
Adult Congregate Living facility (ACLF)	Dwelling unit	$1,512
Hotel/motel or timeshare	Room/unit	$3,861
Retail Commercial		
Shopping center	1,000 sq. ft.	$7,933
Bank	1,000 sq. ft.	$17,187
Car wash, self-service	Stall	$3,800
Convenience store w/gas sales	1,000 sq. ft.	$29,116
Golf course (open to public)	Acre	$1,907

Movie theater	1,000 sq. ft.	$16,769
Restaurant, standard	1,000 sq. ft.	$14,688
Restaurant, fast food	1,000 sq. ft.	$32,028
Office/Institutional		
Office	1,000 sq. ft.	$5,355
Hospital	1,000 sq. ft.	$7,576
Nursing home	1,000 sq. ft.	$3,481
Church	1,000 sq. ft.	$3,851
Day care center	1,000 sq. ft.	$10,705
Elementary/secondary school (private)	1,000 sq. ft.	$1,897
Industrial		
Industrial park or general industrial	1,000 sq. ft.	$4,626
Warehouse	1,000 sq. ft.	$2,366
Warehouse, High-Cube	1,000 sq. ft.	$956
Mini-warehouse	1,000 sq. ft.	$1,125
Mine	Cubic Yard	$.026

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 development order 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) Under this article, impact fees become due and payable at the time of building permit issuance. Mine impact fees become due and payable at the time the mine operation permit is issued. Mine impact fees will not be assessed upon the renewal of an existing mine operation permit, provided the mine footprint remains the same. If the mine footprint is increased beyond the previous mine operation permit approval, impact fees will be assessed upon the incremental increase in cubic yardage at the time the mine operation permit is issued. For purposes of this Code, a building permit or mine operation permit is considered "issued" when the permit meets all of the following criteria:

a. The permit is approved by the County;

b. Has been picked up by the owner or his agent; and

c. All applicable fees have been paid.

[Also, NOTE: The development order process is separate and distinct from the building permit process and not relevant with respect to establishing when impact fees become due and payable, except as to golf courses and RV parks.]

(4) If a building permit is requested for a building with mixed uses, as defined in section 2-264, then the fee will 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.

(b) If the type of development activity for which a building permit is applied is not specified on the fee schedule set out in this subsection, the county manager will use the fee applicable to the most nearly comparable type of land use on the fee schedule set out in this subsection. The county manager will be guided in the selection of a comparable type by the Institute of Transportation Engineers' "Trip Generation" (latest edition), studies or reports done by the United States Department of Transportation, the state department of transportation and the county department of transportation, articles or reports appearing in the ITE Journal and other reliable sources. If the county manager determines that there is no comparable type of land use on the fee schedule set out in this subsection, then the county manager must determine the fee by: (1) using traffic generation statistics or other relevant data from the sources named in this subsection; and (2) applying the formula set forth in subsection (f) of this section.

(c) The fee schedule set forth in section 2-266 was amended on September 23, 2008. The fee schedule in effect prior to September 23, 2008, will remain in effect until close of business December 31, 2008 when the new fees take effect.

(d) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or recreational vehicle development order, the roads impact fee will 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.

(e) If the roads impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and the difference refunded to the original feepayer or collected by the county, whichever is applicable. If roads impact fees are owed, no participating municipality or county 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 building official may bring any action permitted by law or equity to collect unpaid fees.

(f) If a feepayer opts not to have the impact fee determined according to subsection (a) of this section, then the feepayer must prepare and submit to the county manager an independent fee calculation study for the land development activity for which a building permit, mobile home move-on permit or recreational vehicle development order is sought. The independent fee calculation study must measure the impact of the development in question on the road system illustrated on Map 3A of the transportation element of the Lee Plan by following the prescribed methodologies and formats for the study established by the county Administrative Code. The feepayer must attend a pre-application meeting with the county manager or his designee to discuss the traffic engineering and economic documentation required to substantiate the request. The traffic engineering and economic documentation submitted must address all aspects of the impact fee formula that the county manager determines to be relevant in defining the project's impacts at the pre-application meeting and must show the basis upon which the independent fee calculation was made, including but not limited to the following:

(1) *Traffic engineering studies.* All independent fee calculation studies must address all three of the following:

a. Documentation of trip generation rates appropriate for the proposed land development activity;

b. Documentation of trip length appropriate for the proposed land development activity; and

c. Documentation of the percent of new trip data appropriate for the proposed land development activity.

(2) *Revenue credit studies.* The feepayer may also provide documentation substantiating that the revenue credits due to the development differ from the average figures used in developing the fee schedule. This documentation must be prepared and presented by qualified professionals in their respective fields and must follow best professional practices and methodologies. The following formula must be used by the county manager to determine the roads impact fee per unit of development:

$$\text{IMPACT FEE} = \text{VMT} \times \text{NET COST/VMT}$$

Where:

VMT	=	ADT × % NEW x LENGTH ° 2
ADT	=	Trip ends during average weekday
%NEW	=	Percent of trips that are primary, as opposed to passby or diverted-link trips
LENGTH	=	Average length of a trip on the approved road system
° 2	=	Avoids double-counting trips for origin and destination
ADJUSTMENT	=	Local adjustment factor, representing the ratio between the VMT predicted by national travel characteristics and observed VMT on the approved road system

NET COST/VMT	=	COST/VMT — CREDIT/VMT
COST/VMT	=	COST/LANE-MILE ° AVG LANE CAPACITY
COST/LANE-MILE	=	Average cost to add a new lane to the approved roadway system
AVG LANE CAPACITY	=	Average daily capacity of a lane at level of service "D"
CREDIT/VMT	=	$/GAL ° MPG × 365 × NPV
$/GAL	=	Capacity-expanding funding for roads per gallon of gasoline consumed
MPG	=	Miles per gallon, average for U.S. motor vehicle fleet
365	=	Days per year (used to convert daily VMT to annual VMT)
NPV	=	Net present value factor (i.e., 12.46 for 20 years at 5% discount)

(g) All buildings, structures and facilities capable of being used by the public will be charged the full roads impact fee set forth for that use in the impact fee schedule. However, the county 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 county; 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 will submit documentation, acceptable to division of development service, that shows the proposed private use will have no off-site road impacts; and

b. The proposed use will be restricted to the sole use of the residents of the subdivision by covenants acceptable to the county attorney's office and enforced by a property owner's association or similar entity; and

c. The certificate of occupancy will be revoked if the director of development services determines the proposed private use has changed in character to that of a public use and the certificate of occupancy may not be reinstated until the full impact fee is paid; and

d. The county will 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.

(h) The impact fee schedule set forth in section 2-266(a) will be administratively reviewed and re-analyzed every three years. As a result of this review, county staff is authorized and directed to pursue amendments to the impact fee schedule supported by the review and re-analysis. In accordance with this section, the first review of the roads impact fee schedule must be completed and any amendments to the schedule presented to the Board for adoption no later than May 1, 2003. Subsequent review dates will be calculated based upon the May 1, 2003 date.

(Ord. No. 89-17, § 1(6), 6-7-89; Ord. No. 90-47, § 2, 9-19-90; Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00; Ord. No. 03-22, § 1, 10-28-03; Ord. No. 06-19 , § 2, 10-24-06; Ord. No. 08-24 , § 1, 9-23-08; Ord. No. 11-06 , § 1, 6-14-11)

Editor's note—

Ord. No. 13-06, adopted March 12, 2013, specified the following regarding the collection rate of road impact fees:

Reduction on the rate of collection of development impact fees in the unincorporated areas of the County: The collection rate for road impact fees set forth in Chapter 2 of the Land Development Code is reduced by 80 percent for two-years commencing on, Wednesday, March 13, 2013 and ending on Friday, March 13, 2015, without further action by the Board. The reduction to these fees is applicable in unincorporated Lee County only.

Developments of regional impact: Developments of regional impact in unincorporated Lee County that have prepaid the transportation proportionate share assessment in full, may receive road impact fee credits for permits obtained during the reduction time frame equal to the difference between the actual fee collected and the fee set forth in the schedule in the Land Development Code. The road impact fee credits issued pursuant to this provision will be available for use in the road impact fee district of the development of regional impact.

Extension of impact fee credits: Road impact fee credits issued or recognized by the County that are existing on March 12, 2013 will be extended for a period of two years in recognition of the two-year reduction on the collection of impact fees adopted by the Board by Ordinance 13-06.

Refunds: Refunds of impact fees paid prior to March 13, 2013 will be issued only in accordance with Chapter 2 of the Land Development Code.

Sec. 2-267. Payment.

(a) The feepayer must pay the roads impact fees required by this division to the building official prior to the issuance of any building permit, mobile home move-on permit or recreational vehicle development order for which the fee is imposed, except as provided in sections 2-272 through 2-275. No building permit, mobile home move-on permit or recreational vehicle development order may be issued by the county or by any participating municipality in the county until the impact fee has been paid, except as provided in sections 2-272 through 2-275

(b) In lieu of cash, up to 100 percent of the roads impact fees may be paid with credits created in accordance with the provisions of sections 2-272 through 2-275

(c) Every participating municipality in the county must remit roads impact fee collections to the county at least once each month, less any amounts retained pursuant to section 2-270(d), unless another method is specified in an appropriate interlocal agreement.

(d) All funds collected pursuant to this division will be properly identified by roads impact fee benefit district and promptly transferred for deposit into the appropriate roads impact fee trust fund to be held in separate accounts as determined in section 2-269 and used solely for the purposes specified in this division.

(Ord. No. 89-17, § 1(7), 6-7-89; Ord. No. 94-19, § 3, 7-20-94; Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-268. Benefit districts established.

(a) *Benefit districts.* There are hereby established five roads impact fee benefit districts as shown in Appendix K - Map 1. Impact fees collected and impact fee credits issued prior to November 3, 2003 will be retained in the accounts for the previous eight districts shown in Appendix K - Map 2 and spent within the benefit district from which they were originally collected or issued to benefit.

(b) *Subdistricts may be created by interlocal agreement.* Incorporated municipalities constitute sub districts for the purpose of this division. All or a portion of a municipality may be within the established districts set forth in Appendix K-1. Municipal district boundaries will expand and contract as the municipality boundaries are amended in accordance with Florida law.

(Ord. No. 89-17, § 1(8), 6-7-89; Ord. No. 95-22, § 1, 11-1-95; Ord. No. 00-07, § 1, 4-25-00; Ord. No. 03-22, § 1, 10-28-03)

Sec. 2-269. Trust fund accounts.

(a) There are hereby established five roads impact fee trust fund accounts, one for each roads impact fee benefit district established in section 2-268. Subsidiary accounts may be established for subdistricts created by interlocal agreement.

(b) Funds withdrawn from these accounts must be used in accordance with the provisions of section 2-270

(Ord. No. 89-17, § 1(9), 6-7-89; Ord. No. 00-07, § 1, 4-25-00; Ord. No. 03-22, § 1, 10-28-03)

Sec. 2-270. Use of funds.

(a) Funds collected from roads impact fees must be used for the purpose of capital improvements to approved roads. Such improvements must be of the type made necessary by the new development. Funds may not be used for periodic or routine maintenance as defined in F.S. § 334.03(19) and (24). Except as provided in subsection (c) of this section, impact fee collections, including any interest earned thereon, but excluding administrative charges pursuant to subsection (d) of this section, must be used exclusively for capital improvements within the roads impact fee district from which funds were collected, or for projects in other roads impact fee districts that are of direct benefit to the roads impact fee district from which the funds were collected. These impact fee funds must be segregated from other funds and expended as provided in the appropriate Administrative Code. Funds may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised thereby 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 thereby must 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 roads impact fee funds used or pledged bear to the total funds used or pledged.

(b) Each fiscal period the county manager will, after consultation with participating municipalities and consistent with the provisions of any interlocal agreements made with them, present to the Board of County Commissioners a proposed capital improvement program for roads, assigning funds, including any accrued interest, from the several roads impact fee trust funds to specific road improvement projects. Monies, including any accrued interest, not assigned in any fiscal period must be retained in the same roads impact fee trust funds until the next fiscal period, except as provided by the refund provisions of this division.

(c) Unless prohibited by an appropriate interlocal agreement, monies placed in one roads impact fee trust fund may be borrowed and placed in another roads impact fee trust fund so long as the Board of County Commissioners first determines in a public meeting that the loan will not disrupt or otherwise

alter the timing of provision of capital facilities to the lending district and will be repaid from specifically identified revenue sources within two years, either from the borrowing district or from some other source, with interest at a rate established by the Board at the time it authorizes the loan; provided, however, that, if the interest is to be paid from roads impact fees collected in the borrowing district, the Board first finds that the amount of the interest to be paid will be equal to or less than the benefit given to feepayers in the borrowing district by virtue of the earlier provision of capital facilities in the borrowing district made possible by virtue of the loan. To secure repayment of the loan on the terms established for it by the Board, the motion authorizing the loan implicitly must include direction and authorization to the county's fiscal officers to perform all acts necessary to comply with the loan terms. Loans may not be renewed.

(d) The county or the participating municipality collecting roads impact fees is entitled to charge and collect an amount equal to up to three percent of roads 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 division. This administrative charge is in addition to the impact fee amount required by this division. The applicant is responsible for payment of the administrative charge in conjunction with the payment of impact fees at the time a building permit or development order is issued.

(Ord. No. 89-17, § 1(10), 6-7-89; Ord. No. 90-24, § 3, 4-18-90; Ord. No. 90-47, § 3, 9-19-90; Ord. No. 00-07, § 1, 4-25-00; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 03-22, § 1, 10-28-03)

Sec. 2-271. Refund of fees paid.

(a) If a building permit, mobile home move-on permit or recreational vehicle development order 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 roads 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 feepayer on refunds due to noncommencement.

(b) Funds not expended or encumbered by the end of the calendar quarter immediately following 20 years from the date the roads impact fee was paid will, 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.

(Ord. No. 89-17, § 1(11), 6-7-89; Ord. No. 00-07, § 1, 4-25-00; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 11-06 , § 1, 6-14-11; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-272. Prepayment of fees.

Prepayment of roads impact fees will be accepted by the County in accordance with the following:

(a) Prepayment is specifically required or permitted by

(1) A DRI development order adopted in accordance with F.S. Chapter 380;

(2) An agreement between the developer and county made in accordance with Florida State Constitution Article VIII and F.S. § 125.01; or

(3) A development agreement in compliance with F.S. §§ 163.3220—163.3243 (The Florida Local Government Development Agreement Act).

(b) Prepayment is made by certified check or cashier's check accompanied by a letter identifying the applicable roads impact fee benefit district, the amount to be prepaid and the document allowing prepayment delivered to the building official.

(c) The county will issue credit equal to the prepayment, subject to the express terms of the development order, agreement or development agreement.

(Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00)

Editor's note—

Ordinance No. 98-11, § 1, adopted June 23, 1998, amended § 2-272 by redesignating § 2-272(b)(9) as a new § 2-272 in its entirety. Formerly, such section pertained to exemptions, credits and deferrals and derived from Ord. No. 89-17, § 1(12), 6-7-89; Ord. No. 90-24, § 4, 4-18-90; Ord. No. 93-41, § 2, 12-15-93; Ord. No. 94-19, § 4, 7-20-94; Ord. No. 95-22, § 1, 11-1-95.

Sec. 2-273. Deferral of fees.

(a) Deferrals will be limited to the following:

(1) Persons seeking building permits for a shell building as defined herein may, at their option, defer payment of roads impact fees until issuance of any interior completion permits.

(2) No interior completion permit will 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.

(b) Deferrals must be claimed by the feepayer at the time of the application for a commercial or residential building permit, mobile home move-on permit or recreational vehicle development order. Any deferrals not so claimed are deemed waived by the feepayer.

(Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00)

Editor's note—

Ordinance No. 98-11, § 1, adopted June 23, 1998, relocated 2-272(c) and (e) as a new § 2-273

Sec. 2-274. Exemptions.

(a) The following are exempt from payment of the roads impact fee:

(1) 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.

(2) The 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.

(3) 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.

(4) Building permits that were issued for commercial buildings and residential dwelling units, which have been 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.

(5) An amendment to a recreational vehicle development order, provided that the amendment does not increase the number of recreational vehicle units permitted.

(6) A building permit obtained by or for the United States of America, the State of Florida or the Lee County School Board.

(7) A building permit, mobile home move-on permit or recreational vehicle development order for which the roads impact thereof has been or will be paid or provided for pursuant to a written agreement, zoning approval or development order that, by the written terms thereof, clearly and unequivocally was intended to provide for the full mitigation of the projected impact.

(8) A building permit, mobile home move-on permit or recreational vehicle development order that does not generate or attract additional traffic.

(9) A building permit for residential construction in Harlem Heights, Charleston Park, and the Fort Myers/Lee County Enterprise Zone, as those areas are described in Appendix J.

(10) A building permit for construction included in the City of Sanibel's below market rate housing (BMRH) program established under the Sanibel land development code.

(11) Building permits issued in a redevelopment area or enterprise zone, or for low- or moderate-income housing, in the City of Fort Myers, but only when the permit is identified by the type of land use and by the land area or housing or redevelopment program in question by explicit language included in an appropriate inter-local agreement.

(b) Exemptions must be claimed by the feepayer before the issuance of a building permit, mobile home move-on permit or recreational vehicle development order.

(Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 03-22, § 1, 10-28-03; Ord. No. 06-24 , § 1, 11-14-06; Ord. No. 11-06 , § 1, 6-14-11)

Editor's note—

Ordinance No. 98-11, § 1, adopted June 23, 1998, relocated § 2-272(a)(1) through (10) and 2-272(e) as a new § 2-274

Sec. 2-275. Credits.

(a) Credits are subject to the following:

(1) *Prohibition.* No credit will be given for:

a. Site-related improvements,

b. Local roads,

c. Access streets needed to achieve site location standards for commercial development or for internal circulation unless required by the county pursuant to criteria in chapter 10

(2) *Capital improvement to approved roads.* All capital improvements for approved roads, except for those improvements deemed site-related pursuant to a participating municipality, state or county development or zoning approval, may generate roads impact fee credits in amounts to be established pursuant to subsection (a)(3) or by an appropriate interlocal agreement. The right to determine whether a capital improvement will be approved for credit purposes lies exclusively with the county, unless otherwise provided for in an appropriate interlocal agreement.

If the improvement is not site-related and is required under a participating municipality, state or county development or zoning approval, credits will be given to the extent required by law.

(3) *Conditions of credit approval.* Credit for road construction or land dedication is subject to the following:

a. *Road construction.* A request submitted for road impact fee construction credits must include a detailed project description and complete cost estimates, prepared by a qualified professional, sufficient to enable the county manager to verify the cost estimates and determine the appropriate credit amount. The county manager retains the right to secure other engineering and construction cost estimates in order to independently determine the credit amount to recommend or approve.

   1. *Class 1 roads.* The county manager may approve roads impact fee credits for construction costs applicable to class 1 roads. This includes roads required to be constructed pursuant to a zoning condition or development order approval. Construction credits for class 1 roads will be given for the full actual cost of construction, as determined and verified by the county manager.

   2. *Class 2 or 3 roads.* In the case of class 2 and 3 roads the county manager will make a recommendation to the Board of County Commissioners on the appropriate amount of credits.

   3. Construction credits for class 2 and class 3 roads may be given at the discretion of the Board of County Commissioners on a case-by-case basis if the Board finds that:

      a. The construction will not increase public infrastructure costs to serve the new development, and

      b. The grant of credits will not significantly affect future roads impact fee collections within the roads impact fee benefit district in which the credit is created.

   4. The amount of credit approved by the Board is limited to the actual verified costs of construction and may 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 Board's discretion, to reflect the county department of transportation's estimate of the value of the accelerated construction of the road in relation to the county's schedule of planned road construction.

b. *Land dedication.* The following documents must be submitted to support an application for road impact fee credits applicable to land dedication for approved roads:

   1. A signed and sealed ALTA survey prepared by a licensed professional surveyor and mapper and certified to the county, encompassing the land to be dedicated to the county and covered by the title insurance policy;

   2. A specimen of the deed that will be used to convey title to the appropriate governmental body;

   3. 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 county attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;

   4. Property appraisals prepared by qualified professionals that appraise the road as part of the whole development of regional impact, planned development or parent parcel; and

   5. A document from the tax collector stating the current status of the property taxes.

   6. An affidavit of interest in real property in accord with F.S. § 286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

These submittals will be reviewed by the county manager in making the decision to approve credits or to make a recommendation to the Board of County Commissioners.

Except where a dedication is made pursuant to a condition of zoning approval or development of regional impact development order, the appraiser must value the land at its current zoning without any enhanced value that could be attributed to improvements on the parent parcel. If the land in question is subject to a valid agreement, zoning approval or development order prescribing a different valuation, that document will control the date of valuation. If the dedication is made pursuant to a condition of zoning or other development approval 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 county manager retains the right to independently determine the amount of credit to be approved or recommended by securing other property appraisals for right-of-way dedications.

Credit for dedication of right-of-way will be limited to the minimum amount of right-of-way needed by Lee County DOT. Credit for class 1 and class 2 roads will be given for the full value of the land in question, as determined by the methodology and procedures set out in this subsection. Credit for dedication of right-of-way for class 3 roads may be given by the Board of County Commissioners on a case-by-case basis if the Board finds that: (1) the dedication will not increase public infrastructure costs to serve the new development, and (2) the granting of credits will not significantly affect future roads impact fee collections within the roads impact fee benefit district in which the credit is created.

The amount of credit approved by the Board is limited to the value of the land in question, as determined by the methodology and procedures set out in this subsection, 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 Board's discretion, to reflect the Board's estimate of the value of the accelerated acquisition of the road in relation to the county's schedule of planned road construction. In every case, roads impact fee credits must be calculated consistent with F.S. § 380.06(16).

c. *Impact fee credit application requirement waiver.* The county attorney's office, with the prior approval of DOT, may waive one or more of the impact fee credit application requirement if the requirement is clearly not necessary to protect a county interest. A waiver granted by the county attorney's office must be in writing, addressed to the applicant, with a copy to DOT.

(4) *Timing of credit issuance.* Credits for construction will be created when the construction is complete and accepted by the county for maintenance in accordance with AC 11-7 or when the feepayer posts security for the costs of such construction. Credits for land dedication will be created when the title to the land has been accepted by the county and recorded in the official records of the clerk of circuit court. No credits for construction or dedication will be approved or created until the county has established the location of the road in question using the procedures provided therefor by law. Security in the form of cash, a performance bond, irrevocable letter of credit or escrow agreement must be posted with the Board of County Commissioners, made payable to the county in an amount approved by the county manager 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 county, the amount of the security will be increased by ten percent, compounded for each year of the life of the security. The security must be reviewed and approved by the county attorney's office prior to acceptance by the county. If the road is to be owned by a participating municipality, the county may assign its rights in such security to the municipality if permitted by law.

(5) *Transferability.* Roads impact fee credits created on or after October 1, 1989 must be in transferable form and may be sold, assigned or conveyed as set forth in the County Administrative Code. Credits may be used to pay or offset roads impact fees in the same roads impact fee district in which they are earned, or in other districts directly benefitted by the capital improvements for which the credits were granted, and consistent with any interlocal agreements made with participating municipalities. Credits may not be used outside the district earned unless the proposed use is found to be in compliance with this division by the County Attorney and the director of the County Department of Transportation. Unless a longer period is specifically authorized by the Board of County Commissioners, transferable credits must be used within 20 years of the date created. 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 County's official record book. The creation date for credits pursuant to prepayment of fees under section 2-272 will be the date the prepayment is received by the County.

Roads impact fees credits will be increased at the time they are used, in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the credits were created. Credits not used within 20 years of issue will expire.

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

(6) *Use of credits.* Unless converted to transferable form pursuant to subsection (a)(7), roads impact fee credits created prior to October 1, 1989, must be used, on a first applied for, full credit basis. This rule applies to permits requested on any part of the original tract. For purposes of subsections (a)(6) and (a)(7), "original tract" means the area developed or approved for development, as part of a dedication of land or improvements for which the credits were created, to the extent that credits are available. This will be done regardless of whether the feepayer owned the land at the time the credit was created, and regardless of whether the ratio of the credit requested to the original full credit created is disproportionate to the ratio of the land covered by the requested permit to the original tract. In addition, this rule will apply regardless of whether the owner of the original tract has assigned or failed to assign the credits to the current owner of the land covered by the requested permit. In determining ownership or agency for purposes of administering pre-October 1, 1989 credits, the building official may rely upon apparent authority; but he may, in his sole discretion, require proof of ownership or agency. The burden of proving ownership or agency lies exclusively on the person claiming it.

(7) 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 division.

(b) Feepayers claiming credits must submit documentation sufficient to permit the building official to determine whether the credits claimed are due and, if so, the amount of the credits.

(c) Credits must be claimed by the feepayer at the time of the application for a building permit, mobile home move-on permit or recreational vehicle development order. Any credits not so claimed will be deemed waived by the feepayer.

(d) Once used, credits must be canceled and may not be reestablished. Notwithstanding, if the permit for which credits were used expires, is revoked or voluntarily surrendered and therefore voided, and no construction or improvement of land has commenced, then the credits may be reestablished. The impact fee credit account will be re-established to its original value prior to any applicable adjustment under section 2-275(a)(5). Reestablished credits must be issued to the party that used the credits and maintain the original expiration date of the credits. Prior to reestablishment of credits, the feepayer must provide payment of the administrative fee required under section 2-271. Payment of the administrative fee may be made by reducing the reestablished impact fee credits by an amount equivalent to the administrative fee due.

(e) Any person seeking credits for dedication of land must meet with the county attorney, department of transportation, and county lands staff to seek agreement on appraisal methodology and assumptions before preparing any appraisals for valuation of land to be dedicated.

(f) *Reciprocity with municipalities.*

(1) Credits issued by participating municipalities will be recognized by Lee County if:

a. The credits are issued and used in compliance with section 2-275; and,

b. The issuing municipality has adopted a reciprocal regulation providing for similar recognition of Lee County road impact fee credits; or

c. The issuing municipality has previously entered into an agreement with the County allowing reciprocal transfer of impact fee credits between the County and municipality.

(2) Credits issued by a nonparticipating municipality will be recognized by Lee County if:

a. The credits are issued and used in compliance with section 2-275; and,

b. The County agrees by Resolution to allow the reciprocal transfer of impact fee credits for each request.

(Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 03-22, § 1, 10-28-03; Ord. No. 07-24 , § 1, 8-14-07; Ord. No. 11-06 , § 1, 6-14-11; Ord. No. 12-07 , § 1, 4-10-12)

Editor's note—

Ordinance No. 98-11, § 1, adopted June 23, 1998, relocated §§ 2-272(b)(1) through (8) as a new § 2-275(a)(1) through (8), 2-272(d) through (f) as 2-275(b) through (d).

Sec. 2-276. Appeals.

Decisions made by the county manager or his designee, or by the building official, in the course of administering this division may be appealed in accordance with the procedures set forth in chapter 34 for appeals of administrative decisions. Every interlocal agreement made pursuant to this division must specifically incorporate this appeal procedure. Each participating municipality must agree to be bound by the results of the administrative appeal. Interlocal agreements must provide that, if the administrative appeal decision is further appealed to the circuit court by another person, the appeal will be defended by the county, at its expense, unless the municipality elects to provide the defense of the case.

(Ord. No. 89-17, § 1(13), 6-7-89; Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00)

Sec. 2-277. Enforcement of division; penalty; furnishing false information.

A violation of this division is punishable according to section 1-5; however, in addition to or in lieu of any criminal prosecution, the county, or any feepayer, has the power to sue for relief in civil court to enforce the provisions of this division. Knowingly furnishing false information to the county manager or his designee, the building official or any municipal official who is charged with the administration of this division on any matter relating to the administration of this division constitutes a violation thereof.

(Ord. No. 89-17, § 1(14), 6-7-89; Ord. No. 98-11, § 1, 6-23-98; Ord. No. 00-07, § 1, 4-25-00)

Secs. 2-278—2-300. Reserved.

DIVISION 3. REGIONAL PARKS IMPACT FEE

Sec. 2-301. Statutory authority.

The Board of County Commissioners has the authority to adopt this division pursuant to article VIII of the constitution of the state, F.S. ch. 125 and F.S. §§ 163.3201, 163.3202 and 380.06(16).

(Ord. No. 89-16, § 1(1), 6-7-89)

Sec. 2-302. Applicability of division.

This division applies in the unincorporated areas of the county and within any municipality that enters into an interlocal agreement with the county to collect regional parks impact fees during the term of such agreement.

(Ord. No. 89-16, § 1(1), 6-7-89; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-303. Intent and purpose of division.

(a) This division is intended to implement and be consistent with the Lee Plan.

(b) The purpose of this division is to regulate the use and development of land to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide regional parks in the county as contemplated by the Lee Plan.

(Ord. No. 89-16, § 1(2), 6-7-89; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-304. Definitions.

The following words, terms and phrases, when used in this division, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building official means that officer who is so defined in chapter 6, article II. Within any participating municipality, the term "building official" means that person whose duties and authority are similar to that of the county's building official, regardless of the title given such person.

Building permit means an official document or certification issued by the building official authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. In the case of a change in use or occupancy of an existing building or structure, the term specifically includes certificates of occupancy and occupancy permits, as those permits are defined or required by county ordinance. The terms "building permit" and "certificate of occupancy permit" also mean those municipal permits that are equivalent to these county permits, regardless of the names by which they are called within a municipality.

Capital improvement means land acquisition, site improvement, including landscape plantings and the removal of exotic vegetation, off-site improvements associated with a new or expanded regional park, buildings and equipment. Off-site improvements may also include bikeways that connect to the park facility. Capital improvements do not include maintenance and operations.

County manager means the county manager, or the county or municipal officials that the county manager may designate to administer the various provisions of this division.

Duplex has the same meaning given it in chapter 34.

Feepayer means a person applying to the county, or to any participating municipality, for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for a type of land development activity specified in section 2-306(a), regardless of whether the person owns the land.

Hotel/motel has the same meaning given it in chapter 34.

Lee Plan means the county comprehensive plan adopted pursuant to F.S. ch. 163, as amended from time to time.

Living unit has the same meaning given it in chapter 34.

Mobile home has the same meaning given it in chapter 34. Mobile homes not located within an established mobile home park will be treated as a single-family residence for impact fee calculation purposes.

Mobile home move-on permit means an official document or certification authorizing any purchaser, owner, mover, installer or dealer to move a mobile home onto a particular site. It also includes a permit authorizing the tiedown of a park trailer in a mobile home zoning district.

Multiple-family building has the same meaning given it in chapter 34.

Park trailer has the same meaning given it in chapter 34.

Participating municipality means any municipality that enters into an interlocal agreement with the county to collect within the municipality the impact fees imposed by this division.

Private recreational facility has the same meaning given it in chapter 34.

Recreational vehicle has the same meaning given it in chapter 34.

Recreational vehicle development order means a final development order, as that term is used in chapter 10, permitting the placement of recreational vehicles on any area of land. It also means those municipal permits or orders equivalent to a recreational vehicle development order, regardless of the names by which those permits are called within a municipality.

Regional park means a tract of land designated and used by the public for active and passive recreation. A regional park draws users from a larger area than a community park, frequently from the entire county and beyond, by providing access to especially attractive natural resources, amenities and specialized activities. The Lee Plan's regional park standards are based upon several subclassifications of regional parks: district parks, nature preserves and special area regional parks. It specifically includes municipally owned parks when they are used as regional parks.

Single-family residence has the same meaning given it in chapter 34.

Timeshare has the same meaning given it in chapter 34.

Townhouse has the same meaning given it in chapter 34.

Two-family attached has the same meaning given it in chapter 34.

(Ord. No. 89-16, § 1(3), (4), 6-7-89; Ord. No. 96-06, § 2, 3-20-96; Ord. No. 01-13, § 1, 8-28-01)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 2-305. Imposition.

(a) Except as provided in section 2-312, any person who, after September 16, 1985, seeks to develop land by applying to the county or any participating municipality for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for the purpose of making an improvement to land for one of the uses specified in section 2-306 is required to pay a regional parks impact fee in the manner and amount set forth in this division.

(b) No building permit, mobile home move-on permit or recreational vehicle development order for any activity requiring payment of an impact fee pursuant to section 2-306 may be issued by the county or any participating municipality unless and until the regional parks impact fee required by this division has been paid.

(c) In the case of structures, mobile homes or park trailers that are moved from one location to another, a regional parks impact fee will be collected for the new location if the structure, mobile home or park trailer constitutes one of the land development uses listed in section 2-306, regardless of whether regional parks 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 so moved is replaced by an equivalent use, no regional parks impact fee is owed for the replacement use. In every case, the burden of proving past payment of regional parks impact fees or equivalency of use rests with the feepayer.

(Ord. No. 89-16, § 1(5), 6-7-89; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-306. Computation of amount.

(a) At the option of the feepayer, the amount of the regional parks impact fee may be determined by the schedule set forth in this subsection. 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 final development order.

Land Use Type	Regional Parks Impact Fee

	per Unit
Single-family residence	$683.00
Multiple-family building, duplex, two-family attached or townhouse	508.00
Mobile home not in mobile home park	683.00
Timeshare	508.00
Hotel/motel room	318.00
Mobile home/RV park site	474.00

(b) Under this article, impact fees become due and payable at the time of building permit issuance. For purposes of this Code, a building permit is considered "issued" when the permit meets all of the following criteria:

(1) The permit is approved by the county;

(2) Has been picked up by the owner or his agent; and,

(3) All applicable fees have been paid.

(c) The development order process is separate and distinct from the building permit process and not relevant with respect to establishing when impact fees become due and payable, except as to RV parks.

(d) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or recreational vehicle development order, the regional parks impact fee will 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.

(e) If the regional parks impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and the difference refunded to the original feepayer or collected by the county, whichever is applicable. If regional parks impact fees are owed, no participating municipality or county 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 building official may bring any action permitted by law or equity to collect unpaid fees.

(f) The person applying for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order may opt to submit evidence to the county manager indicating that the fees set out in subsection (a) of this section are not applicable to the particular development. Based upon convincing and competent evidence, which must be prepared and submitted in accordance with the county Administrative Code, the county manager may adjust the fee to that appropriate for the particular development. The adjustment may include a credit 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 Lee Plan for regional parks.

(g) The impact fee schedule set forth in section 2-306(a) will be administratively reviewed and reanalyzed every three years. As a result of this review, county staff is authorized and directed to pursue amendments to the impact fee schedule supported by the review and reanalysis.

(Ord. No. 89-16, § 1(6), 6-7-89; Ord. No. 90-49, § 2, 9-19-90; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 05-07 , § 1, 5-24-05; Ord. No. 12-07 , § 1, 4-10-12)

Editor's note—

Ord. No. 13-06, adopted March 12, 2013, specified the following regarding the collection rate of regional park impact fees:

Reduction on the rate of collection of development impact fees in the unincorporated areas of the county: The collection rate for regional park impact fees set forth in Chapter 2 of the Land Development Code is reduced by 80 percent for two-years commencing on, Wednesday, March 13, 2013 and ending on Friday, March 13, 2015, without further action by the Board. The reduction to these fees is applicable in unincorporated Lee County only.

Extension of impact fee credits: Regional park impact fee credits issued or recognized by the County that are existing on March 12, 2013 will be extended for a period of two years in recognition of the two-year reduction on the collection of impact fees adopted by the Board by Ordinance 13-06.

Refunds: Refunds of impact fees paid prior to March 13, 2013 will be issued only in accordance with Chapter 2 of the Land Development Code.

Sec. 2-307. Payment.

(a) The feepayer must pay the regional parks impact fee required by this division to the building official prior to the issuance of the building permit, mobile home move-on permit or recreational vehicle development order for which the fee is imposed, except as provided in section 2-312. No building permit, mobile home move-on permit or recreational vehicle development order may be issued by the county or any participating municipality until the impact fee has been paid, except as provided in section 2-312

(b) In lieu of cash, up to 100 percent of the regional parks impact fee may be paid with credits created in accordance with the provisions of section 2-312(b).

(c) Participating municipalities must remit regional parks impact fees to the county at least once each month, less any amounts retained pursuant to section 2-310(c), unless another method is specified in an appropriate interlocal agreement.

(d) All funds collected pursuant to this division will be promptly transferred for deposit into the regional parks impact fee trust fund and used solely for the purposes specified in this division.

(Ord. No. 89-16, § 1(7), 6-7-89; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-308. Benefit district established.

For purposes of this division, there is hereby established a single countywide regional parks impact fee benefit district. Subdistricts may be created by interlocal agreement.

(Ord. No. 89-16, § 1(8), 6-7-89)

Sec. 2-309. Trust fund account.

(a) There is hereby established a regional parks impact fee trust account. Regional parks impact fees collected prior to October 1, 1989, will be transferred and deposited into this account. Subsidiary accounts may be established for subdistricts created by interlocal agreement.

(b) Funds withdrawn from this account must be used in accordance with the provisions of section 2-310

(Ord. No. 89-16, § 1(9), 6-7-89; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-310. Use of funds.

(a) Funds collected from regional parks impact fees must be used for the purpose of capital improvements for regional parks. Regional parks impact fee collections, including any interest earned thereon, less administrative costs retained pursuant to subsection (c) of this section, must be used exclusively for capital improvements or expansion within the county. These impact fee funds must 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 thereby are used for the purpose of capital improvements for regional 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 must be divided and segregated, such that the amount of the proceeds reserved for regional park purposes bears the same ratio to the total funds collected that the regional parks impact fee funds used or pledged bear to the total funds used or pledged.

(b) Each fiscal period the county manager will, after consultation with participating municipalities and consistent with the provisions of any inter-local agreements made with them, present to the Board of County Commissioners a proposed capital improvement program for regional parks, assigning funds, including any accrued interest, from the regional parks impact fee trust fund to specific regional park projects. Monies, including any accrued interest, not assigned in any fiscal period must be retained in the regional parks impact fee trust fund until the next fiscal period, except as provided by the refund provisions of this division.

(c) The county or the participating municipality collecting regional parks impact fees is entitled to charge and collect an amount equal to up to three percent of the regional parks 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 division. This administrative charge is in addition to the impact fee amount required by this division and is not required to be used for purposes of capital improvements. The applicant is responsible for payment of the administrative charge in conjunction with the payment of impact fees at the time a building permit or development order is issued.

(Ord. No. 89-16, § 1(10), 6-7-89; Ord. No. 96-06, § 2, 3-20-96; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-311. Refund of fees paid.

(a) If a building permit, mobile home move-on permit or recreational vehicle development order 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 regional parks impact fee paid in cash 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 administrative charge collected at the time of impact fee payment. No interest will be paid to the feepayer on refunds due to noncommencement.

(b) Funds not expended or encumbered by the end of the calendar quarter immediately following 20 years from the date the regional parks impact fee was paid will, 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.

(Ord. No. 89-16, § 1(11), 6-7-89; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-312. Exemptions and credits.

(a) The following are exempted from payment of the regional parks impact fee:

(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.

(4) 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.

(5) An amendment to a recreational vehicle development order, provided that the amendment does not increase the number of recreational vehicle units permitted.

(6) A building permit obtained by or for the United States of America, the State of Florida or the Lee County School Board.

(7) A building permit, mobile home move-on permit or recreational vehicle development order for which the regional parks impact thereof has been or will be paid or provided for pursuant to a written agreement, zoning approval or development order that, by the written terms thereof, clearly and unequivocally was intended to provide for the full mitigation of the projected impact.

(8) A building permit, mobile home move-on permit or recreational vehicle development order that does not result in an additional living unit.

(9) A building permit for residential construction in Harlem Heights, Charleston Park, and the Fort Myers/Lee County Enterprise Zone, as those areas are described in Appendix J.

(10) A building permit for construction included in the City of Sanibel's below market rate housing (BMRH) program established under the Sanibel land development code.

(11) Any building permits issued in a redevelopment area or enterprise zone, or for low or moderate-income housing in the City of Fort Myers, but only when the permit is identified by the type of land use and by the land area or housing or redevelopment program in question by explicit language included in an appropriate interlocal agreement.

(b) Credits are subject to the following:

(1) No credit will be given for private recreational facilities, except pursuant to an independent fee calculation prepared and accepted in accordance with section 2-306(d).

All other approved capital improvements for regional parks may generate regional parks impact fee credits in amounts to be established pursuant to subsection (b)(3) of this section or by an appropriate interlocal agreement. The right to determine whether a capital improvement will be approved for credit purposes lies exclusively with the county, unless otherwise provided in an appropriate interlocal agreement, or unless the improvement is required under a participating

municipality, state or county development or zoning approval, in which case credits must be given to the extent required by law.

(2) The county will issue regional park impact fee credit for the value of critical occupied habitat in accordance with section 10-474(e)(3) when the size of habitat preserved on a given project exceeds the open space requirements of chapter 10

(3) A request submitted for regional park construction must include cost estimates prepared by qualified professionals to be used by the county manager in determining the amount of the credit the county manager will recommend for approval by the Board of County Commissioners.

(4) A request submitted for a land dedication credit must include the following;

1. 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;
2. a specimen of the deed that will be used to convey title to the appropriate governmental body;
3. 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 county attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;
4. property appraisals prepared by qualified professionals; and
5. a document from the tax collector stating the current status of the property taxes. These submittals will be reviewed by the county manager in making the decision to approve credits or to make a recommendation to the Board of County Commissioners.
6. an affidavit of interest in real property in accord with F.S. § 286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

In preparing their reports, appraisers will value, except where a dedication is made pursuant to a condition of zoning approval, the land at its then-current zoning and without any enhanced value that could otherwise be attributed to improvements on adjacent lands. If the land in question is subject to a valid agreement, zoning approval or development order prescribing a different valuation, the agreement, zoning approval or development order will control. If the dedication is made pursuant to a condition of zoning approval and is not a site-related improvement, and the zoning condition does not specifically 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 county manager retains the right to independently determine the amount of credit to be recommended by securing other engineering and construction cost estimates and/or property appraisals for those improvements or land dedications. In every case, regional parks impact fee credits must be calculated so as to be consistent with F.S. § 380.06(16)(1985).

(5) Credits for construction will be created when the construction is completed and accepted by the appropriate governmental body for maintenance, or when the feepayer posts security, as provided in this subsection, for the costs of such construction. Credits for land dedication must be created when the title to the land has been accepted by the appropriate governmental body and recorded in the official records of the clerk of circuit court. Security in the form of cash, a performance bond, an irrevocable letter of credit or an escrow agreement must be posted with the Board of County Commissioners, made payable to the county in an amount approved by the county manager 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 county, the amount of the security will be increased by ten percent, compounded for each year of the life of

the security. The security must be reviewed and approved by the county attorney's office prior to acceptance of the security by the county. If the park is to be owned by a participating municipality, the county may assign its rights in such security to the municipality if the municipality requests it and the law permits it.

(6) Regional parks impact fee credits created on or after October 1, 1989, must be in transferable form and may be sold, assigned or otherwise conveyed as set forth in the county Administrative Code. They may be used to pay or otherwise offset regional parks impact fees required by this division, consistent with any interlocal agreements made with participating municipalities. Unless a longer period is specifically authorized by the Board of County Commissioners, such transferable credits must be used within 20 years of the date they are created, which date is the date the instruments conveying legal title to the land or improvements, which were given in exchange for credits, were recorded in the county's official record book. Regional parks impact fee credits will be increased at the time they are used in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the credits were created. Credits will expire after 20 years. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the provisions and restrictions of this division.

(7) Unless converted to transferable form pursuant to subsection (b)(7) of this section, regional parks impact fee credits created prior to October 1, 1989, must be used, if requested by a feepayer, on a first applied for, full credit basis. This rule applies to permits requested on any part of the original tract, which for purposes of this subsection (b)(6) and subsection (b)(7) of this section means the area of land developed, or approved for development, as part of a dedication of land or improvements for which the credits were created, to the extent that such credits are available. This will be done regardless of whether the feepayer owned the land at the time the credit was created and regardless of whether the ratio of the credit requested to the original full credit created is disproportionate to the ratio of the land covered by the requested permit to the original tract. In addition, this rule will apply regardless of whether the owner of the original tract has assigned or failed to assign such credits to the current owner of the land covered by the requested permit. In determining ownership or agency for purposes of administering these pre-October 1, 1989, credits, the building official may rely upon apparent authority; or may require such proof of ownership or agency as deemed necessary, the burden of proving ownership or agency lying exclusively on the person claiming it.

(8) 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 impact fees required by this division.

(9) If required or specifically permitted by the terms of a development order adopted pursuant to F.S. ch. 380, or by an agreement made by the county pursuant to its home rule powers granted by article VIII of the constitution of the state and F.S. § 125.01, or by a development agreement made pursuant to F.S. §§ 163.3220—163.3243, the Florida Local Government Development Agreement Act, and any ordinance adopted under the enabling authority thereof, any person who desires to prepay regional parks impact fees may do so by delivering a certified check or cashier's check to the building official with a letter identifying the amount of regional parks impact fees prepaid and they will receive a credit or credits equal to such prepayment, subject to the express terms of such development order, agreement or development agreement.

(c) Feepayers claiming credits must submit documentation sufficient to permit the building official to determine whether such credits claimed are due and, if so, the amount of such credits.

(d) Exemptions or credits must be claimed by the feepayer before the issuance of a building permit, mobile home move-on permit or recreational vehicle development order.

(e) Once used, credits will be canceled and may not be reestablished. Notwithstanding, credits may be reestablished if the permit for which credits were used expires, is revoked or voluntarily surrendered and therefore voided, and no construction or improvement of land has commenced. The impact fee credit account will be re-established to its value prior to adjustments applied pursuant to section 2-311(a). Reestablished credits must be issued to the party that used the credits. Those credits will maintain the original expiration date. Prior to reestablishment of credits, the feepayer must pay the administrative fee required under section 2-312(b)(6). Payment of the administrative fee may be made by reducing the reestablished impact fee credits by an amount equivalent to the administrative fee due.

(Ord. No. 01-13, § 1, 8-28-01; Ord. No. 06-24 , § 1, 11-14-06; Ord. No. 07-24 , § 1, 8-14-07; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-313. Appeals.

Any decision made by the county manager or his designee, or by the building official, in the course of administering this division may be appealed in accordance with those procedures set forth in chapter 34 for appeals of administrative decisions. So as to provide continuity in the interpretation and administration of this division, every interlocal agreement made pursuant to this division must specifically incorporate this appeal procedure; and each participating municipality must agree to be bound by the results of the administrative appeal. These interlocal agreements must provide that, if the administrative appeal decision is further appealed to the circuit court by another person, the appeal will be defended by the county, at its expense, unless the municipality elects to provide the defense of the case itself.

(Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-314. Enforcement of division; penalty; furnishing false information.

A violation of this division is punishable according to section 1-5; however, in addition to or in lieu of any criminal prosecution, the county, or any feepayer, has the power to sue for relief in civil court to enforce the provisions of this division. Knowingly furnishing false information to the county manager or his designee, the building official or any municipal official who is charged with the administration of this division on any matter relating to the administration of this division constitutes a violation thereof.

(Ord. No. 01-13, § 1, 8-28-01)

Secs. 2-315—2-340. Reserved.

DIVISION 4. COMMUNITY PARKS IMPACT FEE

Sec. 2-341. Statutory authority.

The Board of County Commissioners has the authority to adopt this division pursuant to article VIII of the constitution of the state, F.S. ch. 125 and F.S. §§ 163.3201, 163.3202 and 380.06(16).

(Ord. No. 89-14, § 1, 6-7-89)

Sec. 2-342. Applicability of division.

This division applies in the unincorporated areas of the county and within any municipality that enters into an interlocal agreement with the county to collect community parks impact fees during the term of such agreement.

(Ord. No. 89-14, § 1, 6-7-89; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-343. Intent and purpose of division.

(a) This division is intended to implement and be consistent with the Lee Plan.

(b) The purpose of this division is to regulate the use and development of land to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide community parks in the county as contemplated by the Lee Plan.

(Ord. No. 89-14, § 2, 6-7-89; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-344. Definitions.

The following words, terms and phrases, when used in this division, will have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Building official means that officer who is so defined in chapter 6, article II. Within any participating municipality, the term "building official" means that person whose duties and authority are similar to that of the county's building official, regardless of the title given such person.

Building permit means an official document or certification issued by the building official authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. In the case of a change in use or occupancy of an existing building or structure, the term specifically includes certificates of occupancy and occupancy permits, as those permits are defined or required by county ordinance. The terms "building permit" and "certificate of occupancy permit" also mean those municipal permits that are equivalent to these county permits, regardless of the names by which they are called within a municipality.

Capital improvement means land acquisition, site improvements, including landscape plantings and the removal of exotic vegetation, off-site improvements associated with a new or expanded community park, buildings and equipment. Capital improvements include bikeways along the county road network that are designed and used primarily for active recreation. Capital improvements do not include maintenance and operations.

Community park means a tract of land designated and used by the public primarily for active recreation but also used for educational and social purposes and passive recreation. Community parks also include bikeways along the county road network that are designed and used primarily for active recreation. A community park generally serves a specific community composed of at least several neighborhoods. The Lee Plan's community park standards are based upon several subclassifications of community parks: standard community parks, community recreation centers, community pools and school parks. The term "community park" specifically includes school sites and municipally owned parks where they are used as community parks.

County manager means the county manager, or the county official that the county manager may designate to administer the various provisions of this division.

Duplex has the same meaning given it in chapter 34.

Feepayer means a person applying to the county, or to any participating municipality, for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for a type of land development activity specified in section 2-346(a), regardless of whether the person owns the land.

Hotel/motel has the same meaning given it in chapter 34.

Lee Plan means the county comprehensive plan adopted pursuant to F.S. ch. 163, as amended.

Living unit has the same meaning given it in chapter 34.

Mobile home has the same meaning given it in chapter 34. Mobile homes not located within an established mobile home park will be treated as a single-family residence for impact fee calculation purposes.

Mobile home move-on permit means an official document or certification authorizing any purchaser, owner, mover, installer or dealer to move a mobile home onto a particular site. It also includes a permit authorizing the tiedown of a park trailer in a mobile home zoning district.

Multiple-family building has the same meaning given it in chapter 34.

Park trailer has the same meaning given it in chapter 34.

Participating municipality means any municipality that enters into an interlocal agreement with the county to collect within the municipality the impact fees imposed by this division.

Private recreational facility has the same meaning given it in chapter 34.

Recreational vehicle has the same meaning given it in chapter 34.

Recreational vehicle development order means a final development order, as that term is used in chapter 10, permitting the placement of recreational vehicles on any area of land. It also means those municipal permits or orders equivalent to a recreational vehicle development order, regardless of the names by which those permits are called within a municipality.

Single-family residence has the same meaning given it in chapter 34.

Timeshare has the same meaning given it in chapter 34.

Townhouse has the same meaning given it in chapter 34.

Two-family attached has the same meaning given it in chapter 34.

(Ord. No. 89-14, §§ 3, 4, 6-7-89; Ord. No. 96-06, § 2, 3-20-96; Ord. No. 01-13, § 1, 8-28-01)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 2-345. Imposition.

(a) Except as provided in section 2-352, any person who, after September 16, 1985, seeks to develop land by applying to the county or any participating municipality for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for the purpose of making an improvement to land for one of the uses specified in section 2-346 is required to pay a community parks impact fee in the manner and amount set forth in this division.

(b) No building permit, mobile home move-on permit or recreational vehicle development order for any activity requiring payment of an impact fee pursuant to section 2-346 may be issued by the county or by any participating municipality unless and until the community parks impact fee required by this division has been paid.

(c) In the case of structures, mobile homes or park trailers that are moved from one location to another, a community parks impact fee will be collected for the new location if the structure, mobile home or park trailer constitutes one of the land development uses listed in section 2-346, regardless of whether community parks 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 so moved is replaced by an equivalent use, no community parks impact fee is owed for the replacement use. In every case, the burden of proving past payment of community parks impact fees or equivalency of use rests with the feepayer.

(Ord. No. 89-14, § 5, 6-7-89; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-346. Computation of amount.

(a) At the option of the feepayer, the amount of the community parks impact fee may be determined by the schedule set forth in this subsection. 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 final development order.

Land Use Type	Community Parks Impact Fee per Unit
Single-family residence	$780.00
Multiple-family building, duplex, two-family attached or townhouse	581.00
Mobile home not in mobile home park	780.00
Timeshare	581.00

Hotel/motel room	363.00
Mobile home/RV park site	541.00

(b) Under this article, impact fees become due and payable at the time of building permit issuance. For purposes of this code, a building permit is considered "issued" when the permit meets all of the following criteria:

(1) The permit is approved by the county;

(2) Has been picked up by the owner or his agent; and

(3) All applicable fees have been paid.

(c) The development order process is separate and distinct from the building permit process and not relevant with respect to establishing when impact fees become due and payable, except as to RV parks.

(d) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or recreational vehicle development order, the community parks impact fee will 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.

(e) If the community parks impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and the difference refunded to the original feepayer or collected by the county, whichever is applicable. If community parks impact fees are owed, no participating municipality or county 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 building official may bring any action permitted by law or equity to collect unpaid fees.

(f) The person applying for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order may opt to submit evidence to the county manager indicating that the fees set out in subsection (a) of this section are not applicable to the particular development. Based upon convincing and competent evidence, which must be prepared and submitted in accordance with the county Administrative Code, the county manager may adjust the fee to that appropriate for the particular development. The adjustment may include a credit 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 Lee Plan for community parks.

(g) The impact fee schedule set forth in section 2-346(a) will be administratively reviewed and reanalyzed every three years. As a result of this review, county staff is authorized and directed to pursue amendments to the impact fee schedule supported by the review and reanalysis.

(Ord. No. 89-14, § 6, 6-7-89; Ord. No. 90-48, § 2, 9-19-90; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 05-07 , § 1, 5-24-05; Ord. No. 12-07 , § 1, 4-10-12)

Editor's note—

Ord. No. 13-06, adopted March 12, 2013, specified the following regarding the collection rate of community park impact fees:

Reduction on the rate of collection of development impact fees in the unincorporated areas of the

county: The collection rate for community park impact fees set forth in Chapter 2 of the Land Development Code is reduced by 80 percent for two-years commencing on, Wednesday, March 13, 2013 and ending on Friday, March 13, 2015, without further action by the Board. The reduction to these fees is applicable in unincorporated Lee County only.

Extension of impact fee credits: Community park impact fee credits issued or recognized by the County that are existing on March 12, 2013 will be extended for a period of two years in recognition of the two-year reduction on the collection of impact fees adopted by the Board by Ordinance 13-06.

Refunds: Refunds of impact fees paid prior to March 13, 2013 will be issued only in accordance with Chapter 2 of the Land Development Code.

Sec. 2-347. Payment.

(a) The feepayer must pay the community parks impact fee required by this division to the building official prior to the issuance of the building permit, mobile home move-on permit or recreational vehicle development order for which the fee is imposed, except as provided in section 2-352. No building permit, mobile home move-on permit or recreational vehicle development order may be issued by the county or by any participating municipality until the impact fee has been paid, except as provided in section 2-352

(b) In lieu of cash, up to 100 percent of the community parks impact fee may be paid with credits created in accordance with the provisions of section 2-352(b).

(c) Participating municipalities must remit community parks impact fee collections to the county at least once each month, less any amounts retained pursuant to section 2-350(d), unless another method is specified in an appropriate interlocal agreement.

(d) All funds collected pursuant to this division will be properly identified by community parks impact fee district and promptly transferred for deposit into the community parks impact fee trust fund to be held in separate accounts as determined in section 2-349 and used solely for the purposes specified in this division.

(Ord. No. 89-14, § 7, 6-7-89; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-348. Benefit districts established.

There are hereby established five community parks impact fee benefit districts as shown in Appendix L. Subdistricts may be created by interlocal agreement.

(Ord. No. 89-14, § 8, 6-7-89; Ord. No. 95-22, § 1, 11-1-95; Ord. No. 98-11, § 1, 6-23-98; Ord. No. 05-07 , § 1, 5-24-05; Ord. No. 14-19 , § 1, 9-16-14)

Sec. 2-349. Trust fund accounts.

(a) There are hereby established five community parks impact fee trust fund accounts, one for each benefit district established in section 2-348. Subsidiary accounts may be established for subdistricts created by interlocal agreement.

(b) Funds withdrawn from these accounts must be used in accordance with the provisions of section 2-350

(Ord. No. 89-14, § 9, 6-7-89; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 14-19 , § 1, 9-16-14)

Sec. 2-350. Use of funds.

(a) Funds collected from community parks impact fees must be used for the purpose of capital improvements for community parks. Except as provided in subsection (c) of this section, community parks impact fee collections, including any interest earned thereon, less administrative costs retained pursuant to subsection (d) of this section, must be used exclusively for capital improvements for community parks within or for the benefit of the community parks impact fee benefit district in which the funds were collected. These impact fee funds must 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 thereby are used for the purpose of capital improvements for community 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 must be divided and segregated such that the amount of the proceeds reserved for community park purposes bears the same ratio to the total funds collected that the community parks impact fee funds used or pledged bear to the total funds used or pledged.

(b) Each fiscal period the county manager will after consultation with participating municipalities and consistent with the provisions of any interlocal agreements made with them, present to the Board of County Commissioners a proposed capital improvement program for community parks, assigning funds, including any accrued interest, from the several community parks impact fee trust funds to specific community park projects. Monies, including any accrued interest, not assigned in any fiscal period must be retained in the same community parks impact fee trust funds until the next fiscal period, except as provided by the refund provisions of this division.

(c) Unless prohibited by an appropriate interlocal agreement, monies placed in one community parks impact fee trust fund may be used in an adjacent community parks impact fee district so long as the Board of County Commissioners first determines in a public meeting that the use of the funds will provide a benefit to the adjacent district and the district the funds were collected and the use of the funds in the adjacent district will not disrupt or otherwise alter the timing of provision of capital facilities to the district where the funds were collected.

(d) The county or the participating municipality collecting community parks impact fees is entitled to charge and collect an amount equal to up to three percent of the community parks 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 division. This administrative charge is in addition to the impact fee amount required by this division and is not required to be used for purposes of capital improvements. The applicant is responsible for payment of the administrative charge in conjunction with the payment of impact fees at the time a building permit or development order is issued.

(Ord. No. 89-14, § 10, 6-7-89; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 14-19 , § 1, 9-16-14)

Sec. 2-351. Refund of fees paid.

(a) If a building permit, mobile home move-on permit or recreational vehicle development order 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 community parks impact fee paid in cash as a condition for its issuance, except up to three percent of the impact fee paid, which will 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 will be paid to the feepayer on refunds due to noncommencement.

(b) Funds not expended or encumbered by the end of the calendar quarter immediately following 20 years from the date the regional parks impact fee was paid will, 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.

(Ord. No. 89-14, § 11, 6-7-89; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-352. Exemptions and credits.

(a) The following are exempted from payment of the community parks impact fee:

(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 a(n) 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.

(4) 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.

(5) An amendment to a recreational vehicle development order, provided that the amendment does not increase the number of recreational vehicle units permitted.

(6) A building permit obtained by or for the United States of America, the State of Florida or the Lee County School Board.

(7) A building permit, mobile home move-on permit or recreational vehicle development order for which the community parks impact thereof has been or will be paid or provided for pursuant to a written agreement, zoning approval or development order that, by the written terms thereof, clearly and unequivocally was intended to provide for the full mitigation of the projected impact.

(8) A building permit, mobile home move-on permit or recreational vehicle development order that does not result in an additional living unit.

(9) A building permit for residential construction in Harlem Heights, Charleston Park, or the Fort Myers/Lee County Enterprise Zone, as those areas are described in Appendix J.

(10) A building permit for construction included in the City of Sanibel's below market rate housing (BMRH) program established under the Sanibel land development code.

(11) Building permits issued in a redevelopment area or enterprise zone, or for low or moderate-income housing in the City of Fort Myers, but only when the permit is identified by the type of land use and by the land area or housing or redevelopment program in question by explicit language included in an appropriate interlocal agreement.

(b) Credits are subject to the following:

(1) No credit will be given for private recreational facilities, except pursuant to an independent fee calculation prepared and accepted in accordance with section 2-346(d).

(2) All other capital improvements for community parks may generate community parks impact fee credits in amounts to be established pursuant to subsection (b)(3) of this section, or by an appropriate interlocal agreement. The right to determine whether a capital improvement will be approved for credit purposes lies exclusively with the county unless otherwise provided in an appropriate interlocal agreement, or unless the improvement is required under a participating municipality, state or county development or zoning approval, in which case credits must be given to the extent required by law.

(3) A request submitted for community park construction must include cost estimates prepared by qualified professionals to be used by the county manager in determining the amount of the credit the county manager will recommend for approval by the Board of County Commissioners.

(4) A request submitted for a land dedication credit must include the following;

1. 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;
2. a specimen of the deed that will be used to convey title to the appropriate governmental body;
3. 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 county attorney and verifying that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;
4. property appraisals prepared by qualified professionals; and
5. a document from the tax collector stating the current status of the property taxes. These submittals will be reviewed by the county manger in making the decision to approve credits or to make a recommendation to the Board of County Commissioners.
6. an affidavit of interest in real property in accord with F.S. § 286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

In preparing their reports, appraisers will value, except where a dedication is made pursuant to a condition of zoning approval, value the land at its then-current zoning and without any enhanced value that could otherwise be attributed to improvements on adjacent lands. If the land in question is subject to a valid agreement, zoning approval or development order prescribing a different valuation, the agreement, zoning approval or development order will control. If the dedication is made pursuant to a condition of zoning approval and is not a site-related improvement, and the zoning 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 county manager retains the right to independently determine the amount of credit to be recommended by securing other engineering and construction cost estimates or property appraisals for those improvements of land dedications. In every case, community parks impact fee credits must be calculated so as to be consistent with F.S. § 380.06(16).

(5) Credits for construction will be created when the construction is completed and accepted by the appropriate governmental body for maintenance, or when the feepayer posts security, as provided in this subsection, for the costs of such construction. Credits for land dedication must be created when the title to the land has been accepted by the appropriate governmental body and recorded in the official records of the clerk of circuit court in the county. Security in the form of cash, a performance bond, irrevocable letter of credit or escrow agreement must be posted with the Board of County Commissioners, made payable to the county in an amount approved by the county manager 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 county, the amount of the security will be increased by ten percent, compounded for each year of the life of the security. The security must be reviewed and approved by the county attorney's office prior to acceptance of the security by the county. If the park is to be owned by a participating municipality, the county may assign its rights in such security to the municipality if the municipality requests it and the law permits it.

(6) Community parks impact fee credits created on or after October 1, 1989, must be in transferable form and may be sold, assigned or otherwise conveyed as set forth in the county Administrative Code. They may be used to pay or otherwise offset community parks impact fees required by this division, so long as the credits are used in the same community parks impact fee benefit district in which they are earned, consistent with any interlocal agreements made with participating municipalities. Unless a longer period is specifically authorized by the Board of County Commissioners, transferable credits must be used within 20 years of the date they are created,

which date is the date the instruments conveying legal title to the land or improvements that were given in exchange for credits were recorded in the county's official record book.

Community parks impact fee credits will be increased at the time they are used in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the credits were created. Credits not used will expire within 20 years. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the provisions and restrictions of this division.

(7) Unless converted to transferable form pursuant to subsection (b)(7) of this section, community parks impact fee credits created prior to October 1, 1989, must be used, if requested by a feepayer, on a first applied for, full credit basis. This rule applies to any permit requested on any part of the original tract, which for purposes of this subsection (b)(6) and subsection (b)(7) of this section means the area of land developed, or approved for development, as part of a dedication of land or improvements for which the credits were created, to the extent that such credits are available. This will be done regardless of whether the feepayer owned the land at the time the credit was created, and regardless of whether the ratio of the credit requested to the original full credit created is disproportionate to the ratio of the land covered by the requested permit to the original tract. In addition, this rule will apply regardless of whether the owner of the original tract has assigned or failed to assign such credits to the current owner of the land covered by the requested permit. In determining ownership or agency for purposes of administering these pre-October 1, 1989, credits, the building official may rely upon apparent authority; or may require such proof of ownership or agency as deemed necessary, the burden of proving ownership or agency lying exclusively on the person claiming it.

(8) 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 community parks impact fees required by this division.

(9) If required or specifically permitted by the terms of a development order adopted pursuant to F.S. ch. 380, or by an agreement made by the county pursuant to its home rule powers granted by article VIII of the constitution of the state and F.S. § 125.01, or by a development agreement made pursuant to F.S. §§ 163.3220—163.3243, the Florida Local Government Development Agreement Act, and any ordinance adopted under the enabling authority thereof, any person who desires to prepay community parks impact fees in a particular community parks impact fee benefit district may do so by delivering a certified check or cashier's check to the building official with a letter identifying the community parks impact fee benefit district or districts in question and the amount of community parks impact fees prepaid in the community parks impact fee benefit district or each of the community parks impact fee benefit districts, and receive a credit or credits equal to such prepayment subject to the express terms of such development order, agreement or development agreement.

(c) Feepayers claiming credits must submit documentation sufficient to permit the building official to determine whether such credit's claimed are due and, if so, the amount of such credits.

(d) Exemptions or credits must be claimed by the feepayer before the issuance of a building permit, mobile home move-on permit or recreational vehicle development order.

(e) Once used, credits will be canceled and may not be reestablished. Notwithstanding, credits may be reestablished if the permit for which credits were used expires, is revoked or voluntarily surrendered and therefore voided, and no construction or improvement of land has commenced. The impact fee credit account will be re-established to its value prior to adjustments applied pursuant to section 2-352(b)(6). Reestablished credits must be issued to the party that used the credits. Those credits will maintain the original expiration date. Prior to reestablishment of credits, the feepayer must pay the administrative fee required under section 2-351(a). Payment of the administrative fee may be made

by reducing the reestablished impact fee credits by an amount equivalent to the administrative fee due.

(Ord. No. 01-13, § 1, 8-28-01; Ord. No. 06-24 , § 1, 11-14-06; Ord. No. 07-24 , § 1, 8-14-07; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-353. Appeals.

Any decision made by the county manager or his designee, or by the building official, in the course of administering this division may be appealed in accordance with those procedures set forth in chapter 34 for appeals of administrative decisions. So as to provide continuity in the interpretation and administration of this division, every interlocal agreement made pursuant to this division must specifically incorporate this appeal procedure, and each participating municipality must agree to be bound by the results of the administrative appeal. These interlocal agreements must provide further that, if the administrative appeal decision is further appealed to the circuit court by another person, the appeal will be defended by the county, at its expense, unless the municipality elects to provide the defense of the case itself.

(Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-354. Enforcement of division; penalty; furnishing false information.

A violation of this division is punishable according to section 1-5; however, in addition to or in lieu of any criminal prosecution, the county, or any feepayer, has the power to sue for relief in civil court to enforce the provisions of this division. Knowingly furnishing false information to the county manager or his designee, the building official or any other official who is charged with the administration of this division on any matter relating to the administration of this division constitutes a violation thereof.

(Ord. No. 01-13, § 1, 8-28-01)

Secs. 2-355—2-380. Reserved.

DIVISION 5. FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES IMPACT FEE

Sec. 2-381. Statutory authority.

The Board of County Commissioners has the authority to adopt this division pursuant to article VIII of the constitution of the state, F.S. ch. 125 and F.S. §§ 163.3201, 163.3202 and 380.06(16).

(Ord. No. 89-15, § 1, 6-7-89)

Sec. 2-382. Applicability of division.

With respect to fire impact fees, this division applies to those portions of the unincorporated area of the county that are provided fire protection by the county or served by fire districts that enter into interlocal agreements with the county for the collection of fire impact fees. It also applies in the area of those municipalities within the county that enter into interlocal agreements with the county for the collection of the fire impact fees. With respect to EMS impact fees, this division applies to the entire unincorporated area of the county and in those municipalities entering into interlocal agreements to collect EMS impact fees for the county.

(Ord. No. 89-15, § 1, 6-7-89; Ord. No. 99-10, § 2, 8-24-99)

Sec. 2-383. Intent and purpose of division.

(a) This division is intended to implement and be consistent with the Lee Plan.

(b) The purpose of this division is to regulate the use and development of land so as to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide fire protection and emergency medical services in the county as contemplated by the Lee Plan.

(c) The intent and purpose of this division is to provide the fire districts and municipalities within Lee County with the option to participate in an impact fee program administered by Lee County. However, this division is not intended to preclude the ability of a fire district or municipality to decline the option to participate in the county program or terminate an existing interlocal agreement and establish their own impact fee regulations in accordance with the powers granted under Florida law or the district's special act.

(Ord. No. 89-15, § 2, 6-7-89; Ord. No. 99-10, § 1, 8-24-99)

Sec. 2-384. Definitions.

The following words, terms and phrases, when used in this division, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Building official means that officer who is so defined in chapter 6, article II. Within any participating municipality, the term "building official" means that person whose duties and authority are similar to that of the county's building official, regardless of the title given such person.

Building permit means an official document or certification issued by the building official and authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. In the case of a change in use or occupancy of an existing building or structure, the term specifically includes certificates of occupancy and occupancy permits, as those permits are defined or required by county ordinance. The terms "building permit" and "certificate of occupancy permit" also mean those municipal permits that are equivalent to these county permits, regardless of the names by which they are called within a municipality.

Building with mixed uses means a building that contains more than one principal use, as that term is defined in chapter 34.

Capital improvement means land acquisition and related costs and expenses, site improvements, off-site improvements associated with new or expanded facilities, buildings and equipment, including communications equipment, with an average useful life of at least three years, but excludes maintenance and operations.

County manager means the county manager, or the county or municipal officials that he may designate to administer the various provisions of this division.

Duplex has the same meaning given it in chapter 34.

Emergency medical services and *EMS* mean the provision of advanced life support and advanced life support services, as defined in F.S. § 401.23(1), (2), respectively, and, when applicable to a particular jurisdiction described in the schedule of fees set forth in section 2-386, the provision of ambulance or air ambulance service, to which reference is made in F.S. § 401.23(4)—(6). This service is provided throughout the county by the county department of public safety, except in the Lehigh Acres Fire Control and Rescue District and Fort Myers Beach Fire Control District, which provide their own EMS, which they currently refer to as rescue service.

Feepayer means a person applying to the county, or to any participating municipality, for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for a type of land development activity specified in section 2-386(a), regardless of whether the person owns the land that is to be developed.

Fire district means a special district within the county that is authorized to provide fire protection or emergency medical services. It also includes the City of Fort Myers, which is served by its own fire department.

Fire protection means the prevention and extinguishment of fires, the protection of life and property from fire, and the enforcement of municipal, county and state fire prevention codes, as well as any law pertaining to the prevention and control of fires, when enforcement duties are performed by firefighters, as defined in F.S. § 633.30, or by fire safety inspectors, as defined in F.S. § 633.021(8), and such other persons who may be employed by a fire district. The term "fire protection" also includes what commonly is called "rescue," a service that generally includes, among other things, the provision of emergency medical services, as defined in F.S. § 191.003(4), and the extrication of accident victims from entrapment.

General industrial means any type of industrial use except a public or private warehouse.

General office means any type of office except a medical office. This definition is only applicable to Table 19.

Hotel/motel has the same meaning given it in chapter 34.

Industrial means the use of a building or structure primarily for the storage, packaging or distribution of goods; the assembly, fabrication or manufacture of goods, either from raw materials or other goods; and the basic processing of foodstuffs.

Interior completion permit means any permit issued by the building official, which permits completion of a shell building, or unit within a shell building, by authorizing work to finish interior units, so that the building may receive a certificate of occupancy.

Lee Plan means the county comprehensive plan adopted pursuant to F.S. ch. 163.

Living unit has the same meaning given it in chapter 34.

Mobile home has the same meaning given it in chapter 34.

Mobile home move-on permit means an official document or certification authorizing any purchaser, owner, mover, installer or dealer to move a mobile home onto a particular site. It also includes a permit authorizing the tiedown of a park trailer in a mobile home zoning district.

Multi-family includes multiple-family building, duplex, two-family attached, townhouse and timeshare, as those terms are defined in this section.

Multiple-family building has the same meaning given it in chapter 34.

Office means the use of a building or structure primarily for the sale of professional, medical, financial or other services, as opposed to the sale or manufacture and storage of goods.

Park trailer has the same meaning given it in chapter 34.

Participating fire district means any fire district that enters into an interlocal agreement with the county to implement this division.

Participating municipality means any municipality that enters into an interlocal agreement with the county to collect, within the municipality, the impact fees imposed by this division.

Public or institutional use means a land use that cannot be classified in any other land use category included in the fee schedules in section 2-386(a).

Public or private warehouse has the same meaning given it in chapter 34.

Recreational vehicle has the same meaning given it in chapter 34.

Recreational vehicle development order means a final development order, as that term is used in chapter 10, permitting the placement of recreational vehicles on any area of land. It also means those municipal permits or orders equivalent to a recreational vehicle development order, regardless of the names by which those permits are called within a municipality.

Retail means the use of a building or structure primarily for the sale of goods or foods that have not been made, assembled or otherwise changed in ways generally associated with manufacturing or basic food processing in the same building or structure.

Service area, means the areas subject to a particular fire district's or municipality's taxing authority by virtue of a valid special act establishing the fire district's boundaries or legislation creating the municipality. It also includes an area the district provides fire protection and emergency medical services to by virtue of a valid interlocal or contractual agreement. However, the service area of an independent fire district excludes areas lying within municipal boundaries, as amended from time to time, unless a municipality has entered into an interlocal agreement for the provision of services by the district. The term service area with respect to county emergency medical services areas encompasses the entire county except for the service areas applicable to the Fort Myers Beach Fire Control District and the Lehigh Acres Fire Control and Rescue District. The Lee County Airports Fire Department service area encompasses those areas under the control of the Lee County Port Authority, specifically including lands that may be leased to private entities.

Shell building means any commercial or industrial building, or portion of a building, so constructed to consist exclusively of exterior walls and unfinished interior units with rough staged utilities, so as to preclude occupancy. This definition does not include agricultural or residential buildings.

Single-family residence has the same meaning given it in chapter 34.

Timeshare has the same meaning given it in chapter 34.

Townhouse has the same meaning given it in chapter 34.

Two-family attached has the same meaning given it in chapter 34.

(Ord. No. 89-15, §§ 3, 4, 6-7-89; Ord. No. 94-19, § 5, 7-20-94; Ord. No. 99-10, § 1, 8-24-99)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 2-385. Imposition.

(a) Except as provided in sections 2-392 through 2-395, any person who, on or after October 1, 1989, seeks to develop land by applying to the county or to any participating municipality for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order to make an improvement to land for one of the uses specified in section 2-386 will be required to pay a fire and EMS impact fee in the manner and amount set forth in this division.

However, no fire or EMS impact fee will be imposed in regard to the development of land located within a municipality that has not entered into an interlocal agreement with the county to collect impact fees, nor will a fire impact fee be imposed in regard to the development of land located within the jurisdictional boundaries of a fire district that has not entered into an interlocal agreement with the county for the county to collect fire impact fees. Except for those areas that comprise the Lehigh Acres Fire Control and Rescue District and the Fort Myers Beach Fire Control District, EMS impact fees will be collected throughout the unincorporated areas of the county, even in those fire districts that have elected not to participate in the fire impact fee program.

(b) No building permit, mobile home move-on permit or recreational vehicle development order for any activity requiring payment of an impact fee pursuant to section 2-386 will be issued by the county or any participating municipality unless and until the fire and EMS impact fee required by this division has been paid.

(c) In the case of structures, mobile homes or park trailers moved from one location to another, fire and EMS impact fees will be collected for the new location if the structure, mobile home or park trailer is a type of land development listed in section 2-386, regardless of whether impact fees had been paid at the old location, unless the new location is beyond the applicability of this division as set forth in section 2-382 or the use at the new location is a replacement of an equivalent use. If the structure, mobile home or park trailer so moved is replaced by an equivalent use, no fire or EMS impact fee will be owed for the replacement use. In every case, the burden of proving past payment of fire and EMS impact fees or equivalency of use rests with the feepayer.

(d) The increased fee schedule adopted in section 2-386 will automatically become effective within the Lee County Airports Fire Department service area in accordance with subsection (e).

(e) The fee schedule in effect prior to April 11, 2006, will remain in effect until the new fees take effect as follows:

(1) *Decreases.* Decreases in the existing fee for a use type will be effective April 11, 2006.

(2) *Increases.*

a. A building permit or mobile home move-on permit or recreational vehicle park development order application submitted on or before June 11, 2006, will be assessed an impact fee based upon the fee schedule applicable on April 10, 2006, but only if the building permit or mobile home move-on permit or recreational vehicle park development order is issued on or before September 11, 2006.

b. A building permit or mobile home move-on permit or recreational vehicle park development order application submitted after June 11, 2006, or any building permit or mobile home move-

on permit or development order issued after September 11, 2006, will be subject to the amended impact fee schedule.

c. After September 11, 2006, the director may accept payment according to the fee schedule in effect prior to June 11, 2006 only if the following conditions are met. The director's decision is not subject to appeal under section 34-145 of this Code.

1. The application for the permit or development order must have been properly submitted and sufficient for review on or before June 11, 2006; and,

2. The sole grounds for accepting payment under this subsection will be that a governmental action or failure to act in a timely manner caused the issuance of the permit or development order to be delayed beyond September 11, 2006; and,

3. The applicant submits a written request to the director specifying the reasons for the request; and,

4. The director's decision must be in writing and it must set forth the governmental action or failure to act that caused unnecessary delay in the issuance of the permit or development order; and,

5. The ability and authority to accept payments under this subsection will terminate on October 11, 2006.

(3) *When due and payable.* Under this article, impact fees become due and payable at the time of permit issuance. For purposes of this division, a building permit or mobile home move-on permit is considered "issued" when the permit meets all of the following criteria:

a. The permit is approved by the county;

b. Has been picked up by the owner or his agent; and

c. All applicable fees have been paid.

d. The development order process is separate and distinct from the building permit process and not relevant with respect to establishing when impact fees become due and payable, except as to RV parks.

(Ord. No. 89-15, § 5, 6-7-89; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 99-10, § 1, 8-24-99; Ord. No. 03-08, § 1, 1-28-03; Ord. No. 06-05 , § 1, 4-11-06)

Sec. 2-386. Computation of amount.

(a) At the option of the feepayer, the amount of the fire and EMS impact fees may be determined by the schedules shown in this subsection. The reference in the schedules to square feet refers to the gross square footage of each floor of a building measured to the exterior walls, and not to usable, interior, rentable, non-common or other forms of net square footage. The reference in the schedules to recreational vehicles refers to the number of recreational vehicle sites permitted by the applicable final development order. If a building permit is requested for a building with mixed uses, as defined in section 2-384, then the fee will be determined according to the schedule by apportioning the total space within the building according to the space devoted to each principal use. If a permit application involves a type of development not specified on the schedule, then the county manager will use the fee applicable to the most nearly comparable type of land use on the schedule.

TABLE 1. FIRE IMPACT FEE SCHEDULE	
	Use and Development Unit

FIRE DISTRICT	Single-Family Residence or Mobile Home on Individual Lot Per Dwelling	Multi-Family Per Dwelling	Mobile Home or Recreational Vehicle in Mobile Home/RV Park Per Space	Hotel/Motel Per Room	Retail Per 1,000 sq. ft.	Office Per 1,000 sq. ft.	Public or Institutional Use Per 1,000 sq. ft.	General Industrial Per 1,000 sq. ft.	Public or Private Ware-House Per 1,000 sq. ft.
Alva[2]	$474	$356	$327	$289	$559	$261	$171	$133	$62
Bayshore[2]	474	356	327	289	559	261	171	133	62
Boca Grande	474	356	327	289	559	261	171	133	62
Bonita Springs[6]	437	328	301	266	515	240	158	123	57
Captiva Island[3]	474	356	327	289	559	261	171	133	62
Estero[2]	357	268	247	218	421	197	129	100	47
Fort Myers[4]	321	241	221	196	379	177	116	90	42
Fort Myers Beach[3]	404	303	278	246	476	222	146	113	53

Fort Myers Shores[3]	474	356	327	289	559	261	171	133	62
Iona-McGregor[2]	323	242	223	197	381	177	116	91	42
Lee County Airports[5]	474	356	327	289	559	261	171	133	62
Lehigh Acres[1]	307	231	212	188	363	169	110	86	40
Matlacha-Pine Island[3]	474	356	327	289	559	261	171	133	62
North Fort Myers[3]	203	152	140	124	240	112	73	57	26
San Carlos Park[2]	474	356	327	289	559	261	171	133	62
Sanibel[3]	449	337	309	273	529	247	162	126	59
South Trail[2]	271	203	188	165	320	149	97	76	35
Tice[2]	474	356	327	289	559	261	171	133	62
Upper Captiva[2]	474	356	327	289	559	261	171	133	62

Notes:

[1] Fire Control and Rescue Service District

[2] Fire Protection and Rescue Service District

[3] Fire Control District

[4] Municipality of Fort Myers

[5] Fire Department

[6] Fire Control and Rescue District

TABLE 2. EMS IMPACT FEE SCHEDULE FOR LEE COUNTY EMS SERVICE AREA		
Land Use	**Development Unit**	**EMS Impact Fee Per Unit**
Single-family residence or mobile home on individual lot	Dwelling	$50.00
Multi-family [includes timeshare]	Dwelling	37.00
Mobile home or recreational vehicle in mobile home/RV park	Space	34.00
Hotel/motel	Room	30.00
Retail	1,000 sq. ft.	58.00
Office	1,000 sq. ft.	27.00
Public or institutional use	1,000 sq. ft.	18.00
General industrial	1,000 sq. ft.	14.00
Public or private warehouse	1,000 sq. ft.	6.00

(b) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or recreational vehicle development order, the fire and EMS impact fees will be based upon the net increase in the impact fees for the new use as compared to the previous use. However, should the change of use, redevelopment or modification result in a net decrease, no refunds or credits for past impact fees paid will be made or created.

(c) If fire or EMS impact fees have been calculated and paid based on error or misrepresentation, then they will be recalculated and the difference refunded to the original feepayer or paid to the county, whichever is applicable. If fees are owed the county, no municipal or county permits of any type may be issued for the building or structure in question, or for any other part of a development of which the building or structure in question is a part, while the fees remain unpaid. The building official may bring any action permitted by law or equity to collect unpaid fees.

(d) The person applying for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order may, at his option, submit evidence to the county manager indicating that the fees set out in subsection (a) of this section are not applicable to the particular development. Based upon convincing and competent evidence, prepared and submitted in accordance with the county Administrative Code, the county manager may adjust the fees accordingly.

(e) In the case of any building or structure restricted to private use only or that will not be fully open to the public, the full impact fees imposed by this division for similar buildings or structures that are fully open to the public will be charged.

(f) The impact fee schedules set forth in section 2-386 will be reviewed every three years beginning January 1, 2000 and updated if necessary. At the county's request, all participating districts and municipalities will provide the documentation necessary to enable the county to properly review and update the fee schedules.

(Ord. No. 89-15, § 6, 6-7-89; Ord. No. 95-22, § 1, 11-1-95; Ord. No. 96-21, § 1, 10-30-96; Ord. No. 99-10, § 1, 8-24-99; Ord. No. 01-02, § 1, 2-27-01; Ord. No. 03-08, § 1, 1-28-03; Ord. No. 06-05 , § 1, 4-11-06; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-387. Payment.

(a) The feepayer must pay the fire and EMS impact fees required by this division to the building official prior to the issuance of the building permit, mobile home move-on permit or recreational vehicle development order for which the fees are imposed, except as provided in sections 2-392 through 2-395. No building permit, mobile home move-on permit or recreational vehicle development order may be issued by the county or by any participating municipality until the fee has been paid, except as provided in sections 2-394 and 2-395

(b) In lieu of cash, up to 100 percent of the fire and EMS impact fee may be paid with credits created in accordance with the provisions of section 2-395

(c) Participating municipalities must remit EMS impact fee collections to the county at least once each month, less the amount retained pursuant to section 2-390(e), unless another method is specified in an appropriate interlocal agreement. The county will transfer fire and, where appropriate, EMS impact fee collections to the appropriate fire districts at least once per calendar quarter, less any amounts retained pursuant to section 2-390(e), unless another method is specified in an appropriate interlocal agreement.

(d) All funds collected pursuant to this division will be properly identified by fire and EMS impact fee benefit districts and promptly transferred for deposit into the appropriate fire and EMS impact fee trust funds to be held in separate accounts as determined in section 2-389, and used solely for the purposes specified in this division.

(Ord. No. 89-15, § 7, 6-7-89; Ord. No. 94-19, § 6, 7-20-94; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-388. Benefit districts established.

(a) There are hereby established 18 fire impact fee benefit districts as follows:

(1) Alva Fire Control and Rescue Service District service area.

(2) Bayshore Fire Protection and Rescue Service District service area.

(3) Bonita Springs Fire Control and Rescue District service area.

(4) Captiva Island Fire Control District service area.

(5) Estero Fire Protection and Rescue Service District service area.

(6) Fort Myers, the Municipality of.

(7) Fort Myers Beach Fire Control District service area.

(8) Fort Myers Shores Fire Protection and Rescue Service District service area.

(9) Iona-McGregor Fire Protection and Rescue Service District service area.

(10) Lee County Airports Fire Department service area.

(11) Lehigh Acres Fire Control and Rescue District service area.

(12) Matlacha and Pine Island Fire Control District service area.

(13) North Fort Myers Fire Control and Rescue Service District service area.

(14) San Carlos Park Fire Control and Rescue Service District service area.

(15) South Trail Fire Protection and Rescue Service District service area.

(16) Sanibel Fire Control District service area.

(17) Tice Fire Protection and Rescue Service District service area.

(18) Upper Captiva Fire Protection and Rescue Service District service area.

(b) There is hereby established a single EMS impact fee benefit district, which will be known as the "Lee County EMS Service Area."

(Ord. No. 89-15, § 8, 6-7-89; Ord. No. 95-22, § 1, 11-1-95; Ord. No. 99-10, § 1, 8-24-99)

Sec. 2-389. Trust funds.

(a) There are hereby established 18 fire impact fee trust funds, one for each fire impact fee benefit district established in section 2-388(a).

(b) There is hereby established an EMS impact fee trust fund for the Lee County EMS Service Area impact fee benefit district established in section 2-388(b).

(c) Funds withdrawn from these accounts must be used in accordance with the provisions of section 2-390

(Ord. No. 89-15, § 9, 6-7-89; Ord. No. 95-22, § 1, 11-1-95; Ord. No. 99-10, § 1, 8-24-99)

Sec. 2-390. Use of funds.

(a) Funds collected from fire and EMS impact fees must be used for the purpose of capital improvements to and expansion of fire protection and emergency medical services. Fire and EMS impact fee collections, including any interest earned thereon, less administrative costs retained pursuant to subsection (e) of this section, will be used exclusively for capital improvements or expansion within or for the benefit of the fire and EMS impact fee benefit district from which the funds were collected. These impact fee funds must be segregated from other kinds and 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 thereby are used for the purpose of land acquisition and capital improvements to and expansion within or for the benefit of the fire and EMS impact fee benefit district from which the funds were used or pledged. 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, then the proceeds raised thereby must be divided and segregated in a manner that will cause the amount of the proceeds reserved for the benefit of the participating fire and EMS impact fee benefit district to bear the same ratio to the total funds collected as the amount of the participating fire and EMS impact fee benefit district funds used or pledged bears to the total funds used or pledged.

(b) Before the county can collect fire impact fees on behalf of any fire district or municipality, it must enter into an interlocal agreement made pursuant to the state Interlocal Agreement Act. This agreement must, at a minimum, describe how fees collected by the county will be transmitted to the fire district or municipality and how the benefit district will spend the fees and account for these expenditures, with appropriate audit reviews to be done by the county at regular intervals.

(c) For those benefit districts in which the county acts as the supplier of fire and emergency medical services, the county manager will present to the Board of County Commissioners a proposed capital improvement program for fire and EMS each fiscal period, assigning funds, including any accrued interest, from the relevant fire or EMS trust funds to fire or EMS projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period will be retained in the same fire and EMS impact fee trust funds until the next fiscal period, except as provided by the refund provisions of this division.

(d) Monies placed in a fire or EMS impact fee trust fund may not be borrowed.

(e) The county or participating municipality collecting fire or EMS impact fees is entitled to charge and collect an amount equal to up to three percent of the 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 division. This administrative charge is in addition to the impact fee amount required by this division and is not required to be used for purposes of capital improvements. The applicant is responsible for payment of the administrative charge in conjunction with the payment of impact fees at the time a building permit or development order is issued.

(Ord. No. 89-15, § 10, 6-7-89; Ord. No. 99-10, § 1, 8-24-99; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-391. Refund of fees paid.

(a) If a building permit, mobile home move-on permit or recreational vehicle development order expires, is revoked, voluntarily surrendered, or otherwise becomes void, and no construction or improvement of land (including moving a mobile home onto land) has been commenced, then the feepayer is entitled to a refund of the fire or EMS impact fees paid as a condition for its issuance, except that up to three percent of the impact fees paid will 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 will be paid to the feepayer on refunds due to noncommencement.

(b) Funds not expended or encumbered by the end of the calendar quarter immediately following 20 years from the date the fire or EMS impact fees were was paid will, 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.

(Ord. No. 89-15, § 11, 6-7-89; Ord. No. 99-10, § 1, 8-24-99; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-392. Prepayment of fees (Fire or EMS).

If required or specifically permitted by the terms of a development order adopted pursuant to F.S. Chapter 380, or by an agreement made by the county pursuant to its home rule powers granted in Article

VIII of the Constitution of the State and F.S. § 125.01, or by a development agreement made pursuant to F.S. §§ 163.3220—163.3243, the Florida Local Government Development Agreement Act, and any ordinance adopted under the enabling authority thereof, any person who desires to prepay fire or EMS impact fees in a particular fire or EMS impact fee benefit district may do so by delivering a certified check or cashier's check to the building official with a letter identifying the fire or EMS impact fee benefit district or districts in questions and the amount of fire or EMS impact fees prepaid. The county will issue credit or credits equal to the prepayment subject to the express terms of the development order, agreement or development agreement.

(Ord. No. 99-05, § 2, 6-29-99)

Sec. 2-393. Deferral of fees.

(a) Deferrals will be limited to the following:

(1) Persons seeking building permits for a shell building as defined herein may, at their option, defer payment of fire and EMS impact fees until issuance of any interior completion permits.

(2) No interior completion permit will be issued until the applicant pays the corresponding fire and EMS impact fee that is due, or demonstrates to the building official that the fire and EMS impact fee due has already been paid for the unit(s) to be completed.

(b) Deferrals must be claimed by the fee payer at the time of the application for a shell building permit. Any deferrals not so claimed will be deemed waived by the fee payer.

(Ord. No. 89-15, § 12, 6-7-89; Ord. No. 90-14, § 2, 3-21-90; Ord. No. 94-19, § 7, 7-20-94; Ord. No. 95-22, § 1, 11-1-95; Ord. No. 96-17, § 1, 9-18-96; Ord. No. 98-11, § 1, 6-23-98; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 99-10, § 1, 8-24-99)

Sec. 2-394. Exemptions.

(a) The following are exempted from payment of the fire and EMS impact fees:

(1) Alteration 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 no additional demand for fire protection or EMS will be produced.

(2) The construction of accessory buildings or structures that will not produce additional living units and where no additional demand for fire protection or EMS will be produced.

(3) The replacement of an existing lawfully permitted building, mobile home, park trailer or structure, provided no additional living units or fire protection or EMS demands will be produced than those produced by the original use of the land.

(4) 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.

(5) An amendment to a recreational vehicle development order, provided the amendment does not increase the number of recreational vehicle units permitted or increase the need for fire protection or EMS.

(6) A building permit obtained by or for the United State of America, the State of Florida or the Lee County School Board.

(7) A building permit, mobile home move-on permit or recreational vehicle development order for which the fire and EMS impact thereof has been or will be paid or provided for pursuant to a

written agreement, zoning approval or development order that, by the written terms thereof, clearly and unequivocally was intended to provide for the full mitigation of the project impact.

(8) A building permit, mobile home move-on permit or recreational vehicle development order that does not result in an increased need for fire protection or emergency medical services.

(9) A building permit for residential construction in Harlem Heights, Charleston Park, or the Fort Myers/Lee County Enterprise Zone, as those areas are described in Appendix J.

(10) A building permit for construction included in the City of Sanibel's below market rate housing (BMRH) program established under the Sanibel Land Development Code.

(11) Building permits issued in a redevelopment area or enterprise zone, or for low or moderate-income housing in the City of Fort Myers, but only when the permit is identified by the type of land use and by the land area or housing or redevelopment program in question by explicit language included in an appropriate interlocal agreement.

(b) Exemptions must be claimed by the feepayer before the issuance of a building permit, mobile home move-on permit or recreational vehicle development order.

(Ord. No. 89-15, § 13, 6-7-89; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 99-10, § 1, 8-24-99; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 06-24 , § 1, 11-14-06; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-395. Credits.

(a) Credits are subject to the following:

(1) *Capital improvement to fire protection and emergency medical services.* All other capital improvements for fire protection and emergency medical services may generate fire or EMS impact fee credits in amounts to be established pursuant to subsection (a)(2) of this section. The right to determine whether a capital improvement will be accepted for credit purposes lies exclusively with the entity providing the service; however, the right to determine whether the value of the capital improvement will be approved for credit purposes lies exclusively with the county, unless otherwise provided in an appropriate interlocal agreement.

(2) *Conditions of credit approval.* Credit for fire protection or EMS equipment or facility construction or land dedication is subject to the following:

a. *Fire or EMS equipment or facility construction.* When a person requests credits for construction of fire or EMS equipment or facilities, he must submit a project description in sufficient detail and with complete cost estimates prepared by qualified professionals so as to enable the county manager to verify the cost estimates and thereby determine the appropriate amount of the credit. That person must also submit written acknowledgment from the entity which will acquire the equipment or facility that the entity intends to accept the equipment or facility.

b. *Land dedication.* A request submitted for land dedication must include the following:

1. A survey of the land to be dedicated, certified by a professional surveyor and mapper registered and licensed in the state;

2. A specimen of the deed that will be used to convey title to the appropriate governmental body;

3. An ALTA Form B title insurance policy in an amount equal to the approved value of the credits. This policy must be issued by a company satisfactory to the county attorney and verify that the proffered deed will convey unencumbered fee simple title to the appropriate governmental body;

4. Property appraisals prepared by qualified professionals that appraise the land as part of the whole development of regional impact, planned development or parent parcel; and
5. A document from the tax collector stating the current status of the property taxes.
6. An affidavit of interest in real property in accord with F.S. § 286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

These submittals will be reviewed by the county manager in making the decision to approve credits.

Except where a dedication is made pursuant to a condition of zoning approval or development of regional impact development order, the appraiser must value the land at its current zoning without any enhanced value that could be attributed to improvements on the parent parcel. If the land in question is subject to a valid agreement, zoning approval or development order that prescribes a different valuation, that document will control the date of valuation. If the dedication is made pursuant to a condition of zoning or other development approval and is not a site related improvement and the condition does not specifically prescribe otherwise, the land will be valued based upon the value of the land as it existed prior to the approval that contains the condition of dedication. The county manager retains the right to independently determine the amount of credit to be recommended by securing other property appraisals for those improvements or land dedications. In every case, fire or EMS impact fee credits must be calculated so as to be consistent with F.S. section 380.06(16).

(3) *Timing of credit issuance.* Credits for construction will be created when the construction is complete and accepted by the appropriate governmental body for maintenance or when the feepayer posts security for the costs of the construction. Credits for land dedication will be created when the title to the land has been accepted by the appropriate governmental body and recorded in the official records of the clerk of circuit court. Security in the form of cash, a performance bond, a irrevocable letter of credit or escrow agreement must be posted with the Board of County Commissioners, made payable to the county in an amount approved by the county manager equal to 110 percent of the full cost of construction. If the construction project will not be completed within one year of the acceptance of the offer by the county, the amount of the security will be increased by ten percent, compounded for each year of the life of the security. The security must be reviewed and approved by the county attorney's office prior to acceptance by the county. If the improvement is to be owned by a participating fire district or municipality, the county may assign its rights in the security to the fire district or municipality if permitted by law.

(4) *Transferability.* Fire or EMS impact fees created on or after October 1, 1989 must be in transferable form and may be sold, assigned or conveyed as set forth in the county Administrative Code. Credits may be used to pay or offset the fire or EMS impact fees in the same fire or EMS impact fee district in which they are earned, consistent with the interlocal agreements made with participating fire districts and municipalities. Unless a longer period is specifically authorized by the Board of County Commissioners, transferable credits must be used within 20 years of the date created. The creation date is the date the instrument conveying legal title to the land or improvements given in exchange for credits were recorded in the county's official record books.

Fire or EMS impact fee credits will be increased at the time they are used, in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the credits were created. Credits not used within 20 years of issue will expire.

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

(5) *Use of credits.* Unless converted to transferable form pursuant to subsection (a)(6), fire and EMS impact fee credits created prior to October 1, 1989, must be used, on a first applied for, full credit basis. This rule applies to permits requested on any part of the original tract. For purposes of subsection (a)(5) and (a)(6), "original tract" means the area developed or approved for development, as part of a dedication of land or improvements for which the credits were created, to the extent that credits are available. This will be done regardless of whether the feepayer owns the land at the time the credit was created, and regardless of whether the ratio of the credit requested to the original full credit created is disproportionate to the ratio of the land covered by the requested permit to the original tract. In addition, this rule will apply regardless of whether the owner of the original tract has assigned or failed to assign the credits to the current owner of the land covered by the requested comment. In determining ownership or agency for purposes of administering pre-October 1, 1989 credits, the building official may rely upon apparent authority, but he may, in his sole discretion, require proof of ownership or agency. The burden of proving ownership or agency lies exclusively on the person claiming it.

(6) 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 may pay the impact fees required by this division.

(b) Fee payers claiming credits must submit documentation sufficient to permit the building official to determine the credits claimed are due and, if so, the amount of credits.

(c) Credits must be claimed by the fee payer at the time of the application for a building permit, mobile home move-on permit or recreational vehicle development order. Credits not so claimed will be deemed waived by the fee payer.

(d) Once used, credits must be canceled and may not be reestablished. Notwithstanding, credits may be reestablished if the permit for which credits were used expires, is revoked or voluntarily surrendered and therefore voided, and no construction or improvement of land has commenced. The impact fee credit account will be re-established to its value prior to adjustments applied pursuant to section 2-395(a)(4). Reestablished credits must be issued to the party that used the credits. Those credits will maintain the original expiration date. Prior to reestablishment of credits, the feepayer must pay the administrative fee required under section 2-391. Payment of the administrative fee may be made by reducing the reestablished impact fee credits by an amount equivalent to the administrative fee due.

(e) Any person seeking credits for dedication of land must meet with the county attorney and county lands staff to seek agreement on appraisal methodology and assumptions before preparing any appraisals for valuation of land to be dedicated.

(Ord. No. 89-15, § 14, 6-7-89; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 99-10, § 1, 8-24-99; Ord. No. 01-13, § 1, 8-28-01; Ord. No. 07-24 , § 1, 8-14-07; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-396. Appeals.

Any decision made by the county manager or his designee, or by the building official, in the course of administering this division may be appealed in accordance with those procedures set forth in chapter 34 for appeals of administrative decisions. So as to provide continuity in the interpretation and administration of this division, every interlocal agreement made pursuant to this division must specifically incorporate this appeal procedure, and each participating municipality must agree to be bound by the results of the administrative appeal. These interlocal agreements will provide further that, if the administrative appeal decision is further appealed to the circuit court by another person, the appeal will be defended by the county, at its expense, unless the municipality or district elects to provide the defense of the case.

(Ord. No. 99-05, § 2, 6-29-99; Ord. No. 01-13, § 1, 8-28-01)

Sec. 2-397. Enforcement of division; penalty; furnishing false information.

A violation of this division is punishable according to section 1-5; however, in addition to or in lieu of any criminal prosecution, the county, or any fire or EMS impact feepayer, has the power to sue for relief in civil court to enforce the provisions of this division. Knowingly furnishing false information to the county manager or his designee, the building official or any municipal or fire district official who is charged with the administration of this division on any matter relating to the administration of this division constitutes a violation thereof.

(Ord. No. 99-05, § 2, 6-29-99; Ord. No. 01-13, § 1, 8-28-01)

Secs. 2-398, 2-399. Reserved.

DIVISION 6. SCHOOL IMPACT FEES

Sec. 2-400. Statutory authority.

The Board of County Commissioners has the authority to adopt this division pursuant to article VIII of the constitution of the state, F.S. ch. 125 and F.S. §§ 163.3201, 163.3202 and 380.06(16).

(Ord. No. 01-21, § 1, 11-27-01)

Sec. 2-401. Applicability of division.

This division applies in the unincorporated area of the county and within all municipalities within the county. Municipalities are required to collect impact fees from new development within their jurisdictions.

(Ord. No. 01-21, § 1, 11-27-01)

Sec. 2-402. Intent and purpose of division.

(a) This division is intended to implement and be consistent with the Lee Plan.

(b) The purpose of this division is to regulate the use and development of land to ensure that new development bears a proportionate share of the cost of capital expenditures necessary to provide adequate public educational facilities in the county as contemplated by the Lee Plan.

(Ord. No. 01-21, § 1, 11-27-01)

Sec. 2-403. Definitions.

The following words, terms and phrases, when used in this division, will have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Building official means that officer who is so defined in chapter 6, article II. Within any municipality, the term "building official" means that person whose duties and authority are similar to that of the county's building official, regardless of the title given such person.

Building permit means an official document or certification issued by the building official authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a residential building or structure. In the case of a change in use or occupancy of an existing building or structure, the term specifically includes certificates of occupancy and occupancy permits, as those permits are defined or required by county ordinance. The terms "building permit" and "certificate of occupancy permit" also mean those municipal permits that are equivalent to these county permits, regardless of the names by which they are called within a municipality.

Capital improvement means land acquisition, equipment purchase, site improvements, off-site improvements and construction associated with new or expanded public elementary or secondary schools and support facilities. Capital improvements do not include maintenance and operations.

County manager means the county manager, or the county official that the county manager may designate to administer the various provisions of this division.

Duplex has the same meaning given it in chapter 34.

Feepayer means a person applying to the county, or to any participating municipality, for the issuance of a building permit, mobile home move-on permit or mobile home park development order for a type of land development activity specified in section 2-405(a), regardless of whether the person owns the land.

Lee Plan means the county comprehensive plan adopted pursuant to F.S. ch. 163, as amended.

Mobile home has the same meaning given it in chapter 34.

Mobile home move-on permit means an official document or certification authorizing any purchaser, owner, mover, installer or dealer to move a mobile home onto a particular site. It also includes a permit authorizing the tie down of a park trailer in a mobile home zoning district.

Multiple-family building has the same meaning given it in chapter 34.

Single-family residence has the same meaning given it in chapter 34.

Townhouse has the same meaning given it in chapter 34.

Two-family attached has the same meaning given it in chapter 34.

(Ord. No. 01-21, § 1, 11-27-01)

Sec. 2-404. Imposition.

(a) Except as provided in section 2-412, any person who seeks to develop land by applying to the county or any municipality for the issuance of a building permit, mobile home move-on permit or mobile home park development order for the purpose of making an improvement to land for one of the uses specified in section 2-405, is required to pay a school impact fee in the manner and amount set forth in this division.

(b) No building permit, mobile home move-on permit or mobile home park development order for any activity requiring payment of an impact fee pursuant to section 2-405 may be issued by the county or any municipality until the school impact fee required by this division has been paid.

(c) In the case of structures or mobile homes that are moved from one location to another, a school impact fee will be collected for the new location if the structure or mobile home constitutes one of the land development uses listed in section 2-405, regardless of whether school 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 or mobile home so moved is replaced by an equivalent use, no school impact fee is owed for the replacement use. In every case, the burden of proving past payment of school impact fees or equivalency of use rests with the feepayer.

(Ord. No. 01-21, § 1, 11-27-01)

Sec. 2-405. Computation of amount.

(a) At the option of the Feepayer, the amount of the school impact fee may be determined by the schedule set forth in this subsection. The reference in the schedule to mobile home refers to the number of mobile homes or mobile home park sites that are permitted by the applicable final development order or mobile home move on permit as appropriate.

Land Use Type	School Impact Fee per Unit
Single-family residence	$3,924.00
Multiple-family building, duplex, two-family attached or townhouse	1,223.00
Mobile home	699.00

(b) When change of use, redevelopment or modification of an existing use requires the issuance of a building permit, mobile home move-on permit or mobile home park development order, the school impact fee will 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.

(c) If the school impact fee has been calculated and paid based on error or misrepresentation, it will be recalculated and the difference refunded to the original Feepayer or collected by the county, whichever is applicable. If school impact fees are owed, no municipal or county 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 county may bring any action permitted by law or equity to collect unpaid fees.

(d) The impact fee schedule set forth in Section 2-405(a) will be administratively reviewed and re-analyzed every three years. As a result of this review, county staff is authorized and directed to pursue amendments to the impact fee schedule consistent with the results of the review and re-analysis.

(Ord. No. 01-21, § 1, 11-27-01; Ord. No. 05-25 , § 1, 11-8-05; Ord. No. 08-22 , § 1, 9-23-08; Ord. No. 12-07 , § 1, 4-10-12)

Editor's note—

Ord. No. 13-06, adopted March 12, 2013, specified the following regarding the collection rate of school impact fees:

Reduction of the collection rate for school impact fees countywide: The collection rate for school impact fees set forth in Chapter 2 of the Land Development Code is reduced by 80 percent countywide for two-years, commencing on, Wednesday, March 13, 2013 and ending on Friday, March 13, 2015, without further action by the Board.

Extension of impact fee credits: School impact fee credits issued or recognized by the County that are existing on March 12, 2013 will be extended for a period of two years in recognition of the two-year reduction on the collection of impact fees adopted by the Board by Ordinance 13-06.

Refunds: Refunds of impact fees paid prior to March 13, 2013 will be issued only in accordance with Chapter 2 of the Land Development Code.

Sec. 2-406. Independent fee calculation.

(a) If the person applying for a building permit, mobile home move-on permit or mobile home park development order opts not to follow the fee schedule set forth in section 2-405 of this division, then that person has the option to submit an independent fee calculation study in accordance with this section.

(b) Submittal of an independent fee calculation study by the feepayer does not exempt the feepayer from paying the school impact fees prior to the issuance of a building permit, mobile home move-on permit, or mobile home park development order as those terms are defined.

(c) The feepayer must inform the county manager, the superintendent of schools, and the municipality, if applicable, in writing, of the intent to submit an independent fee calculation study before the issuance of the permits described in subsection 2-406(a). The county manager will then schedule a pre-application meeting with the feepayer.

(d) Before beginning the independent fee calculation study, the feepayer or representative will attend a pre-application meeting with the county manager and superintendent of schools. The purpose of the pre-application meeting is to discuss the procedures for preparation of the independent fee calculation study, the methodology to be employed, and the standards to be met.

(e) The county manager will prepare a written summary of the results of the pre-application meeting regarding methodology, required forms, documentation or procedures (which may not constitute a waiver of ordinance provisions). The county manager will send a copy of this summary to the feepayer, the Lee County School Board and the municipality, if applicable. The feepayer must provide written confirmation as to receipt and acceptance of the summary to the county manager.

(f) If the feepayer wishes to waive the pre-application meeting, it must be done in writing. Feepayers who waive the pre-application meeting waive the right to raise methodological or procedural issues regarding the study at a subsequent time.

(g) The independent fee calculation study must measure the impact of the specific development proposed on the Lee County Public Schools educational system.

(h) The independent fee calculation study must follow the methodologies and formats agreed upon during the pre-application meeting and be in accord with the documentation or methodology required by this section.

(i) The methodology used to prepare the independent fee calculation must be consistent with the methodology used to develop the generalized impact fee schedule and verify that the projected impact on the Lee County Public Schools educational system of the proposed development is less than the projected impact used in establishing the fee schedule in section 2-405 because of the uniqueness in character of the proposed development.

(j) The independent fee calculation study must be prepared and presented by a qualified professional. The methodology must be consistent with best professional practice and support the central claim of the study. The study must provide all necessary supporting documentation and information. Failure to adhere to best professional practice standards is a basis for rejection of the study. The feepayer's submission must certify that the study complies with best professional practices.

(k) The feepayer must submit the study to the county manager who will forward the study to the Lee County School Board and the municipality, if applicable.

(l) The county manager will have 30 days from the date the study is received to provide written notice to the feepayer of deficiencies or defects in the study, to approve the study and authorize an appropriate fee adjustment or to reject the conclusions of the study and deny the fee adjustment. This notice must be sent certified mail, return receipt requested. If this notice is not given within 30 days, the study will be considered sufficient and the fee adjusted as if the study had been approved. If the study is found defective or deficient the 30 day review period will begin again with the submission of a new or modified study. If the feepayer does not respond to the county manager regarding a finding of deficiency within 30 days of the date notice of a deficiency is sent, the county manager will consider the independent fee calculation study withdrawn and all claims to a fee adjustment waived. All permits described in subsection 2-404(a) subsequently applied for must be accompanied by the school impact fees established by the fee schedules. The 30 day sufficiency review will begin when the county manager receives and date stamps the independent fee calculation study.

(m) During the initial 30-day period, the Lee County School Board will also review the independent fee calculation study for sufficiency, methodology, technical accuracy, and findings. Thereafter, the School Board will make recommendations concerning the appropriate amount of the school impact fees to the county manager. If the project at issue is located within one of the incorporated areas, the municipality may also review the study and provide recommendations to the county manager within the initial 30-day period.

Once the county approves the independent fee calculation study and establishes the amount of the impact fee adjustment, the adjusted school impact fee will relate back to the date of the pre-application meeting. Fees paid after the pre-application meeting according to the fee schedule will be adjusted to reflect the fee approved by the county pursuant to the study. The feepayer will receive a refund for the difference between the fee schedule and the approved fee established by the study. Refunds will be in the form of cash or school impact fee credits, depending on the original method of payment. There will be no refund of fees paid prior to the pre-application meeting. If the feepayer waives the pre-application meeting, the adjusted school impact fee will relate back to the date the study is found sufficient for review by the director.

(n) It is the feepayer's responsibility to claim a reduction in school impact fees on the basis of an approved independent fee calculation study, at the time of application for a building permit, mobile home move-on permit or mobile home park development order. No claim to a reduced fee will be accepted in

advance of the approval of an independent fee study where one is required. The feepayer must present documentation enabling the staff of the division of codes and building services or the building official of the municipality to verify this claim. Where the feepayer waived the pre-application meeting, fees paid according to the school impact fee schedule after the study is found sufficient for review will be adjusted to reflect the fee approved by the county pursuant to the study.

(Ord. No. 01-21, § 1, 11-27-01)

Sec. 2-407. Payment.

(a) The Feepayer must pay the school impact fee required by this division to the building official prior to the issuance of the building permit, mobile home move-on permit, or mobile home park development order for which the fee is imposed, except as provided in section 2-412. No building permit, mobile home move-on permit or mobile home park development order may be issued by the county or by any municipality until the impact fee has been paid, except as provided in section 2-412

(b) In compliance with F.S. § 163.31801, the fee schedule will take effect December 31, 2008.

(Ord. No. 01-21, § 1, 11-27-01; Ord. No. 01-22, § 1, 12-4-01; Ord. No. 05-25 , § 1, 11-8-05; Ord. No. 08-22 , § 1, 9-23-08)

Editor's note—

Ord. No. 05-25, § 1, adopted Nov. 8, 2005, amended the Code by adding provisions designated as § 2-407(b). Inasmuch as § 2-407(b) already exists, the provisions of Ord. No. 05-25 have been codified herein as § 2-407(f) at the discretion of the editor. See also the Code Comparative Table.

Sec. 2-408. Trust fund accounts.

There is hereby established a school impact fee capital fund account. Funds withdrawn from this account must be used in accordance with the provisions of section 2-409.

(Ord. No. 01-21, § 1, 11-27-01

Sec. 2-409. Use of funds.

(a) Funds collected from school impact fees must be used for the purpose of capital improvements for educational facilities. Except as provided in subsection (c) of this section, school impact fee collections, including any interest earned thereon, must be used exclusively for capital improvements for educational facilities. These impact fee funds must be segregated from other funds and be expended as provided for in this section. Funds may be used or pledged in the course of bonding or other lawful financing techniques, so long as the proceeds raised thereby are used for the purpose of capital improvements for educational facilities. 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 must be divided and segregated such that the amount of the proceeds reserved for educational facility purposes bears the same ratio to the total funds collected that the school impact fee funds used or pledged bear to the total funds used or pledged.

(b) Each fiscal period the Lee County School Board will present a proposed capital improvements program for educational facilities to the Board of County Commissioners. The program must assign funds, including accrued interest, from the school impact fee capital fund to specific educational facility projects. School impact fee funds may only be expended by the School Board according to a capital improvements program that has been approved by the Board of County Commissioners. All funds must be spent in a manner that will benefit the feepayer.

For example, so long as the School Board maintains a school choice system where students must attend a school within the zone where they reside, then all funds must be spent within the zones where they are collected. Fees collected from one school choice zone may be spent on a capital improvement in another school choice zone only if it can be demonstrated that the improvement will benefit the feepayers in the original school choice zone. For example, the construction of magnet schools and administrative facilities that provide benefits across school choice zones.

At least every three years, the School Board must submit to the county a report summarizing all expenditures of funds and demonstrating that all expenditures comply with requirements of the rational nexus test as defined in Florida case law. The first report will be due three years from the effective date of this division.

(c) The county, and any municipality collecting school impact fees are entitled to charge the applicant of a permit or development order for which school impact fees are payable under this division, an administrative fee equal to up to three percent of the school impact fees it collects. The administrative fee must be used to offset the costs of administering this division. The administrative fee must be paid in cash.

(Ord. No. 01-21, § 1, 11-27-01)

Sec. 2-410. Refund of fees paid.

(a) If a building permit, mobile home move-on permit or mobile home park development order 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 portion of the school impact fee that was paid in cash as a condition for its issuance. A three percent administrative fee will be retained as an administrative fee to offset the costs of processing the refund. This administrative fee is in addition to the three percent administrative fee charged at the time of fee payment. No interest will be paid to the feepayer on refunds due to non-commencement.

(b) Funds that have not been expended or encumbered by the end of the calendar quarter immediately following 20 years from the date the school impact fee was paid, will be returned to the feepayer, with interest at the rate of three percent per annum, upon application of the feepayer within 180 days of that date.

(c) After consulting with the county attorney, the county manager will make all decisions on requests for refunds.

(Ord. No. 01-21, § 1, 11-27-01; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-411. Pre-payment of fees.

Prepayment of school impact fees will be accepted by the county or any municipality in accordance with the following:

(a) Prepayment is specifically required or permitted by: a development order adopted pursuant to F.S. ch. 380; An agreement made by the county pursuant to its home rule powers granted by article VIII of the constitution of the state and F.S. § 125.01; A development agreement made pursuant to F.S. §§ 163.3220—163.3243, the Florida Local Government Development Agreement Act.

(b) Prepayment is made by certified check or cashiers check accompanied by a letter identifying the amount to be prepaid and the document allowing prepayment delivered to the building official.

(Ord. No. 01-21, § 1, 11-27-01)

Sec. 2-412. Exemptions.

(a) The following are exempted from payment of the school impact fee:

(1) The construction of a non-residential building or structure.

(2) Dwelling units in subdivisions, mobile home or manufactured housing parks, and multi-family dwellings that are operated as a community for older persons, in compliance with the terms and provisions of the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995, 42 U.S.C., § 3601 through 3619, that also prohibit persons under the age of 18 years from residing within the dwelling units on the property as a permanent resident. This restriction must be evidenced by a recorded declaration of covenants and restrictions that are not subject to revocation or amendment for a period of at least 30 years from the date of recording. The covenants and restrictions must run with the land.

(3) 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.

(4) The construction of accessory buildings or structures that will not produce additional living units.

(5) The replacement of an existing lawfully permitted building, mobile home or structure, provided that no additional living units will be produced than those produced by the original use of the land.

(6) An amendment to a mobile home park development order, provided that the amendment does not increase the number of mobile home units permitted.

(7) A building permit, mobile home move-on permit or mobile home park development order that does not result in an additional living unit.

(8) Any development that has already fully mitigated its school impacts as contemplated by this section.

(9) 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.

(b) Exemptions must be claimed by the feepayer before the issuance of a building permit, mobile home move-on permit or mobile home park development order.

(c) The county manager, after consulting with the county attorney, has sole authority to determine whether an exemption described herein is applicable. The county manager's decision may only be appealed in circuit court.

(Ord. No. 01-21, § 1, 11-27-01; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-413. Credits.

Capital improvements for educational facilities may generate school impact fee credits in amounts to be established pursuant to subsection (a)(2) of this section. The right to determine whether a capital improvement will be approved for credit purposes lies exclusively with the county.

(a) *Conditions of credit approval.* Credit for educational facility construction or land dedication is subject to the following:

(1) A request submitted for educational facility capital improvements by the feepayer must include cost estimates prepared by qualified professionals to be used by the county manager in determining the amount of the credit the county manager will recommend be authorized by the Board of County Commissioners.

(2) Credits for contributions, payments or construction made prior to the effective date of this section will be acknowledged by the county. The person or entity that provided the contribution, payment or construction must file an application for credit within one year of the effective date of this section. No credit will be issued on applications filed thereafter. The application for credit must be submitted and will be reviewed as provided in this section. The amount of the credit for a contribution, payment or construction made prior to the effective date of this section will be the current value of the contribution, payment or construction, less the total amount of school impact fees that would have been owed for the building permits already issued for the project had those permits been subject to the fees specified in section 2-405. The current value will be determined using the Engineering News-Record Construction Cost Index, or an equivalent index if such index is discontinued. Credits for payments or contributions prior to the effective date of this section will not exceed that value of the impact fee required under this division.

(3) Land dedication. Any person seeking credits for dedication of land must meet with the county attorney, the School Board Attorney and County lands staff to seek agreement on appraisal methodology and assumptions before preparing any appraisal for valuation of land to be dedicated. The following documents must be submitted to support an application for school impact fee credits applicable to land dedication for approved school sites:

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;

b. a specimen of the deed that will be used to convey title to the Lee County School District;

c. an ALTA Form B title insurance policy in an amount equal to the approved value of the credits to be issued. The company issuing the policy must be satisfactory to the county attorney. The title insurance policy must verify that the proffered deed will convey unencumbered fee simple title to the Lee County School District;

d. property appraisals prepared by qualified professionals;

e. a document from the tax collector stating the current status of the property taxes; and

f. a resolution of the Lee County School Board stating that the proposed land dedication is acceptable to the school district for use as a future public educational facility.

g. In preparing their reports, appraisers will value the land to be dedicated as follows: If the property is subject to a valid agreement, zoning approval or development order prescribing a different valuation, then that document will control the date of valuation. If the dedication is made pursuant to a condition of zoning approval and the zoning condition does not prescribe otherwise, then the property value will be based upon the value of the property as it existed prior to the approval containing the condition of dedication. If the land to be dedicated is not pursuant to a valid agreement, zoning approval or development order prescribing the valuation of property, the property will be valued at the time the School Board agrees to accept the conveyance.

h. An affidavit of interest in real property in accord with F.S. § 286.23. The affidavit must certify to Lee County the name and address of every person having a beneficial interest in the real property, however small or minimal. The disclosure affidavit must specifically identify the property to be conveyed and be sworn before a notary.

(4) In all events, the county retains the right to independently determine the amount of credit to be recommended by securing other engineering and construction cost estimates or property appraisals for the proposed land dedication. In every case, school impact fee credits must be calculated so as to be consistent with F.S. § 380.06(16).

(b) *Timing of credit issuance.*

(1) Credits for construction will be created when the construction is completed and accepted by the Lee County School District or when the feepayer posts a surety, as provided in this subsection, for the costs of construction. Security in the form of cash, a performance bond, irrevocable letter of credit or escrow agreement must be posted with the School Board and made payable to the School Board in an amount equal to 110 percent of the full cost of such construction. If the educational facility construction project will not be constructed within one year of the acceptance of the offer by the School Board, the amount of the security will be increased by ten percent, compounded for each year of the life of the surety.

(2) Credits for land dedication will be created when the title to the land has been accepted by the School Board of Lee County and recorded in the official records of the clerk of circuit court in the county. 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 county's official records book.

(c) *Transferability.* School impact fee credits are transferable.

(1) Credits may be used to pay or offset school impact fees anywhere in the county or any municipality. However, the county manager and the county attorney must first determine that the improvement for which the credits were issued is a direct benefit to the development where the credits are sought to be used.

(2) Transferable credits must be used within 20 years of the date created.

(3) School impact fees will be increased at the time they are used in the same percentage that the Consumer Price Index—All Urban Consumers (CPI-U), All Items, U.S. City Average maintained by the Bureau of Labor Statistics increased between the time the credits are used and the time the credits were created. Credits not used within 20 years will be canceled by the building official. Any person who accepts credits in exchange for the dedication of land or improvements does so subject to the provisions and restrictions of this division.

(d) Any person who offers land or improvements in exchange for credits may withdraw the offer of dedication prior to the transfer of legal title to the land or improvements in question, and pay the full school impact fees required by this division.

(e) Credits must be claimed by the feepayer at the time of the application for a residential building permit, mobile home move-on permit or mobile home park development order. Credits not so claimed will be deemed waived by the feepayer.

(f) Once used, credits must be canceled and may not be reestablished. Notwithstanding, credits may be reestablished if the permit for which credits were used expires, is revoked or voluntarily surrendered and therefore voided, and no construction or improvement of land has commenced. The impact fee credit account will be re-established to its value prior to adjustments applied pursuant to section 2-413 (c)(3). Reestablished credits must be issued to the party that used the credits. Those credits will maintain the original expiration date. Prior to reestablishment of credits, the feepayer must pay the administrative fee required under section 2-410(a). Payment of the administrative fee may be made by reducing the reestablished impact fee credits by an amount equivalent to the administrative fee due.

(Ord. No. 01-21, § 1, 11-27-01; Ord. No. 07-24 , § 1, 8-14-07; Ord. No. 12-07 , § 1, 4-10-12)

Sec. 2-414. Appeals.

Unless otherwise provided herein, decisions made by the county manager or his designee, or by the building official, in the course of administering this division may be appealed in accordance with those procedures set forth in chapter 34 of the Lee County Land Development Code for appeals of administrative decisions. Each municipality and the School Board are bound by the results of the administrative appeal. If the administrative appeal decision is further appealed to the circuit court by another person, the appeal will

be defended by the County, at its expense, unless the municipality elects to provide the defense of the case.

(Ord. No. 01-21, § 1, 11-27-01)

Sec. 2-415. Enforcement of division; penalty; furnishing false information.

A violation of this division is punishable according to section 1-5; however, in addition to or in lieu of any criminal prosecution, the county, or any feepayer, has the power to sue for relief in civil court to enforce the provisions of this division. Knowingly furnishing false information to the county manager, the building official or any other official who is charged with the administration of this division on any matter relating to the administration of this division constitute a violation thereof.

(Ord. No. 01-21, § 1, 11-27-01)

Secs. 2-416—2-419. Reserved.

ARTICLE VII. HEARING EXAMINER

Sec. 2-420. Intent.

The intent of this article is to promote, protect and improve the health, safety and welfare of the citizens of Lee County by creating within the Office of the Lee County Hearing Examiner the powers and authority granted in F.S. ch. 162, for the enforcement of Lee County codes and regulations; and the power and authority to take action in accord with the duties set forth in chapter 34. With this delegation of power and authority, the Lee County Hearing Examiner's Office is a governmental entity/office with jurisdiction over multiple functions, powers and authorities.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 00-14, § 1, 6-27-00; Ord. No. 09-23 , § 2, 6-23-09)

Sec. 2-421. Code enforcement power and authority of Lee County Hearing Examiner.

(a) The office of the Hearing Examiner is granted the power to impose administrative fines, including costs of prosecution, and other noncriminal penalties to provide an equitable, expeditious, and effective method of enforcing Lee County codes, ordinances, and regulations.

(b) The Hearing Examiner has the authority to:

(1) Adopt rules for the conduct of code enforcement hearings.

(2) Subpoena alleged violators and witnesses to code enforcement hearings. Subpoenas may be served by the Sheriff of the county.

(3) Subpoena evidence to code enforcement hearings.

(4) Take testimony under oath.

(5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

(6) Review and mitigate Hearing Examiner ordered code enforcement fines, costs, and liens.

(7) Issue a satisfaction or release of code enforcement lien imposed in accordance with this article.

(c) The office of the Hearing Examiner will provide the requisite number of Hearing Examiners necessary to execute the assigned duties and responsibilities.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 09-23 , § 2, 6-23-09; Ord. No. 14-07 , § 1, 3-18-14)

Sec. 2-422. Applicability.

This article is applicable to the unincorporated areas of Lee County.

(Ord. No. 94-26, § 2, 9-21-94)

Sec. 2-423. Definitions.

For the purposes of this article, the following words and phrases will have the meanings set forth below:

Board means the Board of County Commissioners of Lee County, Florida.

Code inspector means any authorized agent or employee of Lee County whose duty it is to assure code compliance.

County attorney means the legal counsel for the Board.

Director means the director of codes and building services or designee.

Recurring violation means a violation of a provision of a code or ordinance that was corrected before the noticed hearing on the violation, but not corrected within the time specified in the violation notice, and the person noticed was given a violation notice for the same provision one or more times within the past five years, but corrected the violation(s) prior to hearing.

Repeat violation means a violation of a provision of a code or ordinance by a person previously found to have violated the same provision within the past five years. Repeat violations do not include circumstances when there is a prior adjudication of the same violation that has not been corrected.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 14-07 , § 1, 3-18-14)

Sec. 2-424. Enforcement procedure.

(a) *Initiation of proceedings.* The code inspector will initiate code enforcement proceedings.

(b) *Initial violation.* Except as provided in subsections (c) and (d), if a code inspector finds a violation of Lee County regulations, the violator must be given notice describing the violation, the code section violated, and the required method of correction. The notice must also provide a reasonable time to correct the violation. If the violation continues beyond the time provided for correction, the code inspector may request a hearing before the Hearing Examiner. The code enforcement section will schedule a hearing and provide written notice of the hearing to the violator.

(c) *Not corrected in time.* A case may be presented to the Hearing Examiner even if the violation has been corrected prior to the hearing, provided the violation was not corrected within the specified time and the notice indicates the possibility of this consequence.

(d) *Repeat violation.* If a code inspector finds a repeat violation, the violator must be given notice that describes the violation, the code section violated, and the required method of correction, but the violator is not entitled to a reasonable time to correct the violation prior to the imposition of a fine. Once the violator has been notified of the repeat violation, the code inspector may request a hearing before the Hearing Examiner. The code enforcement section will schedule a hearing and provide written notice of the hearing to the violator. The case may be presented to the Hearing Examiner even if the repeat violation has been corrected prior to the hearing, provided the notice indicates the possibility of this consequence.

(e) *Immediate hearing.* If the code inspector has reason to believe a violation presents a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature, the code inspector, after making a reasonable effort to notify the violator, may request an immediate hearing before the Hearing Examiner.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 14-07 , § 1, 3-18-14)

Sec. 2-425. Conduct of hearing.

(a) *Scheduling of hearings.* A regular time and place will be designated by the Hearing Examiner for code enforcement proceedings. The frequency of hearings will be based upon the number of cases to be heard. If necessary, the Hearing Examiner may also set special hearings that may occur on any day. The code enforcement section will schedule cases to be heard by the Hearing Examiner. All code enforcement proceedings and hearings will be open to the public, but no public input will be taken.

(b) Before the hearing, the Director will give the alleged violator the opportunity to enter into an Agreed Order Finding Violation with Lee County.

(c) *Hearing agenda.* Each item on the day's agenda will be addressed in one of the following manners:

(1) Removed as corrected;

(2) Withdrawn from prosecution;

(3) Withdrawn for re-noticing or other change;

(4) Continued to a date certain;

(5) Through an Agreed Order; or

(6) Heard and decided.

(d) *Prosecution of the case.* Each case on the code enforcement docket will be presented to the Hearing Examiner by the County's Code Enforcement department or County Attorney's Office. The County will be entitled to recover prosecution costs if the County prevails. The issuance of an Order Finding Violation will serve as evidence the County prevailed in prosecuting the case.

(e) *Hearing testimony.* All testimony will be under oath and recorded. Testimony will be taken from a code inspector and, if present, the alleged violator. Formal rules of evidence will not apply, but fundamental due process will be observed and will govern the proceedings.

(f) *Decisions.* At the conclusion of each case heard that was not continued for additional review, the Hearing Examiner will make findings of fact, conclusions of law, and a decision, based on the evidence of record.

(g) *Hearing Examiner orders.*

(1) After the close of the day's hearings, the Hearing Examiner will issue a written non-final Order of Continuance, an Order Finding Violation, or an Order Finding No Violation. The Orders Finding Violation or Finding No Violation are final orders.

(2) Orders Finding Violation.

a. The Order Finding Violation must include the actions necessary to correct the violation, the fine to be imposed if the violation is not corrected, and an award of the prosecution costs due and owing to the County.

b. The Hearing Examiner has the discretion to grant additional time to correct the violation. The written Order will state the date of correction.

c. Upon finding a repeat violation, the Hearing Examiner may order the fine to begin on the date the code inspector discovered the repeat violation.

d. Upon finding a violation warrants an immediate hearing, as contemplated by section 2-424(e), the Hearing Examiner may order the violator to pay a fine and will notify the Division of Codes and Building Services of the finding. The division may make the repairs to bring the property into compliance and charge the violator the reasonable costs for the repairs, along with the fine imposed by the Hearing Examiner.

(3) Orders Imposing Fines.

a. Upon receipt of a sworn statement by the Director that a code enforcement violation has not been corrected by the time set in the Order Finding Violation, the Hearing Examiner may order the violator to pay the fine specified in the Order. The imposition of the fine will be reflected in a written Order Imposing Fine, which will be sent to the violator. No hearing is required for the imposition of the fine noted in the Order Finding Violation.

b. If a dispute arises as to whether correction occurred within the set timeframe, the Hearing Examiner may grant a request for a hearing to review the evidence as to correction. Requests for a review hearing must be in writing and set forth the reasons for dispute on the matter of correction. The request must be made either on the date set for correction or within 20 days thereafter.

c. If review of the Order Imposing Fine is not requested as indicated above or the Order is reviewed and upheld, the Order Imposing Fine is a final order.

(h) *Recording the Order.* Certified copies of Orders may be recorded in the public records of Lee County and, if recorded, will constitute notice to and will be binding on subsequent purchasers, successors in interest, or assigns, if the violation concerns real property. Once an Order has been recorded, subsequent Hearing Examiner's Orders acknowledging correction must also be recorded in the public records. No hearing is required to issue an Order acknowledging correction. Failure of a violator to pay the assessed costs of prosecution by the date specified in the Order Finding Violation may also result in the recording of the Order in the public records of Lee County, and will constitute a lien on all properties of the violator in Lee County.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 00-14, § 1, 6-27-00; Ord. No. 13-01 , § 1, 2-12-13; Ord. No. 14-07 , § 1, 3-18-14)

Sec. 2-426. Reserved.

Editor's note—

Ord. No. 14-07, § 1, adopted March 18, 2014, repealed § 2-426 which pertained to powers of the code enforcement Hearing Examiner and derived from Ord. No. 94-26, § 2, adopted Sept. 21, 1994. Now see § 2-241.

Sec. 2-427. Penalties and liens.

(a) *Penalties.*

(1) Fines imposed under this section may not exceed $250.00 per day for the first violation or $500.00 per day for a repeat violation. However, if the Hearing Examiner finds a violation is irreparable or irreversible in nature, a fine of up to $5,000.00 per violation may be imposed. Further, the fine may include the cost of all repairs incurred by the county as well as the costs of prosecuting the case before the Hearing Examiner.

(2) For purposes of this article, prosecution costs include, but are not limited to, recording costs, inspection costs, appearances by the code inspector at hearings, photography costs, and similar items.

(3) The following factors will be considered by the Hearing Examiner in determining the fine to be imposed:

a. The gravity of the violation;

b. Actions taken by the violator to correct the violation; and

c. Previous violations committed by the violator.

(4) The Hearing Examiner may mitigate fines imposed under this section, as provided in section 2-427(g).

(b) *Creation of a lien.* A certified copy of an Order Imposing Fine and/or assessing prosecution costs may be recorded in the public records and thereafter will constitute a lien against the real or personal property owned by the violator in Lee County. Upon petition to the circuit court, such Order may be enforced in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator. The Order will not be deemed to be a court judgment except for enforcement purposes.

(c) *Fine accrual and lien foreclosure.* Fines imposed under this article will continue to accrue until the violation is corrected or until judgment is rendered in a suit to foreclose the lien, whichever occurs first. A lien arising from a fine imposed under this section runs in favor of Lee County. The Hearing Examiner, upon the recommendation of the county attorney, may authorize the county attorney to foreclose on liens that remain unpaid for a period of three or more months after recording. In an action to foreclose on the lien, the prevailing party is entitled to recover costs, including a reasonable attorney's fee, incurred in the foreclosure. No lien created under this article may be foreclosed on real property that is a homestead under Section 4, Article X of the state constitution.

(d) *Duration of lien.* A lien established in accordance with the provisions of this article may not continue for a period longer than 20 years after the certified copy of an order imposing the fine and/or assessing the costs of prosecution has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction.

(e) *Costs.* The county is entitled to collect costs incurred in recording and satisfying a valid lien. The continuation of the lien affected by the commencement of an action will not be enforceable against

creditors or subsequent purchasers for valuable consideration without notice, unless a lis pendens has been recorded.

(f) *Release of lien.* The Hearing Examiner is authorized to issue a satisfaction or release of code enforcement lien imposed in accordance with this section.

(g) *Release of foreclosed lien.* If a code enforcement lien is foreclosed by a senior lien holder and the new property owner requests a release of the county's lien, the county may charge a fee for processing and recording the release, in accordance with the county fee manual.

(h) *Mitigation of lien.* The Hearing Examiner has the authority to mitigate code enforcement fines and costs by reducing or eliminating fines and costs imposed by Hearing Examiner's Orders up to the point of the county filing for foreclosure of the lien.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 96-06, § 2, 3-20-96; Ord. No. 00-14, § 1, 6-27-00; Ord. No. 11-08 , § 2, 8-9-11; Ord. No. 14-07 , § 1, 3-18-14)

Sec. 2-428. Appeals.

An aggrieved party, including the Board, may appeal a final order of the Hearing Examiner to the circuit court. Appeals will be limited to appellate review of the record created before the Hearing Examiner and may not be a hearing de novo. Appeals must be filed within 30 days of the execution of the Order appealed.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 14-07 , § 1, 3-18-14)

Sec. 2-429. Notices.

(a) All notices of violation and of hearing, but not a continuance of a hearing, must be provided to the alleged violator by: certified mail, return receipt requested, to the address listed in the tax collector's office for tax notices or to the address listed in the county property appraiser's database; by hand delivery by the sheriff or other law enforcement officer, code enforcement inspector, or other person designated by the Board; or by leaving the notice, at the violator's usual place of residence with a person residing therein who is above 15 years of age and informing the person of the contents of the notice. In the case of a commercial premises, notice may also be delivered to the manager or other person in charge.

(b) In addition, the notices in subsection (a) may also be served by publication or posting, as follows:

(1) a. Notice must be published once during each week for four consecutive weeks (four publications are sufficient) in a Lee County newspaper of general circulation. The newspaper must meet the requirements prescribed under F.S. ch. 50 for legal and official advertisements.

b. Proof of publication must be made in accordance with F.S. §§ 50.041 and 50.051.

(2) a. In lieu of publication described in subsection (1), notice may be posted at least ten days prior to the hearing or prior to the expiration of any deadline contained in the notice in at least two locations; one must be the property upon which the violation is alleged to exist and the other must be at the Lee County Justice Center.

b. Proof of posting must be by affidavit of the person posting the notice. The affidavit must include a copy of the notice posted and the date and locations of posting.

(3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (a).

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (a), together with proof of publication or posting as provided in subsection (b), will be sufficient to show the

notice requirements of this article have been met, without regard to whether the alleged violator actually received the notice.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 14-07 , § 1, 3-18-14)

Sec. 2-430. Citation procedures; penalties.

(a) *Code enforcement officer.* As used in this section, "code enforcement officer" means designated employees or agents of Lee County whose duty it is to enforce county codes and ordinances.

(b) *Citation training.* The Board's authority to designate certain county employees or agents as code enforcement officers under this section, F.S. § 162.21, and other regulations, is delegated to the county manager or designee. Delegation of the Board's authority requires a determination by the county manager, or designee, that the employees or agents to be designated have met the requirements for designation. These requirements include the employee's or agent's compliance with the terms of any agreements between the county and other entities, as well as the successful completion of all required certification and training.

The training and qualifications necessary to be a code enforcement officer will be determined by the county manager, or designee. Employees or agents who may be designated as code enforcement officers include, but are not limited to, code inspectors, law enforcement officers, animal control officers, or fire safety inspectors. Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of F.S. §§ 943.085 through 943.255.

(c) *Citation issuance.*

(1) A code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and that the county court will hear the charge.

(2) Prior to issuance a citation, a code enforcement officer must provide notice to the person that the person has committed a violation of a county code or ordinance and provide a reasonable time to correct the violation. The time period can be no more than 30 days. If, upon personal investigation, the code enforcement officer finds that the person has not corrected the violation within the time period, a citation may be issued to the violator. If the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, or if a repeat violation is found, the code enforcement officer is not required to provide a reasonable time to correct the violation and may immediately issue a citation to the person committing the violation.

(3) A citation issued by a code enforcement officer must be in a form prescribed by the county and contain the following:

a. Date and time of issuance.

b. Name and address of the person to whom the citation is issued.

c. Date and time the civil infraction was committed.

d. Facts constituting reasonable cause.

e. Number or section of the code or ordinance violated.

f. Name and authority of the code enforcement officer.

g. Procedure for the person to follow in order to pay the civil penalty or to contest the citation.

h. Applicable civil penalties if the person elects to contest or elects not to contest the citation.

i. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, the right to contest the citation will be deemed to have been waived and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(d) *Deposit of original citation.* After issuing a citation to an alleged violator, the code enforcement officer must deposit the original citation and one copy of the citation with the county court.

(e) *Enforcement by citation.* When the citation procedure is used to enforce county codes and ordinances the following will apply:

(1) A violation of the code or ordinance is deemed a civil infraction.

(2) A maximum civil penalty not to exceed $500.00 may be imposed.

(3) The civil penalty imposed will be less than the maximum civil penalty if the violator does not contest the citation.

(4) A citation may be issued by a code enforcement officer who has reasonable cause to believe that a person has committed an act in violation of a code or ordinance.

(5) A citation may be contested in county court.

(f) Persons who willfully refuse to sign and accept a citation issued by a code enforcement officer will be guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

(g) The provisions of this section are an additional and supplemental means of enforcing county codes and ordinances and may be used for the enforcement of any code or ordinance. This section does not prohibit the county from enforcing its codes or ordinances by any other means.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 99-05, § 2, 6-29-99; Ord. No. 14-07 , § 1, 3-18-14)

Sec. 2-431. Conflict.

In the event that any provision in this article is found to be contrary to any other existing Lee County code or ordinances covering the same subject matter, the more restrictive will apply.

(Ord. No. 94-26, § 2, 9-21-94; Ord. No. 14-07 , § 1, 3-18-14)

Secs. 2-432—2-439. Reserved.

ARTICLE VIII. RESERVED [7]

Secs. 2-440—2-449. Reserved.

Secs. 2-440—2-449. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 13-10, § 1, adopted May 28, 2013, repealed Art. VIII, § 2-440, which pertained to the special magistrate, and derived from Ord. No. 96-06, § 2, adopted March 20, 1996; Ord. No. 01-03, § 1, adopted Feb. 27, 2001; and Ord. No. 09-23, § 1, adopted June 23, 2009. (Back)

ARTICLE IX. PRIVATE PROPERTY RIGHTS PROTECTION ACT

Sec. 2-450. Proceedings under the Bert J. Harris, Jr. Private Property Rights Protection Act.

(a) *Offers of settlement.* Within 180 days of the filing of a notice of intent to file a claim, the county may offer to resolve the claim by way of a settlement offer that includes an adjustment of the initial government action. Settlement offers may entail:

(1) An increase or modification to density, intensity or use of the owner's property, so long as the density, intensity and use remain consistent with the Lee Plan;

(2) The transfer of development rights;

(3) Land swaps or exchanges;

(4) Compensation and purchase of the property or property interest; or

(5) Issuance of a development permit or order.

(b) The parties to a dispute arising under the Bert J. Harris, Jr. Private Property Rights Protection Act may craft settlements that exceed the county's statutory or ordinance authority provided the parties jointly file a judicial action for court approval of the settlement.

(c) In order to implement a settlement offer, the Board has the authority to waive any or all procedural requirements contained in county ordinances or Administrative Codes and to directly exercise all authority otherwise delegated to the Hearing Examiner, the County Manager or his designees, or other division or agency of the Lee County government.

(Ord. No. 96-06, § 2, 3-20-96)

Secs. 2-451—2-459. Reserved.

ARTICLE X. DEVELOPMENT ORDER APPROVAL PROCESS FOR CAPITAL IMPROVEMENTS PROJECTS

Sec. 2-460. Applicability.

This article applies only to Board approved Capital Improvement Projects (CIP) falling under the jurisdiction of Lee County Department of Public Works and located in unincorporated Lee County.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-461. Purpose and intent.

(a) The purpose of this article is to provide an alternative development order approval process for permitting county approved CIP projects.

It is the Board's intent to establish a procedure that will:

(1) Provide greater flexibility in the timing and manner of information submittals.

(2) Ensure compliance with the requirements of this Code.

(3) Maintain consistency in the application of county regulations.

(4) Give the director of public works sole authority and responsibility for issuing development order approval to county CIPs.

(5) Establish an inspection review system that will ensure county CIPs fully comply with all county regulations.

(6) Substitute the director of public works as the reviewing authority for county CIPs falling under the purview of chapter 10

(b) Notwithstanding any other provision of this article, it is the Board's purpose and intent to grant the director of public works the same level of authority with respect to county CIPs as the director of development services exercises with respect to development submittals for all other projects. In both instances, the directors are charged with the responsibility to ensure compliance with chapter 10

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-462. Fee waiver.

The development order application fees customarily charged in accordance with the Lee County Administrative Code are waived for county approved CIPs constructed on county owned land or within public rights-of-way.

The county remains responsible for impact fees that may be applicable in accordance with this Code.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-463. Procedures.

The director of public works is responsible for establishing procedures and policies within the department of public works:

(a) To adopt CIP development order forms, covering submittal through development order issuance, that are substantially similar to those used by the development services division; and,

(b) To ensure that all documents necessary for project design and chapter 10 compliance are prepared and submitted prior to development order issuance. This includes documents necessary to substantiate an appropriate grant of an administrative variance or pursuit of a deviation or variance requiring Hearing Examiner approval; and

(c) To address all issues, in accordance with applicable regulations, relating to the project and pertaining to traffic impacts, environmental impacts, zoning, fire safety, surface water management, utility connection and building code compliance in order to obtain the necessary permits from the appropriate authorizing entity; and

(d) To conduct appropriate inspections to ensure compliance with the development order, as issued, and other applicable permits; and

(e) To amend approved CIP development orders in a manner that is substantially similar to the procedure set forth in sections 10-118 and 10-120

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-464. CIP development order approval.

(a) The director of public works has sole authority to grant development order approval for county approved CIP projects submitted in accordance with this article.

(b) The director of public works will issue a CIP Development Order approval after he reviews all submittals and determines the project complies with all applicable codes and regulations.

(c) Upon CIP development order approval, the director of public works will issue a development order approval letter and stamp the approved development order drawings with an appropriate development order stamp.

(d) Copies of the development order approval letter, stamped drawings and backup submittals must then be sent to the director of development services for safekeeping.

(e) The director of public works will record the notice of development order required in accordance with section 10-114

(f) The duration of the CIP development order is controlled by the provisions set forth in sections 10-115 and 10-123

(g) Building permits may not be issued until after the CIP development order is issued by the director of public works.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-465. Certificate of concurrency.

County CIP projects must meet the concurrency standards set forth in Chapter 2, Article II. The development services director will review the project for compliance with concurrency standards and issue a certificate of concurrency to CIP projects meeting county standards.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-466. Administrative deviations.

The director of public works has sole authority and responsibility to grant or deny administrative deviations for county approved CIP projects. Approval must be in accordance with the criteria set forth in section 10-104. Documents supporting approval must be filed and archived in accordance with section 2-468.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-467. CIP certificate of compliance.

The director of public works, or his designee, will perform a final inspection. If the inspection reveals the development is in substantial compliance with the approved development order, the director of public works will issue a certificate of compliance. If the inspection reveals the development is not in substantial compliance with the approved development order, the director of public works will require appropriate approvals, corrections, or amendments before issuing the certificate of compliance.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-468. Filing and archiving.

A copy (or originals, when available) of all documents substantiating the issuance of a development order must be retained in accordance with State and Federal guidelines. The development services division is the entity responsible for archiving these documents in Lee County.

Once a CIP development order is approved, a copy (or originals, if available) of all documents substantiating the development order issuance, including all documents submitted for review, must be forwarded to the development services division for filing and archiving. Any subsequent documents prepared or submitted relating to the CIP must also be sent to development services division for filing.

The division of public works may keep a duplicate file on the project. However, the official Lee County file will be the one retained by development services division.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-469. Compliance with this Code.

All projects approved under this article must comply with the requirements set forth in this Code, except as otherwise specifically provided by this article. The clerk of the circuit court will audit the CIP approval process and procedure annually to ensure CIPs comply with applicable county regulations.

(Ord. No. 98-03, § 1, 1-13-98)

Sec. 2-470. Liability insurance requirement.

As a condition applicable to the issuance of a development order or Lee County DOT right-of-way permit allowing construction of improvements within county owned or controlled right-of-way property, the contractor performing the construction services must obtain liability insurance coverage for the benefit of Lee County. The amount and type of coverage must be in accord with Lee County Risk Management standards in effect at the time the insurance is obtained. The insurance coverage must remain in affect until the approved project obtains a development order certificate of compliance or the County formally accepts the right-of-way improvements for maintenance. Compliance with this provision may be waived by the Department of Transportation Director only if the insurance coverage is provided as a condition of a bid contract award.

(Ord. No. 07-24 , § 1, 8-14-07)

Secs. 2-471—2-480. Reserved.

ARTICLE XI. HURRICANE PREPAREDNESS

Sec. 2-481. Purpose and intent.

The purpose of this article is to address the impacts created by residential development on hurricane shelter availability and evacuation capability in Lee County. These regulations are intended to mitigate the growing hurricane shelter deficit, along with related effects on evacuation times and infrastructure, caused by permitting residential development without addressing the incremental impact on the county hurricane preparedness program.

(Ord. No. 00-14, § 1, 6-27-00)

Sec. 2-482. Applicability.

This article applies only to development required to obtain a development order under chapter 10 and is applicable to all new residential development within unincorporated Lee County that is located in a land falling category 1, 2, or 3 storm surge area. The provisions of this article are intended to supersede the provisions of Lee County Administrative Code 7-9 in the event of a conflict. Under this article, residential development includes, but is not limited to, all assisted living facilities, dwelling units, living and housing units, mobile homes, recreational vehicle developments (including recreational vehicles qualifying as permanent residences under this Code), hotel and motel, health care facilities Groups I, II and IV, and social services facilities Groups III and IV, as these terms are defined in chapter 34. This article does not eliminate the shelter requirements applicable to mobile home or recreational vehicle developments contained in section 10-258 to the extent this obligation is fulfilled by compliance with this article.

(Ord. No. 00-14, § 1, 6-27-00; Ord. No. 09-23 , § 2, 6-23-09)

Sec. 2-483. Definitions.

The following words, terms and phrases, when used in this article, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Coastal high hazard area means that area of the hurricane vulnerability zone defined as the land falling category 1 storm surge zone as delineated by the Southwest Florida Regional Planning Council.

Division means the Lee County Division of Public Safety.

Hurricane evacuation routes means the routes designated by the division that have been identified with standardized statewide directional signs, or are identified on the regional hurricane evacuation study for the movement of persons to safety in the event of a hurricane.

Hurricane shelter space means, at minimum, an area of 20 square feet per person located within a hurricane shelter.

Hurricane vulnerability zone means the areas delineated by a regional hurricane evacuation study as requiring evacuation in the event of a land falling category 3 hurricane event.

Primary public hurricane shelter means a structure designated by the division as a place for shelter during a hurricane event. Only those structures located outside of the coastal high hazard area that have been designated by the county or the American Red Cross as primary shelters meet this definition.

Vertical evacuation means the preplanned use of predetermined structures located in the hurricane vulnerability zone as hurricane shelters, and the on-site or in-place sheltering of residents in single or multi-family structures that are elevated above the predicted flood levels anticipated within the hurricane vulnerability zone.

(Ord. No. 00-14, § 1, 6-27-00; Ord. No. 09-23 , § 2, 6-23-09)

Sec. 2-484. Determining impacts.

(a) *Authority.* The division has the authority and responsibility to determine the hurricane shelter and evacuation impacts. In the event of a dispute with respect to the level or amount of impact, the division director's decision will control. The formulas for calculating the impacts are identified below.

(b) *Shelter impacts.* Shelter impacts are largely related to building issues (i.e., availability of actual appropriate shelter space). Impact on the hurricane shelter availability is calculated as follows:

Residential Units:	The following formula must be used for all dwelling units, living and housing units, mobile homes, recreational vehicle developments, health care facilities—Groups I, II and IV, and social services-groups III and IV.
	In Health care facilities groups I, II and IV, social services—Groups III and IV, and other similar group residences, each four beds will be counted as one residential unit.
	U x P = N N x SSr = Sp(r)
Hotel/ Motel Units:	The following formula must be used for all hotels and motels.
	Hu x O = R R x Ssr = Sp(hu)

Total Units	
	Sp(r) + Sp(hu) = Sp (total spaces) Sp x Rfa = Sq (t)

Notes:

O	=	Number of people per unit
R	=	Residents in residence
N	=	Number of residents in development
U	=	Number of residential units
Hu	=	Number of hotel/motel units
P	=	Persons per household*
Rfa	=	Required square feet of shelter floor area per space (currently 20 square feet per space)
Sp(r)	=	Shelter spaces needed by development's residential units
Sp(hu)	=	Shelter spaces needed by development's hotel/motel units
Ssr	=	Shelter seeking rate (currently 0.21 is used)
Sq(t)	=	total square feet of shelter floor area required for the development
*		For Developments of Regional Impact, use the value set forth below that represents the closest year to the established buildout date:

		Year 2000 - 2.25
		Year 2005 - 2.21
		Year 2010 - 2.17
		Year 2015 - 2.13
		Year 2020 - 2.09

The division director has the discretion to permit the use of an alternative person per household (P) figure for non-development of regional impact projects. Any alternative figure used must be supported by valid evidence, acceptable to the director and derived from an established source. The applicant requesting the alternative figure is responsible for providing sufficient evidence to substantiate the alternative figure.

(c) *Evacuation impacts.* Evacuation impacts are largely related to the transportation infrastructure necessary to accommodate timely and efficient evacuation. Impacts on the evacuation time and infrastructure are calculated as follows:

Step One: Calculate the number of evacuating vehicles for all residential units:

EV(r)	=	U x V
EV(r)	=	the number of evacuating vehicles for all residential units (i.e., single-family residential, multi family, hotels/motels, etc.)
U	=	the number of residential units
V	=	number of vehicles per occupied unit. The current figure used is 1.1

Step Two: Calculate the total number of evacuating vehicles for all residential units in the development.

σ EV(r)

(Ord. No. 00-14, § 1, 6-27-00)

Sec. 2-485. Impact mitigation.

(a) *Authority.* The division director will make the final decision with respect to the acceptability of the type and degree of mitigation offered to address the proposed development. This determination will be based upon consideration of the type and intensity of development, its location and the incremental effect on the hurricane preparedness program created by the development. The mitigation requested by the county must have a reasonable relationship to the incremental impact of the development. Appropriate calculation of the impacts in accordance with section 2-484 will constitute sufficient evidence of the reasonable relationship.

The division director has the authority to deny acceptance of a proposed type of mitigation if the proposal is determined to be inappropriate for the location involved or constitutes the creation of an unacceptable shelter facility (e.g. on-site shelter without all appropriate shutters).

The option chosen by the developer to mitigate shelter and evacuation impacts must be approved prior to the issuance of a development order for any residential development that precipitates the requirement to mitigate under this article. The payment in lieu option must be satisfied prior to the issuance of a building permit.

(b) *Shelter impacts.* One or a combination of the following options may be used to address the impacts on the hurricane shelter program precipitated by the proposed residential development except for those residential developments listed in section (5) below. The division will determine acceptability and appropriateness of the type of mitigation proposed.

(1) *Land donation.* A donation of land must meet the following minimum criteria:

a. The land must be located outside the coastal high hazard area.

b. The land is capable of being used to reduce hurricane shelter impacts in Lee County.

c. The county will receive marketable fee title to the property. (Property encumbered by a restriction that it be used solely for hurricane shelter purposes will be deemed unacceptable.)

d. The value of the land donated will be determined as of the earliest date the requirement to provide hurricane preparedness mitigation becomes applicable based upon formal county action (i.e., rezoning, platting, etc.).

(2) *Donate use of private structure.* A donation of the use of a private structure must meet the following minimum criteria:

a. The structure must be located outside the coastal high hazard area.

b. The structure must be constructed and capable of use as a primary public hurricane shelter. Specifically, the structure and all required equipment and supplies must be:

1. Elevated to the anticipated land falling category 3 flood level; and

2. Constructed to withstand winds of at least 150 miles per hour according to the Florida Building Code; and

3. Constructed with a minimum of exterior glass, with all glazed openings provided with impact protection in accordance with the Florida Building Code; and

4. Equipped with emergency power and potable water supplies; and

5. Have adequate ventilation, sanitary facilities and first aid equipment.

6. The structure, and all restrooms and support facilities, must comply with all regulations regarding accessibility for persons with disabilities.

c. For purposes of compliance with this article, the cost of providing or donating a structure for use as a primary hurricane shelter will be determined as the incremental cost difference

attributable to bringing the structure up to primary public shelter standards from the original primary proposed use.

(3) *Payment in lieu of donation of land or use of a private structure.* The amount of a payment in lieu will be calculated using the following method or formula:

Step One: Calculate Costs for Shelter Improvements Multiply the total required square feet of shelter floor area [(from section 2-484(b)] by $6.66 to determine costs for increased wind speed standards and elevation.

Note:

$1.34 per square foot of shelter space for increased essential facility wind speed standards

$5.32 increase for elevation of a square foot of shelter space above storm surge for a Category 3 hurricane;

equals $6.66 per square foot of shelter space

Step Two: Emergency Power Costs

LPC X SF X PD X $200.00 ° 1000

5 x 20 x 1 (representing one person) x $200.00 ° 1000 = 20.00 per person

Note:

LPC = number of watts per square foot for load and power consumption of typical uses

SF = 20 sq. feet, the minimum hurricane shelter space area per person, see 9J-2.0256(1)(f), FAC

PD = number of people in dwelling unit; 1 is used to calculate a per person cost

Step Three: Total Costs from Step one for sheltering and Step two for emergency power (not including shuttering)

($6.66 X Sq) =

$ for increased wind speed standards and elevation *Plus* $20.00 per person;

Note:

Sq = Total Square Feet from sec. 2-484(b), i.e., the value derived for Sq (t).

(4) *On-site shelter.* Provision of an on-site shelter must meet the following minimum criteria:

a. The on-site shelter must be located outside the coastal high hazard area unless constructed in accordance with the standards set forth in section 2-485(b)(5)a for the uses referred to therein.

b. The shelter space to be provided must, at minimum, equal the hurricane shelter space demand the proposed development is anticipated to create.

c. The structure and all required equipment and supplies must be:

1. Elevated to the anticipated land falling category 3 flood level; and
2. Constructed to withstand winds of at least 150 miles per hour according to the Florida Building Code; and
3. Constructed with a minimum of exterior glass with all glazed openings provided with impact protection in accordance with the Florida Building Code; and
4. Equipped with emergency power and potable water supplies; and
5. Provided with adequate ventilation, sanitary facilities and first aid equipment.
6. The structure, and all restrooms and support facilities, must comply with all regulations regarding accessibility for persons with disabilities.

d. For purposes of compliance with this article, the cost of providing a structure for use as an on-site hurricane shelter will be determined as the incremental cost difference attributable to bringing the structure up to public shelter standards from the original or primary use.

e. The developer must arrange for the annual training for the on-site shelter manager. Training will be conducted by the American Red Cross and approved by Lee County Emergency Management.

(5) *Health care facilities—Group I (nursing and personal care facilities), Group II (skilled nursing care facilities and hospices, Group IV (hospitals), assisted living facilities, continuing care facilities, and Social Services Groups III and IV.*

a. The facility must be located outside the coastal high hazard area unless designed to address shelter and evacuation impacts on-site as follows.

1. On-site shelters and all required equipment and supplies for these facilities must comply with the following standards:

i. Elevation to the anticipated storm surge from a land falling Category 5 storm.

ii. Construction to withstand winds of 200 mph in accordance with the Florida Building Code.

iii. Construction with minimum exterior glass with all glazed openings provided with impact protection in accordance with the Florida Building Code.

iv. Equipped with emergency power and potable water supplies to last up to five days.

v. Protected with adequate ventilation, sanitary facilities, and first aid medical equipment.

2. Developer/operator must conduct annual training of the on-site shelter managers. The training is to be conducted by the Red Cross and approved by Lee County Emergency Management.

3. Developer/operator must submit a post storm recovery plan including post storm evacuation plan for review and approval by Lee County Emergency Management.

b. Facilities located within the category 2 or 3 land falling storm surge areas must construct sufficient hurricane shelter space for its residents meeting the construction standards set forth in section 2-485(b)(4). This requirement may not be satisfied by payment in lieu of constructing the shelter.

(c) *Evacuation impacts.* One or a combination of the following options may be used to address the impacts on hurricane evacuation routes with respect to evacuation timing and infrastructure precipitated by the proposed residential development. Acceptability and appropriateness of the type of mitigation proposed will be determined by the Division and the Lee County Department of Transportation (DOT).

(1) *Roadway elevation or improvements.* Acceptability and appropriateness of this option will be determined by the DOT based upon the residential development vulnerability conditions. Mitigation under this option may include one or more of the following:

a. Construction of roads in the development or subdivision will be built to meet the same elevation of the nearest segment of a designated evacuation route. Determination as to the applicable route or segment will be made by the division in consultation with the Lee County DOT.

b. Construction of the main access or spine road in the development or subdivision to an elevation meeting the one in ten to the one in 25-year storm event. The Lee County DOT will determine the applicable storm event standard.

c. Improvement of an offsite road that will be used by the subdivision or development for evacuation purposes. The road segment and standard for the road improvement will be determined by the Lee County DOT.

(2) *Evacuation efficiency improvements.* Provision of funds to improve the ability to provide information to evacuees during actual evacuation situations or to improve the existing warning and notification system. Funds provided under this option may be used for items such as:

a. Communications equipment to convey real time conditions to the public on the roadways

b. Information systems along major arterial evacuation routes to convey emergency information.

Decisions with respect to the expenditure of funds provided under this option will be made by the division director. All equipment purchases must be based upon an identified need for the additional equipment and must serve to upgrade the existing warning and notification system.

(3) *Vertical evacuation.* The viability of this mitigation option will be based upon the following criteria:

a. The structure must be elevated above the anticipated category 3 land falling hurricane storm surge and must be able to withstand wind speeds of at least 150 miles per hour.

b. The structure must be located outside the coastal high hazard area.

(d) *Mitigation options that will address both shelter and evacuation impacts:* One or a combination of the following options will constitute full mitigation of both shelter and hurricane evacuation impacts for residential development, with the exception of those residential developments listed in section 2-485(b)(5)b:

(1) *Safe room.* This option provides for construction of a room, within a residential building, that is designed to withstand a hurricane and is capable of accommodating the occupants of the dwelling. Viability of this mitigation option will be determined by the division based upon the following criteria:

a. The room selected for this purpose is built to the current standard set forth by the Federal Emergency Management Agency for a safe room.

b. The residential unit where the safe room is constructed is located outside the coastal high hazard area.

(2) *Elevation above hurricane flooding levels.* This option requires construction of residential units above the category 3 land falling storm surge level. This option is available only for construction located outside the coastal high hazard area and does not subject the construction to standards in excess of those applicable in the county building codes.

(e) All funds collected in accordance with this article are required to be spent to mitigate the impacts of the development from which they are collected.

(Ord. No. 00-14, § 1, 6-27-00; Ord. No. 01-18, § 1, 11-13-01; Ord. No. 03-16, § 1, 6-24-03; Ord. No. 09-23 , § 2, 6-23-09)

Sec. 2-486. Appeal.

Decisions made by the director may be appealed directly to the Board of County Commissioners as an appeals agenda item during a regularly scheduled Board meeting. The agenda item must comply with Lee County Administrative Code 1-2.

(Ord. No. 00-14, § 1, 6-27-00)

Chapter 3 EXPLOSIVES AND BLASTING REGULATIONS [1]

ARTICLE I. - DEVELOPMENT BLASTING

FOOTNOTE(S):

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Editor's note— Ord. No. 04-04, § 2, adopted Apr. 27, 2004, repealed Lee County Code, Ch. 14, Art. VI, §§ 14-401—14-417 which pertained to possession and use of explosives and derived from Ord. No. 85-45, adopted Oct. 23, 1985; and Ord. No. 88-47, adopted Sept. 28, 1988; Ord. No. 99-07, §§ 2—17, adopted Aug. 10, 1999; Ord. No. 02-26, §§ 1—17; adopted Aug. 27, 2002; Ord. No. 03-17, § 2, adopted July 1, 2003; Ord. No. 03-27, § 2, adopted Dec. 16, 2003; and Ord. No. 04-01, §§ 1—4 adopted Jan. 13, 2004. New provisions pertaining to explosives and blasting regulations are contained in the Land Development Code, Ch. 3. See also the Code Comparative Table. (Back)

ARTICLE I. DEVELOPMENT BLASTING

Sec. 3-1. Purpose and intent.

The Board of County Commissioners has determined that it is in the best interest of the public health, safety and welfare to enact regulations governing explosives used in the development of property in unincorporated Lee County. The purpose of this article is to set forth the provisions, conditions and requirements applicable to development blasting activity within the County.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-2. Applicability; Winkler Road Extension blasting prohibition.

(a) The provisions of the article apply to existing and future development blasting activity within the unincorporated areas of Lee County. Bona fide construction materials mining activities, approved by the County and conducted in compliance with the provisions of Florida Statutes Chapter 552, are not required to comply with the regulations set forth in this article.

(b) A permit is required prior to initiating development blasting activity. This includes test blasting.

(c) Development blasting activity is prohibited within the Winkler Road Extension area described as follows:

> That land within the Suburban and Outlying Suburban Land Use Categories as defined in the Lee County Comprehensive Plan, lying south of Summerlin Road within Sections 34 and 35, Township 45 South, Range 24 East and Sections 2, 3, 4, 9, 10 and 11, Township 46 South, Range 24 East and west of Hendry Creek.

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 04-06, § 3, 4-11-04; Ord. No. 04-07 , §§ 3, 4, 5-25-04; Ord. No. 05-04 , § 3, 4-12-05; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-3. Definitions.

The following words, terms and phrases will have the meanings stated in this section.

Acceleration means the velocity per unit time.

Airblast overpressure means the impulsive sound or blast amplitude as measured in decibels.

Amplitude means a time varying or kinematic vibration quantity of displacement, velocity, or acceleration. These all have instantaneous values at any moment and also peak values at a specific moment for any vibration record.

Blaster means an individual that holds a valid state permit allowing the loading and detonation of explosives. A blaster must be employed by a user.

Blast site means the limits or boundary of the excavation area that will be subject to the blasting activity. For example, the boundary of a proposed lake within the development seeking a development blasting permit.

Board means the Lee County Board of County Commissioners.

Development blasting activity means the detonation of explosives for the purpose of demolishing a structure or fragmenting rock, gravel, earth or trees for excavation or construction; and blasting not otherwise regulated by F.S. Ch. 552.

Director means the Director of the Department of Community Development or designee.

Displacement means the amount of deviation or distance of any particle or point from its rest position.

Frequency means the number of cycles per unit time. In vibration analysis, unit time is a second. Frequency is the number of times the particles (see Peak Particle Velocity) move back and forth in one second. This back and forth motion can also be referred to as oscillations. The number of oscillations/second or cycles/second that a particle makes under the influence from the vibration is measured in hertz.

Habitable structure means a building, existing or under construction, or related facility that can be inhabited or occupied by one or more persons. It includes, but is not limited to, homes, mobile homes, commercial enterprises and buildings, offices, hospitals, public service buildings (i.e. fire station), and other structures that may be occupied by a person; and, the accessory structures associated with the building such as pools, wells, garages, foundations, docks, seawalls, driveways, concrete slabs and other similar structures within a 100-foot radius around a habitable structure.

Infrastructure structure means a facility or structure, existing or under construction, that is used to support use of habitable structure or community growth. It includes roadways, water and sewer lines, utility poles, equipment boxes, pump stations, drainage facilities, water management facilities, bridges, tunnels, and other similar infrastructure related facilities and structures.

Peak particle velocity (PPV) means the displacement per unit time in reference to the speed or excitation of the particles in the ground resulting from vibratory motion. In blasting, ground particles oscillate in response to a vibration wave. This oscillation is measured in particle velocity. The maximum rate is Peak Particle Velocity (PPV). This is measured in inches per second or millimeters per second. Peak Particle velocity is the maximum rate of particle movement.

Peak Vector Sum or Resultant Peak Particle Velocity means the sum of the three peaks in a vibration wave. This sum is not the same as the Peak Particle Velocity and is not the appropriate measure under this Code.

Structure means a building or facility that is existing or under construction. It includes, both infrastructure structures and habitable structures.

User means an individual that holds a valid state license allowing the purchase and detonation of explosives.

Velocity means displacement per unit time. Rate of change or displacement, or how fast a particle moves from its rest position to its maximum displacement position and back.

Wavelength means one complete cycle.

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-4. Local user and blaster registration.

(a) *Registration required.* Users and blasters seeking to conduct development blasting activity must be locally registered. All blasting activity must be conducted by a blaster holding a valid state permit. A blaster must be employed by a user holding a valid State license. This provision allows the user and blaster to be the same person, as long as this person holds both the state user license and blaster permit.

(b) *Application requirements for registration.* In order to obtain a local registration, each user and blaster must file a separate application on the form prescribed by the Director. This application must include the following information:

(1) Name, address and contact number for the applicant (ie. user or blaster applying for registration).

(2) A physical description of the applicant, accompanied by valid photo identification. Acceptable forms of photo identification include a driver's license, state identification card or valid passport.

(3) A copy of the valid State user's license or blaster's permit, as appropriate.

(4) If the application is for a blaster's registration, the name, address and contact number for the user employing the blaster. The user employing the blaster must also hold a valid local registration.

(5) If the application is for a user's registration, the Florida company associated with and/or qualified by the user, along with the mailing address of the company, the address for the principal place of business, and a contact name and number.

(6) An original completed fingerprint information card for the applicant.

(7) Copy of declaration page identifying the applicant's insurance coverage for workers' compensation, and comprehensive general liability and property damage insurance in the amount of $1,000,000.00 per occurrence and aggregate.

(8) The application must be signed by the applicant and include a sworn, notarized statement that the information is true and correct.

(9) The application fee.

(c) *Criteria for review and approval.* Applications for a local user or blaster registration will be reviewed by the Director once the application is found complete. Registrations are issued at the discretion of the Director based upon the application and whether the applicant has violated any provisions of this article within the preceding five years.

(d) *Renewal.* The registration must be updated annually by providing:

(1) A copy of the state license or permit renewal, as appropriate;

(2) A copy of the insurance renewal information; and

(3) The renewal fee.

(e) *Registration fees.* The registration fees are set forth in the Lee County Administrative Code.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-5. Blasting permit application requirements.

(a) *Application.* Only a locally registered user may apply for a blasting permit. The application must include the following:

(1) Name, address and contact information for the following individuals:

a. User (the permit applicant);

b. Blaster;

c. Developer;

d. Property owner;

e. Engineer creating or corroborating the blasting plan;

f. Seismograph operator; and

g. Person to conduct pre- and post-blast surveys.

(2) Local registrations for the user and blaster responsible for proposed activity.

(3) Location of proposed blasting activity. (Include strap number, physical address, metes and bounds legal description with accompanying sketch, and an aerial depicting project site.)

(4) A description of the project to be benefitted by the blasting activity, including a copy of the approved local development order, and an explanation of why the blasting is necessary.

(5) A sketch of the proposed blasting site/project superimposed over an aerial, showing measured distances from all structures, buildings, streets, above and below ground utilities, wells and other facilities within 1,000 feet of the blasting site.

(6) A list of all property not under the ownership or control of the user, blaster or developer within 2,000 feet of the blast site. This list must include the name and address of the property owner, whether the property is improved, and the type of structure and occupancy.

(7) A proposed blasting plan that includes:

a. Description of proposed blasting procedure;

b. An estimate of the total number of cubic yards to be removed as a result of the blasting;

c. An estimate of the number of blasts to be detonated;

d. The quantity and type of explosives to be used;

e. Maximum amount of explosives per delay;

f. Maximum number of holes per delay;

g. Proposed delay between holes and rows; and

h. Proposed placement of seismographic machines.

(8) Estimated starting date and completion date for blasting operations.

(9) Hours of intended blasting operations.

(10) Traffic control, barricading and sign plan.

(11) Warning notification plan.

(12) Letter of permission and authorization, signed by the property owner and acknowledged before a notary, allowing the proposed blasting activity.

(13) Written approval, or letters of no objection, from the Lee County Department of Transportation, Lee County Port Authority, Lee County Utilities, and the utility entities holding franchise rights within 2,000 feet of the proposed blasting site. The approval letter may impose conditions on the blasting activity that are intended to preserve and protect structures for which the entity is responsible.

(14) Other information deemed necessary or appropriate by the Director or Board, which may include, but is not limited to:

a. Pre-blast assessment, prepared by a geotechnical engineer or other blasting professional, which assesses the geology of the blast site and surrounding area out to 2,000 feet and the potential for damage to structures and facilities within 2,000 feet of the blast site;

b. Pre-blast inspection of structures and facilities located near the proposed blast location. (Including video taping of structures);

c. Bond to protect County facilities;

d. Hydrological study;

e. Geological study; and

f. Test wells.

(b) *Fees.* The established fee for blasting permit applications and blasting inspections are set forth in the Lee County Administrative Code.

(c) *Escrow agreement.* Prior to issuance of the blasting permit, the applicant must deliver an executed escrow agreement, acceptable to the County Attorney's office, and fully funded with cash in the amount of $ 50,000.00.

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-6. Inspection fee accounts.

The permit applicant may create a blast inspection account with the County to cover the costs associated with the proposed number of blast inspections necessary to complete the permitted blast activity. This account may include authorization for the County to charge a credit account in the name of the user. The account will be adjusted or charged after each inspection. If additional inspections are required that are not funded by the account, the inspections will be delayed until sufficient funds are provided to the County.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-7. Bonds and escrow agreements.

Bonds required as a condition of permit approval must be in a form prescribed by the County and found legally sufficient by the County Attorney's office.

Escrow agreements must be executed on the form required by Lee County and funded with cash. Prior to issuance of a blasting permit, the escrow agreement must be reviewed and approved by the County Attorney's office. In all instances the County will act as the escrow agent. Funds will be disbursed from the escrow account in accord with the terms of the agreement and section 3-19.

The sole purpose of this escrow agreement is to compensate property owners for damage (cosmetic or structural) to their property resulting from the blasting activity. To ensure sufficient funds will be available for payment, the agreement must include a provision for replenishment to maintain the minimum $50,000.00 balance.

Disbursements from the escrow account will be made by the County based upon the decision of the arbiter as a result of binding arbitration proceedings. The developer is solely responsible for the costs associated with the arbitration proceedings.

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-8. Limitations on blasting intensity.

(a) Blast intensity will be measured in all four compass directions at the nearest structure not owned by the Developer, as measured from the boundary of the blast site. If no structure exists within one mile of the blast site, then the measurement will be taken at the one mile mark in the direction of the nearest structure or at an alternative location specifically identified by the approved blasting permit. Subsequent to the issuance of the blasting permit, the Director has the discretion to require monitoring of intensity levels at alternate locations not under the ownership or control of the developer, user or blaster if such is warranted based upon complaints received by the County after the blasting activity begins. These alternate locations may be inside or outside the overall development project boundary.

(b) Blast intensity may not exceed any of the following limits:

Peak Particle Velocity (PPV):

Calculating PPV using the Peak Vector Sum is prohibited for purposes of compliance with this code.

Habitable Structure 0.30 inches per second

Utility 5.0 inches per second

Bridge 5.0 inches per second

Roadway 10 inches per second for roadway outside the known fracture zone of the blast.

Airblast overpressure: 134 peak dBL (linear) at a habitable structure

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 04-06, § 3, 4-11-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-9. Limitation on blasting activity.

(a) No blasting activity may occur within 600 feet of a habitable structure.

(b) Blasting activity proposed within 600 feet of a structure (i.e. infrastructure such as a road), other than a habitable structure, may be permitted if all of the following criteria are met.

(1) No habitable structures are within a 600 foot radius of the blast site boundary, as measured in accord with section 3-17; and

(2) Blasting within 300 feet or less from a structure is required to use rubber tire blasting mats; and

(3) Blasting within 301 to 600 feet from a structure is required to use rubber tire blasting mats or provide at least three feet of in situ overburden or additional cover (i.e. sand or dirt).

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 04-21 , § 3, 11-9-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-10. Blasting permit issuance; standard permit conditions.

(a) *Blasting permit required.* It is unlawful to conduct development blasting activity, including test blasting, within the unincorporated area of Lee County without a valid blasting permit issued in accordance with this article.

(b) *Right to permit approval.* Issuance of a blasting permit is a privilege and not a right. The Board of County Commissioners may prohibit development blasting by imposing a condition in a zoning resolution or otherwise by adopting an ordinance. An applicant's ability to comply with the criteria and conditions set forth in this Chapter does not override the Board's action to prohibit development blasting at a particular location.

Blasting permit applications will be reviewed by the Director. County staff will prepare a written recommendation, including proposed permit conditions, to accompany the permit application as part of the package provided to the Director for action on the permit application. The conditions set forth in this article will be considered the minimum conditions applicable to blasting permit approval.

As part of the permit review process, the Director will consider, at minimum, the compatibility of the proposed blasting activity with the surrounding community, and the proximity of schools, churches, health care facilities and public infrastructure facilities to the blast site. A blasting permit may be denied if the Director believes approval of the proposed blasting activity is not in the best interest of the public health, safety and welfare of County citizens. Denial of a blasting permit application will include a written explanation for the denial.

(c) *Permit denial.* The Department of Transportation, Lee County Port Authority, Lee County Utilities, or an entity holding a utility franchise within the area affected by the proposed blasting activity has the right to deny a blasting permit application in order to afford reasonable protection of public infrastructure or facilities. The reason for the denial must be specifically stated in writing.

(d) *Standard conditions.* The following provisions constitute the standard conditions applicable to development blasting permits.

(1) County staff has the right to enter upon the property and complete all necessary inspections related to the blasting activity or in response to complaints resulting from the blasting activity.

(2) Hours of blasting activity: 10:00 a.m.—4:00 p.m. Monday through Friday

No weekends

No State holidays

No Federal holidays

(3) The permit is issued to the user identified in the application and allows the blaster identified in the application to conduct the blasting activity. If the blaster identified in the application changes subsequent to the application submittal or after the permit is issued, then the user must notify the County as to the name, address, contact information and registration requirements of the replacement blaster prior to detonation of blasts by the replacement blaster.

(4) The responsible user, blaster and engineer or engineer's designee, identified in the permit application, must be onsite during all phases of the physical blast preparation (drilling holes, etc.) and detonation activity.

(5) No detonation of explosives (blasting) may occur without appropriate County staff on site.

(6) Notice of the proposed blast time must be provided to Lee County Code Enforcement and the Fire District 24 hours prior to the blast in accordance with section 3-14. A Code Enforcement Inspector must be on-site during the blast.

(7) A blasting permit is issued to the user and is not transferable.

(8) A record of each blast must be maintained in accordance with section 3-13

(9) A permit is valid for 90 days from date of issuance, unless otherwise specifically stated on the face of the permit. Permit extensions are allowed in accordance with section 3-12

(10) Issuance of the blasting permit does not relieve the applicant, the user, the blaster or the developer of responsibility for the results of the blasting activity, including the accuracy and adequacy of the blasting plan as implemented in the field.

(11) The developer is responsible for handling, discharging or settling all damage or annoyance claims resulting from the blasting activity.

(12) The developer must execute an escrow agreement and fund a cash escrow account prior to issuance of the blasting permit. The sole purpose of this escrow agreement is to compensate property owners for damage (cosmetic or structural) to their property resulting from the blasting activity. Lee County will be the escrow agent. Disbursements from the escrow account will be made by the County based upon the decision of the arbiter as a result of binding arbitration proceedings. The developer is solely responsible for the costs associated with the arbitration proceedings.

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-11. Duration of permit approval.

A permit is valid for a period of 90 days from the date of issuance, unless otherwise specifically stated on the face of the permit. However, no permit may be issued for a duration of more than six months.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-12. Permit extension.

The Board has the discretion to extend a permit approval for a period of up to 90 days, based upon the filing of the appropriate application and fee. Only one permit extension is permitted per base permit. Subsequent blasting activity within the same project or area will require the filing and approval of a new and complete permit application.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-13. Record keeping.

The permit applicant (user) is responsible to maintain a record of each blast. A copy of the record must be filed with Lee County Code Enforcement, on a Lee County Standard Blast Report Form, no later than 10:00 a.m. of the workday following the blast. All original blasting records must be retained by the user responsible for the blasting activity for at least three years following the conclusion of the blasting activity. The records must be available for inspection by the County upon request. The blasting records must include the following information:

(a) Name, address and license number of the user responsible for the blasting activity;

(b) Name, address and permit number of the blaster conducting the blasting activity;

(c) Date, time and location of the blast;

(d) Blast pattern diagram and firing times;

(e) Type of material blasted;

(f) Number of holes, spacing, burden;

(g) Number of wet holes and water depth;

(h) Diameter and depth of holes;

(i) Type of explosives used;

(j) Amount of explosives used;

(k) Maximum amount of explosives/pounds per delay;

(l) Maximum number of holes per delay;

(m) Method of firing and type of circuit;

(n) Weather conditions (including factors such as wind direction, temperature, cloud cover etc);

(o) Height or length of stemming;

(p) Type of stemming used;

(q) Whether mats or other types of protection were used; type of mats used;

(r) Type of detonators used (i.e. electronic or non-electronic);

(s) Number of detonators used;

(t) Number of primers used;

(u) Number of holes decked; deck separation; weight of explosives per deck; depth of decking;

(v) Location of each seismograph; set up procedure used;

(w) The PPV, airblast overpressure and frequency measurements for the blast;

(x) Global position system direction and distance in feet to the nearest building in each compass direction;

(y) Copy of strip tape from seismograph showing readings, marked with date, time and machine location, and signed by seismograph operator.

(z) Type and make of blasting machine; and

(aa) Development blasting permit number.

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-14. Notice to county staff prior to blast.

A County inspector must be onsite prior to the detonation of a blast. The blaster or user must notify Lee County Code Enforcement that a blast is planned. This notice must be provided at least 24 hours prior to the blast and include the date, time and location of the blast. The County inspector is not required to wait more than ½ hour beyond the blast time specified in the notice from the blaster. The County inspector has the discretion to remain on the site or leave if the blast is delayed. If the inspector leaves the site, then the blaster or user will be required to notify Code Enforcement when the blast is ready. If the inspector remains on site, then additional inspection fees will be charged to the user. These additional inspection fees must be paid prior to any subsequent blast activity.

Notice must also be provided to the appropriate Fire District, by telephone and fax transmission, 24 hours prior to detonation of the blast.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-15. Blast vibration monitoring.

All blasts must be monitored using seismograph equipment that meets the criteria and requirements of this section. The purpose of the seismographic readings are to confirm compliance with the provisions of this article.

(a) *Seismograph equipment.* The instrumentation used must meet the following minimum criteria.

(1) Capable of measuring the three mutually perpendicular components of particle velocity in directions vertical, radial and perpendicular to the vibration source. The equipment must be capable of measuring a frequency response of 2 Hz to 200 Hz, with no greater than a 3dB roll off, and PPV of up to at least 10 inches per second; and have an airblast channel frequency range of .1 to 200 Hz, 2 to 200 Hz, 5 or 6 to 200 Hz.

(2) Capable of recording the full wave form from a single blast as well as continuous monitoring.

(3) Capable of providing a contemporaneous printed hard copy (strip chart) of the full wave form and PPV data in the field as well as recording digital data as a permanent record. Instruments limited to recording seismic activity at a remote location for later retrieval and dissemination may not be used to meet LDC requirements, they will be considered supplemental only.

(4) Each piece of the monitoring equipment must be labeled with a serial number. This serial number must be cross referenced or otherwise identified on the field print out copy as well as the permanent digital record.

(5) Components of the monitoring equipment must be calibrated as a unit and remain together as a unit for the duration of the permitted blasting activity. Mixing various pieces together that were not calibrated for use as a unit will not satisfy the requirements of this section.

(6) Monitoring equipment must be calibrated at least once every 6 months or in accordance with the manufacturer's written instructions and recommendations. Written documentation as to the calibration, including identification of the unit parts, who performed the calibration and the standard used, must accompany the instruments and be available for immediate inspection upon request by the County.

(b) *Set up of seismograph equipment.*

(1) Set up of the equipment must be in accordance with accepted industry standards as identified by the International Society of Explosive Engineers or the U.S. Department of Interior, Bureau of Mines Report RI 8508.

(2) Seismograph equipment must be set up at the locations approved as part of the blasting plan.

(3) Whenever possible, monitoring equipment must be placed in undisturbed soil. Placement on driveways, walkways or slabs must be avoided.

(4) The Director or designee may require additional monitoring devices if, after a field inspection with the monitors in place, additional monitoring appears appropriate or necessary to establish compliance with the provisions of this article.

(c) *Location of seismograph equipment.* Blast intensity must be monitored in all four compass directions. Seismic monitoring equipment must be located at the nearest structure not owned by the Developer that is within one mile of the blast site boundary. If no structure exists within one mile of the blast site, then the measurement will be taken at the one mile mark in the direction of the nearest structure, or as otherwise determined by the blasting permit approval.

(d) *Inspection of seismograph equipment.* Code Enforcement is required to inspect all monitoring equipment prior to the blast. The user or developer must facilitate these inspections, including the provision of transportation over difficult terrain, if necessary.

(e) *Contemporaneous reporting requirements.* A copy of the paper read out (strip chart), or other media specifically approved by the Director as part of the blasting permit, from each unit recording the blast activity must be provided to the Code Enforcement inspector immediately after the blast. A copy of the paper read out (strip chart) from each unit recording the blast activity must be provided to the County along with the standard blast report. The strip chart must include a full wave form and specifically identify the exact monitoring location; the date, time and place of the blast activity, the PPV, frequency and airblast overpressure; and be signed by the seismograph operator.

(f) *Followup reporting requirements.* The user must submit the following written documents to Lee County Code Enforcement by 10:00 a.m. the workday following the blast.

(1) Copy of the Lee County standard blast report that includes all of the blast record keeping information identified in section 3-13

(2) A copy of the digital data generated by each required seismograph unit, with a copy of the corresponding printed strip chart attached.

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 04-06, § 3, 4-11-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-16. Pre- and post-blast condition surveys.

(a) *Generally.*

(1) All condition surveys must be conducted by a professional with the appropriate credentials and experience. A copy of the curriculum vitae or resume detailing the reviewer's credentials must be attached to each survey report.

(2) Condition surveys must be made available as follows:

a. *Pre-blast condition survey:* A copy, including color copies of all photos, must be provided to the owner of the structure or facility surveyed and Lee County Code Enforcement prior to the detonation of any blasts allowed under the permit.

b. *Post-blast condition survey:* A copy, including color copies of all photos, must be provided to the owner of the structure or facility surveyed and Lee County Code Enforcement upon completion, but no later than ten days after the physical survey date.

(3) Content of condition survey report. The survey must document the current interior and exterior condition of the structure, facility, pool, seawall, dock, driveway, foundation, well, sprinkler system, utilities, drainage facility, water management facility, concrete slab or other improvements on the property that is the subject of the survey. The survey must include sufficient documentation to satisfy all typical insurance carrier requirements related to substantiating a claim for damage, including but not limited to, documenting the status of the structural engineering.

(4) Cost. The cost of condition surveys will be borne by the user, blaster and developer.

(b) *Pre-blast condition survey.*

(1) *1,000-foot radius around blast site.* Prior to conducting blasting activity, the user and developer must obtain a professional pre-blast condition survey for all structures and facilities within a 1,000-foot radius of the blast site. Structures and facilities touched by the 1,000-foot radius measurement, must be included in the survey requirement.

The professional conducting the survey must provide a written notice to the owner and tenants of the property. This notice must indicate the reason for the survey, the proposed date and time of the survey, and a local or toll free contact number for purposes of scheduling an alternative date or obtaining additional information. A copy of this notice must be provided to Code Enforcement.

If the owner of the structure or facility refuses to allow access to conduct the pre-blast survey, the professional attempting to survey the property must note this on the survey form. The property owner should sign the form to verify refusal. At least three attempts must be made to notify the owner of the need for the survey. The user and developer have the burden to prove the property owner refused the pre-blast survey. Sufficient proof of refusal will consist of either: (a) a written document signed by the property owner stating they understand the purpose of the blast survey and refuse to have it conducted; or (b) a sworn affidavit from the professional hired to conduct the survey setting forth the details related to the property owner's refusal, including a narrative about the attempts to obtain permission to conduct the survey, and the information provided to the property owner regarding condition surveys.

A copy of all pre-blast surveys, including documentation as to any property owner's refusal, must be submitted to Code Enforcement prior to conducting the permitted blasting activity.

(2) *Area between 1,000 foot and 2,000 foot radius around blast site.* In addition to the surveys required under section 3-16(b)(1), the user and developer must provide a viable opportunity for a professional pre-blast condition survey to be conducted on all structures and facilities falling within a distance of 1,000 to 2,000 feet from the blast site. Structures and facilities touched by the 2,000 foot radius measurement must be included in the survey.

The professional conducting the survey must provide a written notice to the owner and tenants of the property. This notice must indicate where and when the blasting activity will occur, the reason for the survey, and a local or toll free contact number for purposes of scheduling a date and time

for the survey or obtaining additional information. A copy of this notice must be provided to the County.

The notice offering a pre-blast survey must be sent at least 20 days prior to the start of blasting activity via regular and certified mail. Sufficient time must be provided to allow scheduling and completion of all pre-blast condition surveys requested before the blasting activity occurs. Prior to commencement of blasting activity, the user or developer must submit a sworn affidavit to Code Enforcement indicating the notice offering a pre-blast condition survey was sent to all property owners within the designated area and all pre-blast surveys requested are complete. The affidavit must include an attachment identifying the names and addresses used in sending the notices.

(c) *Post-blast condition survey.* Upon completion of the blasting allowed under the permit, the user and developer will obtain professional post-blast condition surveys for properties, structures or facilities that are the subject of damage complaints or claims made during the course of the blasting activity. A list of all property owners filing a compliant with the County will be compiled by Code Enforcement.

The professional conducting the survey will contact each property owner in writing, via certified mail, to schedule a mutually convenient date and time for the post-blast survey. The surveys must be completed within 15 days after cessation of the blasting activity. A copy of the condition survey report must be provided to the property owner and Code Enforcement upon completion, but no later than ten days after the physical survey date.

The Developer must submit a sworn affidavit within 30 days after the cessation of the blasting activity that identifies the location of the properties offered a post-blast condition survey; property owners' names and the mailing addresses used to extend the offer; and whether the survey was completed or refused. No further blasting permits will be issued within unincorporated Lee County for projects in which this developer is a principal, beneficiary, or subsidiary until this affidavit is filed.

(d) *Content of condition survey.* The condition survey must include a written description of the interior and exterior condition of each structure or facility examined. Existing cracks, damage or other defects must be specifically located and described with sufficient specificity to make it possible to determine the effect, if any, of the proposed blasting activity. If significant cracks or damage exist or if the defects are too complicated to describe in writing, photographs must be taken to supplement the survey. In lieu of the written survey report, a good quality videotape survey, with appropriate audio description of locations, conditions and defects may be substituted. A copy, in whatever form created, must be provided to the property owner and Code Enforcement prior to approval for subsequent blasting activity on projects within unincorporated Lee County.

The survey must be kept for a minimum of seven years and be available upon request.

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-17. Measurement.

For purposes of this article, all distance measurements relative to the blast site will be measured from the outer boundary of the blast site as depicted on the approved development blasting permit.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-18. Notice of blasting activity.

(a) *Written notice.* Written notice to property owners within one mile of the proposed blast site must be provided by the user 10-20 calendar days prior to commencement of the blasting activity. The notice should be sent regular mail to the address for the property indicated in the property appraiser records on the date the notice is sent. The contents of the notice must address the following:

(1) Explanation of the blasting activity that will occur and what to expect, including the meaning of the audible warning system.

(2) The location of the blasting activity.

(3) Dates and times of the proposed blasting activity.

(4) Expected duration of the blasting activity.

(5) Contact information for complaints concerning the blasting activity.

(6) Availability of a pre-blast condition survey.

(b) *Audible notice.* Prior to detonation of a blast, a series of audible warning signals, using sirens or horns or both, must be sounded with sufficient intensity to be heard at a minimum distance of 1,000 feet from the blast site. An air horn, with a tone and sound different than that in use by the Police, Fire District and EMS vehicles, must be used. The warning signals must be sounded as follows:

One minute prior to the blast a series of three short (three seconds) signals.

Use of heavy construction equipment operating within 1,500 feet of the blast site must cease once the audible signal is sounded, until the detonation is complete.

(c) *Signs.* At least five days, but no more than ten days, prior to the commencement of the permitted blasting activity, warning signs must be erected by the user or blaster as follows:

(1) The sign must be at least 30 inches by 30 inches, but no greater than 48 inches square and at a height lower than eight feet from the ground.

(2) The sign must state, in five-inch block letters, "WARNING - Blasting". It must also include the date and times of the proposed blasting, the project name, the names of the user, blaster and developer along with a local contact number.

(3) No commercial advertising is permitted on the sign face.

(4) Signs must be placed adjacent to the right-of-way at 250 foot intervals around the perimeter of the development project and be clearly visible to the traveling public.

(5) All signs must be removed within one week of the completion of the development blasting activity or the expiration of the blasting permit, whichever occurs first.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-19. Complaints about blasting activity.

Lee County Code Enforcement will maintain a list of property owner complaints and damage claims for each active blasting permit. This list will include the name of the property owner, the location of the property and a synopsis of the complaint or claim for damage. Complaints received by the user, blaster or developer must be reported to Code Enforcement within 24 hours by the recipient of the complaint. All complaints or claims involving damage will be the subject of an interim post-blast condition survey, conducted within 48 hours of receiving the complaint, unless the survey is specifically refused or property owner agrees to a different time frame for conducting the survey.

The interim post-blast condition survey must meet the criteria for condition surveys set forth in section 3-16. However, the survey must be completed within the condensed time frame set forth above or blasting must cease until the interim condition survey requirement is met.

The developer is responsible for handling, discharging or settling all damage or annoyance claims resulting from the blasting activity. Monitoring or review of the blasting activity conducted by the County in accordance with this article will not relieve the user, blaster and developer of responsibility for compliance with this article.

Damage complaints will be resolved though binding arbitration. The developer will be solely responsible for the cost of the arbitration proceedings. The County will disburse funds from the developer's escrow account to property owners based upon the decision of the arbiter.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-20. Violations and penalties.

(a) *Intensity violation under 0.50 PPV.* Blasting activity that: exceeds the limitations set forth in section 3-8 for PPV or airblast overpressure at the locations specified in section 3-8(a); or, fails to measure and record the blast intensity at the nearest structure not owned by the developer in accordance with sections 3-8 and 3-15 constitutes an "intensity violation" under this article. Intensity violations are cumulative and run against the user, blaster, developer, engineer and total development project (all phases). For example, if a user received an intensity violation for project A and several years later receives an intensity violation from project X, the intensity violation for project X is considered a second violation. Intensity violations will precipitate the following action:

(1) *First violation:* The following will occur, if the blast intensity violation is above 0.3 PPV and under 0.49 PPV.

a. A fine of $5,000.00 against the user, blaster, engineer and developer, who will be jointly liable for the full amount of this fine. The fine is due and payable upon issuance of the County citation; and

b. All work under the blasting permit must cease for seven days. Provided, however, blasting activity will be permitted to resume only after the user obtains approval for a modification of the blasting permit that will ensure the blasting intensity does not exceed the intensity limitation set forth in section 3-8(b). The proposed modification must be based upon an investigation and report as to what caused the violation. This report must outline alternatives for remedial action to correct the problem identified by the investigation.

(2) *A second violation between .3 PPV and .49 PPV or an Intensity violation over 0.50 PPV.* If blasting activity precipitates 0.50 PPV reading or higher on any seismograph monitoring the blasting under the development blasting permit, then the following will occur:

a. A fine of $5,000.00 against the user, blaster, engineer and developer, who will be jointly liable for the full amount of this fine. The fine is due and payable upon issuance of the County citation;

b. Automatic revocation of the blasting permit;

c. No further blasting permits will be issued for the development project, including all future phases of the project. Disputes as to the scope of the development project for purposes of this subsection will be decided by the Director; and,

d. No further blasting permits will be issued to the user, blaster or the company or business entity qualified or associated with the user for a period of five years. The fact that a new user is obtained to qualify a company does not eliminate the sanction. The user will not be eligible to qualify any other companies or entities for purposes of blasting in unincorporated Lee County for a period of five years. The blaster will not be permitted to act as the responsible blaster for purposes of blasting in unincorporated Lee County for a period of five years.

(b) *Non-intensity violation.* Violation of the provisions of this article, other than those applicable to blast intensity, constitute a "non-intensity violation." Non-intensity violations will precipitate the following action:

(1) Imposition of a fine against the user, blaster and developer, individually or jointly. The fine is due and payable based upon issuance of the County citation. Fine amounts are set forth in the Lee County Administrative Code.

(2) Automatic suspension of the current blasting permit. The permit may be reinstated at the discretion of the Director if:

a. The violation is abated to the Director's satisfaction; and

b. The information requested by the Director is submitted and found sufficient by the County.

(3) Potential revocation of the blasting permit based upon the nature of the violation and the history of violator's compliance.

(Ord. No. 04-04, § 1, 4-27-04; Ord. No. 04-06, § 3, 4-11-04; Ord. No. 06-07 , § 3, 4-11-06)

Sec. 3-21. Deviations and variances.

No deviations or variances from the provisions of this article may be granted or approved.

(Ord. No. 04-04, § 1, 4-27-04)

Sec. 3-22. Appeal.

Appeals from the decisions under this article are only to the Circuit Court.

(Ord. No. 04-04, § 1, 4-27-04)

Chapters 4, 5 RESERVED

Chapter 6 BUILDINGS AND BUILDING REGULATIONS [1]

FOOTNOTE(S):

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Cross reference— Development design standards, § 10-251 et seq.; design standards for utilities, § 10-351 et seq.; design standards for fire safety, § 10-381 et seq.; historic preservation, ch. 22; variances from building regulations for historic structures, § 22-173; signs, ch. 30; zoning, ch. 34; mobile homes, § 34-1921 et seq.; permit for moving buildings, § 34-3103; clearing, grading or filling of land, § 34-3104. (Back)

ARTICLE I. IN GENERAL

Secs. 6-1—6-40. Reserved.

ARTICLE II. CODES AND STANDARDS

DIVISION 1. GENERALLY

Sec. 6-41. Applicability of article.

This article applies to the unincorporated areas of the county.

(Ord. No. 92-36, § 7.001, 8-19-92)

Sec. 6-42. Penalty for violation of article; additional remedies.

Any person, or any agent or representative thereof, who violates any provision of this article shall, upon conviction, be subject to the following penalties:

(1) *Criminal penalties.* Such person shall be subject to punishment as provided in section 1-5

(2) *Civil penalties.* The Board of County Commissioners may institute in any court, or before any administrative board of competent jurisdiction, action to prevent, restrain, correct or abate any violation of this article or of any order or regulations made in connection with its administration or enforcement, and the court or administrative board shall adjudge such relief by way of injunction, or any other remedy allowed by law, or otherwise, to include mandatory injunction as may be proper under all the facts and circumstances of the case in order to fully effectuate the regulations adopted under this article, or any amendment thereto, and any orders and rulings made pursuant thereto.

(Ord. No. 92-36, § 7.012, 8-19-92)

Sec. 6-43. Conflicting provisions.

Whenever the requirements or provisions of this article are in conflict with the requirements or provisions of any other lawfully adopted ordinance, code or county regulation, the provisions providing the greater degree of lifesafety will apply. Any conflict between the applicable minimum building code and the applicable minimum fire safety code will be resolved by agreement between the building official and the fire official in favor of the requirement of the code which offers the greatest degree of lifesafety or alternative which would provide an equivalent degree of lifesafety and an equivalent method of construction.

(Ord. No. 92-36, § 7.011, 8-19-92; Ord. No. 94-25, § 1, 9-21-94)

Sec. 6-44. Enforcing officers.

Designated county officials, referenced by the standard codes adopted herein, will be appointed by the county administrator. The designated officials will carry out the duties enumerated in the standard codes and will be deemed the responsible officials with respect to enforcement of the provisions of the construction code.

(Ord. No. 92-36, § 7.010, 8-19-92; Ord. No. 94-05, § 2, 2-16-94; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-45. Permit fees.

The Board of County Commissioners has the power to determine and set reasonable permit fees. A schedule of these fees shall be published as a Lee County Administrative Code and copies of such schedule may be obtained at the county department of public resources.

Sec. 6-46. Reinstatement of commercial and residential dwelling unit building permits.

(a) *Authority to reinstate.* The Lee County Building Official is hereby authorized to reinstate permits issued by Lee County for the construction of commercial buildings and residential dwelling units in unincorporated Lee County that expire on or after January 1, 2006, and on or before December 31, 2011. All such permits will be reinstated for a period of six months from the date of reinstatement and will remain subject to all other terms and conditions as imposed by original issuance. Any such permit may be extended in the same manner as any other validly issued building permit.

(b) *Applicability.* This ordinance only applies to building permits issued for construction of commercial buildings and residential dwelling units within unincorporated Lee County. Availability for permit reinstatement pursuant to this ordinance is limited to projects that, at a minimum, have passed a foundation inspection.

(c) *Procedure.* Persons seeking reinstatement of permits authorized herein must submit a written request to the Lee County Building Official before June 1, 2012, and pay a fee of $200.00 for reinstatement. The Lee County Building Official will determine whether permits are eligible for reinstatement and may require additional documentation or information deemed reasonably necessary to establish such eligibility.

(Ord. No. 09-21 , § 3, 5-26-09; Ord. No. 10-29 , § 3, 6-22-10)

Editor's note—

Ord. No. 09-21, § 3, adopted May 26, 2009, did not specifically amend the Code; hence, inclusion herein as 6-46 was at the discretion of the editor. See also the Code Comparative Table.

Secs. 6-47—6-70. Reserved.

DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS [2]

Sec. 6-71. Applicability of division.

This division will include, but not be limited to, any contractor, owner, agent, manufacturer or supplier providing construction services or materials regulated by standard codes enforced by the Department of Community Development within the unincorporated areas of the county.

(Ord. No. 83-34, § 1, 11-2-83; Ord. No. 88-47, § 4A, 9-28-88; Ord. No. 94-01, § 1, 1-19-94; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-72. Intent of division.

This division is intended to be construed in conjunction with standard codes relating to building, plumbing, mechanical, electrical, fire and floodplain management adopted by Lee County Ordinance.

(Ord. No. 83-34, § 3, 11-2-83; Ord. No. 87-25, § 3, 10-13-87; Ord. No. 94-01, § 3, 1-19-94; Ord. No. 13-10 , § 2, 5-28-13)

Sec. 6-73. Board established; jurisdiction.

There is hereby established a Board of Adjustment and Appeals, which will be known as the Lee County Board of Adjustment and Appeals. The purpose of this board is to hear and decide appeals from the decision of the Building Official, Fire Official, County Flood Insurance Coordinator ("coordinator"), or their designees, on any of the various standard codes regulated and enforced by the County.

(Ord. No. 83-34, § 2, 11-2-83; Ord. No. 87-25, § 2, 10-13-87; Ord. No. 94-01, § 2, 1-19-94; Ord. No. 13-10 , § 2, 5-28-13)

Sec. 6-74. Membership; appointment of members.

The Board of Adjustment and Appeals will consist of 13 members as follows: one architect or engineer, one general contractor, one residential or building contractor, one plumbing contractor, one electrical contractor, one mechanical contractor, one aluminum contractor, one solar contractor, one representative from the fire service, one roofing contractor, one sign or outdoor advertising contractor, one mobile home installer and one representative of disabled persons. Members of the county board of adjustment and appeals will be appointed by the Board of County Commissioners.

(Ord. No. 83-34, § 4, 11-2-83; Ord. No. 94-01, § 4, 1-19-94; Ord. No. 09-23 , § 3, 6-23-09)

Sec. 6-75. Term of office.

Of the members first appointed to the Board of Adjustment and Appeals, four shall be appointed for a term of one year, five for a term of two years, and four for a term of three years. Thereafter members shall be appointed for a term of four years. Vacancies shall be filled for an unexpired term in the same manner in which original appointments are required to be made; providing, however, that any appointment to fill a vacancy for an unexpired term shall be made only to fill the completion of the original term. Continued unexcused absence of any member from three consecutive regular meetings of the board shall be construed as a voluntary resignation, and the Board of County Commissioners shall appoint a new member to fulfill the unexpired term of the resigned member.

(Ord. No. 83-34, § 5, 11-2-83; Ord. No. 94-01, § 5, 1-19-94)

Sec. 6-76. Quorum.

Seven members of the Board of Adjustment and Appeals shall constitute a quorum. Variation with respect to the application of any provision of the standard code or modification of any order of the building official, fire official, coordinator or their designees, requires an affirmative of the majority vote among the board members present. An affirmative majority vote must consist of at least four affirmative votes. Any member of the Board of Adjustment and Appeals shall not act in any case in which he has a personal interest.

(Ord. No. 83-34, § 6, 11-2-83; Ord. No. 94-01, § 6, 1-19-94)

Sec. 6-77. Meetings; rules of procedure.

The Board of Adjustment and Appeals shall establish rules and regulations for its own procedure not inconsistent with this Land Development Code or the county administrative code. Such procedure shall be approved and designated by resolution of the Board of County Commissioners or become a part of the county administrative code. The Board of Adjustment and Appeals shall meet at regular intervals, to be determined by its chairman, or, in any event, the board shall meet within 15 days after an appeal has been filed unless for good cause for delay can be shown.

(Ord. No. 83-34, § 8, 11-2-83; Ord. No. 94-01, § 8, 1-19-94)

Sec. 6-78. Records.

The building official or his designee shall act as ex officio secretary of the Board of Adjustment and Appeals, and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member participating therein, the absence of a member, and any failure of a member to vote.

(Ord. No. 83-34, § 7, 11-2-83; Ord. No. 94-01, § 7, 1-19-94)

Sec. 6-79. Funding; staff.

The Board of County Commissioners is hereby authorized to annually expend such county funds and do all things and employ such clerical and other help as may be necessary to effectuate the purposes of this division. Such purposes are hereby determined and declared to be county purposes.

(Ord. No. 83-34, § 11, 11-2-83; Ord. No. 94-01, § 11, 1-19-94)

Sec. 6-80. Right of appeal; notice of appeal.

(a) When it is claimed that the true intent and meaning of a code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official, fire official, flood plain coordinator or their designees to the Board of Adjustment and Appeals. Notice of appeal must be in writing and filed within 30 days after the decision is rendered by the building official, fire official, flood plain coordinator or their designees. Requests for appeal must be on forms provided by the Department of Community Development. The fee required by the administrative code must accompany the notice of appeal.

(b) In the case of a building or structure which in the opinion of the building official is unsafe or dangerous, the building official may, in his order, limit the time for such appeal to a shorter period.

(Ord. No. 83-34, § 9, 11-2-83; Ord. No. 88-47, § 4B, 9-28-88; Ord. No. 89-08, § 2, 4-5-89; Ord. No. 94-01, § 9, 1-19-94; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-81. Variations; modification of orders.

(a) The Board of Adjustment and Appeals, pursuant to an appeal from a decision of the fire official, flood plain coordinator or their designees, may vary the application of a code to any particular case when, in its opinion and based upon sufficient evidence, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of a code or public interest, or when, in its opinion and based upon sufficient evidence to the contrary, the interpretation of the fire official, flood plain coordinator or their designees should be modified or reversed.

(b) Decisions of the Board of Adjustment and Appeals to vary the application of a provision of a code or to modify an order of the fire official, flood plain coordinator or their designee must specify the variation or modification made, the conditions upon which it is made, and the reasons therefor.

(Ord. No. 83-34, § 10(1), 11-2-83; Ord. No. 94-01, § 10(1), 1-19-94; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-82. Decisions.

(a) Decisions of the Board of Adjustment and Appeals will be final; subject, however, to any remedy an aggrieved party might have at law or in equity. Decisions must be in writing and must indicate the vote upon the decision. Decisions of the Board of Adjustment and Appeals must be signed and attested to by the chairman of the board.

(b) The Board of Adjustment and Appeals must, in every case, reach a decision without unreasonable or unnecessary delay.

(c) If a decision of the Board of Adjustment and Appeals reverses or modifies a refusal, order or disallowance of the fire official, coordinator or their designees, or varies the application of a provision of a code, the appropriate official will immediately take action in accordance with that decision.

(d) Any aggrieved person may obtain judicial review of the decision of the Board of Adjustment and Appeals by filing a petition for writ of certiorari in the circuit court. Such petition must be filed within 30 calendar days after the Board of Adjustment and Appeals' decision, but not thereafter, pursuant to the Florida Rules of Civil Procedure. The original petition for writ of certiorari must be filed with the clerk of the circuit court. Copies of the petition must be filed with the Department of Community Development for forwarding to the county attorney's office.

(Ord. No. 89-08, § 3, 4-5-89; Ord. No. 94-01, § 9(2), 1-19-94; Ord. No. 06-17 , § 1, 9-26-06)

Secs. 6-83—6-110. Reserved.

FOOTNOTE(S):

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Cross reference— Administration, ch. 2. (Back)

DIVISION 3. BUILDING CODE [3]

Sec. 6-111. Statewide effectiveness; amendments.

The statewide effectiveness of the Florida Building Code (FBC) is codified in Florida Statutes Chapter 553. The FBC is hereby adopted by reference and made a part of this article and is supplemented with the addition of the following:

Florida Building Code Chapter 1, Administration.

FBC Section 104 pertaining to the Duties and Powers of the Building Official is amended to include the following:

Right of entry. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the building official has reasonable cause to believe that there exists a condition or code violation that makes the building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter the building, structure or premises at all reasonable times to inspect the same or to perform the duties imposed upon the building official by this code.

If the building or premises are occupied, the building official must first present proper credentials and request entry. If the building, structure, or premises are unoccupied, he must make a reasonable effort to locate the owner or other persons having charge or control of the building and request entry. If entry is refused, the building official has recourse to every remedy provided by law to secure entry.

When the building official has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or other persons having charge, care or control of any building, structure, or premises may fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this code.

FBC Section 105.4 relating to Conditions of the Permit is amended to include the following:

Revocation of permits. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of an ordinance, regulation, or provisions of this code.

Misrepresentation of application. The building official may revoke a permit or approval issued under the provisions of this code, where there has been false statements or misrepresentations as to material facts in the application or plans on which the permit or approval was based.

Violation of code provisions. The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

Not authority to violate other ordinances or regulations. An issued permit will be construed as a license to proceed with the proposed work, but will not be construed as authority to violate, cancel, alter or set aside the provisions of this code or other County ordinance or regulation, nor will issuance of a permit prevent the building official from thereafter requiring the timely correction of errors in plans or in construction, or of violations of this code.

Transferability of permit. Although a permit issued to an owner is transferable to another owner, actual notice must be provided to the building official prior to transferring the permit.

Other requirements.

Building permits will be issued following the approval of site and construction plans.

Building permits on multi-family projects will be issued on each individual building or structure.

Multi-tenant occupancies including, but not limited to, shopping malls, may be permitted on an individual building or structure (shell), however, individual permits will be used separately for tenant spaces.

Foundation inspections. The first inspection required by the permit must be successfully completed within a six-month period of issuance or the permit will be deemed invalid. All subsequent inspections must be made within a six-month period of the most recent passed inspection until completion of work, or the permit will become invalid.

For purposes of this section, the foundation inspection will be considered the first inspection. The entire foundation must be completed within the first six months from the date of issuance of the permit. Partial inspections due to complexity of foundation may be made with building inspector's plans and job site plans and will be initialed by the inspector only on that portion of the plans that is inspected and these inspections are for compliance to plans and specifications and are in no way to be construed as the first inspection. Subsequent inspections may be made until the entire foundation is completed. At that time, the foundation will be signed off as the first inspection.

Use permits. A use permit, authorizing a use in accordance with the provisions of Chapter 34 of the Lee County Land Development Code, is required prior to occupancy or a change of occupancy of commercial or industrial zoned property.

FBC Section 105.4.1.4 relating to Permits is amended to include the following:

Additional fees. Fees for renewal, reissuance or extension of a building permit may also require the payment of new or increased impact fees that have become effective since the first issuance of the permit.

(Ord. No. 92-36, § 7.004, 8-19-92; Ord. No. 94-25, § 1, 9-21-94; Ord. No. 96-06, § 3, 3-20-96; Ord. No. 98-06, § 1, 3-24-98; Ord. No. 02-20, § 2, 6-25-02; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-112. Lee County Wind Borne Debris Region and Basic Wind Speed Map.

The *Lee County Wind Borne Debris Region and Basic Wind Speed Map,* as depicted in Appendix M, establishes the geographical boundaries of the wind speed zones and the wind borne debris region in Lee County. The wind speed lines and wind borne debris region coincide with Figures 1609A (Ultimate Design Wind Speeds - Risk Category II Buildings), 1609B (Ultimate Design Wind Speeds - Risk Category III & IV Buildings), and 1609C (Ultimate Design Wind Speeds - Risk Category I Buildings), of the Florida Building Code.

(Ord. No. 01-02, § 2, 2-12-02; Ord. No. 12-16 , § 1, 8-28-12)

Sec. 6-113. Compliance with outdoor lighting standards.

All building permits must comply with the requirements of section 34-625 of the Land Development Code.

(Ord. No. 03-16, § 2, 6-24-03)

Sec. 6-114. Management and removal of construction site trash and debris.

(a) *Unlawful to bury.* It is unlawful to bury construction site trash or debris on the construction site or on any other public or private property not specifically approved for such use.

(b) *Trash containers and collection service.* A suitable trash container and adequate collection service must be provided for each construction site. For purposes of this requirement, a "suitable container" means a structure, device, receptacle, or other container approved by the County, which holds and contains construction debris on the construction site in a central location long enough for it to be removed from the site by means of whatever collection service the contractor chooses to use or may be required to use pursuant to other applicable laws, before such debris is:

(1) Washed or blown off-site;

(2) Contaminates subsurface elements;

(3) Becomes volatile or malodorous;

(4) Makes an attractive nuisance or

(5) Otherwise becomes a threat to the public health, safety and welfare.

(Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-115. Maintenance.

(a) *Purpose of this section.* The purpose of this section is to protect the comfort, health, safety, and general welfare of the citizens of unincorporated Lee County by:

(1) Establishing minimum building and structure maintenance standards; and

(2) Providing for the abatement of nuisances affecting the general public.

(b) *Provisions are supplementary.* The maintenance standards in this section are supplementary to standards that are found in other sections of this code and in other ordinances of Lee County.

(c) *Maintenance required.*

(1) Buildings, structures, pools, electrical, gas, mechanical and plumbing systems, both existing and new, and all parts thereof, must be maintained in a safe and sanitary condition. Devices and safeguards that are required by the technical codes when constructed, altered or repaired, must be maintained in good working order. The owner, or his designated agent, will be responsible for the maintenance of buildings, structures, pools, electrical, gas, mechanical and plumbing systems.

(2) *Exterior surfaces of buildings, including roofs.*

a. Building walls and roofs must be maintained as follows:

1. Building walls and roofs must be maintained in a secure and attractive manner.

2. Deteriorated or damaged structural and decorative elements of any building wall or roof must be repaired or replaced in a workman-like manner to match as closely as possible the materials and construction of the building.

3. Roofs must be maintained in a secure and waterproof condition.

b. Doors, windows and screens must be maintained as follows:

1. Doors and windows must be secure in a tight fitting and weatherproof condition.

2. Sashes/sills with rotten wood must be repaired or replaced.

3. Torn or damaged screens must be promptly repaired.

c. Awnings or canopies must be maintained in good condition. Torn or loose awnings must be promptly repaired or replaced.

d. Screen rooms, pool cages and screen enclosures must be maintained in a secure and attractive manner. Deteriorated or damaged structural and decorative elements of any screen rooms, pool cages and screen enclosures must be repaired or replaced in a workmanlike manner to match as closely as possible the materials and construction of the building.

e. Soffit and facia must be maintained in good condition. All damaged or missing soffit or facia must be repaired or replaced in a workmanlike manner to match as closely as possible the material and construction of the existing soffit and facia.

(3) *Fences.* Fences and non-roofed walls must be maintained in a secure and attractive manner. Deteriorated or damaged structural and decorative elements of any fence or non-roofed wall must be repaired or replaced in a workmanlike manner to match as closely as possible the materials and construction of the fence or non-roofed wall. Fences and non-roofed walls must be maintained as to appear vertical to the unassisted eye.

(4) *Docks and seawalls.* Docks and seawalls must be maintained in a secure and attractive manner. Deteriorated or damaged structural and decorative elements of docks or seawalls must be repaired or replaced in a workmanlike manner to match as closely as possible the materials and construction of the dock or seawall. Docks and seawalls must be maintained as to appear vertical to the unassisted eye.

(5) *Signs.* Signs must be maintained in a secure and attractive manner. Deteriorated or damaged structural and decorative elements of a sign must be repaired or replaced in a workmanlike manner to match as closely as possible the materials and construction of the sign.

(6) *Permits and development orders.* The characterization of construction activity as either a repair or maintenance does not relieve the property owner from the responsibility of obtaining all permits or development orders necessary to comply with the foregoing provisions of this section.

(d) *Nuisances.*

(1) No person owning, leasing, operating or having control of premises may maintain, keep or permit any nuisance as described in this section.

(2) The existence of any of the following conditions or conduct is hereby declared to be a public nuisance:

a. Buildings that are abandoned.

b. Buildings that are boarded up, except when placed for temporary hurricane protection and removed within 30 days.

c. Buildings that are partially destroyed and not rebuilt or repaired within a reasonable temporary period.

d. Partially constructed buildings or structures for which building permits have expired.

e. Attractive nuisances dangerous to children such as untended or unfenced excavations, untended or unenclosed swimming pools, or abandoned or broken equipment or machinery.

f. Blocking of drainage swales or pipes so as to cause flooding or adversely affect surrounding property.

g. Outdoor storage on private property of boats and motor vehicles and trailers that are not affixed with a current registration decal.

(Ord. No. 06-17 , § 1, 9-26-06; Ord. No. 13-10 , § 2, 5-28-13)

Sec. 6-116. Building permit extensions.

(a) *Duration of a building permit.* A building permit is valid for 180 days from date of issuance or from the date of the last approved and required inspection. Permits that have not passed a required inspection within 180 days from date of issuance of the permit, or from the date of a previously approved and required inspection, may be extended for an additional 90 days. Failure to either pass a required inspection or request a permit extension within the 180-day period provided will result in expiration of the permit. Thereafter, a new permit will be required to continue construction.

(b) *Permit extensions by the Building Official.*

(1) Permit extensions may be granted by the Building Official or designee, subject to the criteria set forth in this section. Permit extension requests must be submitted in writing no later than seven days prior to the expiration of the building permit. The permit extension request must include:

a. The permit number;

b. Construction site address;

c. Responsible contractor's name;

d. A detailed statement setting forth the reasons or factors making the extension necessary; and

e. Documentation providing evidence of a good faith effort toward completion of construction.

Failure to provide satisfactory proof of a good faith effort constitutes an appropriate basis for denial of the request for a permit extension.

(2) *Basis for grant of extension.* The Building Official may, but is not required to, grant a permit when, based upon sufficient evidence, the Building Official finds:

a. Demonstration of a good faith effort with respect to completion of construction during the effective period of the building permit; and

b. The delay in completing construction was due to factors outside of the builder, developer, or property owner's control.

(c) *Conditions on extension.* The Building Official may impose conditions as part of the permit extension. Any conditions imposed will be determined at the time the Building Official makes a decision. These conditions may include, but are not limited to, requiring:

(1) Compliance with all current technical codes and other county and state regulations effective at the time of the request for extension;

(2) Payment of any incremental increase in impact fees since the permit was initially issued or a previous extension was granted; or

(3) Submission of revised plans.

(d) *Fees.* The Building Official will charge a fee for the processing of each permit extension request, in accordance with the applicable schedule of fees.

(e) *Applicability.* This provision applies to all permits issued under this chapter.

(Ord. No. 09-23 , § 3, 6-23-09)

Sec. 6-117. Improvements or repairs not requiring a permit.

FBC Section 105.2 pertaining to work exempt from permit is amended to include the following:

The following individual improvements or repairs performed within a 12-month period to a single individual dwelling unit do not require a permit. This exemption does not apply to any combination of items that exceed $500.00 or improvements undertaken as part of a larger project or work being performed on multiple dwelling units:

(a) Replacement of windows, doors or garage doors, within any 12-month period, when less than 25 percent of the total glazed area.

(b) Replacement of a water heater.

(c) Replacement of plumbing or electric fixtures.

(d) Installation, replacement or repair of low voltage systems for the following:

(1) Telephones;

(2) Data transmission;

(3) Fire and security systems;

(4) Closed circuit and cable TV paging systems and speakers;

(5) Landscaping and pool lighting.

(e) Roof repair, including replacement of wood, within any 12-month period, when less than 25 percent of the total roof area.

(f) One hundred square feet or less of drywall, within any 12-month period, where no fire separation is involved.

(g) A building permit is not required for the following non-commercial accessory structures when placed on a residentially zoned property:

(1) *Car cover.* Must be less than 200 square feet in size and less than ten feet in height, with a wood, metal or plastic frame and covered with canvas, plastic or vinyl covering.

(2) *Garden or yard trellis.* Must be less than 200 square feet in size and less than 12 feet in height.

Accessory building or structure setbacks must be observed and may not include electrical or plumbing.

(Ord. No. 11-08 , § 3, 8-9-11; Ord. No. 13-10 , § 2, 5-28-13)

Secs. 6-118—6-210. Reserved.

Editor's note—

Ord. No. 02-20, § 2, adopted June 25, 2002, repealed Divs. 4—7, §§ 6-131, 6-151, 6-171, 6-191, which pertained to the plumbing code, mechanical code, gas code and the electrical code. See the Code Comparative Table for a detailed analysis.

FOOTNOTE(S):

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Cross reference— Construction standards for coastal building zone, § 6-361 et seq. (Back)

DIVISION 4. UNSAFE BUILDING ABATEMENT CODE [4]

Sec. 6-211. Adoption; amendments.

The following sections of the 1985 Standard Unsafe Building Abatement Code, as published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, are hereby adopted and made part of this article as follows:

Chapter I, Administration.

Section 105, relating to the Board of Adjustment and Appeals, is deleted, and the latest adopted county ordinance relating to the Board of Adjustment and Appeals is substituted therefor.

Chapter II, Definitions.

Chapter III, Inspection and Notice of Noncompliance.

Chapter IV, Appeals.

Chapter V, Rules of Procedure for Hearing Appeals.

Chapter VI, Implementation.

Chapter VII, Recovery of Cost of Repair or Demolition.

Exception: If the building official proceeds to demolish the building or structure as set forth herein, the Chairman of the Board of County Commissioners, on behalf of the entire Board, will execute a resolution, assessing the entire cost of demolition and removal against the real property upon which the cost was incurred. Assessments will constitute a lien upon the property superior to all others except taxes. The lien will be filed in the public land records of the county. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date the notice of lien is filed and bears interest from the date of filing at a rate of ten percent per annum. If the resulting lien is not satisfied within two years after the date it is filed, then the county may:

1. File suit to foreclose on the liened property as provided by law in suits to foreclose mortgages; or,
2. Follow any other lawful process or procedure available for enforcement of the lien in accordance with any general law of the state relating to the enforcement of municipal liens.

(Ord. No. 92-36, § 7.009, 8-19-92; Ord. No. 97-10, § 2, 6-10-97)

Secs. 6-212—6-221. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 02-20, § 2, adopted June 25, 2002, renumbered former Div. 8 as Div. 4. See the Code Comparative Table for a detailed analysis of inclusion. (Back)

DIVISION 5. MINIMUM STANDARD HOUSING CODE [5]

Sec. 6-222. Minimum standard housing code.

The following section of the 1988 Standard Housing Code, as published by the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama, 35213-1206, are hereby adopted and made a part of the Lee County Construction Code as follows:

(1) *Chapter 1—Administration:.*

a. **Exception:** Delete section **101.4.3** and replace with new section **101.4.3** as follows:

If the occupancy classification of an existing building is changed, the building shall be made to conform to the intent of the applicable Lee County codes which are in effect at the time of the change.

b. **Exception:** Delete section **103.2.2(4)** and replace with new section **103.2.2(4)** as follows:

4. State that, if such repairs, reconstruction, alterations, removal or demolition are not voluntarily completed within the stated time as set forth in the notice, the housing official shall institute such legal and/or administrative proceeding as may be appropriate.

c. **Exception:** Delete section **103.4** and replace with new section **103.4** as follows:

An officer or employee, or member of any Lee County board, charged with the enforcement of this code, in the discharge of his duties, shall not thereby render himself liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties.

d. **Exception:** Delete section **104** and replace with new section **104** as follows:

104.1 Inspections

The housing official shall make, or cause to be made, inspections to determine the condition of residential buildings and premises in the interest of safeguarding the health and safety of the occupants of such buildings and of the general public. For the purpose of making such inspections, the housing official, or his designee, is hereby authorized to enter, examine and survey, at all reasonable times, any residential building or premises. If the owner, agent, tenant or other person in charge thereof refuses to allow the housing official, or his designee, free access to such building or premises, the housing official may obtain a duly issued search or administrative warrant, pursuant to F.S. ch. 933, as from time to time amended, or any other applicable law which may be in effect at the time such warrant is sought.

104.2 Administration and enforcement of complaints.

No official action with respect to a suspected or alleged violation of any provision of this code shall be undertaken until the following conditions have been met: (1) Complaining party has produced to the housing official sufficient proof of tenancy or right of entry into the subject dwelling unit (i.e., lease agreement, receipt for rental payment); (2) Tenant/occupant has provided authorization for housing official to inspect the premises; and (3) Complaining party has produced evidence of notification to the owner of the alleged deficiencies with respect to the housing. Once the foregoing conditions have been met, the housing official or his designee shall inspect the building to determine the validity of the complaint and thereafter take appropriate action to remedy any violations of this code found to exist. However, the above-stated conditions shall not apply in the event the housing official or a subordinate of the housing official files a complaint based upon first-hand knowledge or observation.

e. **Exception:** Delete section 106, relating to the housing Board of Adjustment and Appeals and substitute with the latest adopted ordinance of the Board of Adjustment and Appeals.

f. **Exception:** Delete section 107 and replace with new section 107 as follows:

Any person receiving written notice from the housing official of deficiencies on his property under this code may, within 30 days following the date of such notice, enter an appeal, in writing, to the Lee County Board of Adjustments and Appeals. Such appeal shall be filed and heard in accordance with the board's normal procedures as they exist at the time the appeal

is filed. In addition to the board's general powers and jurisdiction, it shall have the authority to:

(1) Consider and determine appeals with respect to any claims that the true intent and meaning of this code or any of its regulations have been misconstrued or wrongly interpreted.

(2) Permit, in appropriate cases, one or more extensions of time, not to exceed 120 days each, to allow additional time to perform the activities required pursuant to this code. The determination as to appropriateness is to be considered on a case-by-case basis. The factors that shall be considered include, but are not limited to, the hardship that would be imposed upon the owner in complying within the stated time frame. Any request for additional extensions of time shall be filed with the housing official at least 30 days prior to the expiration of the current extension time period.

(2) *Chapter 2—Definitions*

a. **Exception:** Delete the definition of "building" found in section 202 and replace with a new definition of "building" to be used when construing minimum housing provisions, as follows:

BUILDING—Any structure built or used for shelter or enclosure of persons which has enclosing walls sheltering 50 percent or more of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof" and shall include mobile homes, manufactured homes and all recreational vehicles which have been established as units for permanent living by the filing of a declaration of domicile with the clerk of the circuit court on or before October 21, 1985; provided, however, that the building or part thereof also is offered for rent or lease, regardless of when such building may have been constructed; and provided further, that the foregoing definition specifically excludes condominium, cooperative and time-share units, hotels and motels, and any building rented for 30 days or less in any 12-month period.

b. **Exception:** The following definitions are hereby adopted and made a part of the Lee County Construction Code:

1. MOTEL is defined by the standard text definition of "hotel."

2. CONDOMINIUM—A type of ownership in a multiunit property that complies with the provisions of F.S. ch. 718, where each owner has an individual deed on the unit together with an undivided share in the common elements which are appurtenant to the unit.

3. COOPERATIVE—A type of ownership in a multiunit property that complies with the provisions of F.S. ch. 719, where each owner has a share in a corporation that owns or leases the multiunit property and entitles the shareholder to the exclusive possession of a unit, together with an undivided share in the assets of the corporation which is appurtenant to the unit.

4. TIME-SHARE—A type of ownership that complies with the provisions of F.S. ch. 721, where a purchaser, in exchange for consideration, receives ownership rights to occupy a unit for a period of time less than a full year for the duration stated in the instrument of conveyance.

(3) *Chapter 3—Minimum Standards for Basic Equipment and Facilities*

a. **Exception:** Delete section 301 and replace with new section 301 as follows:

No person shall let or sublet to another for occupancy all or part of any building, as defined above, that constitutes a dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements:

b. **Exception:** Delete section 302.2 and replace with new section 302.2 as follows:

All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet, tub or shower and lavatory shall be located in a room affording privacy to the user. Bathrooms shall be accessible from habitable rooms, hallways, corridors or other protected or enclosed areas.

c. **Exception:** Delete section 302.4 and replace with new section 302.4 as follows:

Every dwelling unit shall have water-heating facilities which are properly installed, maintained in a safe and good working condition, and capable of heating water to such temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature not less than 110 degrees Fahrenheit. Minimum storage capacity of the water heater shall be 10 gallons. Such water-heating facilities shall be capable of meeting the requirements of this subsection when the dwelling or dwelling unit heating facilities required under the provisions of this code are not in operation. Apartment houses may use a centralized water-heating facility capable of heating an adequate amount of water as required by the plumbing code, adopted herein at section 6-131, to not less than 110 degrees Fahrenheit.

d. **Exception:** The following language shall be added to section 302.5:

This section and its subsections shall only apply if the Standard Building Code (as published by the Southern Building Code Congress) and any local amendments thereto, required heating facilities at the time the building was constructed.

e. **Exception:** Delete section 302.5.3 and replace with new section 302.5.3 as follows:

Unvented fuel burning heaters shall be prohibited except for gas heaters listed for unvented use where the total input rating of the unvented heater is less than 30 Btu per hour per cubic foot of room content and provided that the gas heater is installed pursuant to the Gas Code as adopted herein at section 6-171. Notwithstanding the above, all unvented fuel-burning heaters shall be prohibited in bedrooms and sleeping areas.

f. **Exception:** The following language shall be added to section 306.1:

However, this requirement shall not apply to mobile homes, manufactured homes and recreational vehicles constructed and inspected pursuant to F.S. ch. 320.

g. **Exception:** Delete section 306.2 and replace with new section 306.2 as follows:

In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof. However, this requirement shall not apply to mobile homes, manufactured homes and recreational vehicles constructed and inspected as per F.S. ch. 320.

h. **Exception:** The following language shall be added to section 307.4:

Notice shall be pursuant to, and consistent with, applicable local regulations.

i. **Exception:** Delete section 307.5 and replace with new section 307.5 as follows:

Every owner of a building as defined above shall be responsible for the extermination of any insects, rodents or other pests within the building or premises, unless an applicable written lease requires otherwise.

(Ord. No. 94-05, § 1, 2-1-6-94)

Secs. 6-223—6-330. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 02-20, § 2, adopted June 25, 2002, renumbered former Div. 9 as Div. 5. See the Code Comparative Table for a detailed analysis of inclusion. (Back)

ARTICLE III. COASTAL CONSTRUCTION CODE [6]

DIVISION 1. - GENERALLY

DIVISION 2. - CONSTRUCTION STANDARDS FOR COASTAL BUILDING ZONE

FOOTNOTE(S):

--- (**6**) ---

Cross reference— Floods, § 6-401 et seq.; marine facilities and structures, ch. 26. (Back)

DIVISION 1. GENERALLY

Sec. 6-331. Findings of fact.

The Board of County Commissioners finds the following facts to be true and a sufficient basis, either individually or in combination, to justify the requirements which are set forth in division 2 of this article:

(1) The coastal zone plays an important role in protecting the environment and the public health, safety and welfare of the citizens of the county, but in recent years the county's coastal areas have been subjected to increasing growth pressures; and, unless these pressures are controlled, the very features which make coastal areas economically, aesthetically and ecologically rich will be destroyed.

(2) The coastal zone forms the first line of defense for the mainland against both winter storms and hurricanes in that the dunes of the coastal zone perform protective functions for public and private property, but placement of permanent structures in these protective areas may lead to increased risks to life and property and increased costs to the public. The coastal zone protects lagoons, salt marshes, estuaries, bays, marine habitats and the mainland from the direct action of ocean waves or storm surges, absorbs the forces of oceanic activity, protects calmer waters and stable shores, and is a dynamic geologic system with topography that is subject to alteration by waves, storm surges, flooding or littoral currents.

(3) The coastal zone is one of the county's most valuable resources and has extremely high recreational and aesthetic value which should be preserved and enhanced. The coastal zone provides a unique habitat for flora and fauna and protects estuaries that are a vital link of the food chain.

(4) It is anticipated that there will be a tremendous cost to the county and state for post-disaster redevelopment in the coastal zone, but the costs can be reduced by preventive measures, which should be taken on a continuing basis in order to reduce the harmful and costly consequences of natural and manmade disasters, emergencies or hazards.

(Ord. No. 91-21, § 2, 7-31-91)

Sec. 6-332. Intent of article; applicability of article.

The purpose of this article is to provide minimum standards for the design and construction of buildings and structures to reduce the harmful effects of hurricanes and other natural disasters occurring along the coastal areas of the county which front on the Gulf of Mexico and San Carlos Bay. These standards are intended to specifically address design features which affect the structural stability of the beach, dunes and topography of adjacent properties. This article is site-specific to the coastal building zone as defined in this article, and is not applicable to other locations. In the event of a conflict between this section and other sections of this article, the requirements resulting in the more restrictive design will apply. No provisions in this article will be construed to permit any construction in any area where prohibited by state or federal regulation.

(1) *Applicability generally.* The requirements of this article will apply to the following types of construction in the county coastal building zone:

a. The new construction of, improvement to or repair of structures when involving greater than 50 percent of the market value of the major structure, nonhabitable major structure and minor structure either:

1. Before the improvement or repair was initiated; or

2. If the structure is damaged and is being restored, before the damage occurred.

b. Construction which would change or alter the character of the shoreline, e.g., excavation, grading or paving. This article does not apply to minor work in the nature of normal beach cleaning or debris removal.

(2) *Structures under construction.* The requirements of this article will not apply to structures under construction for which a valid and unexpired county building permit was issued prior to March 19, 1986.

(3) *Multizone structures.* For structures located partially in the coastal building zone, the requirements of this article will apply to the entire structure.

(4) *Construction seaward of mean high water.* Structures or construction extending seaward of the mean high-water line which are regulated by F.S. § 161.041, e.g. groins, jetties, moles, breakwaters, seawalls, revetments, beach nourishment, inlet dredging, etc., are specifically exempt from the provisions of this article. In addition, this article does not apply to piers, pipelines or outfalls which are regulated pursuant to the provisions of F.S. § 161.053.

(5) *Certification of compliance.* Plans for buildings in the coastal building zone must be signed and sealed by an architect or engineer registered in the state. Upon completion of the building and prior to the issuance of a certificate of occupancy, a statement must be filed with the building official, signed and sealed by an architect or engineer registered in the state and in substantially the following form: "To the best of my knowledge and belief the above-described construction of all structural loadbearing components complies with the permitted documents and plans submitted to the Building Department."

(Ord. No. 91-21, § 3, 7-31-91; Ord. No. 94-22, § 1, 8-17-94; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-333. Definitions.

(a) The following words, terms and phrases, when used in this article, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beach or *shore* has the same meaning given it in section 14-170.

Coastal barrier islands means geological features which are completely surrounded by marine waters that front upon the open waters of the Gulf of Mexico, including Gasparilla Island (including Boca Grande Isles), Cayo Costa Island, North Captiva Island, Captiva Island, Estero Island, Lovers Key and Bonita Beach, and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment or other material, including spoil disposal. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce will not be considered coastal barrier islands.

Coastal building zone means the coastal barrier islands, Buck Key, Black Island, Big Hickory Island, Long Key and the unnamed mangrove island between Broadway and Hogue Channels in their entirety and the land area 3,000 feet landward of mean high water from the western tip of Punta Rassa to the peninsula north of Pelican Bay with the eastern boundary being the eastern shoreline at mean high water of the peninsula in Siesta Isles. The bay islands in Gasparilla Sound, Pine Island Sound (including Cabbage Key and Useppa Island), Matlacha Pass and Estero Bay and Pine Island, San Carlos Island and the mainland area not expressly referred to in this definition are excluded from the provisions of this article.

Coastal construction control line means the landward extent of that portion of the beach-dune system which is subject to severe fluctuations based upon a 100-year storm surge, storm waves or other predictable weather conditions, as established by the state department of environmental protection in accordance with F.S. § 161.053. A copy of the aerials depicting the coastal construction line are recorded in the public records at PB. 48, PG. 15-34.

Construction means the carrying out of any building, clearing, filling, excavation or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, the term "construction" refers to the act of construction or the result of construction.

Dune has the same meaning given it in section 14-170.

Major structure includes, but is not limited to, residential, commercial, institutional, industrial or other public buildings and other construction having the potential for substantial impact on the coastal building zone.

Mean high-water line means the intersection of the tidal plane of mean high water with the shore. Mean high water is the average height of high waters over a 19-year period. (See F.S. § 177.27(15).)

Minor structure includes, but is not limited to, pile-supported elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported viewing platforms, gazebos and boardwalks; lifeguard support stands; public and private bathhouses, sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts and other uncovered paved areas; earth retaining walls; and ornamental garden structures, aviaries and other ornamental construction. Minor structures are those structures considered expendable under design wind, wave and storm forces.

Mobile home or *manufactured home* means housing which conforms to the Federal Manufactured Housing Construction and Safety Standards pursuant to F.S. § 320.823. However, a mobile home or manufactured home is not a manufactured building as defined in F.S. ch. 553, pt. IV.

NAVD 88 means North American Vertical Datum of 1988, the vertical control datum of orthometric height based upon the General Adjustment of the North American Datum of 1988. NAVD 88 replaced the National Geodetic Vertical Datum of 1929 (NGVD 29).

Nonhabitable major structure includes, but is not limited to, swimming pools; parking garages; pipelines; piers; canals, lakes, ditches, drainage structures and other water-retention structures; water and sewage treatment plants; electrical power plants, transmission and distribution lines, transformer pads, vaults and substations; roads, bridges, streets and highways; underground or aboveground storage tanks; communications buildings and towers; and flagpoles and signs over 15 feet in height.

100-year storm means a shore-incident hurricane or any other storm with accompanying wind, wave and storm surge intensity having a one percent chance of being equaled or exceeded in any given year, during any 100-year interval.

State minimum building code means the Florida Building Code.

Substantial improvement means any repair, reconstruction, rehabilitation or improvement of a structure, the cost of which equals or exceeds, over a five-year period, a cumulative total of 50 percent of the market value of the structure either:

(1) Before the repair or improvement is started; or

(2) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.

The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are necessary solely to ensure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or the state inventory of Historic Places, or designated as a historic resource, individually, or as a contributing property in a historic district, under chapter 22.

(b) Unless specifically defined in this article, the words or phrases used in this article and not defined in subsection (a) of this section will be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

(Ord. No. 91-21, § 4, 7-31-91; Ord. No. 92-46, § 2, 10-21-92; Ord. No. 94-22, § 1, 8-17-94; Ord. No. 00-14, § 2, 6-27-00; Ord. No. 05-14 , § 2, 8-23-05; Ord. No. 06-17 , § 1, 9-26-06; Ord. No. 13-10 , § 2, 5-28-13)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 6-334. Conflicting provisions.

Whenever the requirements or provisions of this article are in conflict with the requirements or provisions of other lawfully adopted ordinances, the most restrictive requirements will apply.

(Ord. No. 91-21, § 11, 7-31-91; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-335. Penalty for violation of article.

Any person who violates the provisions of this article will, upon conviction, be punished as provided in section 1-5, and must pay all costs and expenses involved in the case. Each day the violation continues will be considered a separate offense.

(Ord. No. 91-21, § 9, 7-31-91; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-336. Additional remedies.

In addition to the criminal penalties that may be imposed pursuant to section 6-335, the county will have recourse to those remedies in law and equity that may be necessary to ensure compliance with the provisions of this article, including injunctive relief to enjoin and restrain a person from violating this article.

(Ord. No. 91-21, § 10, 7-31-91; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-337. Enforcement of article.

The provisions of this article are to be enforced by the director of the department of community development or his designee.

(Ord. No. 91-21, § 6, 7-31-91)

Sec. 6-338. Variances.

(a) The Board of Adjustment and Appeals is authorized to hear and grant variances from the provisions of this article.

(b) A request for variance will be heard on the board's regularly scheduled agenda after the applicant has:

  (1) Submitted a written request for a variance to the division of codes and building services upon the forms provided; and

  (2) Paid the applicable fee as established by the county administrative code.

(c) An application must identify the precise scope of the variance being requested and provide a written analysis of the effect the granting of the variance will have on the natural function of the coastal building zone. The application must also include a suggested plan for minimizing any degradation to health and safety or the natural function of the coastal building zone.

(d) The board may not grant the requested variance unless it finds from the evidence produced that:

(1) The applicant has complied with the requirements of subsection (c) of this section and the written analysis and plans submitted with the application meet minimum professional geologic and environmental engineering standards and the data upon which all calculations are based is accurate;

(2) The applicant has proven that failure to grant the variance will cause the applicant to suffer a hardship which is not self-created or typical in kind or degree from that which may be imposed upon other potential developers of property within the area or zone in question; and

(3) The variance is the minimum necessary to afford the applicant relief as determined by the degree of hardship proven by the applicant measured against the potential effect the variance may have on the coastal building zone. In making such determination the board may consider the applicant's proposed plan to minimize the undesirable effects of the variance upon the coastal building zone.

(Ord. No. 91-21, § 7, 7-31-91; Ord. No. 94-22, § 1, 8-17-94)

Sec. 6-339. Compliance with article; correction of violations.

(a) It is a violation of this article to commence any development within the coastal building zone unless such development is performed in accordance with the standards set forth in division 2 of this article.

(b) Any violation of this article will require that the development be halted until the violation has been corrected.

(c) Whenever it is determined that there is a violation of this article, a notice of violation may be issued and sent to the person committing the violation in accordance with F.S. ch. 162. The notice of violation issued must:

(1) Be in writing;

(2) Be dated and signed by the authorized county agent issuing the notice;

(3) Specify the violation;

(4) State that the violation must be corrected within ten days of the date of notice of violation; and

(5) State that, if the violation is not corrected by the specified date, civil and criminal proceedings may be commenced.

(Ord. No. 91-21, § 8, 7-31-91; Ord. No. 94-22, § 1, 8-17-94)

Secs. 6-340—6-360. Reserved.

DIVISION 2. CONSTRUCTION STANDARDS FOR COASTAL BUILDING ZONE [7]

Sec. 6-361. Generally.

The following requirements will apply to all construction in the coastal building zone commenced on or after March 1, 1986. These requirements will be considered the minimum standards for construction in the coastal building zone.

(Ord. No. 91-21, § 5, 7-31-91; Ord. No. 94-22, § 1, 8-17-94)

Sec. 6-362. Structural requirements for major structures.

(a) *Design and construction generally.* Major structures must conform to the minimum building code standards adopted by the county in section 6-111

(b) *Mobile homes and manufactured homes.* Mobile homes and manufactured homes must conform to the Federal Mobile Home Construction and Safety Standards pursuant to F.S. § 320.823, as well as the requirements of subsection (c) of this section.

(c) *Elevation, floodproofing and siting.* Major structures must be designed, constructed and located in compliance with the National Flood Insurance Regulations as found in 44 CFR 59 and 60, or article IV of this chapter, whichever is more restrictive.

(d) *Velocity pressure.* Major structures, except mobile homes and manufactured homes, must, at a minimum be designated and constructed in accordance with chapter 16, section 1606 of the 1997 Standard Building Code using a fastest-mile wind velocity of 110 miles per hour.

(e) *Foundation design.* Foundation design and construction of a major structure must consider all anticipated loads resulting from a 100-year storm event, including wave, hydrostatic, and hydrodynamic loads acting simultaneously with live and dead loads. Erosion computations for foundation design must account for all vertical and lateral erosion and scour-producing forces, including localized scour due to the presence of structural components. Foundation design and construction must provide for adequate bearing capacity taking into consideration the anticipated loss of soil above the design grade as a result of localized scour. The erosion computations required by this section do not apply landward of coastal construction control lines which have been established since June 30, 1980.

(Ord. No. 91-21, § 5, 7-31-91; Ord. No. 94-22, § 1, 8-17-94; Ord. No. 94-22, § 1, 8-17-94; Ord. No. 98-06, § 1, 3-24-98)

Sec. 6-363. Reserved.

Editor's note—

Ord. No. 94-22, § 1, adopted Aug. 17, 1994, repealed former § 6-363, which pertained to design conditions.

Sec. 6-364. Structural requirements for nonhabitable major structures.

Nonhabitable major structures must satisfy the structural requirements of section 6-362(c) and the applicable provisions of the Standard Building Code as required by article II of this chapter. However, these structures are not required to meet the balance of specific structural requirements set out in section 6-362.

Such structures must be designed to produce the minimum adverse impact on the beach and dune system. All sewage treatment and public water supply systems must be floodproofed to prevent infiltration of surface water anticipated from a 100-year storm event. Underground utilities, excluding pad transformers and vaults, must be floodproofed to prevent infiltration of surface water expected from a 100-year storm event, or must otherwise be designed to function when submerged under such storm conditions.

(Ord. No. 91-21, § 5, 7-31-91; Ord. No. 94-22, § 1, 8-17-94)

Sec. 6-365. Structural requirements for minor structures.

Minor structures must satisfy the structural requirements of section 6-362(c) and the applicable provisions of the Florida Building Code as required by article II of this chapter. However, these structures are not required to meet the balance of the specific structural requirements set out in section 6-362. These structures must be designed to produce the minimum adverse impact on the beach and dune system and adjacent properties to reduce the potential water and wind blown material. Construction of a rigid coastal or shore protection structure designed primarily to protect a minor structure is not permitted.

(Ord. No. 91-21, § 5, 7-31-91; Ord. No. 94-22, § 1, 8-17-94; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-366. Location of construction.

Except for elevated walkways, lifeguard support stands, piers, beach access ramps, gazebos and coastal or shore protection structures, construction must be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability.

(Ord. No. 91-21, § 5, 7-31-91; Ord. No. 94-22, § 1, 8-17-94)

Sec. 6-367. Public access.

Development or construction activity may not interfere with accessways established by the public through private lands to lands seaward of mean high tide line or mean high-water line by prescription, prescriptive easement or any other legal means, unless the developer provides a comparable alternative accessway. The developer has the right to improve, consolidate or relocate such public accessways if the accessways provided are:

(1) Of substantially similar quality and convenience to the public;

(2) Approved by the Board of County Commissioners; and

(3) Consistent with the coastal management element of the local comprehensive plan adopted pursuant to F.S. § 163.3178.

(Ord. No. 91-21, § 5, 7-31-91; Ord. No. 94-22, § 1, 8-17-94)

Sec. 6-368. References.

Assistance in determining the design parameters and methodologies necessary to comply with the requirements of this article may be obtained from:

(1) Shore Protection Manual, U.S. Army Corps of Engineers, fourth edition, 1984.

(2) U.S. Department of the Army, Coastal Engineering Research Center's Technical Papers and Reports.

(3) State department of environmental protection, division of beaches and shores, technical and design memoranda.

(4) Naval Facilities Engineering Command Design Manual, NAVFACDM-26, U.S. Department of the Navy.

(Ord. No. 91-21, § 5, 7-31-91)

Secs. 6-369—6-400. Reserved.

FOOTNOTE(S):

--- (**7**) ---

Cross reference— Standard building code adopted, § 6-111 et seq. (Back)

ARTICLE IV. FLOOD HAZARD REDUCTION [8]

DIVISION 1. - GENERALLY

DIVISION 2. - ADMINISTRATION

DIVISION 3. - STANDARDS

FOOTNOTE(S):

--- (**8**) ---

Cross reference— Coastal construction code, § 6-331 et seq.; consideration of soil conditions and flood hazards in development design, § 10-253; mobile homes, § 34-1921 et seq. (Back)

DIVISION 1. GENERALLY

Sec. 6-401. Statutory authority.

The legislature of the state has, in F.S. § 125.01(g), (h) and (j), delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

(Ord. No. 84-17, § 1, 7-11-84; Ord. No. 90-23, § 1, 4-18-90)

Sec. 6-402. Findings of fact.

(a) The flood hazard areas of the unincorporated area of the county are subject to periodic inundation which may result in the loss of life and property, as well as health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated or floodproofed or otherwise unprotected from flood damages.

(Ord. No. 84-17, § 1, 7-11-84; Ord. No. 90-23, § 1, 4-18-90)

Sec. 6-403. Purpose of article.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging and other development which may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 84-17, § 1, 7-11-84; Ord. No. 90-23, § 1, 4-18-90)

Sec. 6-404. Objectives of article.

The objectives of this article are to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

(7) Ensure that potential home buyers are notified that their property is in a flood area.

(Ord. No. 84-17, § 1, 7-11-84; Ord. No. 90-23, § 1, 4-18-90)

Sec. 6-405. Definitions.

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words or phrases used in this article will be interpreted so as to give them the meanings they have in common usage and to give this article its most reasonable application.

Addition to an existing building means any walled and roofed expansion to the perimeter or height of a building.

Appeal means a request for a review of the flood insurance coordinator's interpretation of any provision of this article or a request for a variance.

Area of shallow flooding means a designated AO or VO zone on the county's flood insurance rate map (FIRM) with base flood depths from one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means any area of a building having its floor subgrade (below ground level) on all sides.

Breakaway walls means any type of walls, whether solid or open-lattice, and whether constructed of concrete, masonry, wood, or insect screening, which are not part of the structural support of the building and which are designed and constructed to collapse under specific lateral loading forces without causing damage to the elevated portion of the buildings or the supporting foundation system on which they are used.

Building means any structure.

Coastal high-hazard area means the area subject to high-velocity waters caused by forces such as but not limited to hurricane wave wash or tsunamis. The area is designated on the FIRM for the county as zones V1—V30, VE or V.

Coordinator means the county flood insurance coordinator, who is the director of the division of codes and building services or his designee, who is hereby designated by the Board of County Commissioners to implement, administer and enforce the provisions of this article.

Critical facility means one or more of the following:

(1) Structures or facilities that commercially produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials that are defined as extremely hazardous substances by the Environmental Protection Agency under section 302 of the Emergency Planning and Community Right-to-Know Act, Title III of the Superfund amendments and Reauthorization Act of 1986, 42, USC.;

(2) Hospitals, nursing homes, assisted living facilities and health care facilities Groups I, II and IV;

(3) Structures used as law enforcement stations, fire stations, governmental vehicle and equipment storage facilities, and emergency operations centers that are needed for emergency response activities before, during and after a flood incident; and

(4) Public or private utility facilities that are vital to maintaining and restoring normal services to flooded areas before, during and after a flood incident.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means a nonbasement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

Existing manufactured home park or *manufactured home subdivision* means a parcel or contiguous parcels of land divided into two or more manufactured home lots or sites for rent or sale for which the construction of facilities for servicing the lot or site on which the manufactured home is to be affixed, including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, was completed prior to September 19, 1984.

Expansion to an existing manufactured home park or manufactured home subdivision means the preparation of additional sites by the construction of facilities for servicing the sites on which the manufactured homes are to be affixed, including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.

Flood and *flooding* mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means the official map of the unincorporated area of the county issued by the Federal Emergency Management Agency where the boundaries of the areas of special flood hazard have been delineated as zone A.

Flood insurance rate map (FIRM) means the official map of the unincorporated areas of the county on file with the coordinator, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the county.

Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.

Floodplain or *flood-prone area* means any land area susceptible to inundation by water from any source (see definition of flooding).

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

Functionally dependent facility means a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register of Historic Places;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places upon the county Historic Preservation Ordinance becoming certified either:

   a. By an approved state program as determined by the Secretary of the Interior; or

   b. Directly by the Secretary of the Interior in states without approved programs.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

Mangrove stand means an assemblage of mangrove trees, which are mostly low trees noted for a copious development of interlacing adventitious roots above the ground, which contains one or more of the following species: black mangrove (Avicennia nitida), red mangrove (Rhizophora mangle), white mangrove (Languncularis racemosa) and buttonwood (Conocarpus erecta).

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. This definition includes mobile homes, as defined in F.S. § 320.01(2), but does not include a recreational vehicle, as defined in F.S. ch. 320. However, a manufactured home is not a manufactured building as defined in F.S. ch. 553, pt. IV.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with the North American Vertical Datum of 1988 (NAVD88), or other datum, to which base flood elevations shown on the county flood insurance rate map are referenced.

New construction means structures for which the start of construction commenced on or after September 19, 1984, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed on or after September 19, 1984.

North American Vertical Datum of 1988 (NAVD88) is a vertical control used as a reference for establishing varying elevations within the floodplain.

Recreational vehicle means a vehicle that is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

This term includes park trailers and similar vehicles, as defined in F.S. ch. 320.

Registered professional architect means an architect registered or licensed by the state to practice architecture in the state, or who is authorized by the state to practice architecture in the state under a reciprocal registration or licensing agreement with another state.

Registered professional engineer means an engineer registered or licensed by the state to practice engineering in the state, or who is authorized by the state to practice engineering in the state under a reciprocal registration or licensing agreement with another state.

Registered professional land surveyor means a land surveyor registered or licensed by the state to practice land surveying in the state, or who is authorized by the state to practice surveying in the state under a reciprocal registration or licensing agreement with another state.

Reinforced pier means a system, designed, signed and sealed by a state registered/licensed architect or engineer, which is an integral part of a foundation and anchoring system for the permanent installations of a manufactured home or recreational vehicle, as applicable, so as to prevent flotation, collapse, and lateral movement of the manufactured home or recreational vehicle due to flood and wind forces. At a minimum, a reinforced pier has a footing adequate to support the weight of the manufactured home or recreational vehicle under saturated soil conditions such as occur during a flood. In areas subject to high velocity floodwaters and debris impact, cast-in-place reinforced concrete piers may be appropriate. Nothing in this subsection prevents a design that uses pilings or any other method, as long as the minimum flood and wind standards are met.

Repetitive loss means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Start of construction, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Public Law 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure, including a manufactured home, on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, rehabilitation, or improvement to a structure during a five-year period, wherein the cumulative cost of any repair, reconstruction, rehabilitation, or improvement to the structure equals or exceeds 50 percent of the market value of the structure:

(1) Before the repair or improvement is started; or

(2) If the structure has been damaged and is being restored, before the damage occurred.

This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.

The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are the minimum necessary to ensure safe living conditions; or any alteration of a "historic structure" as defined herein so long as the alteration does not preclude the structure's continued designation as a "historic structure" as defined in this article.

Variance means a grant of relief from the requirements of this article.

Violation means the failure of a structure or other development to be fully compliant with County floodplain management regulations. A structure or other development without an approved elevation certificate, applicable structure certifications, or other evidence of compliance required under this article is presumed to be in violation until such documentation is provided.

(Ord. No. 84-17, § 2, 7-11-84; Ord. No. 87-20, § 2, 9-8-87; Ord. No. 88-41, § 2, 8-17-88; Ord. No. 90-23, § 2, 4-18-90; Ord. No. 92-49, § 2, 11-18-92; Ord. No. 00-14, § 2, 6-27-00; Ord. No. 08-12 , § 1, 6-10-08, eff. 8-28-08; Ord. No. 09-23 , § 3, 6-23-09)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 6-406. Penalty for violation of article; additional remedies.

(a) Any person violating any provision of this article shall be prosecuted and punished as provided by section 1-5. Persons charged with such violations may include the owner, agent, lessees, tenant or contractor using the land, structure or premises where such violation has been committed or shall exist, or any person who knowingly commits, takes part in or assists in such violation or any who maintains any land, building or premises in which the violation shall exist.

(b) In addition to the penalties and enforcement procedures provided in subsection (a) of this section, the violation of any of the regulations, restrictions and limitations promulgated under the provisions of this article may be restricted by injunction, including a mandatory injunction, and otherwise abated in any manner provided by law, and such suit or action may be instituted and maintained by the Board of County Commissioners or by any person affected by the violation of such regulations, restrictions or limitations.

(Ord. No. 84-17, § 3, 7-11-84; Ord. No. 90-23, § 3, 4-18-90)

Sec. 6-407. Lands to which article applies.

This article applies to all areas of special flood hazard within the unincorporated areas of the county within the jurisdiction of the Board of County Commissioners. These areas have been designated on the

Flood Insurance Rate Map (FIRM) on file with the coordinator and the office of the county department of public resources.

(Ord. No. 84-17, § 3, 7-11-84; Ord. No. 90-23, § 3, 4-18-90; Ord. No. 08-12 , § 1, 6-10-08, eff. 8-28-08)

Sec. 6-408. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for Lee County, dated August 28, 2008, with the accompanying maps and other supporting data are adopted by reference and declared to be a part of this article.

(Ord. No. 84-17, § 3, 7-11-84; Ord. No. 90-23, § 3, 4-18-90; Ord. No. 03-16, § 2, 6-24-03; Ord. No. 08-12 , § 1, 6-10-08, eff. 8-28-08)

Sec. 6-409. Compliance with article.

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

(Ord. No. 84-17, § 3, 7-11-84; Ord. No. 90-23, § 3, 4-18-90)

Sec. 6-410. Abrogation; conflicting provisions.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions, or the coastal construction codes for the county. However, where this article and any other ordinance, regulation or coastal construction code conflict or overlap, whichever imposes the more stringent restriction shall prevail.

(Ord. No. 84-17, § 3, 7-11-84; Ord. No. 90-23, § 3, 4-18-90)

Sec. 6-411. Interpretation of article.

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

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 84-17, § 3, 7-11-84; Ord. No. 90-23, § 3, 4-18-90)

Sec. 6-412. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the Board of County Commissioners, or by any officer or employee thereof, for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 84-17, § 3, 7-11-84; Ord. No. 90-23, § 3, 4-18-90)

Secs. 6-413—6-440. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 6-441. Designation of coordinator.

The county flood insurance coordinator is hereby appointed to administer and implement the provisions of this article.

(Ord. No. 84-17, § 4, 7-11-84; Ord. No. 88-41, § 4, 8-17-88; Ord. No. 90-23, § 4, 4-18-90; Ord. No. 09-23 , § 3, 6-23-09)

Sec. 6-442. Duties and responsibilities of coordinator.

The duties of the coordinator include but are not limited to:

(1) Reviewing all development permits to ensure that the permit requirements of this article have been satisfied;

(2) Reviewing all development permits to determine that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required;

(3) Notifying adjacent communities and the state department of community affairs prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Emergency Management Agency;

(4) Assuring that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;

(5) Verifying and recording the actual elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures, in accordance with this article;

(6) Verifying and recording the actual elevation, in relation to mean sea level, to which the new or substantially improved structures have been floodproofed, in accordance with this article;

(7) In coastal high-hazard areas, obtaining certification from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand high-velocity waters and hurricane wave wash;

(8) In coastal high-hazard areas, reviewing plans for the adequacy of breakaway walls in accordance with this article;

(9) When floodproofing is utilized for a particular structure, obtaining certification from a registered professional engineer or architect;

(10) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, making the necessary interpretation. The person contesting the location of the boundary will be given a reasonable opportunity to appeal the interpretation as provided in this article;

(11) When base flood elevation data has not been provided in accordance with section 6-408, obtaining, reviewing and reasonably utilizing any base flood elevation data available from a federal, state or other source, in order to administer the provisions of division 3 of this article; and

(12) Maintaining all records and maps pertaining to the provisions of this article in the office of the coordinator, open for public inspection.

(Ord. No. 84-17, § 4, 7-11-84; Ord. No. 88-41, § 4, 8-17-88; Ord. No. 90-23, § 4, 4-18-90; Ord. No. 09-23 , § 3, 6-23-09)

Sec. 6-443. Development permit required.

A floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development on land located within the areas of special flood hazard.

(Ord. No. 84-17, § 3, 7-11-84; Ord. No. 90-23, § 3, 4-18-90)

Sec. 6-444. Application for development permit.

Application for a floodplain development permit must be made to the coordinator, on forms furnished by him, prior to beginning any development within any area of special flood hazard, and may include but is not limited to the following: plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, and drainage facilities, and their location. Specifically, the following information is required:

(1) Elevation, in relation to mean sea level, of the proposed lowest floor, including basement, of all structures;

(2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

(3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in section 6-472(2);

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

(5) A floor elevation or floodproofing certification after the lowest floor is completed, or, in instances where the structure is subject to the regulations applicable to coastal high-hazard areas, after placement of the horizontal structural members of the lowest floor. Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the coordinator a certification of the elevation of the lowest floor, floodproofed elevation or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Such certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by a registered land surveyor or professional engineer. When floodproofing is utilized for a particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by a professional engineer or architect. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The coordinator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by

the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required by this section shall be cause to issue a stop work order for the project.

(Ord. No. 84-17, § 4, 7-11-84; Ord. No. 88-41, § 4, 8-17-88; Ord. No. 90-23, § 4, 4-18-90; Ord. No. 99-05, § 3, 6-29-99)

Sec. 6-445. Appeals.

(a) The county construction Board of Adjustment and Appeals established by chapter 6, article II, division 2, will hear and decide appeals when it is alleged there is an error in a requirement, decision or determination made by the flood plain coordinator in the enforcement or administration of this article.

(b) The applicant may, within ten working days of the coordinator's decision, file an appeal to the Board of Adjustment and Appeals on such form as the coordinator or his designee may provide.

(c) Any person aggrieved by a decision of the Board of Adjustment and Appeals may seek whatever remedy is available in the court having jurisdiction.

(Ord. No. 84-17, § 4, 7-11-84; Ord. No. 88-41, § 4, 8-17-88; Ord. No. 90-23, § 4, 4-18-90; Ord. No. 06-17 , § 1, 9-26-06)

Sec. 6-446. Variances.

(a) The county construction Board of Adjustment and Appeals will hear and is hereby authorized to grant variances from base flood elevation requirements upon a clear showing by the applicant that an exceptional hardship would result from compliance with the requirements. Variances will only be granted upon a determination by the Board of Adjustment and Appeals, based upon competent substantial evidence presented by the applicant, that:

(1) It will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing regulations or ordinances; and

(2) The lot or parcel in question is so small or has such unusual characteristics that the prescribed standards cannot be met without some relief so as to allow a reasonable use of the property.

(b) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(c) If a variance is granted, the floodplain coordinator will notify the applicant, in writing, that:

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and

(2) Construction below the base flood level increases risks to life and property.

This notification will be maintained with a record of all variance actions.

(d) Variances may be issued by the Board of Adjustment and Appeals for repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(e) An application for a variance from the terms of this article must be submitted to the floodplain coordinator or his designee on forms that may be provided. The request for a variance will be scheduled on agenda of the Board of Adjustment and Appeals.

(f) A variance is a deviation from the exact terms and conditions of this article. The variance must be the minimum deviation necessary to provide relief to the property owner.

(g) In passing upon an application, the Board of Adjustment and Appeals must consider all technical evaluations, all relevant factors, all standards specified in this article, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, in the case of a functionally dependent facility;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(h) Upon consideration of the factors listed in subsection (g) of this section and purposes of this article, the Board of Adjustment and Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(i) Any aggrieved person may, within 30 calendar days after the decision of the Board of Adjustment and Appeals, apply to the circuit court for relief, but not thereafter, pursuant to the Florida Rules of Appellate Procedure.

(j) The coordinator will report all variances to the federal insurance administrator upon request.

(Ord. No. 84-17, § 4, 7-11-84; Ord. No. 88-41, § 4, 8-17-88; Ord. No. 90-23, § 4, 4-18-90; Ord. No. 06-17 , § 1, 9-26-06; Ord. No. 08-12 , § 1, 6-10-08, eff. 8-28-08; Ord. No. 09-02 , § 1, 1-13-09)

Secs. 6-447—6-470. Reserved.

DIVISION 3. STANDARDS

Sec. 6-471. General standards.

In all areas of special flood hazard, the following provisions are required:

(1) New construction and substantial improvements must be anchored to prevent flotation, collapse, and lateral movement of the structure;

(2) Manufactured homes must be anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This standard will be in addition to and consistent with applicable state requirements for resisting wind forces;

(3) New construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage;

(4) New construction and substantial improvements must be constructed by methods and practices that minimize flood damage;

(5) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding. Utility equipment will be exempt from this requirement as long as the utility company that owns the equipment accepts the sole responsibility for flood damage to the equipment by filing written acceptance of this responsibility with the local building director prior to claiming the exemption;

(6) New and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the system;

(7) New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(8) New and replacement on-site waste disposal systems must be located and constructed to avoid impairment to them or contamination from them during flooding;

(9) Alterations, repairs, reconstruction or improvements to a structure that are in compliance with the provisions of this article must meet the requirements of new construction as contained in this article; and

(10) All development permit applicants must acquire and submit all necessary Federal and State permits, including those required to comply with Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 prior to issuance of a Lee County building permit.

(Ord. No. 84-17, § 5, 7-11-84; Ord. No. 87-20, § 3, 9-8-87; Ord. No. 88-41, § 5, 8-17-88; Ord. No. 90-23, § 5, 4-18-90; Ord. No. 06-17 , § 1, 9-26-06; Ord. No. 08-12 , § 1, 6-10-08, eff. 8-28-08; Ord. No. 09-23 , § 3, 6-23-09)

Sec. 6-472. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in this article, the following provisions, in addition to those set forth in sections 6-471 and 6-474, are required:

(1) *Residential construction.* New construction and substantial improvement of a residential structure must have the lowest floor, including basement, elevated to or above the base flood elevation. This requirement will apply to manufactured homes that are to be placed or substantially improved

on sites in a new manufactured home park or subdivision, in an expansion of an existing manufactured home park or subdivision, in an existing manufactured home park or subdivision on which a manufactured home on that specific site has incurred substantial damage as a result of a flood, and outside of a manufactured home park or subdivision. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to facilitate automatic equalization of hydrostatic flood forces on the exterior walls must be provided in accordance with standards of subsection (3) of this section.

a. Manufactured homes to be placed or substantially improved on a site located in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (1) of this section must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation or the manufactured home chassis is supported by reinforced piers, or other foundation elements of at least equivalent strength, that are no less than 36 inches in height above grade, and must comply with section 6-471(2).

b. Recreational vehicles are not subject to the provisions of subsection (1) of this section if placed on the site for fewer than 180 consecutive days and fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

(2) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure must either have the lowest floor, including basement, elevated to or above the base flood elevation, or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect must certify that the standards of this subsection are satisfied. The certification as well as an operation and maintenance plan must be provided to the coordinator.

(3) *Elevated buildings.* New construction and substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor, which are usable solely for parking of vehicles, building access or storage in an area other than a basement and are subject to flooding, must be designed to preclude finished living space in the area below the lowest floor and be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls below the lowest floor. The enclosed areas below the lowest floor must only be used for the parking of vehicles, building access, or storage and must comply with the following:

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two openings must be provided having a total net area of not less than one square inch for every square foot of enclosed area;

2. The bottom of all openings must be no higher than one foot above grade; and

3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

b. Electrical, plumbing and other utility connections are prohibited below the base flood elevation.

c. Access to the enclosed area must be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

d. The interior portion of such enclosed area must not be finished or partitioned into separate rooms.

(4) *Floodways.* Located within areas of special flood hazard established in section 6-408 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwater, which carries debris and potential projectiles and has erosion potential, the following provisions, in addition to those set forth in sections 6-472(1) through (3) and 6-474, will apply:

a. Encroachments, including fill, new construction, substantial improvements and other developments, are prohibited unless certification by a registered professional engineer is provided with supporting technical data demonstrating that encroachments will not result in any increase in flood levels during occurrence of the base flood discharge.

b. If subsection (4)a. of this section is satisfied, all new construction and substantial improvements must comply with all applicable flood hazard reduction provisions of this article.

c. The placement of manufactured homes and recreational vehicles is prohibited, except in an existing manufactured home or recreational vehicle park or subdivision. A replacement manufactured home or recreational vehicle may be placed on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided the anchoring standards of section 6-471(2) and the elevation standards of subsection (1)a or b of this section, as applicable, are met. New or expanded manufactured home or recreational vehicle parks or subdivisions are prohibited until such time, if ever, that Lee Plan policy 108.1.2 is amended or repealed so as to allow such new or expanded manufactured home or recreational vehicle development.

(5) *Accessory structures.* Accessory structures may be exempted from meeting the elevation requirements only if they meet all of the following requirements, in addition to those set forth in sections 6-471 and 6-474

a. The structure is securely anchored to resist flotation, collapse, and lateral movement;

b. The building is a minimal investment and the total size of the building does not exceed 1,000 square feet in floor area;

c. The structure is used exclusively for uninhabitable parking or storage purposes;

d. All electrical or heating equipment is elevated above the base flood elevation or otherwise protected from intrusion of floodwaters; and

e. For accessory structures located in coastal high-hazard areas (V zones), breakaway walls are used below the lowest floor.

(6) *Coastal high-hazard areas (V zones).* Located within the areas of special flood hazard as designated in this article are areas designated as coastal high-hazard areas. These areas have special flood hazards associated with wave wash; therefore, the following provisions, in addition to those set forth in sections 6-472(1) through (3) and 6-474 will apply:

a. New construction must be located landward of the reach of the mean high tide.

b. New construction and substantial improvements must be elevated so that elevation of the bottom of the lowest horizontal structural member of the lowest floor, excluding pilings or columns, is located at or above the base flood elevation level, with all space below the lowest floor open so as not to impede the flow of water. Breakaway walls may be permitted and must be designed to wash away in the event of abnormal wave action in accordance with subsection (6)h. of this section.

c. New construction and substantial improvements must be securely anchored on pilings or columns.

d. Pilings and columns and the attached structures must be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. The water loads must be those associated with the base flood, and the wind loads must be those required by applicable state or local building codes and standards. A registered professional engineer must develop or review the structural design, specifications, and plans for the construction, and must certify that the design and the methods of construction to be used are in accordance with the accepted engineering standards of practice.

e. Compliance with the provisions contained in subsections (6)b, c and d of this section must be certified by a professional engineer or architect.

f. Fill may not be used as structural support.

g. Alteration of sand dunes or mangrove stands that would increase potential flood damage is prohibited.

h. Non-supporting breakaway walls, open-latticework or insect screening may be allowed below the lowest floor provided it is not part of the structural support of the building and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which it is to be used, and provided the following design specifications are met:

1. Supporting foundation system must not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components during the base flood event. Water loading values to be used in this determination must each have a one percent chance of being equaled or exceeded in a given year (100-year mean recurrence interval). Wind loading values will be those required by local and state building standards; and

2. Breakaway wall collapse must result from a water load that is less than what would occur during the base flood.

i. If breakaway walls are utilized, the enclosed space may not be used for human habitation, but must be designed to be used only for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises.

j. Prior to construction, plans for any structure that will have breakaway walls must be submitted to the coordinator for approval.

k. Alterations, repairs, reconstruction or improvements to a structure may not enclose the space below the lowest floor except with breakaway walls, as provided for in subsections (6)h and i of this section.

l. The placement of manufactured homes or recreational vehicles is prohibited, except in an existing manufactured home or recreational vehicle park or subdivision. A replacement manufactured home or recreational vehicle may be placed on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided the anchoring standards of section 6-471(2) and the elevation standards of subsection (1)a or b of this section, as applicable, are met. New or expanded manufactured home or recreational vehicle parks or subdivisions are prohibited until such time, if ever, that Lee Plan Policy 80.1.2 is amended or repealed so as to allow such new or expanded manufactured home or recreational vehicle development.

(7) *Critical facilities.* Critical facilities must be constructed on a foundation that is properly elevated and appropriate for the flood zone in which the facilities are located, and the lowest floor (including basement) must be elevated above the 500-year flood level. Road access to the critical facility must be constructed above the 500-year flood level to ensure access by emergency and ordinary vehicles.

(Ord. No. 84-17, § 5, 7-11-84; Ord. No. 87-20, § 3, 9-8-87; Ord. No. 88-41, § 5, 8-17-88; Ord. No. 90-23, § 5, 4-18-90; Ord. No. 99-05, § 3, 6-29-99; Ord. No. 00-14, § 2, 6-27-00; Ord. No. 02-20, § 2, 6-25-02; Ord. No. 06-17 , § 1, 9-26-06; Ord. No. 07-24 , § 2, 8-14-07; Ord. No. 08-12 , § 1, 6-10-08, eff. 8-28-08; Ord. No. 09-23 , § 3, 6-23-09)

Sec. 6-473. Standards for streams without established base flood elevations or floodways.

Located within the areas of special flood hazard, where small streams exist but where no base flood data has been provided and where no floodways have been provided, the following provisions, in addition to those set forth in sections 6-471 and 6-474, will apply:

(1) No encroachments, including fill material or structures, may be located within a distance from the stream bank equal to two times the width of the stream at the top of the bank or 50 feet on each side from the top of the bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) All new proposed developments and subdivision proposals (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, must include base flood elevation data;

(3) The applicant must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, County, or other source. Data developed pursuant to section 6-473(2), must be considered and will be used as criteria for requiring new construction, substantial improvements, and other development in Zone A on the community's Flood Insurance Rate Map (FIRM) and comply with the provisions of section 6-472

(4) Where base flood elevation data are utilized, within Zone A on the community's FHBM or FIRM, the applicant must:

   a. Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures,

   b. Obtain, if the structure has been floodproofed in accordance with provision (2) of section 6-472, the elevation (in relation to mean sea level) to which the structure was floodproofed; and

   c. Submit a record of all such information to the coordinator.

(5) In riverine situations, notify adjacent communities and the State NFIP Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;

(6) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;

(7) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM must be installed using methods and practices designed to minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(Ord. No. 84-17, § 5, 7-11-84; Ord. No. 87-20, § 3, 9-8-87; Ord. No. 88-41, § 5, 8-17-88; Ord. No. 90-23, § 5, 4-18-90; Ord. No. 06-17 , § 1, 9-26-06; Ord. No. 08-12 , § 1, 6-10-08, eff. 8-28-08; Ord. No. 09-23 , § 3, 6-23-09)

Sec. 6-474. Standards for subdivision and other development proposals.

(a) All proposals must be consistent with the need to minimize flood damage within the flood-prone area.

(b) Subdivision proposals must locate and construct public utilities and facilities such as sewers, electrical and water systems so as to minimize flood damage.

(c) Subdivision proposals must have adequate drainage provided to reduce exposure to flood hazards.

(d) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, must be reasonably safe from flooding.

(Ord. No. 84-17, § 5, 7-11-84; Ord. No. 87-20, § 3, 9-8-87; Ord. No. 88-41, § 5, 8-17-88; Ord. No. 90-23, § 5, 4-18-90; Ord. No. 06-17 , § 1, 9-26-06; Ord. No. 08-12 , § 1, 6-10-08, eff. 8-28-08; Ord. No. 09-23 , § 3, 6-23-09)

Sec. 6-475. Standards for areas of shallow flooding.

Located within the areas of special flood hazard established in section 6-408 are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in sections 6-471 and 6-474, will apply:

(1) New construction and substantial improvements of residential structures located in an AO-Zone must have the lowest floor, including basement, elevated to at least as high as the depth number specified on the FIRM, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, must be elevated at least two feet above the highest adjacent grade.

(2) New construction and substantial improvements of nonresidential structures located in an AO-Zone must:

a. Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, must be elevated at least two feet above the highest adjacent grade; or

b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(Ord. No. 84-17, § 5, 7-11-84; Ord. No. 87-20, § 3, 9-8-87; Ord. No. 88-41, § 5, 8-17-88; Ord. No. 90-23, § 5, 4-18-90; Ord. No. 06-17 , § 1, 9-26-06; Ord. No. 08-12 , § 1, 6-10-08, eff. 8-28-08; Ord. No. 09-23 , § 3, 6-23-09)

Sec. 6-476. Standards for areas in the B, C, and X Zones.

All new buildings not located in the areas of special flood hazard established in section 6-408 must have the lowest floor elevation (including basement) constructed at least 12 inches above the crown of the nearest local street unless the building official determines there are extenuating circumstances that would preclude meeting that elevation.

(Ord. No. 00-14, § 2, 6-27-00)

Secs. 6-477—6-500. Reserved.

ARTICLE V. RESERVED [9]

Secs. 6-501—6-550. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 98-28, § 1, adopted Dec. 8, 1998, repealed Art. V, §§ 6-501—6-506, which pertained to housing standards. See the Code Comparative Table. (Back)

ARTICLE VI. UNIFORM FIRE CODE [10]

Sec. 6-551. Applicability.

This article applies to the unincorporated areas of Lee County.

(Ord. No. 94-31, § 1, 11-16-94; Ord. No. 95-25, § 1, 11-15-95)

Sec. 6-552. Purpose.

The purpose of this article is to provide regulations intended to act in conjunction with the latest version of the Florida Fire Prevention Code and to be consistent with nationally recognized practices for the

reasonable protection of life and property from the hazards of fire and explosion due to storage, use or handling of hazardous materials, substances and devices, and to minimize hazards to life and property due to fire and panic.

(Ord. No. 94-31, § 1, 11-16-94; Ord. No. 95-25, § 1, 11-15-95; Ord. No. 02-20, § 2, 6-25-02)

Sec. 6-553. Special application.

The following special application will apply to all areas of unincorporated Lee County:

Every required fire sprinkler system or other form of fire identification or suppression system installed in conjunction with, or as an alternative to, a required fire sprinkler system, must have supervisory facilities as set forth in NFPA 72, as adopted pursuant to section 6-554. An exemption from this special application exists for sprinkler systems installed in one- and two-family homes or in manufactured homes.

(Ord. No. 94-31, § 1, 11-16-94; Ord. No. 95-25 § 1, 11-15-95; Ord. No. 98-06, § 1, 3-24-98; Ord. No. 02-20, § 2, 6-25-02)

Note—Formerly § 6-555

Sec. 6-554. Minimum fire flows, hydrant spacing and water main size.

Requirements relating to minimum standards for fire flows, fire hydrant spacing, water main size and fire department access will be as established pursuant to chapter 10, article III, division 5.

(Ord. No. 94-31, § 1, 11-16-94; Ord. No. 95-25, § 1, 11-15-95; Ord. No. 02-20, § 2, 6-25-02)

Note—Formerly § 6-557

Sec. 6-555. Fire protection for construction located outside established fire districts.

(a) *Definitions.* For purposes of this section, the following definitions will be applicable:

(1) *Development* means the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure which requires a certificate of occupancy.

(2) *Established fire district* means and refers to those fire districts established pursuant to special act of the legislature or pursuant to any other local law, code or ordinance. The Lee County Fire Control District, established by Special Act 23383, is specifically excluded from this definition.

(b) *Fire protection standards.* Development outside the boundaries of an established fire district must comply with the following requirements:

(1) Single-family, duplex and manufactured homes must be provided with a complete automatic fire detection system covering all areas and interconnected to a control panel with battery back up. Detectors must be placed in accordance with their listing requirements so as to afford the most effective and efficient detection as required by the latest N.F.P.A. standard adopted and referring to fire alarms.

(2) All multifamily, commercial and industrial buildings must be provided with one of the following:

a. A complete automatic fire suppression system installed in accordance with N.F.P.A. 13 or N.F.P.A. 13R, as applicable; or

b. Establish a volunteer fire company in accordance with N.F.P.A. 1201 and approved by the Lee County Fire Official; and provide an approved water distribution system in accordance with N.F.P.A. 1231.

(3) *Interlocal agreement.* Nothing in this section may be construed to prohibit the county or any established fire district from entering into an interlocal agreement to provide fire protection services to and within that part of the unincorporated area of Lee County located outside the fire district's established territorial boundaries pursuant to F.S. ch. 163.

(Ord. No. 94-31, § 1, 11-16-94; Ord. No. 95-25, § 1, 11-15-95; Ord. No. 02-20, § 2, 6-25-02; Ord. No. 06-17 , § 1, 9-26-06)

Note—Formerly § 6-559

Sec. 6-556. Enforcement of Lee County facilities.

(a) *County inspection.* Lee County will provide for inspection of all county facilities by a certified fire inspector for the purpose of enforcing this article and any other fire safety regulations.

(b) *Inspection frequency.* An initial inspection of all county facilities will be accomplished within two years of the date this section is adopted. Thereafter, each county facility will be inspected annually.

(c) *Inspection report.* An inspection report must be submitted to county administration by the certified fire inspector within a reasonable time after the inspection has been completed.

(d) *Correction of deficiencies.* The county administrator will be responsible for ensuring that the deficiencies noted in the inspection report are corrected as soon as practicable. To this end, a reasonable schedule for the correction of deficiencies will be established and funds will be budgeted annually in response to this schedule. Priority, with respect to scheduling correction, must be given to those items which pose the most immediate threat to life.

(Ord. No. 94-31, § 1, 11-16-94; Ord. No. 95-25, § 1, 11-15-95; Ord. No. 02-20, § 2, 6-25-02)

Note—Formerly § 6-560.

Sec. 6-557. Appeals.

Any decision of the fire official rendered pursuant to this article may be appealed to the Lee County Board of Adjustment and Appeals.

(Ord. No. 94-31, § 1, 11-16-94; Ord. No. 95-25, § 1, 11-15-95; Ord. No. 02-20, § 2, 6-25-02)

Note—Formerly § 6-561.

Sec. 6-558. Enforcement and penalties.

(a) The provisions of this article may be enforced by the county administrator, or his designee, against any person or organization, society, association or corporation through the Lee County Hearing Examiner process or through the citation procedure.

(b) A violation of this article is a civil infraction which will carry a maximum penalty of $500.00 per violation.

(c) Each day a violation continues to exist will constitute a separate offense, punishable as indicated above.

(d) The county is entitled to seek injunctive relief or any other relief legally available in order to effectuate the purpose of this article.

(Ord. No. 94-31, § 1, 11-16-94; Ord. No. 95-25, § 1, 11-15-95; Ord. No. 02-20, § 2, 6-25-02)

Note—Formerly § 6-562.

Sec. 6-559. Conflict.

Wherever the requirements or provisions of this article are in conflict with the requirements or provisions of any other lawfully adopted ordinance, code or county regulation, the provisions providing the greater degree of life safety will apply. In the event this Code conflicts with the Lee County Building Code, the provisions of F.S. § 553.73(8) will be applicable.

(Ord. No. 94-31, § 1, 11-16-94; Ord. No. 95-25, § 1, 11-15-95; Ord. No. 02-20, § 2, 6-25-02)

Note—Formerly § 6-563.

FOOTNOTE(S):

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Editor's note— Ord. No. 02-20, § 2, adopted June 25, 2002, amended Art. VI by deleting provisions, renumbering and amending others. See the Code Comparative Table for a detailed analysis of inclusion of said Ord. No. 02-20. (Back)

Chapters 7—9 RESERVED

Chapter 10 DEVELOPMENT STANDARDS [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION

ARTICLE III. - DESIGN STANDARDS AND REQUIREMENTS

ARTICLE IV. - DESIGN STANDARDS AND GUIDELINESFOR COMMERCIAL BUILDINGS AND DEVELOPMENTS

ARTICLE V. - ILLUSTRATIONS, TABLES AND DIAGRAMS

FOOTNOTE(S):

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Cross reference— Development agreements, § 2-91 et seq.; transfer of development rights, § 2-141 et seq. (Back)

ARTICLE I. IN GENERAL

Sec. 10-1. Definitions and rules of construction.

(a) *Rules of construction and analogous words and terms.* For the purpose of this chapter, the following analogous words and terms will be interpreted to have similar meanings when not inconsistent with the context:

(1) The word "constructed" includes the words "erected," "built," "installed," "rebuilt" and "repaired."

(2) The word "lot" includes the word "plot," "parcel" or "tract."

(3) The word "structure" includes the word "building."

(4) The word "subdivider" includes the word "developer," and the word "developer" includes the word "subdivider."

(5) Where this chapter refers to a specific federal, state or County agency, department or division, it will be interpreted to mean "or any succeeding agency authorized to perform similar functions or duties."

(b) *Definitions.* Except where specific definitions are used within a specific section of this chapter for the purpose of such sections, the following terms, phrases, words and their derivations will have the meaning given in this subsection when not inconsistent with the context:

Abutting means any property that is immediately adjacent to, or contiguous with, or that is located immediately across from any street, canal, easement or water body, not to exceed 25 feet from the other property.

AC means the Lee County Administrative Code.

Access point means an accessway or driveway that provides vehicle access to a single parcel of land.

Access street and *access road* mean a street or road that runs generally parallel to an arterial or collector street and is the primary access to properties that abut the arterial or collector street. An access street is intended only to provide access to parcels existing when it is constructed and does not provide frontage for newly created parcels as would a local street. See also *Frontage street*.

Accessway means land that is used or intended to be used for ingress or egress to abutting parcels of land and is not dedicated to the public. Accessways include access points to commercial, industrial and other types of developments, except a single parcel of land containing two or fewer dwelling units in a single structure.

ADA Accessibility guidelines means the document that contains scoping and technical requirements for accessibility to site, facilities, buildings and elements by individuals with disabilities. These guidelines are intended to apply to the design, construction, expansion and alteration of sites, facilities, buildings and elements to the extent required under the Americans with Disabilities Act of 1990 (ADA).

Agriculture means the growing and harvesting, primarily for sale, of vegetation, crops or plants, or the feeding and raising, primarily for sale, of livestock, and timber production. The definition shall include any normal accessory structures thereto, provided, however, the following shall not be included in this definition: commercially owned or operated citrus plants, livestock sales facilities, packing plants and other similar commercial or industrial type facilities. Whenever the term "agriculture" or "agricultural use" is used in this chapter, it will be interpreted to mean "bonafide agriculture or bonafide agricultural use."

Applicant means any individual, firm, association, syndicate, copartnership, corporation, trust or other legal entity, or their duly authorized representative, conducting activities under this chapter.

Application for a development order means the submission of the documents as required in this chapter to the Director of the County Department of Community Development or his designated representative for review.

Architect means a professional architect duly registered and licensed by the state.

ASTM means American Society of Testing Materials.

Bicycle lane or *bike lane* means the portion of a roadway designated by signing and pavement markings for the preferential or exclusive use of bicyclists.

Bikeway means and refers to the term used to describe the various types of facilities that are designed and constructed to accommodate bicycle travel.

Block means a group of lots, including a tier of lots, existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name by which it may be identified.

Board means the Board of County Commissioners.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind that has enclosing walls for 50 percent of its perimeter. The term "building" is construed as if followed by the words "or part thereof."

Comprehensive plan means the document, and its amendments, adopted by the Board pursuant to F.S. ch. 163, for the orderly and balanced future economic, social, physical, environmental and fiscal development of the County.

Connection means a driveway, street, access road or other means of providing access to or from the County highway system. Two one-way driveways separated by no more than 50 feet will be considered one connection.

County highway system means all existing roads maintained by the County Department of Transportation.

Consultant means an architect, attorney, engineer, environmentalist, landscape architect, planner, surveyor or other person engaged by the developer to prepare documents required for a development order.

Contiguous. See *Abutting*.

Controlled water depth means the vertical distance measured from the waterbody control elevation to the deepest point of the proposed waterbody.

County means Lee County, Florida.

Cul-de-sac means a dead-end local street closed at one end.

Current pertains to the regulations in effect at the time an application for a development order is presented for acceptance or approval.

Dead-end street means a street having only one end open for vehicular access and closed at the other end.

Decision of the Development Review Director means any act of the Director in interpreting or applying this chapter to a particular request for a requirement waiver, limited review processing, or a development order, or any other request or matter relating thereto. In cases where making a decision involves the practice of engineering, as defined in F.S. § 471.005(6), where such decision must be made only by a professional engineer or someone supervised by a professional engineer pursuant to rule 21H-26.001, Florida Administrative Code, the Director must be a professional engineer, registered in the state. If the Director is not a registered professional engineer, Director must adopt the decision of the County's professional engineer, or the person who is designated to act on behalf of the County's professional engineer and who is supervised by the professional engineer, as the basis for whatever final formal decision is made by the Director. In those cases, the phrase "decision of the Development Review Director" means the decision made by the County's professional engineer, or a person supervised by the County's professional engineer, and adopted by the Director. In those cases, the phrase "decision of the Development Review Director" means the decision made by the County's professional engineer, or a person supervised by the County's professional engineer, and adopted by the Director.

Density means an existing or projected relationship between numbers of dwelling units and land area.

DEP means the Florida Department of Environmental Protection.

Developer means any individual, firm, association, syndicate, copartnership, corporation, trust or other legal entity commencing development.

Development means:

(1) A subdivision (df); or

(2) Any improvement to land (df).

Development area means the total horizontal area of the development property less any area within any existing public street right-of-way or easement.

Development order means a document issued by the County Development Review Director granting approval of the development based upon the submittal of the application for a development order, plans for development, plats and all other documentation as applicable and required by this chapter.

Development permit has the same meaning as given for that term in F.S. § 163.3164(8).

Development Review Director means the County staff person or his designee assigned to oversee the development review process. He shall oversee the intake of applications for completeness, oversee the review of plans for compliance with this chapter, and issue notifications to applicants. This term is synonymous with the terms "Development Review Coordinator" and "County Engineer" as they are used in this chapter.

Development Services Director means the County staff person or designee assigned to oversee the development review process. Oversite includes, but is not limited to the intake of applications, review of plans for compliance with this chapter, and issuance of notifications to applicants.

Deviation means a departure from a regulation specifically listed in section 10-104(a) and approved based on the criteria established in section 10-104(b). Deviations for planned developments may be requested pursuant to Chapter 34.

Dewater means the use of pumps or other equipment to temporarily withdraw water to a lower surface water level, an aquifer water level, or a groundwater level to accommodate development activities.

DHRS means the Florida Department of Health and Rehabilitative Services.

Division and *dividing of land* mean:

(1) The act of describing, by metes and bounds, platting or otherwise, one or more parcels of land which are lesser parcels of the original parcel or a recombination of lesser parcels or original parcels with another parcel for the purpose of conveying any interest in a parcel of land;

(2) The act of describing, by metes and bounds, platting or otherwise, an easement or fee for accessway or right-of-way purposes;

(3) The act of conveying any of the interests in land described in subsection (1) or (2) of this definition; or

(4) The commencement of construction of a street, or a portion thereof, which is not platted.

Drainage system includes the roadside swales, curb and gutter, valley gutter, inlet piping, lateral swales and related structures used to collect and transmit stormwater runoff from streets and lots to the detention or retention areas and percolation areas.

Driveway means a type of access point which provides vehicle access from a street to a single parcel of land containing two or fewer dwelling units in a single structure and from which vehicles may legally enter or leave the street in a forward or backward motion.

Dwelling unit means a room or rooms connected together, constituting a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly or longer basis, which is physically separated from any other rooms or dwelling units which may be in the same structure, and which contains sleeping and sanitary facilities and one kitchen. The term "dwelling unit" shall not include rooms in hotels, motels or institutional facilities. Types of dwelling units are further defined in chapter 34 of the land development code.

Easement means a grant of a right to use land for specified purposes. It is a nonpossessory interest in land granted for limited use purposes. Where the term "easement" is preceded by the term "street" or any other adjective, the preceding term describes the easement's purpose.

Engineer means a professional engineer duly registered and licensed by the state.

Excavation means the stripping, grading or removal by any process of natural minerals or deposits, including but not limited to peat, sand, rock, shell, soil, fill dirt or other extractive materials, from their natural state and location.

Excavation, depth means the vertical distance measured from the lowest existing natural grade along the bank of the proposed excavation to the deepest point of the proposed excavation.

Excess spoil means excavated material that will be removed from the premises including "surplus material" as well as material excavated to provide a viable agricultural or recreational amenity.

Expressway means an arterial highway, usually divided, designed for the safe and relatively unimpeded movement of large volumes of through traffic, with full or partial control of access and grade separations at most intersections.

FDOT means the Florida Department of Transportation.

FGFWFC means the Florida Game and Fresh Water Fish Commission.

Florida Greenbook means the Florida Department of Transportation (FDOT) Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways (commonly referred to as the Florida Greenbook).

Freeway means a divided arterial highway designed for the safe unimpeded movement of large volumes of traffic, with full control of access and grade separation at all intersections.

Frontage street means a type of access street which runs parallel to the adjacent arterial or collector street right-of-way and which separates the abutting properties from the right-of-way.

Habitable floor means any floor area usable for living purposes, including working, sleeping, eating, cooking or recreation, or any combination thereof. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

Herbaceous plant means a plant with little or no woody tissue, primarily consisting of grasses, rushes and sedges. Trees and shrubs are not herbaceous plants.

Historic district means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also be composed of individual elements separated geographically but linked by association or history. A district may or may not be designated as a historic resource pursuant to chapter 22.

Historic resource means any prehistoric or historic district, site, building, object or other real or personal property of historical, architectural or archaeological value. These properties or resources may include but are not limited to monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts or other objects with intrinsic historical or archaeological value, or any part thereof, relating to history, government or culture. These resources may or may not be designated as an historic resource pursuant to chapter 22.

IDD means Iona Drainage District.

Impervious surface means those surfaces which do not absorb water, and includes all water bodies, structures, driveways, streets, sidewalks, other areas of concrete, asphalt, compacted layers of limerock or shell, and certain parking areas. In the case of storage yards, areas of stored materials constitute impervious surfaces.

Improvement to land means any change to land or a structure on the land, and includes the movement or grading of land, except grading incidental to the removal of exotic vegetation or grading not prohibited by chapter 22; clearing of indigenous vegetation; and, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; provided, however, a change to a building that does not change the existing building floor area is not deemed an improvement to land.

Indigenous native vegetation means those plant species that are characteristic of the major plant communities of the County, listed in section 10-701. Areas where invasive exotic vegetation has exceeded 75 percent of the plant species by quantity will not be considered indigenous vegetation.

Individual sewage disposal system or facility means those sewage systems which include a septic tank, a system of piping, and a soil absorption bed or drainfield, as further defined and regulated by F.S. ch. 381 and chapter 10D-6 of the Florida Administrative Code.

Intensity of use means the extent to which nonresidential land is used as measured in terms of square footage of buildings, impervious surfaces, traffic generation, water consumption and sewage created.

Intersection means the general area where two or more roads, streets, accessways or access points join or cross.

Landscape architect means a professional landscape architect duly registered and licensed by the state.

Large development means a project of ten acres or more in land area or two acres or more in impervious area.

LBR means limerock bearing ratio.

Lee County unincorporated bikeways/walkways facilities plan means the network of existing and planned bicycle and pedestrian facilities adopted by the Board and depicted in Lee Plan Map 3D. Planned facilities are specifically defined in Exhibit I to Administrative Code 11-9.

Lot means a parcel of land considered as a unit.

Lot area means the total horizontal area within the lot lines.

Lot, corner means:

(1) A lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the two streets is 135 degrees or less.

(2) A lot abutting a curved street if straight lines drawn between the intersections of the side lot lines and the street right-of-way or easement to the foremost point of the lot form an interior angle of less than 135 degrees. (See section 10-702.)

Lot coverage means that portion of a lot area, expressed as a percentage, occupied by all impervious surfaces.

Lot depth means the distance between the midpoints of the front lot line and the rear lot line. The midpoint of a curved front or rear lot line shall be considered to be the midpoint of a straight line connecting the points of its intersection with the side lot lines. (See section 10-703.)

Lot, double-frontage means any lot, not a corner lot or through lot, having two or more property lines abutting a street right-of-way or easement. (See section 10-704.)

Lot, flag means a lot not fronting on or abutting a street, and where access to the street is by a narrow private easement; or an L-shaped lot or other irregularly shaped lot which abuts and has access to a street but does not comply with the minimum frontage requirements of chapter 34. (See section 10-704.)

Lot frontage means the distance measured along a straight line between the points of intersection of the side lot lines with the street right-of-way or easement. (See section 10-704.)

Lot, interior means any lot not defined as a corner, double-frontage or through lot. (See section 10-704.)

Lot line means a line which delineates the boundary of a lot.

Lot line, front means the lot line which divides the lot from a street right-of-way or easement. (See section 10-704.)

Lot line, rear means that lot line which is parallel to or concentric with and most distant from the front lot line of the lot. In the case of an irregular or triangular lot, a line 20 feet in length, entirely within the lot, parallel to or concentric with and at the maximum possible distance from the front lot line shall be considered to be the rear lot line. In the case of a through lot, there shall be no rear lot line. In the case of a through frontage lot, the line directly opposite from the front line shall be designated as either a rear line or a side line depending upon the designation of the adjacent property. In the case of corner lots, the rear lot line shall be the line most nearly parallel to or concentric with and most distant from the front line most prevalent along the block. (See section 10-704.)

Lot line, side means any lot line other than a front or rear lot line. (See section 10-704.)

Lot, L-shape means an irregular lot shape, such as one in the shape of an "L" or "T," which meets the minimum frontage requirements of chapter 34. (See section 10-704.)

Lot of record means a lot which is part of a plat which has been lawfully recorded in the plat books in the office of the clerk of the circuit court and is in compliance with F.S. ch. 177, or a parcel of land, the deed of which was lawfully recorded in the office of the clerk of the circuit court on or before January 28, 1983.

Lot, through means any lot having two opposite lot lines abutting a street right-of-way or easement. (See section 10-704.)

Lot width means the distance between the side lot lines, or a front and side lot line for corner lots, as measured along the minimum required street setback line.

Mining means an excavation for the primary purpose of removing the extracted material for use off site. This does not include the removal of surplus materials defined herein.

North American Vertical Datum of 1988 (NAVD88) is a vertical control used as a reference for establishing varying elevations within the flood plain.

Obstruction means an item placed on or permanently in a bikeway or pedestrian facility such as light poles, parking meters, newspaper stands, trash cans, mail boxes and street furniture that reduce the minimum width of the facility for some distance.

On-road facility, bikeway or *bike lane* means a paved shoulder, bike lane or undesignated bike lane that is contiguous with the roadway travel lanes. This area may be used as a bike facility, but such use is not deemed exclusive.

Owner means any person having a legal or equitable interest in property.

Parcel. See *Lot*.

Parking lot access means an accessway which provides vehicle access from a street to a parking lot containing five or more parking spaces, but from which vehicles are restricted to entering or leaving the street in a forward motion only.

Parking lot aisle means the portions (lanes) of a parking lot which provide direct access to individual parking spaces.

Paved shoulder means a portion of the roadway contiguous to the roadway travel lanes that provides lateral support of base and surfaces courses. This area may be used for motor vehicle emergencies or by pedestrian and bicyclists.

PCP (permanent control point) means a marker as defined in F.S. ch. 177.

Pedestrian way means a path specifically designed for preferential or exclusive use by pedestrians.

Permit means any official document or certificate required or issued by the County authorizing performance of a specified activity.

Person means any individual, partnership, association, corporation, trust or other legal entity.

Plat means a plat as defined by F.S. ch. 177, as amended.

Private street means a street that:

(1) Is not dedicated to the public; or

(2) Has been dedicated to the public but the offer has not been accepted by the Board through express action at a public hearing.

Private water system means a water system that is supplied by a well, spring or other similar source of water, that is used for human consumption by four dwelling units or less and is regulated by F.S. ch. 381 and chapter 10D-4 of the Florida Administrative Code, as amended.

PRM (permanent reference monument) means a monument as defined in F.S. ch. 177.

Public sewage system means a sewage system that contains a wastewater treatment plant, is not an individual sewage disposal system, and is not regulated by chapter 10D-6 of the Florida Administrative Code.

Public street or road right-of-way means a street or roadway that is open or available to use by the public. The street/road is deemed a public roadway as the result of a dedication to the public, title grant by deed to the public, or easement grant to the County for right-of-way purposes, compliance with the Viewer's Road provisions, compliance with F.S. § 95.361 or some other means allowed by law. The public right-of-way generally includes related facilities necessary to support the road, such as drainage areas, turn lanes, sidewalks, etc. A public street may be publically or privately maintained. Public maintenance requires formal Board action to accept the responsibility.

Public water system means a water system that is not a private water system, and includes those water systems regulated under F.S. ch. 381 and defined as public water systems, community water systems and noncommunity water systems in chapter 17-22 of the Florida Administrative Code; and those water systems defined as public water systems not covered or included in the Florida Safe Drinking Water Act in chapter 10D-4 of the Florida Administrative Code, as amended.

Rehabilitation means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions of features of the property which are significant to its historical architectural and cultural values.

Reverse frontage street means a local street or accessway that functions as an access street but which is not located adjacent to the arterial or collector street right-of-way.

Road capital improvement includes transportation planning, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any road construction project, including but not limited to:

(1) Construction of new through lanes;

(2) Construction of new turn lanes;

(3) Construction of new bridges;

(4) Construction of new drainage facilities in conjunction with new roadway construction;

(5) Purchase and installation of traffic signalization, including new signalization and upgrading signalization;

(6) Construction of curbs, medians and shoulders;

(7) Construction of on-road bikeways and bikepaths; and

(8) Relocating utilities to accommodate new roadway construction.

Road expansion means all road and intersection capacity enhancements, and includes but is not limited to extension, widening, intersection improvements, upgrading signalization and improving pavement conditions.

Service area means the geographical region consisting of the lots being served or being proposed to be served by a public facility, including but not limited to public water or sewage systems.

Setback line, front or street means a line drawn parallel to or concentric with the front lot line at a distance from the lot line equal to the setback required by chapter 34 for the classification of street upon which the lot abuts. If the front line is curved, the setback line will be a curved line drawn an equal distance back from the intersections of the side lot lines with the street right-of-way line, and with the required setback measured at the point or points where the setback line is closest to the front lot line.

Sewage system means a system of pipes, pumps, tanks or wastewater treatment plants and all other appurtenances or equipment needed to treat, transport and dispose of sewage.

Sewerage system. See *Sewage system*.

Shared use path means and refers to a facility eight to 12 feet in width, physically separated from motorized vehicular traffic that serves bicycles, pedestrians, hikers, skaters, wheel chair uses, joggers and other non-motorized uses.

Sidewalk means a a portion of a roadway designed and constructed for preferential use by pedestrians that is at least five feet wide. A sidewalk may be used by a cyclist consistent with F.S. § 316.2065.

Sidewalk, off-site means a pedestrian way that is exterior to a parcel being improved and located in the right-of-way of the arterial or collector road adjacent to that parcel or within an easement dedicated to the public.

Sidewalk, on-site means a pedestrian way located within the boundaries of the parcel to be improved.

Site-related road improvements means road capital improvements and right-of-way dedications for direct access improvements to the development in question. Direct access improvements include but are not limited to the following:

(1) Site access points and roads;

(2) Median cuts made necessary by those access points or roads;

(3) Right and left turn and deceleration or acceleration lanes leading to or from those access points or roads;

(4) Traffic control measures for those access points or roads;

(5) Access or frontage roads that are not shown as having been considered in impact fee calculation and so identified on figure 2 in the March 1989 report entitled "Lee County Impact Fee Transportation Data Final Report," which document has been placed on file with the clerk of courts and which is incorporated in this section by reference; and

(6) Roads or intersection improvements whose primary purpose at the time of construction is to provide access to the development.

Six Mile Cypress Watershed means a tract of land situated in Township 44 South, Range 25 East; Township 44 South, Range 26 East; Township 45 South, Range 25 East; Township 45 South, Range 26 East; and Township 46 South, Range 26 East, Lee County, Florida; and more particularly described as follows:

Beginning at the intersection of Alico Road and State Road 45 (U.S. 41) thence northwesterly along the centerline of State Road 45 to point of intersection with west line of Section 6, Township 46 South,

Range 25 East; thence north along the west line of Section 6 and north along the west line of Sections 31 and 30, Township 45 South, Range 25 East to point of intersection with the centerline of Six Mile Parkway (also known as Loop Road); thence easterly and northeasterly along the centerline of Six Mile Parkway to point of intersection with the centerline of Colonial Boulevard and the centerline of Ortiz Avenue; thence north along the centerline of Ortiz Avenue to point of intersection with the centerline of State Road 82 (Immokalee Road); thence southeasterly along the centerline of State Road 82 to the point of intersection with the centerline of Gunnery Road; then southerly and southwesterly along the centerline of Gunnery Road Extension and southwesterly along a southwesterly prolongation of the centerline of Gunnery Road Extension to the point of intersection with the west line of Section 21, Township 45 South, Range 26 East; then south along the north-south quarter lines of Section 29 and 32 to the south line of Section 32; then west along the south line of the southwest quarter of Section 32 to the southwest corner of such section; then south along the west line of Sections 5 and 8, Township 46 South, Range 26 East to point of intersection with the centerline of Alico Road; thence westerly along the centerline of Alico Road to point of intersection with the centerline of State Road 45 and the point of beginning.

Six Mile Cypress Watershed Plan means the comprehensive watershed study dated February 1990. The plan contains planned environmental/surface water corridors, information concerning the existing hydrologic/hydraulic and water quality data, recommended typical sections, structural facilities and rights-of-way for water conservation and flood control. Specific reference is made to Volume IV: Working Plan, with all amendments and revisions thereto.

Slope easement means an easement that allows the grantee (Lee County) to place fill on the grantor's property in order to stabilize the adjacent facility (road, sidewalk, box culvert, utilities, etc.). The fill serving to stabilize the adjacent facility may not be removed as long as the need for the easement continues.

Small development means a project of less than ten acres in land area and less than two acres in impervious area.

Soil classification means those categories and types of soils identified by the United States Department of Agriculture soil survey of the County.

Stormwater management system includes the detention or retention areas, percolation trenches, discharge structures and outfall channels provided to control the rate of stormwater runoff within and from a development.

Street.

(1) The term "street" means:

a. An accessway that affords the principal means of ingress or egress for two or more parcels of land; or

b. A right-of-way or roadway that affords the principal means of ingress or egress for a parcel of land.

(2) The term "street" is synonymous with the term "avenue," "boulevard," "drive," "lane," "place," "road" or "way," or similar terms, except that chapter 32 makes certain distinctions among these terms as they apply to compact communities.

(3) The following definitions distinguish and rank streets according to their different functional classifications:

a. *Street, arterial* means streets primarily intended to carry large volumes of through traffic connecting major activity centers to other major traffic generators. Access to abutting properties is a secondary function.

b. *Street, local* means streets with the primary function being to serve adjacent properties. As such, a local street provides the linkage from adjacent land uses to the collector street system. Through volume service is not a function of local streets.

c. *Street, major collector* means streets having the primary purpose of collecting traffic from intersecting local and minor collector streets and distributing this volume to the nearest arterial. A secondary purpose is to carry moderate volumes of through traffic. Access to abutting land uses is a secondary function.

d. *Street, minor collector* means streets having the primary purpose of collecting traffic from intersecting local streets and distributing this volume to the nearest major collector or arterial. As such, a minor collector street provides the linkage from neighborhoods (i.e., local streets) to the arterial system, and provides intra-neighborhood access. Access to abutting land uses is a secondary function.

Street right-of-way/road right-of-way means and refers to the general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

Street stub means a street having one end open for vehicular traffic and the other terminated without a turnaround for vehicles.

Street, substandard means a street lacking either a geometric or structural capacity for the designation assigned.

Structure means that which is built or constructed. The term "structure" is construed as if followed by the words "or part thereof."

Subdivider means a person who creates a subdivision.

Subdivision.

(1) A subdivision is a type of development. The term "subdivision" means the following:

a. The division of a lot into two or more parcels; or

b. The division of a lot that results from the extension of an existing street or the establishment of a new street; or

c. Creation of a condominium as defined in F.S. chs. 718 and 721, except that condominium developments are exempt from the provisions of this Code that require platting under F.S. ch. 177.

(2) A division of land into tracts ten acres or larger, if the tracts are used for bonafide agricultural purposes, as that term is defined in this code, is not a subdivision of land.

(3) The combination or recombination of up to three lots of record is not a subdivision provided that all resulting lots comply with chapter 34, the Lee Plan and all other applicable provisions of this Code. Specific provisions relating to the recombination of up to three lots are contained in section 10-217

(4) Subdivision includes resubdivision or redivision and, when appropriate to the context, also means the process of subdivision or the land subdivided.

Surplus material means material that absolutely must be excavated in order to comply with permit requirements and which cannot reasonably be expected to be used on the same premises for any purpose.

Surveyor means a professional land surveyor duly registered and licensed by the state.

Trafficway means an existing or planned public right-of-way, the primary, though not necessarily the sole, purpose or use of which is to facilitate through movement of direct access to abutting properties. A trafficway may represent a freeway, expressway, arterial or collector street.

Turn lane means a width of pavement required to protect the health, safety and welfare of the public and reduce adverse traffic impacts from turning movements generated by a development on to and off of a street. Turn lanes shall include and enhance turning, acceleration, deceleration or storage movements of vehicles as required by this chapter.

Two-family as used in this chapter, shall include the term duplex as defined in chapter 34 of the Land Development Code.

Undesignated bike lane means and refers to the configuration of a paved shoulder in typical sections that includes right turn lanes as depicted in Ch. 9, Bicycle Facilities, Figure 9-8 of the Florida Greenbook. The paved shoulder is continued to the left of the right turn lane, adjacent to the outer most travel lane. The minimum width is four feet and the lanes do not have signing or marking.

Unified control means that a single property owner or entity has been authorized by all owners of the property to represent them and to encumber the parcel with covenants and restrictions applicable to development of the property as approved by the County.

Water system means a system of pipes, pumps, water treatment plants or water sources, and all other appurtenances or equipment needed to treat, transport and distribute water.

Zoning ordinance means that document as adopted, and as may be amended by the Board of County Commissioners for the purpose of dividing the unincorporated area of the County into zoning districts and providing for the regulation of uses, land and structures within such districts, as set out in chapter 34.

(Ord. No. 92-44, § 1(F), 10-14-92; Ord. No. 94-07, § 3, 2-16-94; Ord. No. 94-28, § 9, 10-19-94; Ord. No. 95-07, § 2, 5-17-95; Ord. No. 95-12, § 2, 7-12-95; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 97-10, § 3, 6-10-97; Ord. No. 98-03, § 2, 1-13-98; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 01-03, § 2, 2-27-01; Ord. No. 02-15, § 1, 4-9-02; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 10-25 , § 2, 6-8-10; Ord. No. 11-08 , § 4, 8-9-11; Ord. No. 13-10 , § 3, 5-28-13)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 10-2. Purpose of chapter.

The Board of County Commissioners finds that the present and probable future growth of population, commerce and industry in the County is of such magnitude and complexity that the prudent regulation of land development is required in order to protect the public health, safety and welfare and to implement the County Comprehensive Plan.

(Ord. No. 92-44, § 1(B), 10-14-92)

Sec. 10-3. Interpretation and regulatory intent of chapter.

(a) This chapter will be construed to be the minimum regulations necessary for the purpose of meeting the general and specific requirements named in this chapter. The provisions of this chapter are regulatory.

(b) Where a provision of this chapter imposes a restriction different from that imposed by another provision of this chapter or any other ordinance, regulation or law, other than definitions, the provision that is more restrictive will apply. The definitions contained in this chapter will be controlling for all provisions of this chapter, and definitions of terms contained in other duly adopted ordinances and regulations of the County will not be construed to be applicable in this chapter. In the absence of a definition, the definitions of terms in other ordinances and regulations will be persuasive only unless specifically referenced as also applicable in this chapter.

(Ord. No. 92-44, § 1(E), 10-14-92; Ord. No. 93-30, § 2, 10-20-93; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-4. Conflicting provisions.

Whenever the requirements or provisions of this chapter are in conflict with the requirements or provisions of any other lawfully adopted ordinance, other than definitions, the most restrictive shall apply.

(Ord. No. 92-44, § 17(E), 10-14-92)

Sec. 10-5. Effective date; repealer; applications in process; existing development orders; and existing approved preliminary plans.

(a) *Effective date.* This chapter shall become effective immediately upon receipt of the official acknowledgment of the secretary of state that a copy of the ordinance from which this chapter is derived has been filed with such office.

(b) *Applications in process prior to effective date.*

(1) Any applicant who has received approval of a master concept plan pursuant to chapter 34 prior to the effective date of the ordinance from which this chapter is derived shall have the option of applying for a development order pursuant to the development standards regulations as they existed prior to the ordinance effective date; provided, however, that, if the applicant chooses to proceed under the regulations as they existed prior to the ordinance effective date, the applicant must notify the Development Review Director, in writing, of such intention within 90 days of the ordinance effective date. Failure to provide such notification within this time period shall cause the preliminary development order relating to the master concept plan to be reviewed under this chapter. Such written election, once made, shall be irrevocable.

(2) Any applicant who has submitted an application for a preliminary development order prior to the ordinance effective date shall be permitted to withdraw the entire application and resubmit it for review pursuant to this chapter or request the Development Review Director to review the application pursuant to the regulations as they existed prior to the ordinance effective date; provided, however, that such request must be made in writing within 90 days from the ordinance effective date and, once made, shall be irrevocable.

(c) *Repealer; existing development orders.* Ordinance No. 82-42, as amended, Ordinance No. 89-34, as amended, and Ordinance No. 83-5, as amended, are hereby repealed by the adoption of the ordinance from which this chapter is derived, except as follows:

(1) All preliminary development orders, final development orders, exemptions and other development approvals issued in accordance with the provisions of Ordinance No. 82-42, as amended, shall remain effective for the period prescribed in Ordinance No. 82-42, as amended, and shall be governed by the terms of that ordinance.

(2) Any person with a valid preliminary development order may apply for a final development order in accordance with section B.5.b of Ordinance No. 82-42, as amended. The application for a final development order shall be processed and reviewed in accordance with the terms or Ordinance No. 82-42, as amended. Any final development order received pursuant to this subsection shall be effective for the period prescribed in section B.5.b of Ordinance No. 82-42, as amended.

(3) Any applicant who has submitted an application for a preliminary development order prior to the effective date of the ordinance from which this chapter is derived shall be entitled to have his application reviewed pursuant to Ordinance No. 82-42, as amended.

(4) Applications for minor changes to preliminary development orders and final development orders approved pursuant to Ordinance No. 82-42, as amended, shall be processed and reviewed in accordance with the terms of Ordinance No. 82-42, as amended. Applications for amendments to preliminary development orders and final development orders approved pursuant to Ordinance No. 82-42, as amended, shall be processed and reviewed in accordance with the terms of

Ordinance No. 82-42, as amended, unless, in the opinion of the Director, the proposed amendment significantly increases the density, intensity or other external impacts of the development, in which case the applicant will be required to apply for a development order pursuant to this chapter.

(5) All development approvals issued in accordance with the provisions of Ordinance No. 89-34 and Ordinance No. 83-5 shall remain effective for the period prescribed in that ordinance and shall be governed by that ordinance.

(d) Preliminary plan approvals granted prior to (effective date of this amendment) vests the development, as to those features specifically shown on the plan, for a period of five years from the date of the approval. Approval of the plan does not vest the development as to concurrency requirements or the application of the Lee Plan 2010 overlay. Any application for a development order submitted during the vesting approval period that is consistent with the approved preliminary plan and with all applicable local, state, and federal regulations will be approved regardless of any inconsistencies between the approval plan and any County regulation that may arise as the result of an amendment to the regulation during the vesting period. If the property owner does not apply for a development order on a substantial portion of the property (involving no less than 20 percent of the lots, dwelling units, square feet or other measurement of intensity applicable to the project) during the vesting period, the preliminary approval will lapse and become null and void.

(Ord. No. 92-44, § 17(G)—(I), 10-14-92; Ord. No. 97-10, § 3, 6-10-97)

Sec. 10-6. Enforcement of chapter; penalty.

(a) The Board or any person with standing may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this chapter, including injunctive relief to enjoin and restrain any person from violating this chapter.

(b) Any person who violates this chapter may, at the option of the County, be prosecuted before the County hearing examiner in accordance with F.S. ch. 162 and chapter 2, article VII.

(c) Any person who violates this chapter or fails to comply with any of the requirements in this chapter shall, upon conviction thereof, be punishable as provided in section 1-5, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Prosecution pursuant to this section may be in addition to or in lieu of enforcement under subsection (a) of this section.

(Ord. No. 92-44, § 17(A)—(C), 10-14-92)

Sec. 10-7. General requirements.

(a) Development must occur in compliance with this chapter, as well as local, state and federal air, water and noise pollution standards.

(b) Development must occur in compliance with the comprehensive land use plan (Lee Plan) and all applicable County ordinances. No development order or permit may be issued if the development order or permit results in a further reduction in the levels of service for the affected roads below the levels of service provided for in the Lee Plan, unless appropriate mitigation is provided or the applicant otherwise complies with chapter 2, article II, relating to concurrency management. However, notwithstanding this limitation, in no event will a developer be required by the operation of this chapter to mitigate impacts caused by earlier development. For purposes of applying this subsection, in the case of developments expected to add less than 300 vehicle trips during the peak hour to the adjacent road system, the developer will be presumed conclusively to have mitigated the off-site impact on roads caused by the development if the developer pays the roads impact fees required by the

applicable County roads impact fee ordinances. The developer will be responsible for the full cost of site-related improvements.

(c) Except as otherwise provided for in this chapter, permits for development, including building permits, will only be issued after the issuance of, and in compliance with, a development order. No development permit, building permit, tree removal permit or notice of clearing may be issued on a parcel of land, or any portion thereof, that is the subject of existing code violations, development standards ordinance violations or other land development ordinance violations, regardless of whether the applicant or his principal owned the property at the time the violation occurred. However, this subsection will not prevent issuance of a permit for the specific purpose of resolving or abating the violation.

(d) *Planning community regulations.* Development order applications and approvals for projects located within a planning community must also comply with the regulations set forth in Chapter 33 pertaining to the specific planning community.

(e) During development and construction activities, the developer must take every reasonable precaution to avoid dust and debris from blowing onto adjacent properties. When, in the Director's opinion, conditions are such that dust or debris is adversely affecting adjacent properties, a stop work order may be issued until the conditions are mitigated. The proposed method of mitigation, which may include temporary silt fencing, sprinkling the area with water, seeding or sodding, or other similar measures, must be approved by the Director.

(f) All developments must remain in compliance with the terms and conditions of the approved development order even after issuance of a certificate of completion.

(g) Improvements constructed pursuant to a development order may not be placed into service or otherwise used until the required certificate of compliance has been issued for the development order.

(h) During development and construction activities, the developer must take every reasonable precaution to avoid undue noise or activities that might cause unreasonable impacts or nuisance to adjacent properties. If, in the Director's opinion, construction activities could be, or are, generating noise, nuisance, or other adverse impacts that may unreasonably affect adjacent properties, he may establish reasonable working hours or other conditions for construction activities as a condition of the development order. If the stipulated working hours or conditions are violated, a stop work order may be issued until the conditions are mitigated.

(Ord. No. 92-44, § 1(C), 10-14-92; Ord. No. 98-11, § 2, 6-23-98; Ord. No. 01-03, § 2, 2-27-01; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 05-29 , § 1, 12-13-05; Ord. No. 07-19 , § 2, 5-29-07; Ord. No. 11-08 , § 4, 8-9-11; Ord. No. 12-01 , § 1, 1-10-12; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-8. Specific requirements.

A development order will be issued when the development is designed so as to reasonably achieve the following:

(1) *Preservation of ecological integrity.* The development must protect the County's natural, historic and scenic resources, including air, surface and subsurface waters, and preserve their ecological integrity. No new causeways that require filling of wetlands or submerged lands may be constructed to any island.

(2) *Traffic pattern.* There must be adequate ingress and egress to the development. Except for single-family and two-family developments, and certain multi-family buildings as provided in section 34-2020(a), Note (3), proposed structures must be located so as to avoid backing of vehicles into streets, the intermingling of automotive and pedestrian traffic or the intermingling of traffic flow in opposite directions.

Additionally, the development must also achieve the following:

a. Ingress and egress areas must be of sufficient width to provide for servicing of utilities, refuse collection and access for emergency vehicles.

b. Development may not cause traffic hazards or congestion that results from narrow or poorly aligned streets or from excessive exit and entrance points along arterial and collector streets.

c. The development must be designed to minimize traffic impacts on surrounding areas, particularly to prevent traffic related to industrial land uses (see chapter 34) from traveling through predominantly residential areas. Main access points to a development will not be established where traffic is required to travel over local streets through areas with significantly lower densities or intensities, e.g., multifamily access through single-family residential areas, except where adequate mitigation can be provided.

d. The development must be designed to allow for access by emergency vehicles.

(3) *Traffic impact mitigation.*

a. Traffic impact studies. In order to evaluate traffic patterns, traffic circulation and traffic impacts of a development, a traffic impact statement must be prepared in accordance with the requirements of this chapter. A traffic impact statement is necessary to:

1. Provide vital information to public decision makers who must evaluate development proposals and traffic impacts generated by a development;

2. Ensure that safe and efficient access is provided to the development;

3. Minimize the proposed development's adverse traffic impacts and minimize traffic congestion on the road system;

4. Monitor growth and development for the preparation of subarea and corridor transportation studies;

5. Establish the appropriate timing for needed road and intersection improvements to ensure that public roadway capacity is available when demand is anticipated to occur; and

6. Provide the technical background and assumptions needed to plan road improvements.

b. *Traffic impact mitigation plan.* In order to mitigate the traffic impacts of a development, a traffic impact mitigation plan must be prepared in accordance with the requirements of this chapter.

The technical requirements regarding traffic impact statements and traffic impact mitigation plans are specified in article III, division 2, of this chapter.

(4) *Lee Plan Map 3A*. Lee Plan Map 3A is a planning tool that identifies the anticipated number of lanes and the approximate locations for existing and future arterial and collector streets in Lee County.

(5) *Bicycle and pedestrian ways plan.* There is hereby adopted as part of this chapter the official bikeways/walkways facilities plan map. The map identifies a network of roads which, if improved with bikeways and pedestrian ways, will meet present and anticipated bikeway and pedestrian way needs of the County. The official bikeways/walkways facilities plan map will be signed by the chairman of the Board of County Commissioners and placed on file with the County Departments of Transportation and Community Development. Reproductions of the map will be available to the public. The purpose of the official bikeways/walkways facilities plan map is to target certain arterial and collector roadways for improvements necessary to ensure County-wide continuity of the bicycle and pedestrian transportation system. Bikeways and pedestrian ways are necessary along the roadways depicted on the map for the benefit and protection of the health, safety, and welfare of the residents of Lee County because those facilities serve to: (a) lessen traffic congestion, (b) reduce conflicts between vehicular and pedestrian/cyclist movement, (c) provide

safe pedestrian/cyclist circulation to community facilities, and (d) provide safe access to active and passive recreational activity.

(6) *Access roads.* Pursuant to the County Comprehensive Plan, there is hereby adopted as part of this chapter the access road location map for the County. The access road location map identifies the arterials and collectors where access roads may be desirable to protect the connection separation standards of this code and the health, safety and welfare of County residents. The access road location map will be maintained by the County Division of Transportation. Reproductions of the map will be available to the public for a nominal fee at County mapping.

Access roads may be desirable along major urban streets for the protection of the health, safety and welfare of County residents because:

a. Access roads reduce the need for individual driveways and thereby decrease conflicting traffic movements, which in turn reduces the potential for accidents; and

b. The use of access roads decreases traffic on the County's arterial and collector streets, thereby improving their levels of service.

Roads, whose main function is to provide for internal traffic circulation and, roads that provide frontage for newly created lots that would not otherwise have road frontage, do not qualify as access roads unless such roads are required by the County pursuant to the criteria in section 10-283 of this Code.

Unless required by the County pursuant to section 10-283 of this Code, roads that serve to achieve site location standards for commercial development will not be eligible for roads impact fee credit under Chapter 2.

(7) *Water and sewage systems.* The development must be proposed in such a way as to prevent any potential hazards to the health, safety and welfare of the public, especially with regard to the provision of potable water or sanitary sewage services. Unless otherwise excepted in this chapter, all new residential, commercial or industrial development proposed within the certificated or franchised service areas of regulated private (investor- or subscriber-owned) water or sewer utilities, or within the designated future water or sanitary sewer service areas of County utilities, as shown and specified in the Lee Plan, must connect to that water or sewer system. Where a development is permitted to stand free of established potable water or sanitary sewage systems, the water and sewage systems proposed to serve that development must be of sufficient capacity for the intended initial uses, and provisions must be made for expansion, increased capacity and extensions for any future uses through appropriate and binding legal commitments, including the commitment to connect to a central system at such time as it is created or extended to the development.

(8) *Drainage and stormwater management.* The development must be designed in accordance with applicable County and water management districts' runoff, retention and attenuation requirements and any other state and local drainage laws. The development must also be designed to avoid flooding or erosion damage to adjacent property and the County drainage system and to avoid the creation of stagnant pools that would encourage mosquito breeding. The development must provide a method of continual maintenance and operation through legal documentation and must ensure proper stormwater management so as to reduce the potential impacts of flooding.

(9) *Open space, parks and recreation.* Sufficient open space must be provided for the use of the occupants of the development. Recreation facilities and parks must be located so as to avoid nuisance conditions affecting adjacent and nearby properties, and must be of a sufficient size and variety for all occupants of the development. Every effort must be made to locate required open space so as to protect archaeological sites.

(10) *Landscaping and buffering.* Adequate landscaping, including screens and buffers, to preserve compatibility with uses outside the proposed development must be provided, and, as a

furtherance of the ecological preservation goal, vegetation, trees and signs must be in accordance with this chapter and must be aesthetically pleasing.

(11) *Fire protection.* The development must include an adequate fire protection system.

(12) *Density.* The development must have a density no higher than that which can be adequately supported by the facilities existing or agreed upon by the developer at the time the development order is issued, and in no case may the density exceed the allowable density as set forth in the comprehensive plan or chapter 34

(13) *Intensity of use.* Nonresidential development must have an intensity of use no higher than that which can be adequately supported by the facilities existing, or agreed upon by the developer, at the time the development order is issued.

(14) *Historic resources.* The development must provide for the identification, recognition, protection or mitigation of the historical and archaeological resources of the County, as provided by the historic preservation element of the Lee Plan.

(15) *Outdoor lighting.* All outdoor lighting must be designed and maintained to curtail and reverse the degradation of the night time visual environment by minimizing light pollution, glare, and light trespass through the form and use of outdoor lighting; and to conserve energy and resources while maintaining night-time safety, utility, security and productivity.

(Ord. No. 92-44, § 1(D), 10-14-92; Ord. No. 94-07, § 2, 2-16-94; Ord. No. 94-28, § 10, 10-19-94; Ord. No. 95-12, § 2, 7-12-95; Ord. No. 98-11, § 2, 6-23-98; Ord. No. 02-20, § 3, 6-25-02; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 12-20 , § 1, 9-11-12; Ord. No. 13-10 , § 3, 5-28-13)

Secs. 10-9—10-50. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 1. - GENERALLY

DIVISION 2. - DEVELOPMENT ORDERS

DIVISION 3. - LIMITED REVIEW PROCESS

DIVISION 4. - INSPECTIONS AND CERTIFICATE OF COMPLIANCE

DIVISION 5. - PLATS

DIVISION 6. - RESERVED

DIVISION 1. GENERALLY

Secs. 10-51—10-80. Reserved.

Secs. 10-51—10-80. Reserved.

DIVISION 2. DEVELOPMENT ORDERS [2]

Subdivision I. - In General

Subdivision II. - Procedures

Subdivision III. - Submittals

FOOTNOTE(S):

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Cross reference— Administration generally, ch. 2. (Back)

Subdivision I. In General

Sec. 10-81. Consistency with regulations and approvals.

Development order approvals, including amendments to existing or approved development orders, must be consistent with the Lee Plan provisions and approved zoning actions applicable to the subject property at the time the approvals are issued. Existing nonconforming uses on the property subject to the development order application must be brought into compliance with current County regulations and approved zoning actions as a condition of the development order approval. The development order condition must provide that the nonconforming use will either be removed or brought into compliance prior to the issuance of a certificate of compliance.

(Ord. No. 07-24 , § 3, 8-14-07)

Secs. 10-82—10-100. Reserved.

Subdivision II. Procedures

Sec. 10-101. Applicability of requirements.

(a) *Development orders.* All developments, as defined in this chapter, including subdivisions, are required to obtain a development order prior to commencing any land development activities or receiving any development permit, including a building permit, with the exception of the following, which are not subject to review pursuant to this chapter except as noted herein:

(1) Construction of a single-family, duplex or two-family attached dwelling unit (and accessory structures as defined in the zoning regulations) on a single buildable lot (or lots in the case of a two-family attached dwelling);

(2) Agriculture, as defined herein except as required for excavations permitted under section 10-329

(3) For the installation of propane or LNG tanks incidental to the permitted use on a parcel up to a maximum capacity of 2001 gallons, provided the County Fire Official has approved such installation;

(4) Signs that are regulated by the County sign ordinance;

(5) Any development which has already received a building permit that is still in effect;

(6) Any development which received final site plan approval by the current planning department and the division of transportation and public works between November 10, 1981, and November 10, 1982, and began physical construction between November 10, 1981 and November 10, 1983;

(7) Temporary construction trailers;

(8) Beach renourishment projects;

(9) The replacement of existing utility lines;

(10) Mine Excavation Planned Developments (or existing mines as defined in section 12-121) issued in accordance with chapter 12

(b) *Subdivision plats.* All subdivisions requiring a development order must also have a subdivision plat meeting the standards of F.S. ch. 177, approved by the County and recorded in the public record, prior to the issuance of building permits, except for building permits for model buildings and sales centers. In addition, plats are not required for lot splits granted under the limited review process. Standards and procedures for the approval of plats are contained in division 5 of this article.

(c) *Installation of improvements.* All improvements specified on the development order drawings, and in the conditions and documents contained in the development order must be installed by the developer, at the developer's expense, unless otherwise approved within the development order documents.

(Ord. No. 92-44, § 2(A), 10-14-92; Ord. No. 94-07, § 4, 2-16-94; Ord. No. 94-10, § 2, 4-20-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 98-11, § 2, 6-23-98; Ord. No. 98-28, § 2, 12-8-98; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 08-21 , § 1, 9-9-08)

Sec. 10-102. Employment of engineers and design consultants.

An engineer shall be employed by the developer to design all required improvements such as streets, drainage structures, drainage systems, bridges, bulkheads, water and sewage facilities, etc. All plans, drawings, reports and calculations shall be prepared, signed and sealed by the appropriate licensed professional, such as engineers, architects, landscape architects, land surveyors and attorneys, registered in the state. Other specialized consultants, such as environmental consultants, archaeologists, etc., may be required to assist in the preparation of the plans, drawings, reports and other documents required as development order submittals.

(Ord. No. 92-44, § 2(B), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-103. Prerequisite zoning approvals for development order submittals.

(a) Any applicant who intends to submit an application for development order approval on a project that was zoned RPD, MHPD, RVPD, CPD, CFPD, IPD or AOPD prior to December 2, 1991, must submit four complete sets of plans and documents to the zoning review staff, who will review the submittals for full compliance with the adopted master concept plan and any conditions of approval. Plans may be reviewed concurrently for compliance with this chapter and with the terms of the zoning approval. No development orders may be issued for the project in question until the plans have been determined to be in compliance with the terms of the zoning approval. Specific reference to the districts listed in this section and the required review does not obviate the need to have plans reviewed for zoning compliance for conditions placed on other types of zonings, PUDs, special exceptions, variances and special permits.

(b) All applications for development orders on property zoned RPD, MHPD, RVPD, CPD, CFPD, IPD, AOPD or MPD after December 2, 1991, must be reviewed for compliance with the approved master concept plan and all other conditions of approval as part of the development order review process.

(c) For developments that require rezoning, the applicant may make application for a development order and the rezoning simultaneously. The development order will be reviewed for compliance with the requirements of this chapter and the requirements of chapter 12 and 34 for the proposed zoning of the property. No approval of the development order will be granted until the proposed rezoning is approved and a zoning resolution signed by the chairman of the Board of County Commissioners is issued.

(Ord. No. 92-44, § 2(C), 10-14-92; Ord. No. 94-07, § 4, 2-16-94; Ord. No. 95-07, § 3, 5-17-95; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-104. Deviation and variances.

(a) *Provisions where deviations are authorized.* The Development Services Director is hereby authorized to grant deviations from the technical standards in the following sections of this chapter.

(1) Section 10-261 (refuse and solid waste disposal facilities);

(2) Section 10-283 (access streets);

(3) Section 10-285 (intersection separations);

(4) Section 10-296, Table 2 (right-of-way widths for County-maintained streets);

(5) Section 10-296, Table 3 (rights-of-way widths for privately maintained streets);

(6) Section 10-296 (d)(3) (drainage and 10-296(e) through (i)road specifications);

(7) Section 10-296(l) (horizontal curves);

(8) Section 10-296(o) (intersection designs);

(9) Section 10-296(p) (culs-de-sac);

(10) Section 10-322 (swale sections);

(11) Section 10-329(d)(1)a. (setbacks for water retention/detention excavations);

(12) Section 10-329(d)(4) (excavation bank slopes);

(13) Section 10-352 (public water);

(14) Section 10-353 (public sewer);

(15) Section 10-384(c) (water mains);

(16) Section 10-415(b) (indigenous native vegetation);

(17) Section 10-418(3) (surface water management systems; limited to the prohibition of hardened structures behind single family residences for lake bank slopes);

(18) Section 10-441 (mass transit facilities);

(19) Section 10-416(c) (landscaping of parking and vehicle use areas);

(20) Section 10-610 (Site design standards and guidelines for commercial developments);

(21) Section 10-620(d)(4)a. (requiring full parapet coverage for roofs utilizing less than or equal to 2V:12H pitch);

(22) Section 10-716 (piping materials in right-of-way);

(23) Sections 10-329(f) and 10-418(5) (restoration of existing bank slopes and littoral designs).

(b) *Criteria for administrative deviations.* Administrative deviations may be granted only where the Development Services Director, with the assistance of directors of other affected County departments, or divisions, and affected jurisdictions, finds that the following criteria have been met:

(1) The alternative proposed to the standards contained herein is based on sound engineering practices (not applicable to sections 10-352, 10-353 and division 7 of article III of this chapter);

(2) The alternative is no less consistent with the health, safety and welfare of abutting landowners and the general public than the standard from which the deviation is being requested;

(3) For division 7 of article III of this chapter, the required facility would unnecessarily duplicate existing facilities;

(4) The granting of the deviation is not inconsistent with any specific policy directive of the Board of County Commissioners, any other ordinance or any Lee Plan provision; and

(5) For sections 10-352 and 10-353, the utility that would otherwise serve the development cannot provide the service at the adopted level of service standard due to an inadequate central facility.

(6) For sections 10-329(f) and 10-418(5), the proposed use of hardened structures for restoration of existing lake bank slopes will be evaluated on a case by case basis. The application for the hardened structure must demonstrate this is the most appropriate and minimum stabilization technique necessary as designed and sealed by a licensed professional engineer. The application must also demonstrate compliance with section 10-418(3) for compensatory littorals as well as previously approved littoral and deep lake management plan requirements. However, existing lakes within the DRGR may not utilize hardened structures through the administrative process, except those identified in section 10-418(3).

(c) *Submittal requirements.* The submittal requirements for a deviation include the following:

(1) A completed application form provided by the division of development review;

(2) Plans, sealed by a registered professional engineer, that accurately reflect the applicant's alternative proposal;

(3) A written statement showing how the proposed alternative meets the criteria in subsection (b) above; and

(4) Any other materials and/or calculations requested by the Director to aid in the decision.

(d) *When submittals may be made.* Requests for deviations may be submitted contemporaneously with the applicant's original development order application, or at any time thereafter, so long as the application has not been withdrawn.

An applicant has six months to submit or resubmit a supplement consisting of drawings or plans setting forth the changes necessary to remedy any deficiencies identified in a written notice provided by the County regarding why the application will not be approved as submitted. If the supplement is not submitted within six months of the date of the written notice regarding deficiencies the application will be deemed withdrawn.

(e) *Refusals.* Deviations may not be unreasonably refused.

(f) *Appeal of Director's decision.* Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a). If a request for an administrative deviation is denied, or the applicant disapproves of the conditions imposed, the applicant may seek a variance through the normal public hearing process provided under section 34-145

(g) *Variances.* Requests to deviate from the terms of those sections of this chapter not listed in subsection (a) above must be filed in accordance with the procedures set out for variances in chapter 34. Applicants for administrative deviations that have been denied by the Director or the Hearing Examiner may also apply for variances in accordance with this section. The Hearing Examiner may grant variances from this chapter only upon a finding that the following criteria have been satisfied:

(1) The granting of the variance would not threaten the health, safety or welfare of abutting property owners or the general public;

(2) The requested variance is consistent with the Lee Plan;

(3) The requested variance will not create an undue burden on essential public facilities; and

(4) The standard from which the variance is being requested is unreasonably burdensome, as applied to the applicant's property and development plans.

(h) *Pursuant of variances or deviation concurrently with development order.* The applicant may pursue approval of variances and deviations concurrently with an application for a development order. The development order will be reviewed but cannot be approved until all of the necessary variances and deviations have also been approved. After a variance or deviation request has been heard and has been approved or denied, the applicant may proceed with the preparation of all the documents necessary for the approval of the development order.

(i) *Variances or deviations in planned developments.* For developments that have received zoning as a planned development, specific variances or deviations from the terms of these regulations are not required if the variances or deviations were approved as part of the schedule of deviations attendant to the master concept plan. Any requests for variances or deviations that were not included on the approved master concept plan must be processed in accordance with this section.

(j) Deviations or variances from procedures, definitions, or the actual use of land or structures are prohibited.

(Ord. No. 92-44, § 2(D), 10-14-92; Ord No. 94-07, § 4, 2-16-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 96-17, § 2, 9-18-96; Ord. No. 97-10, § 3, 6-10-97; Ord. No. 98-28, § 2, 12-8-98; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-105. Preapplication meeting.

All applicants are encouraged to submit an application for an informal meeting before the Development Review Director for the purpose of advancing a conceptual plan for development prior to making formal application for approval of a development order. The results of the meeting shall not be binding upon the developer or the County staff.

(Ord. No. 92-44, § 2(E), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-106. Revocation of existing development orders on granting of new development order.

In those cases where an applicant wishes to apply for a development order on property upon which a preliminary development order or final development order has been granted and is still valid, the applicant must, as a condition of making application for a new development order, agree to the revocation and cancellation of the entire existing preliminary or final development order upon granting of the new development order. This agreement shall be in writing and shall be irrevocable.

(Ord. No. 92-44, § 2(F), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-107. Initiation of application; designation of representative.

All legal and equitable owners of the property must jointly authorize the filing of an application for a development order and any subsequent amendments thereto. The applicants shall designate a representative who shall have full power and authority to represent and bind all legal and equitable owners of the property. Legal and equitable owners of the property include but are not limited to the heirs, successors and assigns of the legal and equitable owners, all mortgagees, purchasers of all or any portion of the property under a sales contract or an agreement for deed, and all trustees. The authority of the duly authorized representative for the applicant shall continue should an amendment to the development plan be sought if all new legal or equitable owners have joined in the application and that authority has not been expressly revoked by any of the legal or equitable owners.

(Ord. No. 92-44, § 2(G), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-108. Application procedure.

(a) The general procedure to obtain a development order requires that the applicant employ a registered professional engineer and other development consultants, as may be required, to prepare engineered drawings, plans, reports, calculations and legal documents that are specified in this chapter. The applicant shall submit a completed application, pay all required application fees and submit all required submittals to the Director of Development Review. The Director of Development Review will review the data submitted by the applicant and will approve or deny the development order request. Review of submittals shall be performed as noted in section 10-109

(b) The development order must be approved prior to approval of plats and prior to the issuance of a building permit. No estoppel argument or grievance of any sort shall be made by any applicant who submits simultaneously for development orders and building permits and has to incur further expense to revise any documents or drawings submitted.

(c) Developments required to plat, including small developments, shall submit the application for plat review pursuant to the procedures and application requirements for a development order. Application may be made simultaneously for plat review and development order review.

(Ord. No. 92-44, § 2(H), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-108.1. Payment of taxes.

No development orders or plats shall be approved for the subject property if ad valorem taxes or assessments against the property are delinquent or if there are outstanding tax certificates issued for the property.

(Ord No. 94-07, § 4, 2-16-94)

Sec. 10-109. Review procedure; action by Director of Development Review.

(a) The submittal for development order approval shall be made to the Director of Development Review. The Director of Development Review will log in the submittal transaction and will schedule a time and due date for completion of the submittal review. No review shall take place unless all appropriate filing fees and charges have been paid. After the initial review of the submittal, the Director of Development Review will notify the applicant, in writing, of the results of the review, and the rationale upon which any unfavorable decision was based.

(b) The Director of Development Review will take one of the following actions as a response to a submittal:

(1) Grant approval of the development order;

(2) Deny approval of the development order; or

(3) Grant conditional approval subject to the applicant fulfilling certain specified terms as outlined in the approval letter. The granting of conditional approval shall not be granted as a matter of right, but may be granted as a matter of discretion by the Director of Development Review. Should the applicant not meet the conditions set forth in the conditional approval, the conditional approval shall be automatically rescinded, and all funds expended in reliance on the conditional approval shall be expended at the applicant's own risk. The granting of conditional approval shall be subject to the conditions and time constraints imposed by the Director of Development Review in the conditional approval letter.

(c) When the Director of Development Review denies an application, a list of deficiencies requiring correction will be sent to the applicant with a letter stating that the application has been denied.

(Ord. No. 92-44, § 2(I), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-110. Resubmittal of application following denial.

(a) Where the Director of Development Review denies approval of the application for a development order and the submittals pursuant thereto, then the applicant may do either of the following:

(1) Redraft and resubmit the submittals required for approval to the Development Review Director in accordance with sections 10-108 and 10-109; or

(2) Appeal the denial of the development order submittal in accordance with the provisions of section 10-112

(b) Subsequent to notification that the plans have not been approved due to deficiencies, the applicant has six months to submit a supplement or corrected drawings or plans setting forth those corrections and changes necessary to remedy the deficiency. If the supplement is not submitted within six months, the application will be deemed withdrawn.

(c) Where the applicant is required to redraft and resubmit to pursue approval of an application, the applicant will submit such revised drawings, plans, reports, calculations, etc., as may be deemed necessary by the Director of Development Review to substantiate compliance with this chapter.

(Ord. No. 92-44, § 2(J), 10-14-92; Ord. No. 94-07, § 4, 2-16-94; Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-111. Issuance of order; approval letter and stamping of drawings.

When the Director of Development Review grants approval of all development order submittals, the development order shall be issued. The Director of Development Review shall issue a development order approval letter and will stamp the approved development order drawings with an appropriate development order approval stamp.

(Ord. No. 92-44, § 2(K), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-112. Appeals.

(a) *Right of appeal.*

(1) The applicant may file an appeal of any decision of the Development Review Director. Except as may be required by F.S. § 163.3215, and then only pursuant to that statute, a third party does not have standing to appeal an administrative decision granting or denying a development order.

(2) An appeal is not a legal substitute for a variance. Any appeal that requests a departure from or waiver of the terms and conditions of this chapter will not be heard through the appeal process.

(b) *Procedure.* The appellant must file a written appeal of the Director of Development Review's decision in accordance with those procedures set forth in chapter 34 for appeals of administrative decisions.

(c) *Decisions.*

(1) If the decision of the Development Review Director is upheld, then the applicant may redraft and resubmit all documents which are necessary for the appropriate approval in accordance with sections 10-109 and 10-110

(2) If the decision of the Development Review Director is reversed without modifications, then the applicant may prepare the submittals required for final approval or be issued a development order by the Development Review Director, as appropriate.

(3) If the decision of the Development Review Director is modified on appeal, then the applicant may take the remedial steps necessary to correct the rejected submittals and resubmit them in accordance with sections 10-109 and 10-110

(d) *Special Magistrate.*

(1) The applicant may file a request for relief under F.S. § 70.51, within 30 days from the conclusion of an administrative appeal or four months from the initiation of an administrative appeal, even if that appeal has not concluded.

(2) The request for relief must allege that the decision of the Director is unreasonable or unfairly burdens the use of the subject property. The request for relief will be heard by an impartial special magistrate in accordance with the procedure set forth in the Administrative Code.

(3) The request for relief under F.S. § 70.51, will not adversely affect the applicant's right to judicial review. However, a request for judicial review will waive the right to a special magistrate proceeding.

(Ord. No. 92-44, § 2(L), 10-14-92; Ord. No. 94-07, § 4, 2-16-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-113. Recording of notice of development order.

Where a development order is issued, then a notice of the development order, in accordance with the forms to be provided by the Development Review Director, shall be executed, and the Development Review Director shall record the notice in the official record books of the County.

(Ord. No. 92-44, § 2(M), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-114. Contents of development order.

A development order shall contain the following:

(1) Incorporation by reference of all submittal documents required for a development order application; the plat, if a subdivision; and all other documents prepared for approval of the development order;

(2) A list of all County permits which must be obtained;

(3) Any other conditions which the Director of Development Review deems appropriate in accordance with this chapter; and

(4) A signature clause, to be signed by the duly authorized representative, which will bind all owners and run with the land.

(Ord. No. 92-44, § 2(N), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-115. Duration of development order.

(a) All development orders for projects that are not large projects as defined below, will be valid for a period of six years from the date of issuance for those items specifically approved in the development order, or for the life of the surety or performance bond if the bond is for a period of less than six years. A development which is the subject of a duly executed development agreement will be authorized for the period prescribed in the development agreement.

(b) For large projects the initial development order will be valid for a period of nine years, subject to the following:

(1) Large projects, for the purpose of this provision, only includes projects that contain either 200,000 square feet of office uses, 300 residential dwelling units, 200,000 square feet of retail uses, a total of 200,000 square feet of office or retail uses, 500,000 square feet of industrial uses, or projects with equivalent development intensities.

(2) The initial development order for a large project that does not authorize the entire proposed development and where tracts of land are designated as future development areas will be valid for a period of nine years. Prior to development in subsequent phases, the applicant must obtain a new development order for the undeveloped portion of the project, or subsequent phase, and pay all applicable fees. Each development order for subsequent phases will be valid for a period of six years.

(3) The initial development order for a large project that authorizes the entire proposed development, but which will be constructed in phases, will be valid for a period of nine years. The first subsequent phase must be constructed within six years from the expiration date of the initial development order. Construction of each subsequent phase must be completed within six years from date the previous phase was required to be completed. If construction is not completed within the time frames provided, the applicant must obtain a new development order, meeting current regulations, for the undeveloped portion of the project and pay all applicable fees.

(c) The development order is valid for those items specifically approved, and the development order file will become inactive when the certificate of compliance is issued for the project or when the last certificate of compliance is issued for the last phase of a phased project.

(d) In order for a development order to remain valid and active, significant construction activity must commence within the duration of the development order and the construction of the project to build-out must be actively pursued. Active pursuit of construction of a project to build-out is defined as continuous construction of the required infrastructure improvements shown and specified in the development order or buildings comprising the project. Actions to secure a permit, land clearing activity and construction of facilities deemed ancillary to the project by the Director will not be considered sufficient to satisfy the "active pursuit" criteria set forth in this section. If a project, including a phased project, is under construction when the development order duration period has elapsed, the developer must either obtain a development order extension or continue the construction to build-out without any periods of construction inactivity which exceed 18 months. For development order projects where there has been a foreclosure action, a deed given in lieu of foreclosure, or title has been transferred pursuant to court ordered sale, and where there is a question of active pursuit of the construction under the development order, the new owner must resume construction of the project within 24 months from the date when the title to the property changes pursuant to the foreclosure, deed in lieu of foreclosure or court sale. Once restarted, construction must continue to build-out without any periods of construction inactivity which exceed 18 months.

(e) All documents approving the issuance of development orders must contain language in large print stating that the development order's concurrency certificate is only effective for three years from the approval. No vested right to a concurrency certificate will exist solely due to the existence of an otherwise effective development order.

(Ord. No. 92-44, § 2(O), 10-14-92; Ord. No. 94-07, § 4, 2-16-94; Ord. No. 94-28, § 11, 10-19-94; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-116. Effect of approval of development order.

If all applicable state and federal permits and approvals have been obtained, the issuance of a development order shall be authorization for the applicant to begin those site development activities specifically approved in the development order. Site development activities shall not occur before all applicable state and federal permits have been obtained.

(Ord. No. 92-44, § 2(P), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-117. Phased projects.

(a) *Authorized.* Development projects may be split into phases to accommodate the development plans and schedules of the developer.

(b) *Types.* In general, there are two types of phased projects:

(1) Projects that are the subject of a development order application which shows all required facilities, infrastructure and buildings, if applicable, on the entire parcel of land that is covered by the development order; and

(2) Large projects that are the subject of a development order application which shows specific facilities, infrastructure and buildings, if applicable, on portions of the parcel of land that is covered by the development order. The large proposed development order may also show tracts of land that are proposed for future development. For such phased large developments, each future phase shall be issued a separate development order, but each phase shall be considered in relation to the rest of the overall project.

(c) *General requirements.* The development order drawings or plans for each phase shall be sufficiently clear to show compliance with this chapter. Adequate infrastructure facilities must be provided to support each phase of the project as the project is developed.

(d) *Large phased projects.* Large phased developments that show undeveloped tracts within the limits of the overall development area shall provide the following data relating to the overall development:

(1) A master phasing plan with the phases numbered. The sequence of construction does not need to conform with the numbering sequence.

(2) A traffic impact statement for the overall development at build-out based on the estimated impacts that will be generated by the development at build-out.

(3) A traffic impact mitigation plan for the overall development at build-out based on the estimated impacts that will be generated by the project at build-out.

(4) An evaluation of the capacity of proposed drainage, and water and sewer services to be provided for the development at build-out.

(Ord. No. 92-44, § 2(Q), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-118. Amendments generally.

(a) If an applicant wishes to amend any part of a development for which a development order has been issued, he shall submit, on the forms to be prescribed by the Director of Development Review, an application for an amendment to the development order. The development order amendment application shall be accompanied by revised plans, reports and other appropriate submittals to allow the Director of Development Review to ensure that the proposed amendment complies with the requirements of this chapter. The amendment process may not be used to substantively modify the scheme of development as originally approved under an approved development order.

(b) Development order amendment applications and submittals will be prepared, reviewed and processed in accordance with the procedures specified in sections 10-108, 10-109 and 10-110, as well as other procedural and technical sections of this chapter.

(c) A development order amendment fee, in accordance with the adopted fee schedule, shall be paid by the applicant prior to review of the amendment submittal.

(d) Development order amendments for planned developments must remain in substantial compliance with the current approved master concept plan for the project. An application for an amendment to a development order that is not in substantial compliance with the approved master concept plan will not

be approved until the master concept plan is amended or the application is revised to comply with this subsection.

(Ord. No. 92-44, § 2(R), 10-14-92; Ord. No. 94-07, § 4, 2-16-94; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-119. Amendment to correct error or omission.

When, after issuance of a development order and prior to commencement of construction (land clearing), it is determined that the development order should have contained a specific County permit, and the permit was omitted, or that by an error or omission of the applicant's consultant a technical requirement of this chapter is not satisfied, the applicant shall submit an application for a development order amendment as specified in section 10-118 to correct the development order, except that no fees will be paid.

(Ord. No. 92-44, § 2(S), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-120. Minor changes.

(a) Minor changes to an approved development order may be requested. Minor changes are those changes which do not substantially affect the technical requirements of this chapter or do not require a review by three or more of the following review disciplines: zoning, transportation, drainage, fire, utilities and landscaping. Changes that exceed the criteria for the scope of a minor change as specified in this subsection shall be processed as a development order amendment in accordance with section 10-118

(b) If an applicant wishes to make a minor change to a development order, he shall submit an application for a minor change on the forms provided by the Director of Development Review. The minor change application shall be accompanied by revised plans, reports and other appropriate submittals to allow the Director of Development Review to ensure that the proposed minor change complies with the requirements of this chapter.

(c) A minor change application fee, in accordance with the adopted fee schedule, shall be paid by the applicant prior to review of the minor change submittal.

(d) Any change which is requested as a result of a violation revealed during final inspection will not be processed as a minor change, but instead will be considered and reviewed as an amendment and shall be subject to the provisions of section 10-118

(e) Applications for minor changes will be prepared, reviewed and processed in accordance with the procedures specified in sections 10-108, 10-109 and 10-110, as well as other procedural and technical sections of this chapter.

(f) Any number of minor changes will be allowed; however, only two separate submittals or applications will be allowed for either single or multiple minor changes on small projects and only four separate submittals will be allowed for either single or multiple minor changes on large projects. Minor changes required due to conflicts in the requirements of other governmental agencies or utility companies will not be counted towards the maximum of two separate minor change submittals.

(Ord. No. 92-44, § 2(T), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Sec. 10-121. Transfer.

A development order runs with the land and is transferable to the subsequent owner of the property covered by the development order. In order for a subsequent owner of property that is covered by a development order to ensure that the development order file is current, the new owner of the property must submit the following documents:

(1) A recorded deed or current title opinion to prove ownership of the property.

(2) A list of all owners of the property.

(3) A statement, signed by the applicant, under oath, that he is the authorized representative of the owner of the property and has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the issuance of a development order in accordance with this code. The signed statement also constitutes an acknowledgment that the property will not be transferred, conveyed, sold or subdivided unencumbered by the covenants and restrictions imposed as part of the development order.

(Ord. No. 92-44, § 2(U), 10-14-92; Ord. No. 94-07, § 4, 2-16-94; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 03-16, § 3, 6-24-03)

Sec. 10-122. Violation of development order.

(a) Where construction is commenced for improvements not authorized by a development order, the applicant will be issued a stop work order until an application to amend or correct the development order has been submitted and approved.

(b) An application to amend or correct a development order after construction has commenced in violation of the original development order will be charged an application fee equal to four times the original development order application base fee.

(c) Submittal of the application and payment of the application fee does not protect the applicant from the remedies described in section 10-6. Any of these forms of relief can be sought or maintained by the County until the problem is abated.

(d) Failure to maintain a development in compliance with a development order issued and approved under a certificate of compliance or certificate of occupancy constitutes a violation of this chapter and section 10-183

(Ord. No. 92-44, § 2(V), 10-14-92; Ord. No. 94-07, § 4, 2-16-94; Ord. No. 01-18, § 2, 11-13-01)

Sec. 10-123. Extensions.

(a) The Director of Development Services may grant two three-year extensions of time for a development order provided:

(1) The applicant requests the extension in writing, prior to the expiration date of the development order; and

(2) The applicant's request identifies the reasons for the extension; and

(3) All surety or performance bonds, if applicable, are extended by the developer; and

(4) The development order is in compliance with the Lee Plan and in substantial compliance with all other County Land Development Regulations at the time the development order extension is granted; and

(5) In no case may the Director approve more than two extensions.

(b) An applicant has six months to submit or resubmit a supplement consisting of drawings or plans or text setting forth the changes necessary to remedy deficiencies identified in a written notice provided by the County regarding why the request for extension will not be approved as submitted. If the supplement is not submitted within six months of the date of the written notice regarding deficiencies, the application will be deemed withdrawn.

(c) Where the Director recommends a denial of the extension request, or where the developer contests the proposed conditions placed on a development order extension by the Director, the developer may request the Board of County Commissioners to grant the extension provided items (1) through (4) can be satisfied. The grant of an extension is a matter of discretion and not of right.

(d) The Director of Development Services may grant certificate of concurrency compliance or conditional certificate of concurrency compliance renewals or extensions of time subject to the provisions of section 2-46(l), concerning validity of certificates of concurrency compliance and conditional certificates of concurrency compliance, provided:

(1) The request for renewal or extension is not received by the Development Services Division sooner than six months prior to the expiration date.

(2) The request for extension or renewal is accompanied by a current inventory of the development order approvals including any amendments or minor changes that have altered the development parameters; an inventory of the building permit activity that has occurred on the site since the development order approval; and, an inventory of the development that is remaining to be constructed to reach development build out. An updated transportation analysis will not be required to obtain an extension or a renewal of a concurrency compliance and conditional certificates of concurrency compliance.

(Ord. No. 92-44, § 2(W), 10-14-92; Ord. No. 94-07, § 4, 2-16-94; Ord. No. 94-28, § 12, 10-19-94; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-124. Coordination between County departments.

The review of development orders is a multidiscipline review process involving zoning, transportation, stormwater management, utilities, environmental issues, etc. The Director of Development Review may obtain assistance and advice, as appropriate, from other County departments and divisions to ensure compliance with this chapter. The Development Review Director will share information with other County departments and divisions for planning and programming capital improvement projects.

(Ord. No. 92-44, § 2(X), 10-14-92; Ord. No. 94-07, § 4, 2-16-94)

Secs. 10-125—10-150. Reserved.

Subdivision III. Submittals

Sec. 10-151. Generally.

(a) Except as may be specifically waived by the Director in accordance with section 10-152, the documents and graphics required to apply for a development order will be as specified in this subdivision.

(b) All drawings must be drawn on 24-inch by 36-inch sheets at an appropriate scale. If more than one sheet is required, appropriate match lines must be indicated. The Division Director may allow electronic submittals of work-in-progress drawings. Final drawings must be submitted as 24- by 36-inch hard copy prints in order to be stamped "approved."

(c) All drawings must be oriented so that north is towards the top or left of the drawing. A title block must appear in the lower right hand corner or along the right side of the sheet. Each sheet must be signed and, where appropriate, sealed by the consultant preparing the drawing.

(d) The following information must be provided on all submitted drawings other than plats:

(1) The name of the proposed development and the date the drawing was completed. If a revision, the revision dates must be included.

(2) The name, address and telephone number of the person preparing the drawings.

(3) The name and address of the developer.

(4) North arrow and scale.

(Ord. No. 92-44, § 3(A), 10-14-92; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 11-08 , § 4, 8-9-11; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-152. Requirement waiver.

The Director may waive the requirement for any submittal item deemed unnecessary for an adequate review of the proposed development. Such a waiver of the required number or nature of submittals does not constitute a change in the substantive standards or requirements of this chapter.

(Ord. No. 92-44, § 3(B), 10-14-92; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-153. Application form and contents.

The application form for development order approval may be obtained from the Department of Community Development. The following information must be included in any application form for a development order:

(1) A statement signed by the applicant, under oath, that he is the authorized representative of the owner of the property and has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the issuance of a development order in accordance with this Code. The signed statement also constitutes an acknowledgment that the property will not be transferred, conveyed, sold or subdivided unencumbered by the covenants and restrictions imposed as part of the development order.

(2) *Owner, applicant and developer information.*

a. The name of the proposed development.

b. The name, address and telephone number of the applicant.

c. The name, address and telephone number of the developer.

d. The name of the property owner.

e. A listing of the professional consultants employed in preparing the application or submitted documents. The names, addresses and telephone numbers shall be provided for consultants such as but not limited to architects, engineers, attorneys, landscape architects, planners, surveyors.

(3) *Property information.*

a. Property STRAP number.

b. The date the property was acquired.

c. The property dimensions and area.

(4) *General development information.*

a. The present zoning classification of the property.

b. Relevant rezoning, variance, special exception and administrative deviation case or resolution numbers associated with the property.

c. Relevant case numbers of development order approvals or development standards exemptions on the property.

d. Federal, state and local permits and stipulations affecting the development order applications.

(5) *Proposed development.*

a. Type of proposed development.

b. Acreage and percentage of total land area for each proposed use to be developed.

c. Acreage and percentage of total area of ground cover of structures and other impervious surfaces, and open space.

d. Proposed number and height of all structures.

e. Number of dwelling units and lots if a subdivision.

f. Types and uses of proposed structures.

g. Parking and loading area information.

h. Proposed recreational facilities information.

i. Project phasing information.

(6) *Completed permit applications required for development.*

a. State and federal permit information.

b. Local permit information.

(Ord. No. 92-44, § 3(C), app. 3-1, 10-14-92; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-154. Additional required submittals.

The following must be submitted with an application for development order approval:

(1) *Legal description and sketch to accompany legal description*. A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the development order application with accurate bearings and distances for every line. If the subject property consists of undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. A sketch of the undivided, platted lots is not required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

(2) *Title certification.* Certification of title for property subject to development order approval must meet the following criteria:

a. *Form.* The certification of title must be in one of the following forms:

i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.

ii. Ownership and encumbrance report, no greater than 30 days old at the time of the initial development order submittal.

iii. Title insurance policy with appropriate schedules, no greater than five years old at the time of the initial development order submittal and an affidavit of no change covering the period of time between issuance of the Policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate, title opinion or ownership and encumbrance report must be submitted in the alternative.

b. *Content.* The certification of title must include, at a minimum, the following:

i. The name of the owner or owners of the fee title;

ii. All mortgages secured by the property;

iii. All easements encumbering the property;

iv. The legal description of the property; and

v. The certification of title documentation must be unequivocal.

(3) *Boundary survey.* A boundary survey of the property, including a metes and bounds legal description, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. If the property consists of one or more undivided lots within a subdivision, then a copy of the subdivision plat may be submitted in lieu of the boundary survey unless the dimensions of the subject property differ from those in the original plat.

a. The survey must be based upon the certification of title submitted in accord with section 10-154(2).

b. The boundary survey must identify and depict all easements affecting the property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection.

c. Boundary surveys must meet the minimum technical standards for land surveying in the state, as set out in chapter 5J-17, Florida Administrative Code.

d. The survey must be tied to the state plane coordinate system for the Florida West Zone (the most current adjustment is required) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner.

e. The perimeter boundary must be clearly marked with a heavy line and must include the entire area to be developed.

f. The Federal Emergency Management Agency flood zone and required finished floor elevations must be shown.

g. The survey must locate and depict all existing structures and improvements on the parcel.

(4) *Plat.* If the development is a subdivision, a plat meeting the requirements of F.S. ch. 177 and Lee County Administrative Code 13-19 must be submitted prior to approval of the development order

for the subdivision. The preliminary plat submittal is not required until after the first round of development order sufficiency comments, though it may be submitted earlier.

(5) *Reserved.*

(6) *Existing conditions and improvements drawing.* An existing conditions and improvements drawing showing at a minimum the following:

a. An area location map showing the location of the property to be developed in relation to arterial and collector streets.

b. Coastal construction control lines, if applicable.

c. The location and name of abutting streets together with the number of lanes, the widths of rights-of-way and easements, and the location and purpose of abutting utility easements. The established centerline of streets on or abutting the property must be shown.

d. Existing elevations based on the North American Vertical Datum (NAVD) 1988.

1. Sufficient spot elevations based on NAVD 1988 must be shown to indicate the slope of the land and any rises, depressions, ditches, etc., that occur.

2. In no case may spot elevations be shown at a spacing greater than 200 feet.

3. Spot elevations must be shown beyond the development boundary extending a minimum of 25 feet.

4. The Director of Development Services may direct a grid pattern closer than 200 feet or elevations more than 25 feet beyond the development boundary to provide sufficient satisfactory information.

5. For developments of 40 acres or more, contours at one-foot intervals must be shown.

e. Identification of state jurisdictional wetlands.

f. Vegetation associations (not land use category) on the site as listed in the Florida Land Use, Cover and Forms Classification System, mapped at the same scale as the site plan. The map shall include significant areas of rare and unique upland habitats as defined in the Lee Plan.

g. The location of all existing buildings and structures on the property. If buildings or structures are to be moved or razed, this should be noted. The current and proposed use of existing structures that will remain (temporarily or permanently) must be identified.

h. The location and size of all public water and sewage systems, private wells, irrigation and flowing wells, bikeways, pedestrian ways, curbs, gutters, storm drains and manholes on or abutting the property.

i. The zoning classifications for the subject property, as well as the zoning and actual use of all abutting properties.

j. The fire district in which the proposed development is located.

k. The nature and location of any known or recorded historical or archaeological sites as listed on the Florida Master Site File, and the location of any part of the property which is located within level 1 or level 2 zones of archaeological sensitivity pursuant to chapter 22. A description of proposed improvements that may impact archaeological resources shall also be provided.

l. The location of existing and proposed public transit service areas, and bus routes and stops, including passenger amenities, e.g., shelters, lighting, benches, bikeways, pedestrian ways, passenger parking, bicycle racks, etc.

m. A diagram depicting the existing surface hydrology of the property. Existing flow-ways must be delineated.

(7) *Proposed development plan drawings.* Proposed development plan drawings showing at a minimum the following:

a. If the development is a subdivision, all lot lines and lot numbers.

b. Phasing plan. Where a large development is proposed, the applicant must submit a master phasing plan with the stages numbered in sequence. It is understood that, for long-term projects, the details of a given phase may change as the economic, environmental, social and legal elements of the proposed development change. For such phased developments, each phase will be issued a separate development order, but each phase will be considered in relation to the rest of the overall project. The phasing plan must show how each phase fits into the master plan for the continuance of streets, bikeways, pedestrian ways, drainage, stormwater management, potable water, fire protection, sewage collection, landscaping and buffers. Specific requirements for phased projects are specified in section 10-117

c. Proposed buildings or proposed structures. The building envelope, that is, the perimeter of the area within which the building will be built, the height of all buildings and structures, the maximum number of dwelling units or gross floor area, and no less than the minimum number of required parking spaces, including the number of spaces for the disabled, must be shown.

d. Open space, parks and recreation. All proposed open space, parks and recreation areas and facilities shall be shown and identified as either public or private. If common facilities, including but not limited to recreation areas or facilities and common open space, are proposed, a statement shall be included explaining how the area or facilities shall be permanently operated and maintained, and identifying who will be responsible for such maintenance. A list of the facilities to be constructed within each park or recreational area shall be provided or shown on the drawings.

e. Proposed vehicular ingress and egress for the development.

f. Proposed streets within the development.

g. Proposed location of on-site and off-site bikeways and pedestrian ways, with ingress to and egress from the development, as well as to or from common open space areas.

h. Where applicable, the proposed location and type of public transit amenities to be provided.

i. Parking and service areas. All off-street parking areas and all landscaped areas to be reserved for future parking spaces pursuant to section 34-2017(d), and all service areas for delivery of goods or services, shall be shown for all developments that are not subdivisions.

j. Utilities. A statement indicating the proposed method intended to provide water, sewer, electricity, telephone, refuse collection and street lighting, including but not limited to:

1. The names and address of all utilities, governmental or private, intended to supply the service.

2. The names and addresses of the owners of all existing public water and sewage systems within one-quarter mile of the proposed development.

3. A plan showing the location and size of all water mains and services, fire hydrants, sewer mains and services, treatment plants and pumping stations, together with plan and profile drawings showing the depth of utility lines and points where utility lines cross one another or cross storm drain or water management facilities. The location of services shall be shown.

k. Drainage and stormwater management plan. A drawing showing the location of all curbs and gutters, inlets, culverts, swales, ditches, water control structures, water retention or detention

areas, and other drainage or water management structures or facilities shall be submitted. Sufficient elevations shall be shown to adequately show the direction of flow of stormwater runoff from all portions of the site. A copy of all drawings and calculations submitted to the South Florida Water Management District shall also be submitted. The plan shall also identify the U.S. Department of Agriculture Soil Conservation Service soils classifications of the site to determine the feasibility of the proposed pollution control and drainage plans.

l. Landscaping and buffering. A landscaping plan must be submitted showing not less than the required open space and buffer areas, and including:

1. A tree location map or aerial photographic overlay which depicts the preservation of existing trees and the planting of any new trees required by County regulations.
2. All proposed landscaping, fencing, screening and buffering.
3. The size, variety, species and number of all trees and shrubs, with site-specific location, used in landscaping, open space and buffer areas.
4. All proposed signs.
5. The calculations to determine the minimum open space and other landscaping calculations.

m. Historical and archaeological resources. The plan shall show the outline of historic buildings and approximate extent of archaeological sites. Where this information is not available from published sources, a professionally conducted archaeological survey may be required.

n. Excavations. Where applicable, the location of all excavations must be shown, including the outline or boundaries of the excavation, both the outline of the top of the bank and the outline when the lake is at its maintained elevations, the depth of all excavations, the controlled water depth, and the slopes of all excavations.

o. A description of potential impacts to groundwater and surface water.

p. A description of impacts on wetlands and mitigation measures.

q. A description of impacts on floodplains or riverine areas and mitigation measures.

r. Benchmarks. There shall be a minimum of one benchmark per 40 acres or portion thereof. Each benchmark shall be shown and described on the plans.

(8) *Exterior lighting plan, photometrics and calculations.* An exterior lighting plan and photometric information must be submitted. The plan and photometric information must be provided in full compliance with section 34-625 of the Land Development Code and must demonstrate compliance with all standards and criteria specified therein.

(9) *Reserved.*

(10) *Traffic impact statement.* A traffic impact statement (TIS) must be submitted that surveys current and anticipated traffic conditions and public transportation in order to identify potential traffic problems posed by the proposed development. Adverse traffic impacts created by the development, both on-site and off-site, must be mitigated by the applicant as specified in the traffic impact mitigation plan and development order. Criteria for traffic impact statements are specified in article III, division 2, of this chapter.

(11) *Traffic impact mitigation plan.* A traffic impact mitigation plan must be submitted. The plan must be based on the approved traffic impact statement and identify in detail those on- and off-site road and intersection improvements necessary to mitigate the proposed development's adverse impacts by maintaining or restoring adopted levels of service on the public roads providing immediate access to the site, including any collector or arterial to which the adjacent street is tributary. Criteria for traffic impact mitigation plans are specified in article III, division 2, of this chapter.

(12) *Hazardous materials emergency plan.* Any applicant for a private port facility which did not receive approval of a hazardous materials emergency plan at the time of rezoning shall be required to submit a hazardous materials emergency plan, which shall be subject to the approval of the County Divisions of Emergency Management, Water Resources and Planning, and of the appropriate fire district. The plan shall also provide for annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan shall comply with the spill prevention control and countermeasure plan (SPCC) as called for in the federal oil pollution prevention regulations, 40 CFR 112, as amended.

(13) *Port facility permits.* New or improved port developments shall submit copies of all required leases and permits from other jurisdictions and agencies.

(14) *Protected species survey.* A species survey shall be submitted, if applicable, as required by article III, division 8, of this chapter.

(15) *Protected species habitat management plan.* A management plan for protected species habitat shall be submitted, if applicable, as required by article III, division 8, of this chapter.

(16) *Certificate to dig; historic preservation forms and reports.* When applicable, an archaeological/historic resources certificate to dig shall be obtained from the department of community development and submitted to the Director of Development Review. Florida Master Site File forms for historical or archaeological resources, facade or other historic or scenic easements related to the subject property or reports prepared by a professional archaeologist as may be required by chapter 22 shall be submitted to the Director of Development Review.

(17) *Historical/archaeological impact assessment.* An impact assessment for historical or archaeological resources describing the following treatments: demolition, relocation, reconstruction, rehabilitation, adaptive use, excavation, filling, digging, or no impact, shall be submitted to the Director of Development Review.

(18) *Exotic vegetation removal plan.* An exotic vegetation removal plan, as specified in article III, division 6, of this chapter, shall be submitted to the Director of Development Review.

(19) *Calculations and other pertinent materials.* The Director of Development Review may also require submission of calculations in support of all proposed drawings, plans and specifications. Calculations, data and reports to substantiate engineering designs, soil condition, flood hazards, compensation of floodplain storage (see section 10-253), wet season water table, etc., may be required. Prior to the release of the drawings approved by the Director of Development Review, construction of the development shall be limited to clearing and grubbing for construction of accessways to and within the site and to pollution control facilities required during the construction phase. If such work is done prior to approval of construction plans, a tree removal permit will be required.

(20) *Fire protection plan.* Where the development falls outside of a fire district, the applicant shall submit proof, in writing, that he has provided for fire protection as approved by the County Fire Official.

(21) *Emergency preparedness plan.* An emergency preparedness plan, approved by the Director of the Division of Emergency Management, is required prior to final approval of a development order for:

a. A hospital, nursing home, assisted living facility (ALF) or developmentally disabled housing project. To be approved by the Emergency Management Director, an emergency preparedness plan for these types of development must comply with the applicable criteria in Florida Administrative Code Chapters 58A-5, 59A-3, 59A-4, and 59A-5, as they may be amended.

b. A marina, multi-slip dock facility, or any residential development of 50 or more units. To be approved by the Emergency Management Director, an emergency preparedness plan for

these types of development must comply with the applicable criteria in the Lee County Administrative Code for Emergency Preparedness Plans.

(22) *State permits.* Prior to final approval of a development order, copies of completed applications for permits issued by the South Florida Water Management District or the Florida Department of Environmental Protection. Copies of all necessary state land development permits must be submitted prior to the commencement of construction work on the site.

(23) *Operation and maintenance covenants.* Where applicable, a copy of the covenants used for the maintenance and operation of the infrastructure improvements required by this chapter including but not limited to private streets and adjacent drainage, drainage and storm water management systems, utilities, public water and sewage systems, on-site bikeways, on-site pedestrian ways, open space, parks, recreation areas and buffers. These documents must meet the criteria set forth in Administrative Code 13-19.

(24) *Articles of incorporation or other legal documents for assignment of maintenance.* The developer must submit a copy of the legal documents creating the legal mechanism to ensure that the drainage system, on-site bikeways, on-site pedestrian ways, roadways and rights-of-way are continuously maintained. These documents must meet the requirements set forth in Administrative Code 13-19.

(25) *Opinion of probable construction costs.* The developer's consultant must prepare and submit the estimated cost and estimated date of completion for the work of installing all streets, drainage systems, water management systems, potable water treatment and distribution systems, sewage collection and treatment systems, bikeways, pedestrian ways, park and recreation improvements, landscaping and buffers as follows:

a. Subdivisions: on-site and off-site improvements.

b. All other developments: off-site improvements.

(26) *Assurance of completion of improvements.* Assurance of completion of the development improvements as specified in this section will be required for all off-site improvements prior to commencing any off-site or on-site development. Assurance of completion of the development improvements for on-site subdivision improvements will be required prior to the acceptance of the subdivision plat. Those on-site subdivision improvements that have been constructed, inspected and approved by the Director of Development Services through the issuance of a certificate of compliance may be excluded from the requirements of this section.

a. *Surety or cash performance bond.* Security in the form of a surety or cash performance bond must be posted with the Board and made payable to the County in an amount equal to 110 percent of the full cost of installing the required improvements approved by the County. If the proposed improvement will not be constructed within one year of issuance of the final development order, the amount of the surety or cash performance bond must be increased by ten percent compounded for each year of the life of the surety or bond. Alternatively, the surety or cash performance bond may be renewed annually at 110 percent of the cost of completing the remaining required improvements if approved by the Director. Prior to acceptance, bonds must be reviewed and approved by the County Attorney's Office. Surety instruments will be reviewed and approved in accord with the provisions set forth in administrative code 13-19.

b. *Other types of security.* The Board may accept letters of credit or escrow account agreements or other forms of security provided that the reasons for not obtaining the bond are stated and the County Attorney approves the document. Review and approval of surety instruments will be in accord with the guidelines set forth in Administrative Code 13-19.

(27) *Lee Plan consistency.* Statement regarding consistency with applicable Lee Plan standards and provisions, including the acreage allocation tables.

(28) Prior to issuance of a development order, if a project's storm water management system directly discharges into a Drainage or Water Control District (created pursuant to F.S. ch. 298) canal or includes work to be performed within a Drainage or Water Control District right-of-way, the Applicant must submit proof that they have requested all Drainage or Water Control District approvals necessary for the project to discharge directly into a Drainage or Water Control District canal or to perform work within the right-of-way. Prior to commencement of construction work on the site, the applicant must submit proof that all Drainage or Water Control District approvals have been received.

(Ord. No. 92-44, § 3(F)—(EE), 10-14-92; Ord. No. 94-07, § 5, 2-16-94; Ord. No. 95-07, § 4, 5-17-95; Ord. No. 95-12, § 3, 7-12-95; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 96-17, § 2, 9-18-96; Ord. No. 98-03, § 2, 1-13-98; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11; Ord. No. 13-01 , § 2, 2-12-13; Ord. No. 13-10 , § 3, 5-28-13)

Secs. 10-155—10-170. Reserved.

DIVISION 3. LIMITED REVIEW PROCESS

Sec. 10-171. Generally.

Developments meeting the criteria in section 10-173 and 10-174 are entitled to a development order in accordance with the procedures in this division. For developments meeting the criteria in this section, no site improvement, tree clearing, or issuance of building permits may occur prior to approval of the development order by the Director of Development Services. A limited tree clearing permit may be issued where necessary to allow access to the property for survey purposes in accordance with LDC section 14-377(a)(6).

(Ord. No. 92-44, § 4(A), 10-14-92; Ord No. 94-07, § 4, 2-16-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 96-17, § 2, 9-18-96; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-172. Legal effect of approval.

Approval of a development order for a development described in section 10-174(3) may require additional permits before development may commence. All applications must be reviewed by the Development Services Division for compliance with the Comprehensive Plan, the Zoning Ordinance (chapter 34) and other applicable regulations.

(Ord. No. 92-44, § 4(B), 10-14-92; Ord No. 94-07, § 4, 2-16-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-173. General requirements for limited review process.

Development orders being processed in accordance with the procedures in this division will be reviewed for compliance with the following general requirements:

(1) The development must comply with the general and specific requirements of sections 10-7 and 10-8

(2) The development must have no significant adverse effect upon surrounding land uses;

(3) The development must have no significant adverse effect upon public facilities in the area;

(4) The development must not adversely effect the environmental quality of the area; and

(5) The development proposal must be consistent with the County Comprehensive Plan.

The Director is authorized to impose conditions consistent with the provisions of this chapter in order to mitigate adverse impacts generated by the proposed development.

(Ord. No. 92-44, § 4(C), 10-14-92; Ord. No. 94-07, § 6, 2-16-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-174. Types of development entitled to limited review.

The following types of development may be processed in accordance with this division:

(1) *Type A.* Any improvements to the land determined by the Director to have no impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.), including up to 100 square feet of additional impervious surface and any Notice of Intent to Commence Water Retention Excavation for AG use or as an amenity to a single-family residence where blasting activities will not be conducted and where no more than 1,000 cubic yards of spoil will be removed offsite. (See section 10-329(c)(1)).

(2) *Type B.* A cumulative addition or enlargement of an existing impervious area, provided that the addition or enlargement does not increase the total impervious cover area by more than 2,500 square feet and there is no increase in the rate of runoff from the project site.

(3) *Type C.* Any out-of-door type recreational facilities, such as swimming pools, tennis courts, tot lots and other similar facilities, provided the total cumulative additional impervious area does not exceed 5,000 square feet, including any County-initiated improvements for public water access purposes in County-owned or County-maintained rights-of-way.

(4) *Type D.*

a. Any other improvement to land determined by the Director to have insignificant impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.).

b. The installation of new utility lines in existing right-of-way or easement.

c. Improvements to a County maintained road right-of-way within an incorporated area as defined in section 10-297

(5) *Type E.* Any subdivision of land into four lots or less where the zoning district regulations permit such subdivision; provided, however, that:

a. Each lot must meet or exceed all requirements of the zoning district in which it is located, or the subdivision is approved by the Director under the provisions of section 34-2221(1), and the overall development complies with all other requirements of this chapter;

b. No more than four lots may be created from an original parent parcel as it existed on January 28, 1983;

c. Except single-family detached dwelling units, two-family attached dwelling units or bona fide agricultural uses, no development may occur on any of the lots without first obtaining a development order;

d. If the parent parcel is ten acres or greater, a protected species survey may be required as specified in article III, division 8, of this chapter;

e. Each lot must abut and have access to a road that meets the minimum construction standards set forth in section 10-296; and, compliance with maximum density requirements of the Lee Plan is also required;

f. No significant alteration of existing utility installations is involved;

g. No change in drainage will occur that adversely impacts the surrounding properties;

h. Creation of new road rights-of-way or road easements, and the construction of new roadways or upgrading of existing roadways to meet the minimum standards contained in this chapter will require development order approval; and

i. Reasonable conditions may be attached to the approval so that any development on the lots will comply with all County land development regulations.

j. An application for a lot split must include all parcels under common ownership, including any abutting residual parcels, if under common ownership with the property subject to the lot split and are part of the original parent parcel as the parent parcel existed on January 28, 1983. If all lots are not under common ownership, the applicant must provide proof that the applicant made a bona fide, good faith effort to request by certified mail, return receipt requested, all other property owners to join in the lot split application. Proof of the current property owner's refusal to consent to the lot split or the failure of the current property owner to respond to the applicant's request, after a reasonable time for a response, will obviate the need to include that parcel. Further development on any lots that do not join in the lot split application may not occur until the lot has been legally created in accordance with the provisions of this Code.

k. All parcels, including residual parcels, must conform to the minimum property development regulations for the zoning district in which they are located.

(Ord. No. 92-44, § 4(D), 10-14-92; Ord. No. 93-38, § 2, 11-17-93; Ord. No. 94-07, § 6, 2-16-94; Ord. No. 94-10, § 3, 4-20-94; Ord. No. 95-07, § 5, 5-17-95; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 96-17, § 2, 9-18-96; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 08-21 , § 1, 9-9-08; Ord. No. 11-08 , § 4, 8-9-11; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-175. Required submittals.

The following submittals are required to apply for a development order in accordance with this division:

(1) A completed application must be made on the application forms provided by the division of development review.

(2) A plan depicting the site and location of all buildings or structures on it.

(3) An area location map.

(4) A written description of the proposal and the reasons why it should be approved.

(5) A copy of any building permits and approved site plan, if applicable.

(6) Any additional necessary or appropriate items which the Director of Development Services may require. Additional data may include copies of deeds, sealed surveys, calculations, and completed applications for any state, federal or local permits, including the South Florida Water Management District.

(Ord. No. 92-44, § 4(E), 10-14-92; Ord. No. 94-07, § 6, 2-16-94; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-176. Appeals.

If the Director of Development Review denies an application for a development order processed pursuant to this division, the applicant may file an appeal of the Director's written decision in accordance with the procedures set forth in chapter 34 for appeals of administrative decisions. Except as may be required by F.S. § 163.3215, and then only pursuant to that statute, a third party does not have standing to appeal an administrative decision denying an application for a development order issued in accordance with this section.

(Ord. No. 92-44, § 4(F), 10-14-92; Ord. No. 94-07, § 6, 2-16-94; Ord. No. 99-05, § 4, 6-29-99)

Secs. 10-177—10-180. Reserved.

DIVISION 4. INSPECTIONS AND CERTIFICATE OF COMPLIANCE

Sec. 10-181. Inspection of improvements generally.

A professional engineer registered in the state shall inspect and certify the construction of all required improvements such as streets, drainage structures, drainage systems, bridges, bulkheads, water and sewer facilities, landscaping and buffers, and all other improvements, for substantial compliance with the development order drawings and plans.

(Ord. No. 92-44, § 6(A), 10-14-92)

Sec. 10-182. Inspection of work during construction.

(a) *Periodic inspection required; correction of deficiencies.* The Director of Development Review or his designated agent shall periodically inspect all construction of streets and drainage improvements, including those improvements which are not to be dedicated to the public but are subject to this chapter. The Director of Development Review will immediately call to the attention of the developer, or the developer's engineer, any nonconforming work or deficiencies in the work. Correction of deficiencies in the work is the responsibility of the developer. It is the responsibility of the developer to

notify the Director of Development Review 24 hours before a phase of the work is ready for inspection to schedule the inspection. Inspection reports that document the results of the inspection shall be prepared by the division of development review inspector.

(b) *Specific inspections.*

(1) Inspections of the following phases of work are required:

a. Drainage pipe after pipe joints are cemented or sealed.

b. Headwall footings.

c. Roadway subgrade.

d. Roadway base.

e. Asphalt prime coat and all surface courses.

f. Final site inspection.

(2) The thickness of the roadway base shall be measured under the direction of the County Inspector at intervals of not more than 200 lineal feet in holes through the base of not less than three inches in diameter. Where compacted base is deficient by more than one-half inch, the contractor shall correct such areas by scarifying and adding material for a distance of 100 feet in each direction from the edge of the deficient area, and the affected area shall then be brought to the required state of compaction and to the required thickness and cross section.

(3) Seeding and mulching or sodding over all unpaved areas within rights-of-way or roadways will be required at the time of final inspection.

(4) Inspection requirements for water and sewer utility systems are specified in section 10-357

(c) *Testing of roadway subgrade, base and shoulders.* The developer shall have the roadway subgrade, base, and shoulders tested for limerock bearing ratio and compaction by a certified testing laboratory. The location and quantity of tests shall be determined by the Director of Development Review. There shall be a minimum of one test per 1,000 feet, or two per project. Prior to acceptance by the County, a copy of the test results shall be furnished to the Director of Development Review.

(Ord. No. 92-44, § 6(B), 10-14-92)

Sec. 10-183. Final inspection and certificate of compliance.

(a) Upon completion of all development required under the approved development order, or phase thereof, an inspection must be performed by the developer's engineer or his designated representative. Upon finding the development to be completed and in substantial compliance with the approved development order documents, the engineer must submit a signed and sealed letter of substantial compliance to the Development Review Director along with a final inspection request. No final inspection will be performed by the County until the letter of substantial compliance has been accepted. The letter of substantial compliance may include a submittal for a minor change with highlighted plans showing minor changes which do not substantially affect the technical requirements of this chapter as described in section 10-120. Letters of substantial compliance must be in a form approved by the Director or County Attorney.

(b) Substantial compliance means that the development, as determined by an on-site inspection by a professional engineer or his designated representative, is completed to all the specifications of the approved development order plans and that any deviation between the approved development order plans and actual as-built construction is so inconsequential that, on the basis of accepted engineering practices, it is not significant enough to be shown on the development site plans.

(c) Upon acceptance of the letter of substantial compliance and a request for final inspection, the Development Review Director or his designated representative may perform the final inspection. If the final inspection reveals that the development or phase thereof is in substantial compliance with the approved development order, a certificate of compliance will be issued. A certificate of compliance is required prior to the issuance of a certificate of occupancy from the division of codes and building services. If the final inspection reveals that the development or phase thereof is not in substantial compliance with the approved development order, a list of all deviations will be forwarded to the engineer. All deviations must be corrected per the amendment and minor change procedure and a new letter of substantial compliance submitted and accepted prior to a reinspection by the Development Review Director. Applications for amendments, minor changes, inspections and reinspections will be charged a fee in accordance with the adopted fee schedule.

(d) If more than one building is covered by the development order, a certificate of compliance for streets, utilities, parking areas, and drainage serving each building will be required prior to receiving a certificate of occupancy from the division of development services. If a final inspection is requested for only a portion of a development, that portion must be an approved phase of the development in accordance with the development order plans.

(e) A development project must remain in compliance with the development order, including all conditions, after a letter of substantial compliance, certificate of compliance or certificate of occupancy has been issued by the County. This requirement applies to any property covered by the development order, whether or not it continues to be owned by the original developer. For purposes of determining compliance, the terms of the development order as issued, or subsequently amended in accordance with this chapter, will control. The standards applicable to review for compliance purposes will be based upon the regulations in effect at the time the development order, or any applicable amendment, was issued.

(f) Improvements constructed pursuant to a development order may not be placed into service or otherwise utilized until the required certificate of compliance has been issued for the development order

(Ord. No. 92-44, § 6(C), app. 6-1, 10-14-92; Ord. No. 95-07, § 6, 5-17-95; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 03-16, § 3, 6-24-03)

Secs. 10-184—10-210. Reserved.

DIVISION 5. PLATS

Sec. 10-211. Plat required.

(1) All subdivisions as defined in this chapter are required to have a plat of the parcel of land containing the subdivision, showing all of the information required by F.S. ch. 177, pt. I, by this chapter, and by any adopted administrative code, approved by the County and recorded in the official records of the County, prior to the approval of any building permits.

(2) Building permits may be issued for model buildings and sales centers prior to recording of the plat, subject to evidence of unified control and provided that any certificate of occupancy issued is for model or sales use only, until the plat has been recorded.

(3) Plats are not required for an initial lot split granted under the limited review process, as provided in section 10-174. However, if, subsequent to an initial lot split, an additional lot split is requested, and that lot split results in the creation of more than four lots out of the original parent parcel as the parent parcel existed on January 28, 1983, then a F.S. Ch. 177, plat is required.

   a. The plat required as a result of the additional lot split must include all lots that were part of the parent parcel as it existed on January 28, 1983. However, if all parcels are not under common ownership with the parcel subject to the additional lot split, the applicant must provide proof that the applicant made a bona fide, good faith effort to request, by certified mail, return receipt requested, the property owners of lots not under common ownership, but part of the parent parcel as it existed on January 28, 1983, to join in the plat.

   b. Proof of the current property owner's refusal to consent to the plat or failure of the current property owner to respond to the applicant's request after a reasonable time for a response will obviate the need to include all lots that were part of the parent parcel as it existed on January 28, 1983.

   c. In the event that a property owners' association covering portions of the parent parcel has been formed to provide for the maintenance of common infrastructure, the owners of the lot to be created must provide documentation consenting to become a member of the Association as a condition of approval.

   d. All platted parcels, including residual parcels, must conform to the minimum property development regulations for the zoning district in which they are located.

(Ord. No. 92-44, § 5(A), 10-14-92; Ord. No. 94-10, § 4, 4-20-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-212. Preparation and submission.

Plats must be prepared in compliance with F.S. ch. 177, and must contain all of the elements specified in F.S. Ch. 177, Part I and Lee County AC 13-19. Review copies of the plat must be submitted with the application for development order approval. The initial plat submittal must include a boundary survey of the lands to be platted, in accordance with F.S. § 177.041.

(Ord. No. 92-44, § 5(B), 10-14-92; Ord. No. 94-10, § 4, 4-20-94; Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-213. Technical requirements.

Technical requirements for plats are specified in the County Administrative Code entitled "Technical Requirements for Plat Approval."

(Ord. No. 92-44, § 5(C), 10-14-92; Ord. No. 94-10, § 4, 4-20-94; Ord. No. 96-06, § 4, 3-20-96)

Sec. 10-214. Contents.

Plats must depict the entire parcel of land that is being subdivided.

(Ord. No. 92-44, § 5(D), 10-14-92; Ord. No. 94-10, § 4, 4-20-94)

Sec. 10-215. Waiver of requirements.

The following subdivisions of land are not subject to the requirements of this chapter:

(1) A division of land that can be accomplished pursuant to a development platted or approved by the County prior to January 28, 1983, provided that all required improvements have been made or that a security for the performance of the improvements has been posted and is current.

(2) The division of land for the conveyance of land to a federal, state, County or municipal government entity, or a public utility.

(3) The division of land by judicial decree.

(4) A division of land approved in accordance with section 10-174

(5) A single family residential lot created between January 28, 1983 and December 21, 1984 that has obtained a favorable minimum use determination in accordance with the Lee Plan.

(Ord. No. 92-44, § 5(E), 10-14-92; Ord No. 94-10, § 4, 4-20-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-216. Monuments.

(a) *Permanent reference monuments.*

(1) Permanent reference monuments (PRM's) must be placed as required by F.S. ch. 177, as amended, and approved by a licensed, registered state professional land surveyor, on the boundary of all developments.

(2) Monuments must be set in the ground so that the top is flush or no more than one-half foot below the existing ground. Subsurface PRMs must be exposed for inspection when a plat is submitted for review. If development of the subdivision occurs after a plat is reviewed, the PRMs must be raised or lowered to be flush or no more than one-half foot below the finished ground. Subsurface PRM's must be exposed for inspection at the time of final inspection of the development.

(b) *Permanent control points.* Permanent control points (PCPs) must be installed in accordance with F.S. ch. 177. When a plat is recorded prior to construction of the subdivision improvements, the PCPs must be set following completion of construction. The surveyor must certify that the PCPs have been set and must record the certification in the official record books of the County.

(c) *Monuments.* Monuments must be installed in accordance with F.S. § 177.091(9).

(Ord. No. 92-44, § 5(F), 10-14-92; Ord. No. 94-10, § 4, 4-20-94; Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-217. Lot recombinations.

The Director of Development Services may permit the combination or recombination of platted lots of record created through a plat recorded in the Official Records of Lee County provided the density established through the original plat is not increased and the resulting lots comply with chapter 34, the Lee Plan, and all other applicable provisions of this chapter.

(1) *Application.* The application for a lot recombination must be made in writing on the form provided by the division of development review and must include:

a. A copy of the plat book and page, if applicable;

b. Copies of the most recent deeds for all of the affected lots;

c. Copies of the deeds establishing that the lots are lots of record, if the lots are unplatted;

d. A statement signed by the applicant, under oath, that he is the authorized representative of the owner of the property and has full authority to secure the approval requested must be included with the application;

e. An area location map;

f. A survey sketch showing the existing and proposed lot lines and the existing and proposed legal descriptions of the affected lots; and

g. A written explanation of the reasons for the request.

(2) *Relocation of easements.* All easements that are affected by a proposed lot recombination must be vacated and relocated, if applicable, in accordance with the Florida Statutes.

(3) *Appeals.* A denial of a lot recombination request is an administrative decision which may be appealed in accordance with the procedures set forth in chapter 34

(4) The combination of two or more lots of records into one lot is not a "division" and is not subject to the approval process described in this section; provided, however, that any easements that are affected by such combinations shall be vacated and relocated, if applicable in accordance with the Florida Statutes.

(Ord. No. 92-44, § 5(G), 10-14-92; Ord. No. 94-07, § 7, 2-16-94; Ord. No. 94-10, § 4, 4-20-94; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-218. Noncompliance of individual lots.

(a) The projects set forth in this subsection may be approved notwithstanding the noncompliance of the individual lots with property development regulations in chapter 34, and/or this chapter, provided that:

(1) The overall development is in compliance with all applicable zoning and development regulations;

(2) All common areas such as streets and accessways, off-street parking, water management facilities, buffering, and open space are subject to unified control; and

(3) Said subdivision is approved by the Director of Community Development in accordance with the provisions of section 34-2221(1).

(b) The projects which may be approved in this matter are as follows:

(1) The subdivision of existing commercial and industrial developments;

(2) Commercial or industrial developments which have received a development order;

(3) A final development order which is still effective; or

(4) A new final development order application.

(Ord. No. 93-38, § 3, 11-17-93; Ord. No. 94-10, § 4, 4-20-94)

Secs. 10-219—10-230. Reserved.

DIVISION 6. RESERVED [3]

Secs. 10-231—10-250. Reserved.

Secs. 10-231—10-250. Reserved.

FOOTNOTE(S):

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Editor's note— Ordinance No. 97-10, § 3, adopted June 10, 1997, deleted §§ 10-231—10-241. Formerly, such sections pertained to preliminary plan approval and derived from Ord. No. 94-28, § 57(a)—(k), 10-19-94. (Back)

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS [4]

DIVISION 1. - GENERALLY

DIVISION 2. - TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

DIVISION 3. - SURFACE WATER MANAGEMENT

DIVISION 4. - UTILITIES

DIVISION 5. - FIRE SAFETY

DIVISION 6. - OPEN SPACE, BUFFERING AND LANDSCAPING

DIVISION 7. - PUBLIC TRANSIT

DIVISION 8. - PROTECTION OF HABITAT

DIVISION 9. - RESERVED

DIVISION 10. - LAKES REGIONAL PARK WATERSHED

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 6; supplementary zoning regulations, § 34-1141 et seq. (Back)

DIVISION 1. GENERALLY

Sec. 10-251. Applicability.

All lands proposed for development must be suitable for the various purposes proposed in the request for approval. In addition to the standards contained in this chapter, the developer must demonstrate to the satisfaction of the Development Services Director that the proposed development is specifically adapted and designed for the uses anticipated, including lot configuration, access and internal circulation, and that the development will be consistent with the criteria prescribed in the standards set forth in goals 6, 7 and 11 of the comprehensive plan. The developer must also demonstrate that the proposed development complies with all other provisions of the comprehensive plan, chapter 34, this chapter, and other laws, ordinances and regulations, as applicable.

(Ord. No. 92-44, § 7(A), 10-14-92; Ord. No. 94-07, § 8, 2-16-94; Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-252. General design standards.

The size, shape and orientation of a lot and the siting of buildings shall be designed to provide development logically related to trees, topography, solar orientation, natural features, streets and adjacent land uses. All development shall be designed to maximize the preservation of natural features, trees, tree masses, unusual rock formations, watercourses and sites which have historical significance, scenic views or similar assets. The U.S. Secretary of the Interior's Standards for Rehabilitation are the recommended guidelines for all development involving historic resources.

(Ord. No. 92-44, § 7(B), 10-14-92; Ord. No. 94-07, § 8, 2-16-94)

Sec. 10-253. Consideration of soil conditions and flood hazards.

No development plan will be approved unless the developer submits substantial and competent evidence that all lands intended for use as development sites can be safely developed without undue danger from flood or adverse soil or foundation conditions. The following standards must also be adhered to, as applicable:

(1) In order to utilize property located within the 100-year floodplain, or property which is subject to inundation from overland flow on an average of once every five years or more frequently, the developer must submit a plan for adequate flood protection. Such lands may be developed or subdivided only after proper provisions are made for protection against flooding of sewage systems and building areas intended for human occupancy. The first habitable floor elevation must be a minimum of 18 inches above the street centerline elevation but in no case less than seven feet above mean sea level.

(2) The developer must provide a plan prepared and sealed by a professional engineer to compensate for any loss of flood storage due to the filling of an area within the floodplain or flow-way in accordance with South Florida Water Management District criteria.

(3) Approval of plans for flood protection does not constitute a representation, guarantee or warranty of any kind by the County or any officer or employee as to the practicality or safety of any flood protection measure. Likewise, approval of such plans does not create any liability upon or cause of action against such public body, officers or employees for any damage that may result pursuant thereto.

(4) Properties which exhibit soils, hydrology and vegetation characteristic of saltwater inundation or freshwater ponding are subject to Chapter 14, Article IV, pertaining to wetlands protection.

(5) Land affected by Chapter 6, Article III, pertaining to coastal zone protection, must have the control line depicted on the site plan and the plat. When lots are created using land seaward of the control line to comply with lot area requirements, the lots must possess adequate buildable area landward of the line.

(Ord. No. 92-44, § 7(C), 10-14-92; Ord. No. 94-07, § 8, 2-16-94; Ord. No. 03-16, § 3, 6-24-03)

Cross reference— Floods, § 6-401 et seq.

Sec. 10-254. Lots.

(a) *Lot size.* All lot dimensions and areas shall comply with the minimum requirements in chapter 34

(b) *Double frontage lots.* Double frontage lots shall be permitted only where necessary to separate a development from an arterial or collector street or to overcome a disadvantage of topography and orientation.

(c) *Lot lines.* Side lot lines shall be, as nearly as practical, at right angles to straight street lines and radial to curve street lines. Side lot lines and rear lot lines shall, where practical, consist of a straight line segment (this provision shall not apply to new platted lots). The Director may waive or modify this standard upon a showing of good cause, including, but not limited to, the following factors:

(1) Unusual size or shape;

(2) The size of lots;

(3) Existing ownership and development patterns;

(4) The location of existing structures on the lot(s); and

(5) Natural or man-made site features.

(Ord. No. 92-44, § 7(D), 10-14-92; Ord No. 94-07, § 8, 2-16-94)

Sec. 10-255. Street names.

Street names shall not be used which will duplicate or be confused with the names of existing streets. New streets that are an extension of or in alignment with existing streets shall bear the same name as that borne by such existing streets. All courts and circles should have one name only. All proposed street names shall be approved in writing by the department of community development and be indicated on the plat, if any, and on the site plan.

(Ord. No. 92-44, § 7(E), 10-14-92; Ord. No. 94-07, § 8, 2-16-94)

Sec. 10-256. Bikeways and pedestrian ways.

(a) *Unincorporated bikeways/walkways facilities plan.* All development proposed along the arterial and collector roadways depicted on the unincorporated bikeways/walkways facilities plan (Lee Plan Maps 3D-1 and 3D-2) or the Greenways Multipurpose Recreational Trails Master Plan,(Lee Plan Map 22) (hereafter referred to as "the plan" for purposes of this section) must provide for bikeways and pedestrian ways. Construction of bicycle and pedestrian facilities shown on the plan along the frontage, or an acceptable alternate location approved by the Development Services Director, of subject property are deemed to be site-related improvements.

(b) All bikeway/walkways required by this section must be designed and constructed following the criteria set forth in this section, the plan, Administrative Code 11-9, the ADA accessibility guidelines, the Florida Greenbook (for County roads) and the Plans Preparation Manual (for state roads).

(c) *Provision of bikeways and pedestrian ways for County and state maintained roadways.*

(1) *General.*

a. All new development along County and state maintained roadways and redevelopment of existing property resulting in a 25 percent or greater increase in either:

1. Building size or floor area; or

2. Residential dwelling units;

are required to construct bikeways and pedestrian ways in accord with section 10-256(b).

b. When any portion of the property to be developed is located within one-quarter mile (as measured along the principal perimeter street) of a collector or arterial road shown on the plan as requiring either a bikeway or pedestrian way, or within a quarter mile (as measured along the principal perimeter street) of an existing facility, the developer must construct a similar facility within the existing road right-of-way from the subject property to the existing or proposed facility. This section will not require the purchase of right-of-way or easements by Lee County where none exist and will only apply where the required new facility can be constructed along a collector or arterial road.

c. When any portion of a proposed residential subdivision is located within one-quarter mile (as measured along the principal perimeter street) of an existing or proposed bicycle or pedestrian generator such as schools, parks, playgrounds, shopping centers or employment centers, or transit facilities, the developer must construct a bikeway or pedestrian way not less than eight feet in width within the existing road right-of-way connecting the subdivision to the pedestrian generator. This section will not require the purchase of right-of-way or easements by Lee County where none exist and will only apply where the required new facility can be constructed along a collector or arterial road.

d. In instances where a proposed development is within one-quarter mile of a collector or arterial road shown on the plan as requiring a bikeway or pedestrian way and is also within one-quarter mile of an existing facility in the opposite direction on the same principal perimeter street, only one connecting link will be required. The Director of Development Services will determine which link would be most beneficial to the intent and purpose of this code.

e. When any portion of the parcel located along an arterial or major collector is developed, bikeways and pedestrian ways are required. Material, width and type of facility will be determined by the standards outlined in section 10-256(b) and existing conditions within a quarter mile of the surrounding area of the proposed development. When any portion of a parcel along a minor collector or local street is developed with office or commercial uses, sidewalk is required.

f. *Impact fee credit.* Upon County acceptance of the required facility or a bond or other security assuring construction of the facility, the applicant will be entitled to road impact fee credits, park impact fee credits or both for facilities beyond the abutting subject property boundaries as noted in subsections 10-256(c)(1)b, c and d only. If the proposed development includes facilities extending beyond the requirements as outlined and described in administrative code 11-9, the applicant will be entitled to impact fee credits. This option is subject to approval through the development order process.

(2) *Location.*

a. The developer must construct a bikeway or pedestrian way within the boundaries of the public road right-of-way on County maintained roads unless an alternative location is approved by the Department of Transportation.

The Department of Transportation may approve an alternate location that will allow a facility to be constructed outside the public road right-of-way on property owned or controlled by the developer of the project incurring the requirement to construct if:

1. The developer grants the County no less than an easement interest, meeting standard County title acquisition requirements, over the property deemed necessary to support the facility;

2. The proposed easement area abuts or closely parallels the existing County right-of-way;

3. The easement area is a minimum two feet wider than the width of the required bikeway or pedestrian way;

4. The easement area is perpetually open to the public; and

5. The easement is granted without cost to the County.

The County will accept maintenance of the constructed facility upon issuance of the certificate of compliance in accord with this section and section 10-256(c)(4).

b. The developer must construct bikeways or pedestrian ways on state roads within the boundaries of the state road right-of-way subject to approval and issuance of a general use permit by FDOT. Facilities along state road rights-of-way may not be constructed in easements abutting the state roadway unless approved by FDOT prior to local development order approval. A copy of the written FDOT approval must be submitted to the County.

c. Residential subdivisions with County maintained streets must construct pedestrian ways as follows:

1. A pedestrian way is required along one side of all County-maintained streets internal to a residential development where the proposed gross density exceeds four dwelling units per acre. The pedestrian way must extend from intersection to intersection; and

2. A pedestrian way is required along one side of all County maintained cul-de-sac streets that serve two dwelling units or more. The pedestrian way must extend from the intersection to the end of the cul-de-sac. Exceptions to this requirement are:

   i. Where the construction will encroach upon the required setback from a conservation or preservation area; or

   ii. Where the proposed street forms an exterior boundary to the subdivision.

3. *Waiver of requirement to allow alternative plan.* The Development Services Director may waive compliance with the provisions of section 10-256(c)(2)c. where the developer provides an alternative plan for an internal bikeway/pedestrian way circulation system that is functionally equivalent to the standards set forth in this section and connects with existing facilities in accord with the requirements set forth in 10-256(c)(2)a. and b. The alternative plan must be submitted and approved in conjunction with the development order supporting subdivision plat approval. The alternative plan must be drawn to a scale sufficient to depict and describe the following:

   i. The location of all lots, along with the number and type of dwelling units on each lot; and

   ii. The location, width and type of each proposed bikeway and pedestrian way including those facilities intended to connect to bikeways and pedestrian ways off-site.

(3) *Construction standards.*

a. All construction proposed within County right-of-way must be done in accord with an approved Lee County Department of Transportation Right-of-way Permit. The permit application must include a detailed plan of the existing and proposed conditions. The application is subject to comment and revision prior to issuance of the permit.

b. Curb ramps (i.e. wheelchair ramps) are required at all intersections where pedestrian ways intersect roadway curb and gutter. Curb ramps must be designed and constructed in accord with section 10-256(b).

c. *Obstructions.* A minimum 48 inch wide sidewalk, clear of obstacles, must be maintained within a pedestrian way (i.e. sidewalk five feet or less). Pedestrian ways narrowed for some distance (i.e. distance sufficient to clear the obstruction on either side) to the 48 inch minimum by the installation of a permanent obstacle must provide a passing space of at least 60 inches long by 60 inches wide every 200 linear feet. Permanent obstacles such as utility poles, signs, mailboxes and similar items located within the pedestrian way on County-maintained streets must maintain a minimum eight-foot height clearance above the pedestrian facility.

   If permanent obstacles such as utility poles, signs, mailboxes and similar items are located within a facility that is wide enough to accommodate two-way traffic (i.e. eight feet wide or greater) on a County maintained street, then a minimum six-foot wide pathway must be maintained within the facility.

d. There may be no unsafe curves or sudden elevation changes in the bikeway or pedestrian way that may present a hazard to the user. When possible, development must be designed to promote bicycle and pedestrian street crossings at traffic control signals, crosswalks or intersections.

e. *On-road.* Where an applicant proposes to widen an existing roadway that has existing paved shoulders, undesignated bike lanes, bike lanes or wide outside lanes the applicant must design the roadway improvements to include and accommodate, at minimum, the existing level of bicycle/pedestrian facilities. For example, a new turn lane improvement would be required to include and replace the existing width of paved shoulders.

Where the roadway is proposed for widening and the plan shows proposed paved shoulders, undesignated bike lanes, bike lanes or wide outside lanes adjacent to the roadway, those lanes must be constructed to County specifications as set forth in AC 11-9.

f. *Off-road.* All bikeways and pedestrian ways constructed along arterial and collector roads must be constructed of six-inch thick Portland cement concrete or a minimum one and one-half asphaltic concrete of FDOT type S-III on a four-inch limerock base and six-inch type B sub-grade. Bikeways and pedestrian ways constructed of Portland cement along local roads must be a minimum of four inches thick and a minimum of six inches thick at driveway crossings. Relief from the required six inch thickness is available through the administrative deviation process. The material used for construction must be the same as the existing facilities within one-quarter mile of the proposed development. The developer may submit an alternative design, subject to the approval of the Director of Development Services, provided the alternative is structurally equal to or better than the options set forth in this subsection.

g. *Time of construction.* All bikeway and pedestrian ways must be constructed prior to issuance of a certificate of compliance for the infrastructure of the development unless the developer posts a bond or other surety acceptable to the County as assurance of completion of the improvements. As an alternative to posting surety, the Director has the discretion to accept a phasing plan that will provide for the continuous extension of the sidewalk facility and establish a bona fide construction schedule for the facility prior to issuance of a building permit for vertical construction on property adjacent to the proposed facility.

The County will not require construction of the bikeway or pedestrian way where the right-of-way is scheduled for improvement within two years pursuant to the current CIP and the scheduled right-of-way improvement would result in the destruction of the facility. A fee-in-lieu contribution will be required in those instances. The amount of the funds will be determined by the established criteria in administrative code 11-9. If a County or state project is under construction or has been bid, the required fee-in-lieu contribution will be based upon the actual bid price of the facility as submitted by the contractor awarded the project.

(4) *Maintenance.*

a. *Facilities constructed within County owned right-of-way.* The County Department of Transportation will maintain bikeway and pedestrian way facilities located within the County right-of-way boundary that are built to the standards set forth in this code, Lee County administrative codes and other applicable regulations.

b. *Facilities constructed within an easement granted to the County.* The County will also maintain bikeway and pedestrian way facilities constructed adjacent to the County right-of-way within a perpetual right-of-way easement on privately held property where:

1. The facilities are constructed in compliance with the standards set forth in this section;

2. An easement instrument, along with the legal description and sketch of the easement area is submitted by the applicant for review and approval by the County Attorney's Office prior to issuance of development order approval;

3. Upon completion of the facilities and prior to issuance of the final development order certificate of compliance allowing the facility to be opened for public use, the easement

is formally approved and maintenance responsibility is accepted by the Board of County Commissioners; and

4. The approved easement is recorded in the public records, at the property owner's expense, prior to issuance of the final development order certificate of compliance allowing public use of the sidewalk.

(5) *Waiver of construction requirement.*

a. Notwithstanding the provisions of subsections 10-256(a) and (b) a bikeway and pedestrian way will not be required where the Development Services Director determines that:

1. Construction of the bikeway or pedestrian way would be contrary to public safety;

2. Factors suggest absence of need as defined in AC 11-9; or

3. The facilities can be established through "other available means" as defined in AC 11-9.

b. As a condition of granting the waiver, the applicant is required to make a fee-in-lieu contribution equal to the estimated cost of constructing the improvement. The amount of the fee must be determined in accord with the provisions set forth in AC 11-9 and paid prior to the issuance of a development order.

(d) *Provision of bikeways and pedestrian ways on non-County maintained roads.*

(1) *General.* Development of any portion of a parcel located along a privately maintained arterial or major collector that is open to the public requires the construction of sidewalks and pedestrian ways in accord with section 10-256. A sidewalk is required to support development of office or commercial uses along a privately maintained minor collector or local street that is open to the public.

(2) *Location.* The bikeway or pedestrian way may be located within the road right-of-way or within an easement if approved by the affected utility and the division Director.

(3) *Construction standards.*

a. All facilities must be coordinated with the bikeway/pedestrian way system of the surrounding area. Bikeways and pedestrian ways in a proposed development must connect to existing facilities on adjacent property where easements or stub-outs exist. Pedestrian ways along non-buildable lots, common areas, storm water ponds and other similar areas must be constructed by the developer prior to issuance of a certificate of compliance for the infrastructure unless the developer posts a bond or other surety acceptable to the County as assurance of completion of the improvements. Pedestrian ways along buildable lots will be the responsibility of the lot owner and must be constructed prior to issuance of a certificate of occupancy for any building on the lot. To ensure compliance, the covenants for the development must reflect that the lot owner must construct the required pedestrian way prior to requesting a certificate of occupancy.

b. All sidewalks constructed within the development must be a minimum of four feet in width and constructed of either (1) four-inch thick Portland cement concrete, or (2) a minimum of one and one-half-inch asphaltic concrete of FDOT type S-III on a four-inch limerock base and six-inch type B sub-grade. For facilities constructed of Portland cement concrete, all driveway crossings must be a minimum of six inches thick. The applicant may submit an alternative design, subject to the approval of the Director, provided it is structurally equal to or better than, the options set forth above.

(4) *Maintenance.* Bikeways and pedestrian ways along privately maintained roadways must be maintained by the property owner's association through the operation and maintenance covenants.

(5) *Waiver of requirement to construct sidewalks and pedestrian ways along privately maintained roadways.* Where the Director of Development Services determines that a waiver from the requirement to construct facilities along privately maintained roads is appropriate, a fee-in lieu contribution will be required. The fee will be established based upon certified engineer's cost consistent with the provisions set forth in Administrative Code 11-9. The fee-in-lieu contribution must be paid prior to the issuance of a development order.

(Ord. No. 95-12, § 4, 7-12-95; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 97-10, § 3, 6-10-97; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 02-20, § 3, 6-25-02; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-257. Marina design.

The marina design criteria set forth in the County's Manatee Protection Plan and Administrative Code and Lee Plan objective 128.6 and policies 128.6.1 through 128.6.16 will be utilized in evaluating the design of new marinas or the expansion of wet slip facilities or boat ramps.

(Ord. No. 92-44, § 7(G), 10-14-92; Ord. No. 94-07, § 8, 2-16-94; Ord. No. 97-10, § 3, 6-10-97; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09)

Cross reference— Marine facilities and structures, ch. 26; zoning regulations pertaining to marine facilities, § 34-1861 et seq.

Sec. 10-258. Emergency shelters for mobile home or recreational vehicle developments.

For all mobile home or recreational vehicle developments there shall be required an emergency shelter, which shall be a building of wood frame, metal or CBS construction. The size of each emergency shelter shall be determined by using the total number of units and spaces multiplied by 2.4 (representing the average number of persons per household), multiplied by the shelter space requirement of 20 square feet of usable floorspace per person, and multiplied by the maximum estimated percentage of evacuating population that would use a shelter (45 percent), which would equal the total required size of the emergency shelter. In no case, however, shall this section be interpreted to require construction of a shelter with less than 1,000 square feet of floor area. The shelter shall be elevated to a minimum height equal to or above the worst case Category 3 flooding level utilizing the National Weather Service Storm Surge Model, "SLOSH."

(Ord. No. 92-44, § 7(H), 10-14-92; Ord. No. 94-07, § 8, 2-16-94)

Sec. 10-259. Placement of structures in easements.

No buildings or structures shall be placed in easements where placing a building or structure in the easement is contrary to the terms of the easement or interferes with the use of the easement.

(Ord. No. 92-44, § 7(I), 10-14-92; Ord. No. 94-07, § 8, 2-16-94)

Sec. 10-260. Off-street parking and loading requirements.

(a) Developments subject to this chapter must comply with the off-street parking regulations specified in chapter 34, article VII, division 26. The development order drawings must show all project parking areas.

(b) Developments subject to this chapter must comply with the off-street loading requirements specified in chapter 34, article VII, division 25. The development order drawings must show all project off-street loading areas.

(Ord. No. 92-44, § 8, 10-14-92; Ord. No. 12-20 , § 1, 9-11-12)

Sec. 10-261. Refuse and solid waste disposal facilities.

(a) *Provision of container spaces.* All new construction of multifamily residential developments, commercial businesses, and industrial uses must provide sufficient on-site space for the placement of garbage containers or receptacles, and sufficient space for recyclable materials collection containers. At a minimum, the following area requirements must be provided:

Commercial Business Building Sq. Ft.	**Multifamily Developments Units**	**Minimum sq. ft. for Garbage Collection**	**Minimum sq. ft. for Recyclable Collection**
	5—25	120	96
	25	216 sq. ft. (120 + 96) for first 25 units plus 8 square feet for each additional dwelling unit.	
0—5,000		60	24
5,001—10,000		80	48
10,001—25,000		120	96
25,000+		216 sq. ft. (120 + 96) for first 25,000 sq. ft. plus 8 sq. ft. for each additional 1,000 sq. ft.	

(b) A minimum overhead clearance of 22 feet is required and a 12-foot wide unobstructed access opening must be provided to accommodate all storage areas/containers.

(c) All storage areas/containers must be adequately shielded by a landscaped screen or solid fencing along at least three sides. Use of chain link fencing to meet this requirement is prohibited. Refer to section 10-610(c)(2) for guidelines.

(d) Commercial, industrial and multifamily developments using a compactor for garbage collection must provide sufficient space for the compactor (including receiver) in addition to the space required for recyclable collection.

(e) *Enclosure setbacks.* Container space enclosures may not be located within or encroach into the required perimeter landscape buffer width for the proposed or constructed uses as provided in accord

with section 10-416(d)(3) and (4). Concrete wall enclosures may not be located within a public utility or drainage easement.

(Ord. No. 98-03, § 2, 1-13-98; Ord. No. 98-11, § 2, 6-23-98; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11; Ord. No. 12-20 , § 1, 9-11-12)

Secs. 10-262—10-280. Reserved.

DIVISION 2. TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

Sec. 10-281. Lee Plan Map 3A.

Lee Plan Map 3A is a planning tool that identifies the anticipated number of lanes and the approximate locations for existing and future arterial and collector streets in Lee County. Development is encouraged to be set back from the rights-of-way shown on Lee Plan Map 3A to accommodate future road construction plans. Developers are encouraged to voluntarily dedicate these rights-of-way. Credits for such dedications may be authorized in accordance with chapter 2, article VI, division 2.

(Ord. No. 92-44, § 9(A), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 07-24 , § 3, 8-14-07; OOrd. No. 13-10 , § 3, 5-28-1)

Sec. 10-282. Liability insurance requirement.

As a condition applicable to the issuance of a development order requiring a Lee County DOT right-of-way permit to construct improvements within County owned or controlled right-of-way property, the applicant must obtain liability insurance coverage for the benefit of Lee County. The condition must require the insurance to be effective coincident with the start of construction. Proof of insurance must be submitted to the County upon commencement of construction. The amount and type of coverage must be in accord with Lee County Risk Management standards in affect at the time the insurance is obtained. The insurance coverage must remain in affect until the approved project obtains a certificate of compliance or the County formally accepts the right-of-way improvements for maintenance.

(Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-283. Provision of access roads.

(a) The County may require the developer to dedicate and construct an access road if the subject property is traversed by or abuts a street shown on the access road location map or if the Director determines that an access road is necessary for the protection of the health, safety and welfare of County residents, as described in section 10-8(6). Subject to other provisions of this code, upon County acceptance of the access road for maintenance, the developer will be entitled to road impact fee credits in accordance with chapter 2, article VI, division 2 but only if the access road is not site-related and it is constructed to the specifications for County maintained streets set forth in section 10-296. The County will consider the criteria in section 10-8(6) in deciding whether to require an access road.

(1) No access roads will be required except for new developments. For purposes of applying this subsection, new developments include the expansion of an existing development that results in either:

a. A 25 percent or greater increase in building size;

b. A 25 percent or greater increase in residential density; or

c. A 25 percent or greater increase in traffic generated.

(2) The land necessary for the construction of the access road must be conveyed to the County by warranty deed. The right-of-way will be valued as of the day before the zoning or development order approval requiring the access road. The appraised value will not reflect any enhanced value attributable to the pending approval.

(3) This chapter will be applied by the County so as to preserve lawfully existing points of access from private property to a public road unless the property owner is allowed an alternative means of access of equal value or is compensated for the diminution in value between the original access and the alternative means of access, as the County may elect and in the amount the County and the property owner may agree on, or, if they cannot agree, then as determined by a court of competent jurisdiction, pursuant to state condemnation law.

(4) As of July 1, 1998, it is no longer necessary for the Director of Development Services to waive the construction of an access road because there is no longer an automatic "requirement" that one be built.

(b) Where parcels required to utilize an access road are ready to build or develop before the County desires to provide the access road or the parcels have insufficient width to allow minimum spacing between intersections, the Director of Development Services will allow a temporary access to the arterial or collector, provided that:

(1) There is not an adjacent access or local street to the property;

(2) The developer:

a. Constructs a local street or access road across the full width of his property or as needed to connect to future access points on other property;

b. Installs the temporary access and agrees, in writing, to remove the temporary access when directed by the Director of Development Services;

c. Agrees, in writing, to utilize the access road system when the system is provided; and

d. Records the agreement in the official records of the County.

(c) A major purpose of the 1998 changes to this section and related sections of the LDC is to further clarify that there is no automatic non-waivable requirement for dedication or construction of access roads. For new development, the decision to require access roads may be made by the County at the time of zoning or development order approval or at the time any such approval is amended or replaced. If the Director of Development Services and the Director of the Division of Transportation agree that a previously required access road is not appropriate or necessary under the criteria of this Code, then the Director of Development Services may waive the requirement with or without a request from the developer or property owner unless the requirement was specifically imposed by the Board of County Commissioners as a condition of zoning approval. It is the policy of the County that access roads may be required to preserve capacity and maintain connection separation by limiting access points on County roads and not to provide new or enhanced access to property. If the County requires the dedication and construction of an access road to preserve capacity and maintain connection separation standards, then the County will not deny or apportion impact fee credits solely on the basis that the resulting access road also benefits the adjoining property.

(Ord. No. 92-44, § 9(C), 10-14-92; Ord. No. 94-07, § 9, 2-16- 94; Ord. No. 96-17, § 2, 9-18-96; Ord. No. 98-11, § 2, 6-23-98)

Sec. 10-284. Functional classification of County roads.

(a) County maintained roads will be classified by the Director of Transportation based upon the existing functions of the roads, and the guidelines provided in the Lee Plan, and in accordance with the Administrative Code 11-1. These classifications will be used to determine compliance with all County regulations dependent on functional classification except those regulations that will rely on the future roadway classifications as noted below. For the purpose of determining compliance with the connection spacing and right-of-way width/design speed requirements of this chapter, the Lee Plan future functional classification Map 3B will be used to classify new arterial and collector streets. All development standards for new roadways will also be based on the future classifications in Map 3B. The Director of Transportation will update the existing functional classifications from time to time as needed, and will present the map and list to the Board for adoption in accordance with the related Administrative Code.

(b) All privately maintained roads, both existing and proposed, will be classified by the Director of Development Services based upon the existing functions of the roads and the guidelines provided in the Lee Plan, and in accordance with the administrative code regulating County functional classification. These classifications will be used to determine compliance with all County regulations pertaining to privately maintained roads. These regulations will include determining compliance with connection spacing and street design and construction standards. The Director of Development Services will update these functional classifications from time to time as needed, and will provide these classifications to the Director of Transportation for incorporation into the related Administrative Code referenced in (a) above.

(Ord. No. 92-44, § 9(D), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 94-28, § 13, 10-19-94; Ord. No. 95-07, § 7, 5-17-95; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-285. Connection separation.

(a) *Generally.* Connections of streets, access roads or accessways must be in accordance with the minimum standards of Lee Plan Policy 40.1.2 in Table 1 and criteria for exceptions in the additional provisions of this section.

TABLE 1. CONNECTION SEPARATION

Roadway Functional Classification	**Centerline** Distance **(feet)**
Arterial	660
Collector	330
Local	125
Access roads or accessways	60

Separation distance will be measured from the edge of the outermost through lane of the roadway to the nearest edge of pavement of the proposed intersecting connection. Connection separation on a multilane roadway funded in the capital improvement program will be measured based on the roadway design, design typical section or typical section as set forth in section 10-707. The connection separation distances must be determined on both sides of the roadway for undivided roadways. Existing and approved access points must be depicted on both sides of the road along the project frontage and to the nearest access point beyond the project frontage in each direction. The distance between the end of the driveway turning radius and turn lane tapers or turning radii of an adjacent intersection of public roads may also be considered.

Driveways to a single residential building of two dwelling units or less on local streets may be spaced closer than the connection spacing requirements specified for local streets in table 1. Where residential lots are proposed for subdivision on arterial or collector streets as allowed under section 10-174(4), the Director may authorize lesser separation distance if joint access agreements are provided to preserve or maximize driveway connection separation distances. Access to residential thru lots must be to the local street, adjacent side street or joint access. Residential lots with access alternatives will not be permitted to access directly on to an arterial or collector. On local streets, where frontage dimensions of existing platted commercial or industrial lots do not accommodate required connection separation distances, the Director will assign the access point to accommodate spacing and safety concerns.

(b) Access roads intersecting another road that also intersects the parallel arterial or collector must have an outer separation of at least 100 feet from the edge of pavement of the arterial or collector. A greater outer separation may be required based upon the estimated queue lengths identified in the FDOT Driveway handbook or an intersection analysis.

(c) On arterial or collector streets where an access road is not required by the County, existing parcels that have insufficient road frontage to meet the minimum connection separation required in table 1 may be required to provide a shared access with the adjoining property within an appropriate cross-access easement or align with an existing or permitted driveway on the opposite side of the road. A deviation will not be required to achieve access under these conditions.

(d) Existing corner commercial parcels on an arterial will be permitted a right-in/right-out connection at no less than 330 feet from the intersecting public street if the parcel is not large enough as of January 1, 1998 to provide standard spacing and if the owner agrees to shared access with the adjoining property. If shared access on the arterial is not practical, the connection may be right-out only, if downstream of the nearby intersection; and right-in only, if upstream of the nearby intersection. Any property so small that this minimum cannot be met will be granted a temporary right-in/right-out connection on the arterial or one temporary single direction connection on each of the streets as described above, to be used until an access road has been provided. Lot splits will not be allowed on corner lots that cause the new parcels to be too small to meet the minimum connection separation standards in table I, unless the property owner provides an alternative form of access to the new corner parcel.

(e) Existing corner commercial parcels on a collector will be permitted a right-in/right-out connection at a minimum of 245 feet from the intersecting public street if the parcel is not large enough as of January 1, 1998 to provide standard spacing and if the owner agrees to shared access with the adjoining property. If shared access on the collector is not practical, the connection may be right-out only, if downstream of the nearby intersection; and right-in only, if upstream of the nearby intersection. Any property so small that this minimum cannot be met will be granted a temporary right-in/right-out connection on the collector or one temporary single direction connection on each of the streets as described above, to be used until an access road has been provided. Lot splits will not be allowed on corner lots that cause the new parcels to be too small to meet the minimum connection separation standards in table I, unless the property owner provides an alternative form of access to the new corner parcel.

(f) The measurement of distance between connection points along multi-lane median-divided arterials or collectors with restrictive medians will be between connections on the same side as the proposed connection. Existing or approved median openings will be treated as connections on both sides. Streets designed by private parties for multi-lane construction or widening that will be County maintained arterials or collectors or roads that are included in the current Lee County CIP and verified by the Director of Transportation to be a road that will have a median divider, will be evaluated as such under this provision.

(g) Approval of connection locations along multi-lane divided roadways, or along roadways that the Director of Transportation has verified will be multi-lane divided roadways, does not guarantee that the connection is permitted a crossover through the median divider. In these instances, approval of the median opening or turning movement will be determined on a case-by-case basis. The purpose of this subsection is to make it clear that even though a parcel may be entitled to access to the County road system, there is no entitlement to a median opening or left-in movement in CONJUNCTION with an approved access point.

(h) The requirements of this section do not apply to roads declared by the Board of Commissioners to be controlled access roads with designated access points. Those roads will be treated as set forth below:

Controlled access roads

(1) Only those access points identified in a duly adopted controlled access road resolution may be approved by the Development Services Director. The Director of the Department of Transportation is authorized to modify the exact location of approved access points in accordance with section 10-298 and the administrative code regulating controlled access roadways.

(2) Applicants for additional permanent access points, turning movements, or median openings beyond those already designated by resolution, must submit a study to the department of transportation in accordance with the administrative code regulating controlled access roadways.

(i) *Access points for future expressways.* If a public need is shown, access points for future expressways may be addressed at the time of expressway design. For facilities that may be designated controlled or limited access, the access points will be determined and the access rights along with the corridor will be purchased at the time of right-of-way purchase.

(j) The County retains the right and authority to modify or restrict access, turning movements, median openings and use of traffic control devices on or affecting County rights-of-way as it deems necessary to address operational and safety issues. This provision is applicable to existing as well as future development in Lee County. No deviation or variance may be granted from this subsection.

(Ord. No. 92-44, § 9(E), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 94-28, § 14, 10-19-94; Ord. No. 98-11, § 2, 6-23-98; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-286. Traffic impact statements.

Traffic impact statements must survey current and anticipated traffic conditions and public transportation in order to identify potential traffic problems posed by the proposed development. Adverse site-related traffic impacts must be mitigated by the applicant as specified in the traffic impact mitigation plan and final development order. If traffic generated by the proposed development will add 300 or more vehicle trips during the peak hour to the adjacent road system, the developer must submit a traffic impact statement providing a comprehensive assessment of the development's impact on the surrounding road system in accordance with the traffic impact statement guidelines which are available from the Director of Development Review. If traffic generated by the proposed development is not expected to meet this threshold, the developer must submit a traffic impact statement providing information regarding the development's traffic generation and impacts at the development's access points onto the adjacent street system.

(1) The traffic impact statement must provide information regarding the development's traffic generation and impacts at the development's access points onto the adjacent street system.

(2) The traffic impact statement must be prepared in accordance with the current edition of the forms, procedures and guidelines provided by the division of development services. The developer or his representative must assume full occupancy and a reasonable build-out of the development in the preparation of the traffic impact statement.

(3) The traffic impact statement must be prepared by qualified professionals in the fields of civil or traffic engineering or transportation planning.

(4) The traffic impact statement must be submitted to the Director of Development Services or his designee for review of sources, methodology, technical accuracy, assumptions, findings and approval. Approval of the traffic impact statement by the Director may be revoked after one year has expired since the date of approval if the assumptions upon which the traffic impact statement was approved are no longer valid. A significant change in the development proposal may result in the revocation of a previous approval of the traffic impact statement.

(Ord. No. 92-44, § 9(F), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-287. Traffic impact mitigation plan.

A traffic impact mitigation plan must be submitted. The traffic impact mitigation plan must be based on the approved traffic impact statement and detail on-site and off-site road and intersection improvements necessary to mitigate the proposed development's adverse impacts by maintaining or restoring adopted levels of service on the public road segments providing immediate access to the site, including any collector or arterial to which the adjacent street is tributary.

(1) The function of the traffic impact mitigation plan is to:

a. Identify the responsibility for various road improvements falling to the several participants in the development process;

b. Relate the various needed improvements to the occupancy and use of developed land, particularly regarding the relative timing of occupancy and availability of the road improvements; and

c. Clearly identify the parties who will be responsible for the costs of the improvements.

(2) It is a fundamental policy assumption that road improvements specified by the traffic impact mitigation plan are improvements deemed to be over and above the required improvements to the Lee Plan's road network funded by the roads impact fee.

(3) Approval or approval with conditions of the development order is contingent on a finding by the Director that the traffic impact mitigation plan:

a. Is reasonably based on the assumptions and findings embodied in the approved traffic impact statement;

b. Meets or exceeds the minimum actions required to alleviate the adverse impacts on the surrounding or adjacent road network; and

c. Is consistent with all other local policy, particularly the Lee Plan and chapter 2, article VI, division 2, pertaining to roads impact fees, and any applicable development agreements.

(4) Timely implementation of the traffic impact mitigation plan is a condition of the final development order. No certificate of occupancy or other permit to occupy or use developed land may be issued until the traffic impact mitigation plan is implemented and improvements are in place in proportion to the demand the development generates.

(Ord. No. 92-44, § 9(G), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-288. Turn lanes.

Access to streets, roads, or accessways will not be permitted unless turn lanes are constructed by the applicant where turning volumes make such improvements necessary to protect the health, safety and welfare of the public or to reduce adverse traffic impacts on the adjacent street system. Turn lanes must be designed in accordance with standards set forth in the County Administrative Code. Turn lane design must accommodate bicycle and traffic in a manner similar to Illustration 10-288. An existing development may request a one-time exception wherein only the expansion will be used to calculate the traffic generated by the development for the purpose of determining whether turn lanes are required. After utilization of the one-time exception, the further expansion of a facility will be added to the existing facility for the purpose of calculating traffic generation and the entire development (existing and expansion) will be deemed a new development.

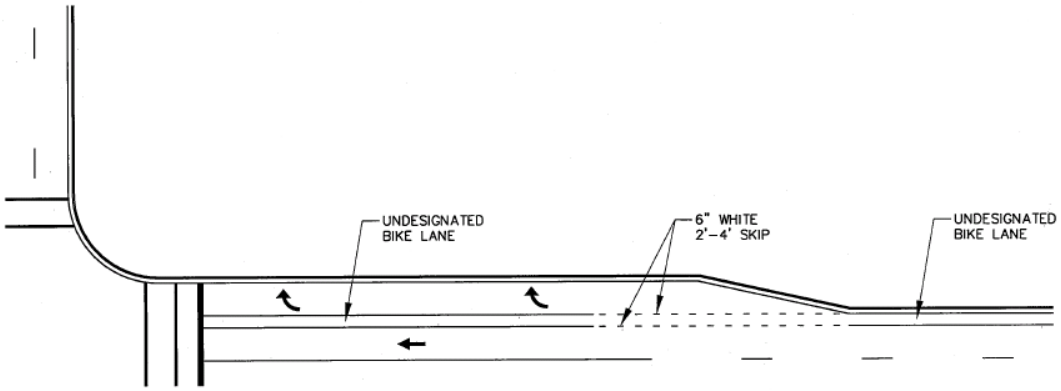

ILLUSTRATION 10-288
DRIVEWAY OR INTERSECTION
SEPARATE RIGHT TURN LANE
WITH UNDESIGNATED BIKE LANE
N.T.S.

Wherever turn lanes are installed, the surface materials of the added lane must match the surface materials of the existing lanes. If the addition of a turn lane requires a lateral shift of the centerline or other lanes, the entire pavement area must be re-surfaced to create matching surfaces throughout. New and replacement pavement markings must be provided.

On arterial or collector streets with restrictive medians where an access road is not required by the County, existing parcels with insufficient road frontage to meet the minimum connection spacing required in section 10-285 table 1 may be required to provide a continuous right-turn lane on the adjacent arterial or collector street.

(Ord. No. 92-44, § 9(H), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 94-28, § 15, 10-19-94; Ord. No. 98-11, § 2, 6-23-98; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-289. Perimeter streets.

Street systems in all developments must be designed to eliminate existing partial width streets wherever possible and to avoid the creation of new ones. Where an existing partial width street is adjacent to a new development, the unimproved portion of the street must be improved by the developer of the new development.

(Ord. No. 92-44, § 9(I), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-290. Local streets.

Local streets must be designed to discourage excessive speed and through traffic. Traffic calming measures may be approved for construction if the Director of Development Services, in consultation with the Director of the Department of Transportation, determines the measures are appropriate and capable of design and construction consistent with administrative codes 11-3 and 11-14.

(Ord. No. 92-44, § 9(J), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-291. Required street access.

General requirements for access are as follows:

(1) The development must be designed so as not to create remnants and landlocked areas, unless those areas are established as common areas.

(2) All development must abut and have access to a public or private street designed, and constructed or improved, to meet the standards in section 10-296. Any development order will contain appropriate conditions requiring all streets to which the project proposes access to be constructed or improved to meet the standards in section 10-296. Improvements to offsite streets necessary to provide access to the project must extend, at minimum, from the project's access point to the point at which the street connects to a County or privately maintained street meeting the standards in section 10-296. Direct access for all types of development to arterial and collector streets must be in accordance with the intersection separation requirements specified in this chapter.

(3) Residential development of more than five acres and commercial or industrial development of more than ten acres must provide more than one means of ingress or egress for the development. Access points designated for emergency use only may not be used to meet this requirement.

A deviation or variance from the access point (ingress/egress) requirements stated in this subsection must be obtained through the public hearing process. If a variance or deviation from this section is approved, a notice to all future property owners must be recorded by the developer in the public records prior to the issuance of a local development order allowing construction of the access to the development. The notice must articulate the emergency access plan and provide information as to where a copy of this plan may be obtained from the developer or developer's successor.

(4) Additional access points may be required for continuation of an existing street pattern, to provide access to adjoining properties, or where additional access is needed to provide alternate access for emergency services. Where feasible, alternate access points should not be on to the same roadway. For planned developments, the determination of the Director regarding additional access points should be requested concurrent with the application for sufficiency. A deviation or variance will be required in cases where a determination of the Director under this subsection is sought to be changed or overturned.

(Ord. No. 92-44, § 9(K), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 94-28, § 16, 10-19-94; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 02-20, § 3, 6-25-02; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-292. Public streets to connect to existing public street.

All streets proposed for dedication to the public must be indicated on the site plan and must connect to or be an extension of an existing public street. All streets proposed for acceptance for maintenance by the County in accordance with Administrative Code 11-7 must submit a right-of-way permit application in accordance with Administrative Code 11-12 prior to construction.

(Ord. No. 92-44, § 9(L), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-293. Private streets.

Private streets may be permitted and approved provided:

(1) They comply with the street design standards and the street construction specifications in this chapter;

(2) The appropriate notation is made on the site plan and the plat to identify it as a private street; and

(3) The private streets are maintained through a covenant that runs with the land in the form of, but not limited to, a homeowners' or condominium association declaration or such other legal mechanisms providing assurance to the owners of the contiguous property that the street will be continually maintained. The owners of the contiguous property must be provided with a legal right to enforce the assurance that the road be continually maintained. Legal documents providing for the continual maintenance may only be accepted after review and approval by the County Attorney's Office for compliance with this section.

(Ord. No. 92-44, § 9(M), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-294. Continuation of existing street pattern.

The proposed street layout must be coordinated with the street system of the surrounding area. Streets in a proposed development must be connected to streets in the adjacent area where required by the Director of Development Services to provide for proper traffic circulation.

(Ord. No. 92-44, § 9(N), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-295. Street stubs to adjoining property.

Street stubs or an interconnection to adjoining areas must be provided where deemed necessary by the Director of Development Services to give access to such areas to reduce new trips onto an arterial or major collector, or to provide for proper traffic circulation. Street stubs may be provided with a temporary cul-de-sac turnaround within the minimum required platted right-of-way. When adjoining lands are subsequently developed, the developer of the adjoining land must pay the cost of extending the street and restoring it to its original design cross section. Where a developer proposes private local streets with controlled admittance, the proposed alternate means of interconnection provided may not require all local traffic to use the arterial network. All interconnections must be designed to discourage use by through traffic.

(Ord. No. 92-44, § 9(O), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-296. Street design and construction standards.

(a) *Generally.* All streets must be designed, constructed and improved in accordance with the specifications set out in this section, as well as the other requirements of this division. In addition, the following standards and criteria will be applicable: American Association of State and Highway Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets, as modified by Florida Department of Transportation (FDOT) Florida Greenbook, FDOT Design Standards, FDOT Drainage Manual and FDOT Standard Specifications, current editions, with supplements, and such other applicable publications, editions and amendments as may be adopted by the state department of transportation, and sound engineering judgment. Construction on State facilities must be done in accord with applicable State statutes and regulations.

(b) *Right-of-way width.* All roads and streets established and constructed in accordance with this chapter must have minimum right-of-way widths or roadway easements complying with the requirements of table 2 for streets proposed for County maintenance or table 3 for proposed private streets.

TABLE 2. SPECIFICATIONS FOR

COUNTY-MAINTAINED STREETS

	Arterial	**Collector Street**	**Local Street**	**Access Street**
Standard right-of-way widths:				
Closed drainage	150′	100′	50′	45′
Open drainage	150′	100′	60′	50′
Design speed (mph):				
Rural section:				
With speed restrictions	55	40—45	N/A	N/A
Without speed restrictions	70	45—50	N/A	N/A
Urban section:				
With speed restrictions	35—40	30—35	N/A	N/A
Without speed restrictions	35—50	40—45	N/A	N/A

Notes:

1. The minimum radius for horizontal curves is to be determined by the ultimate number of lanes, design speed and superelevation rate. The minimum distance between reverse curves is to be determined by the ultimate number of lanes, design speed and horizontal curvature.

   Refer to AASHTO and FDOT for specific design criteria.

2. This table identifies standard right-of-way widths for new roads in developing areas and desirable right-of-way widths for improvements in developed area. The standard right-of-way width for County maintained streets may be reduced by the Director of Transportation upon demonstration of considerations such as provision of sufficient width for the future number of lanes identified in Lee Plan Map 3D, required median, turn lanes, signs, streetlights, adequate clear zone for the design speed, bicycle and pedestrian facilities, drainage facilities, backslope or slope easements and other roadway appurtenances.
3. The access street standard applies to frontage streets. The local street standard applies to all other access streets, including reverse frontage streets.

TABLE 3. SPECIFICATIONS FOR

PRIVATELY MAINTAINED STREETS

	Local Street	**Access Street**
Minimum right-of-way/easement widths:		
One-way:		
Closed drainage, rear lot drainage or inverted crown	30′	30′
Open drainage	40′	35′[a]
Two-way:		
Closed drainage or inverted crown	40′	40′
Open drainage	45′	40′[a]
Minimum distance between reverse curves	N/A	N/A
Minimum centerline radius for horizontal curves	50′[b]	50′[b]
Minimum grade of streets with:		
Closed drainage	0.2%	0.2%
Inverted crown	0.4%	0.4%
Open drainage	0.0%	0.0%

[a]This standard applies to frontage streets. The local street standard applies to all other access streets, including reverse frontage roads.

[b]If the centerline radius is less than 100 feet, the inside lane width must be increased by two feet at the center of the curve.

(c) *Street and bridge design and construction standards.* All street and bridge improvements must comply with the standards and specifications listed herein, pertaining to minimum specifications for street

improvements, and section 10-706, pertaining to minimum specifications for bridge improvements, for the applicable development category.

(d) *All roads.*

(1) *Grading and centerline gradients.* Per plans and profiles approved by the Director of Development Services.

Typical street cross sections are shown in section 10-707 through 10-711.

(2) A deviation from these standards for road design must meet the standards and criteria established by FDOT in the Florida Greenbook with consideration of the Plans Preparation Manual and guidance in AASHTO publications. Deviations on County-maintained roadways are also subject to review by the Director of the Department of Transportation.

(3) *Drainage.*

a. Curb and gutter type B, F and drop or shoulder (valley). See FDOT Design Standards, current edition.

b. *Roadside swales.* Roadside swales may be used in excessively drained and somewhat excessively drained to moderately well-drained soils, except where closed drainage is required by the Director of Development Services. (Refer to section 10-720

c. Roadside swales within privately maintained street rights-of-way must have slopes no steeper than three horizontal to one vertical. Roadside swales within County maintained street right-of-way must have side slopes no steeper than four horizontal to one vertical. Normal swale sections must be a minimum of 12 inches deep. An administrative deviation may be granted from this subsection with consultation from the Director of Transportation subject to the criteria set forth in section 10-104

d. Where run-off is accumulated or carried in roadway swales and flow velocities in excess of two feet per second are anticipated, closed drainage or other erosion control measures must be provided.

e. The Director of Development services may grant deviations from these requirements under the provisions of section 10-104. On County maintained roads, the deviation must be reviewed in consultation with the Director of Transportation.

f. *Underdrains.* Underdrains may be required on both sides of streets if, in the opinion of the Director of Development Services, soils data indicates that underdrains would be necessary. In cases where there is a prevalence of soils that exhibit adverse water table characteristics, underdrains or fill or some other acceptable alternative that will provide necessary measures to maintain the structural integrity of the road will be required. The determination of need will be made by reference to the applicable portions of the most recent edition of the Soil Survey for Lee County, Florida, as prepared by the U.S. Department of Agriculture, Soil Conservation Service, or according to information generated by the developer's engineer. See section 10-712 for suggested underdrain details.

1. Wherever road construction or lot development is planned in areas having soil types with unacceptable water table characteristics, underdrains or fill must be provided and shown on the engineering plans. Underdrains must be designed with outlets at carefully selected discharge points. Erosion control measures must be provided as needed at all discharge points.

2. Wherever road cuts in otherwise suitable soils indicate that the finish grade will result in a road surface to water table relationship that adversely exceeds the degree of limitation stated above, underdrains or other acceptable alternative that will provide necessary measures to maintain the structural integrity of the road will be required.

(4) *Landscaping.*

a. *Grassing and mulching.* Prior to the acceptance of the streets or the release of the security, the developer will be responsible for ensuring that all swales, parkways, medians, percolation areas and planting strips are sodded, seeded or planted and mulched in accordance with section 570 of the FDOT standard specifications.

b. Installation and maintenance of landscaping and irrigation systems in County maintained road right-of-way may be performed at the developer's option and expense.

(5) *Signs and pavement markings, street lighting and traffic control devices.*

a. *Street name and regulatory signs.* Street name and regulatory signs will be installed by the developer at all intersections and on the streets in the development prior to the acceptance of the streets or the release of the security. Regulatory signs will not be required at parking lot entrances for parking lots containing less than 25 parking spaces.

b. *Street lighting.* Street lighting may be installed at the developer's option and expense in compliance with section 34-625. Where street lighting is to be provided, the streetlight improvements must be maintained and operated through a covenant that runs with the land in the form of deed restrictions, a property owners' or condominium association, or another legal mechanism, acceptable to the County, which assures the beneficiaries of the service that the street lighting will be continually operated and maintained. Regardless of the method chosen to provide for the continual maintenance and operation of the streetlights, the beneficiaries of the service must be provided with a legal right to enforce the assurance that the lighting will be continually operated and maintained. The legal documents that provide for the continual maintenance and operation of the lighting may be accepted and recorded only after they are reviewed and approved by the County Attorney's office for compliance with this section. In the alternative, the Board may satisfy this requirement by establishing a street lighting municipal service taxing or benefit unit that includes operation and maintenance of the streetlights.

c. *Street and intersection improvements; traffic control devices.*

1. All streets and intersections within a development must operate at service level C or higher. The developer must design and construct those traffic control devices and acceleration, deceleration, turning or additional lanes, referred to in this subsection as traffic improvements, deemed necessary to bring the level of service up to service level C or higher.

2. Traffic control devices and acceleration, deceleration, turning and additional lanes must be specifically indicated on the development order plan. These traffic control devices must be designed and shown on the development order plans as per MUTCD standards. Additional lane and turn lanes must be as indicated by the Florida Greenbook and sound engineering practice. For streets in the County, turn lanes must be as indicated in the County Administrative Code, the turn lane policy and sound engineering practice.

3. Traffic control devices installed in accord with Table 9-4-11b may be mounted on a nonstandard type of support system as described in the Traffic Control Devices Handbook (FHWA publication), provided that mounting height, location standards and all other standards as described in sections 2A-24 through 2A-27 of the MUTCD are not compromised, and all such supports must be of break away design. The sign support system may not provide borders around the sign that have the effect of changing the required shape, message, or border area of the sign. An enforceable agreement providing for maintenance and upkeep of the signs by the installer must be provided to the County Department of Transportation. This agreement must include the

name, address and phone number of a contact person who will represent the installing party.

(e) *Arterial roads.* The following provisions are in addition to those set forth in section 10-296(d).

(1) *Pavement width.* Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. Typical median width and representative cross sections are shown in section 10-707. Cross-sectional elements such as median width, lane width and shared use path width may be revised consistent with the standards and criteria in the Florida Greenbook. Revisions are subject to approval of the Director of Transportation on County-maintained roadways and the Director of Development Services on privately maintained roadways.

(2) *Subgrade.* Twelve-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.

(3) *Base.* Minimum of eight inches compacted limerock or an alternative design for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with limerock.

(4) *Wearing surface.* Two and one-half inch asphaltic concrete of FDOT type S-1. A skid-resistant surface plus one inch of S-III in conformance with the provisions of section 331, FDOT specifications is required for the surface course. The wearing surface for turn lanes that are added to existing roadways must match the materials and surface of the existing roadway. However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to SUPERPAVE and Portland cement concrete, for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with asphaltic concrete.

(f) *Major collector roads.* The following provisions are in addition to those set forth in section 10-296(d).

(1) *Pavement width.* Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. See sections 10-707 and 10-708. Cross-sectional elements such as median width, lane width and shared use path width may be revised consistent with the standards and criteria in the Florida Greenbook. Revisions are subject to approval of the Director of Transportation on County-maintained roadways and the Director of Development Services on privately maintained roadways.

(2) *Subgrade.* Twelve-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.

(3) *Base.* Minimum of eight inches compacted limerock or an alternative design for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with limerock.

(4) *Wearing surface.* One and one-half inch asphaltic concrete of FDOT type S-1 plus one inch of S-III. The wearing surface for turn lanes that are added to existing roadways must match the materials and surface of the existing roadway. However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to SUPERPAVE and Portland cement concrete, for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with asphaltic concrete.

(g) *Minor collector roads.* The following provisions are in addition to those set forth in section 10-296(d.)

(1) *Pavement width.* Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. See sections 10-707 and 10-708. Cross-sectional elements such as median width, lane width and shared use path width may be revised

consistent with the standards and criteria in the Florida Greenbook. Revisions are subject to approval of the Director of Transportation on County-maintained roadways and the Director of Development Services on privately maintained roadways.

(2) *Subgrade.* Twelve-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.

(3) *Base.* Minimum of eight inches compacted limerock or an alternative design for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with limerock.

(4) *Wearing surface.* One and one-half inch asphaltic concrete of FDOT type S-1. The wearing surface for turn lanes that are added to existing roadways must match the materials and surface of the existing roadway. However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to Portland cement concrete, for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with asphaltic concrete.

(h) *Local and access streets.* The following provisions are in addition to those set forth in section 10-296(d.)

(1) *Pavement width.* Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. Pavement widths will be as indicated in the County Administrative Code relating to bikeways and associated roadway widths. See section 10-709. In order for the roadway to be accepted for maintenance by the County, the provisions of this section must be met.

(2) *Subgrade.* Six-inch stabilized subgrade LBR 40.

(3) *Base.* Six-inch limerock base or equivalent.

(4) *Wearing surface.*

a. *For roads to be publicly maintained.* One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I as outlined in section 10-296(i). However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to Portland cement concrete. The design will be subject to structural analysis for comparison with asphaltic concrete. The applicant may install two three-quarter-inch-thick courses of asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the Director of Development Services in consultation with the Director of the Department of Transportation.

b. *For roads to be privately maintained.* One-inch asphaltic concrete of FDOT type S-III is required on category B and C streets. However, no asphaltic concrete wearing course is required for category D streets though it is acceptable. The use of paver block is permitted subject to the approval of the Director at the time of development order approval. If the paver block is approved as part of the original development order, no administrative deviation under 10-104 is required.

(i) *Street and bridge development categories.* For purposes of interpreting the specifications contained herein and section 10-706, development categories are defined as follows:

(1) Category A includes commercial and industrial developments and all developments not described in categories B, C and D.

a. *Pavement width one-way traffic.* 14-foot pavement for one-way traffic with swale drainage or valley gutter drainage, or 16-foot pavements for one-way traffic with curb and gutter drainage.

b. Pavement width two-way traffic. 24-foot pavements for two-way traffic with swale drainage, valley gutter drainage or curb and gutter drainage (27 feet minimum from face of curb to face of curb on nonmountable curbs.) See section 10-710

c. *Access streets.* 22-foot pavements. See section 10-711

d. *Subgrade.* 12-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.

e. *Base.* Minimum of eight inches compacted limerock or an alternative reviewed by the Department of Transportation on a County-maintained road subject to structural analysis for comparison with limerock.

f. *Wearing surface.* One-and-one-half-inch asphaltic concrete of FDOT type S-1. However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to Portland cement concrete, for public or private streets. The design will be subject to structural analysis for comparison with asphaltic concrete.

(2) Category B includes residential developments of five or more dwelling units per acre, except for such developments on islands where direct vehicular access to the mainland by a bridge, causeway or street system is not attainable.

a. *Pavement width for one-way traffic.* 14-foot pavement for one-way traffic with swale drainage or valley gutter drainage, or 16-foot pavements for one-way traffic with curb and gutter drainage. (19 feet minimum from face of curb to face of curb on nonmountable curbs.)

b. *Pavement width two-way traffic.* 20-foot pavements for two-way traffic with swale drainage or valley gutter drainage or 24-foot pavement with curb and gutter drainage (27 feet minimum from face of curb to face of curb on nonmountable curbs.) See section 10-710

c. *Access street.* 22-foot pavement. See section 10-711

d. *Subgrade.* Six-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.

e. *Base.* Minimum of six inches compacted limerock or an alternative reviewed by the Department of Transportation on a County-maintained road subject to structural analysis for comparison with limerock.

f. *Wearing surface.*

1. *For roads to be publicly maintained.* One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I. The applicant may install two three-quarter-inch-thick courses of FDOT type S-III asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. An alternative design reviewed by the Department of Transportation on a County-maintained road, including but not limited to Portland cement concrete, may be utilized subject to structural analysis comparison. This provision is subject to the approval of the director of development services in consultation with the Director of the Department of Transportation.

2. *For roads to be privately maintained.* One-inch asphaltic concrete of FDOT type S-III is acceptable.

(3) Category C includes residential developments of more than 0.40 but less than five dwelling units per acre, except for such developments on islands where direct vehicular access to the mainland by a bridge, causeway or street system is not attainable.

a. *Pavement width for one-way traffic.* 14-foot pavement for one-way traffic with swale drainage or valley gutter drainage, or 16-foot pavements for one-way traffic with curb and gutter drainage. (19 feet minimum from face of curb to face of curb on nonmountable curbs.)

b. *Pavement width for two-way traffic.* 20-foot pavements for two-way traffic with swale drainage or valley gutter drainage or 24-foot pavement with curb and gutter drainage (27 feet minimum from face of curb to face of curb on nonmountable curbs.)

c. *Access street.* 20-foot pavement. See section 10-711

d. *Subgrade.* Six-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.

e. *Base.* Six inches compacted limerock or an alternative reviewed by the Department of Transportation on a County-maintained road subject to structural analysis for comparison with limerock.

f. *Wearing surface.*

1. *For roads to be publicly maintained.* One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I. The applicant may install two three-quarter-inch-thick courses of FDOT type S-III asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. An alternative design reviewed by the Department of Transportation on a County-maintained road, including but not limited to Portland cement concrete, may be utilized subject to structural analysis comparison. This provision is subject to the approval of the Director of Development Services in consultation with the Director of the Department of Transportation.

2. *For roads to be privately maintained.* One-inch asphaltic concrete of FDOT type S-III is acceptable.

(4) Category D includes residential development of 0.4 or less dwelling units per acre, and all residential developments, regardless of size, located on islands where direct vehicular access to the mainland by bridge, causeway or street system is not attainable.

a. *Access street.* 20-foot pavement. See section 10-711

b. *Subgrade.* Six-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.

c. *Base.* Six inches compacted limerock, shell rock, or soil cement or an alternative subject to structural analysis for comparison.

d. *Wearing surface.*

1. *For roads to be publicly maintained.* One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I. The applicant may install two three-quarter-inch-thick courses of FDOT Type S-III asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. An alternative design, including but not limited to Portland cement concrete, may be utilized subject to structural analysis comparison. This provision is subject to the approval of the Director of Development Services in consultation with the Director of the Department of Transportation.

2. *For roads to be privately maintained.* One-inch asphaltic concrete of FDOT type S-III is acceptable. However, no asphaltic concrete wearing course is required.

(j) *Conformance with state standards.* All construction materials, methods and equipment must conform to the requirements of the FDOT Standard Specifications for Road and Bridge Construction, current edition, and such other editions, amendments or supplements as may be adopted by the FDOT.

(k) *Dedication of right-of-way and completion of improvements.* Prior to acceptance of the streets or the release of security, the developer must dedicate the rights-of-way and complete the improvements, or provide funds for the completion or installation of the improvements in conformance with the standards and specifications of this chapter.

(l) *Horizontal curve for changes in direction.* Horizontal curves must be used for all changes in direction consistent with AASHTO and FDOT standards.

(m) *Existing nonconforming access routes.* Existing nonconforming access routes to new proposed subdivisions may be permitted upon approval of a variance or a planned development deviation.

(n) *State roads.* Streets designated as state roads will be required to meet all additional state department of transportation requirements.

(o) *Intersection design.* Streets must be designed to intersect as nearly as possible at right angles. Multiple intersections involving the juncture of more than two streets is prohibited. A minimum sight distance of 200 feet from every intersection on private roadways and consistent with the Florida Greenbook on public roadways must be maintained on all intersecting streets. This requirement may not be construed to increase the minimum allowable intersection separation of 125 feet.

(1) The angle of intersection of intersecting streets must be in accordance with the requirements of table 4.

TABLE 4. ANGLE OF INTERSECTION

		Angle	
Street Type	**Intersecting Street Type**	**Minimum**	**Maximum**
Local or access	Local or access	75	105
	Collector	80	100
	Arterial	85	95
Collector	Collector	85	95
	Arterial	85	95
Arterial	Arterial	85	95

(2) The inside edge of the pavement at street intersections must be rounded with a minimum radius as shown in table 5.

TABLE 5. MINIMUM EDGE OF PAVEMENT RADIUS AT INTERSECTING STREETS

		Minimum Radius (feet)	
Street Type	**Intersecting Street Type**	**Residential**	**Commercial/ Industrial**
Local	Local	25	30
	Collector	30	35
	Arterial	40	45
Collector	Collector	40	50
	Arterial	50	60
Arterial	Arterial	50	60

These values apply to a street type having two lanes without a median. Whenever the street type is divided by a median, the minimum pavement width is 14 feet on each side of the median and the edge of pavement radius will be determined by a special study using a WB-40 vehicle that negotiates the turn without encroaching on the median. Greater radii may be required where school buses will be routed or if an engineering study determines that traffic conditions warrant a larger radius.

(3) The property line radius must follow the curvature of the inside edge of pavement and be offset a minimum distance equivalent to the pavement/property line offset used on the roadway design section.

(p) *Culs-de-sac.*

(1) Dead-end streets, designed to be so permanently, must be closed at one end by a circular turnaround for vehicles and constructed according to the following standards:

a. Diameter of pavement to inside edge of curb or edge of pavement must be a minimum of 90 feet outside diameter, and a maximum of 45 feet inside diameter.

b. Diameter of right-of-way for curb and gutter section: 110 feet.

c. The diameter of right-of-way for ditch and swale drainage must be a minimum of 130 feet.

(2) The island in the center of the circular turnaround may be paved solid, kept unpaved to preserve existing vegetation, or enhanced with additional vegetation, provided that vegetation does not cause a visual obstruction between 2 feet and seven feet in height above grade, and provided further that proper maintenance agreements have been filed with Lee County.

(3) The transition from the cul-de-sac pavement to the regular approaching pavement width must be as shown in section 10-714

(4) All streets ending in culs-de-sac that are over 250 feet long must have a standard "No Outlet" traffic sign installed at the street entrance and paid for by the developer.

(q) *On-road and off-road bikeways.* All County-maintained arterial, collector and local streets must be designed and constructed in accordance with the County Administrative Code policy relating to on-road and off-road bikeways and associated roadway width.

(r) *Privately maintained accessways.* The following privately maintained accessways are not required to meet the minimum roadway right-of-way widths specified in subsection (b) of this section:

(1) Parking lot aisles (as defined in chapter 34);

(2) Parking lot accesses (as defined in chapter 34);

(3) Driveways (as defined in this chapter); and

(4) Accessways that meet the following three requirements:

a. Provide vehicle access to 100 or fewer multi-family residential units;

b. Pavement width meets the dimensional requirements for parking lot aisles at areas of back-out parking; and

c. Provide for utility easements in accordance with section 10-355(a)(1) if utilities are to be located in or adjacent to the accessway.

(s) *Streets and driveways in wetland areas.* Notwithstanding other provisions of this chapter, new roads or driveways permitted in wetland areas in accordance with Lee Plan policy 41.2.2 must be culverted or bridged to maintain the pre-development volume, direction, distribution and surface water hydroperiod.

(t) *Work in County right-of-way.*

(1) Except for emergency repair work, no individual, firm or corporation may commence any work within County-maintained rights-of-way or easements without first having obtained a permit from the County Department of Transportation. For the purposes of this section only, "work" means:

a. excavation, grading or filling activity of any kind, except the placement of sod on existing grade; or

b. construction activity of any kind except the placement of a mail or newspaper delivery box in accordance with section 34-2192

(2) The County Department of Transportation will not issue a permit for any private road to connect to any County-maintained road other than a residential driveway without approval of drainage plans prepared by a registered engineer. (See section 10-716 for approved utility piping materials for use in County right-of-way.)

(3) For single residential buildings of two dwelling units or less on County-maintained streets, the County Department of Transportation will do all necessary field survey work to establish the proper grade, pipe diameter and length for driveway culverts.

(4) The inside edge of the pavement at the driveway connection to the street must be rounded with a minimum radius as shown in table 6. A deviation from these standards may be issued administratively.

TABLE 6. MINIMUM EDGE OF PAVEMENT RADIUS AT DRIVEWAYS

		Minimum Radius (feet)	
Street Drainage	**Intersecting Street Type**	**Residential**	**Commercial/ Industrial**
Closed (curb and gutter)	Local	N/A	N/A
	Collector	30	35
	Arterial	40	45
Open (no curb and gutter)	Local	25	30
	Collector	30	35
	Arterial	40	45

(u) *Roundabouts.* Roundabouts must be designed consistent with the U.S. Department of Transportation publication, Roundabouts: An Informational Guide, current edition as modified by AASHTO and FDOT.

(v) *Compact communities.* Sections 32-221 et seq. provide modified street design standards for compact communities.

(Ord. No. 92-44, § 9(P), 10-14-92; Ord. No. 94-07, § 9, 2-16-94; Ord. No. 94-28, §§ 17, 18, 10-19-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 97-10, § 3, 6-10-97; Ord. No. 98-11, § 2, 6-23-98; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 02-20, § 3, 6-25-02; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 10-25 , § 2, 6-8-10; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-297. Access and review standards for County roads lying within incorporated areas.

(a) Access points from private property to County roads lying within the incorporated areas of the County must be established, based upon the functional classification of such roads as determined by the County and based upon such other factors as this chapter makes relevant to the determination of the location of and number of such access points. A limited review development order must be submitted to the County for review. The submittal must comply with the design standards outlined in this chapter, applied solely within the road right-of-way. It is the intention of the Board of County Commissioners to treat County roads lying within the incorporated areas of the County as though they were located in the unincorporated areas of the County; provided, however, that these general regulations may be superseded by an interlocal agreement between the County and any of the municipalities within the County that provides for different access regulations with respect to one or more specific County roads lying within the municipality in question. If an interlocal agreement is not in effect and reasonable access from adjacent private property to the County road in question is unobtainable, then a variance granting minimum reasonable access may be obtained using the variance procedures that are set forth in this chapter.

(b) The County shall have the right to enjoin and restrain any person or any agent or representative thereof from violating the provisions of this section, or may pursue any other relief available pursuant to law in the enforcement of this section.

(Ord. No. 87-30, §§ 1, 2, 11-24-87; Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-298. Controlled access roads.

(a) *Definition.* A controlled access road is a roadway that is the subject of a Board of County Commissioners Resolution specifically designating the road as a controlled access facility and specifying the access points along the roadway corridor.

(b) *Designation.* The Board of County Commissioners may designate a roadway as a controlled access facility by adopting a resolution through the same public hearing process applicable to adopting an ordinance affecting the use of land. Adoption of the resolution must be by a super majority vote (four affirmative votes) of the Board.

The purpose of the controlled access resolution is to preserve safety and roadway traffic capacity. The intent of the resolution is to set access points at specific locations and restrict access along the designated road corridor to these locations.

(c) *Vested right.* Adoption of a controlled access road resolution does not guarantee, create or vest, in any property owner, a right or property interest with respect to the designated access points, median openings or turning movements. Approval for construction of a new, or use of an existing, access point, median opening or turning movement is reserved to the County. County approval will be based upon facts and circumstances applicable to the request at the time the application for development order or permit approval is submitted. No deviation or variance may be granted from this subsection.

(d) *Amendment to controlled access road resolutions.*

(1) *Creation of a new access point, median opening or turning movement.*

a. An application complying with the requirements of Lee County Administrative Code 11-10 (AC11-10) must be submitted to the County.

b. County staff will review the application and prepare a recommendation to the Board.

c. In accordance with AC 11-10, the Board may consider the staff recommendation separately, as a regular Board agenda item, or as part of the rezoning process.

d. Board action to create a new access point, median opening or turning point on the controlled access facility requires a super majority vote (four affirmative votes).

(2) *Relocation of an existing/designated access point.*

a. An application complying with the requirements of AC 11-10 must be submitted to the County.

b. The application will be reviewed by County staff and a recommendation will be prepared for consideration as follows:

1. If the request is made in conjunction with a rezoning action or is deemed to affect an ongoing rezoning action, then the relocation of the access point will be considered and decided by the Board during the rezoning hearing.

2. If the request is not made in conjunction with a rezoning action and does not apparently affect an ongoing zoning action, then the Director of the Department of Transportation has the discretion to grant the relocation request based upon the criteria set forth in AC 11-10.

(e) *Applicability of section.* This section applies to all existing and future controlled access road facilities. These facilities include, but are not limited to:

(1) Daniels Parkway (Resolution 89-10-11, as amended)

(2) Ben C. Pratt/Six Mile Cypress Parkway (Resolution 77-2-13, as amended)

(3) Summerlin Road (from Boy Scout to McGregor) (Resolution 93-11-112, as amended)

(4) Ben Hill Griffin Parkway/Treeline Avenue (from Alico Road to Daniels Parkway) (Resolution 06-11-30, as amended)

(5) Three Oaks Parkway/Imperial Parkway (from East Terry Street to the northern municipal boundary of the City of Bonita Springs) (Resolution 07-09-30, as amended).

(Ord. No. 00-14, § 3, 6-27-00; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-299. Limited access roads.

(a) *Definition.* A limited access road is a roadway that is the subject of resolution adopted by the Board of County Commissioners designating the road as a limited access facility and specifying the access points along the roadway corridor. Limited access roadways are potential toll or expressway facilities.

(b) *Designation.* The Board of County Commissioners may designate a roadway as a limited access facility by adopting a resolution through the same public hearing process applicable to adopting an ordinance affecting the use of land. Adoption of the resolution must be by a super majority vote (four affirmative votes) of the Board. The purpose of the limited access resolution is to preserve safety and roadway traffic capacity. The intent of the resolution is to set access points at specific locations and restrict access along the designated road corridor to assure interchange connections are limited to a few existing and planned public roadways.

(c) *Vested rights.* Adoption of a limited access road resolution does not guarantee, create or vest, in any property owner, a right or property interest with respect to the designated access points, median openings or turning movements. Approval for construction of a new, or use of an existing, access point, median opening or turning movement is reserved to the County. County approval will be based upon facts and circumstances applicable to the request at the time the application for development order or permit approval is submitted. No deviation or variance may be granted from this subsection.

(d) *Amendment to limited access road resolutions.* No public or private road, driveway or other type of access may connect to the limited access road without prior approval of the Board. The Board will only approve amendment if the public interest will be served thereby.

(e) *Applicability of section.* This section applies to all existing and future limited access road facilities. These facilities include, but are not limited to:

(1) Veterans Parkway (from the Caloosahatchee River to Pine Island Road) (Resolution 03-01-37, as amended).

(2) CR 951 (from the Collier County line to Alico Road) (Resolution 06-06-29, as amended).

(Ord. No. 09-23 , § 4, 6-23-09)

Secs. 10-300—10-320. Reserved.

DIVISION 3. SURFACE WATER MANAGEMENT

Sec. 10-321. Generally.

(a) *Stormwater system required; design to be in accordance with SFWMD requirements.* A stormwater management system must be provided for the adequate control of stormwater runoff that originates within a development or that flows onto or across the development from adjacent lands. All stormwater management systems must be designed in accordance with South Florida Water Management District (SFWMD) requirements and provide for the attenuation/retention of stormwater from the site. Issuance of a SFWMD permit addressing the requirements set forth in this section will be deemed to establish compliance with this chapter and review of these projects may be limited to external impacts and wet season water table elevation. Projects granted SFWMD exemptions are subject to review by the County and will follow the criteria and requirements of the SFWMD. For purposes of stormwater management calculations, the assumed water table must be established by the design engineer in accordance with sound engineering practice. The Director of Development Review will review the stormwater management system on all development order projects for compliance with this chapter and may require substantiation of all calculations and assumptions involved in the design of stormwater management system.

(b) *Development outside future urban areas to comply with policies of [the] Lee Plan; surface water management plans within urban areas.*

(1) All development outside of future urban areas must be designed to comply with the Lee Plan policies 61.2.1, 61.2.2 and 61.2.3.

(2) Section 32-281 allows certain modifications to this chapter's surface water management standards for compact communities.

(3) Surface water management plans for developments within urban areas must mimic natural systems where feasible in accordance with Lee Plan policy 61.2.4. Techniques to mimic the function of natural systems are specified in section 10-418

(c) *Crown elevation of local subdivision streets.* Except as provided in subsection (d) of this section, minimum elevation of the crown of local subdivision streets must be 5.5 feet above mean sea level (USC & GS) datum. This standard applies only to streets interior to a project. In order to accommodate differences in elevation between interior streets and exterior streets, when such exterior streets exist below the minimum elevation, elevation variations along the interior streets necessary to provide a sloped lowering of the interior streets to meet the existing exterior street elevations may be permitted in accordance with applicable generally accepted engineering standards if approved by the Director of Development Review.

(d) *Street crown elevation for subdivisions abutting Caloosahatchee River.* In subdivisions that abut the Caloosahatchee River upstream of the W.P. Franklin Dam, the minimum local street crown elevation must be 6.0 feet above mean sea level at the dam and increased at a uniform gradient to an elevation of 7.0 feet at the east County line.

(e) *Caution to plan adequate elevation and drainage facilities.* Many areas of the County will require street crown elevations far exceeding the minimums stated in this section, and subdivision designers are cautioned to plan both adequate elevation and drainage facilities to prevent any flooding that could endanger health or property.

(f) *Six Mile Cypress Watershed—Drainage and surface water management.* Formerly 10-510(a).

(1) The outfall discharge rate for the three-day 25-year storm event for all large projects within the Six Mile Cypress Watershed must be 37 cms or less as specified in the Six Mile Cypress Watershed Plan.

(2) All development in the Six Mile Cypress Watershed Basin must be consistent with the findings and conclusions in the Six Mile Cypress Watershed Plan. However, the County will consider alternate proposals offering design standard flexibility in the conservation, restoration and enhancement of tributaries and flow-ways within the basin. In any event, the plan will not be interpreted to require a developer to mitigate impacts not created by the proposed development.

(g) *Site grading.* Site grading for all developments must be performed in accordance with the plans approved under the development order; and, must conform to the performance standards set forth in section 34-3104(b).

(Ord. No. 92-44, § 10(A), 10-14-92; Ord No. 94-07, § 10, 2-16-94; Ord. No. 97-10, § 3, 6-10-97; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 10-25 , § 2, 6-8-10)

Sec. 10-322. Roadside swales.

Roadside swales within street rights-of-way must have side and back slopes no steeper than 3 to 1. Roadside swales within street rights-of-way maintained by the County must have side and back slopes no steeper than 4 to 1. A deviation may be granted administratively by the Director of Development Services in consultation with the Department of Transportation Director. Normal swale sections must be a minimum of 12 inches deep and a maximum of 36 inches below the outside edge of the street pavement. Runoff may

be accumulated and carried in the swales in the right-of-way. Where flow velocities in excess of two feet per second are anticipated, curb and gutter or other erosion control measures must be provided.

(Ord. No. 92-44, § 10(B), 10-14-92; Ord. No. 94-07, § 10, 2-16-94; Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-323. Rear lot line swales and ditches.

Rear lot line swales and ditches should be used only where adequate provisions for maintenance are provided.

(Ord. No. 92-44, § 10(C), 10-14-92; Ord. No. 94-07, § 10, 2-16-94)

Sec. 10-324. Open channels and outfall ditches.

With the exception of roadside swales and major drainageways, open drainageways within 100 feet of school sites shall not be permitted unless specifically approved by the Board. Drainage plans shall provide that stormwater be collected in properly designed systems of underground pipes, inlets and other appurtenances, and be conveyed to an ultimate positive outfall. Where permitted, open drainageways shall retain natural characteristics and be designed and protected so that they do not present a hazard to life and safety. Protection against scour and erosion shall be provided as required by the Director of Development Review.

(Ord. No. 92-44, § 10(D), 10-14-92; Ord. No. 94-07, § 10, 2-16-94)

Sec 10-325. Reserved.

Editor's note—

Ord. No. 94-07, § 10, adopted Feb. 16, 1994, repealed provisions formerly codified as § 10-325, which pertained to disposition of stormwater and derived from Ord. No. 92-44, § 10(E), adopted Oct. 14, 1992.

Sec. 10-326. Inlet spacing.

Drainage inlets for roadways with closed drainage systems must be designed in accordance with state and Lee County Department of Transportation guidelines. Inlets must have the capacity to handle the design flow. When an existing swale is enclosed, inlets or manholes must be provided at a maximum 200-foot spacing for any pipes 24 inches and smaller.

(Ord. No. 92-44, § 10(F), 10-14-92; Ord. No. 94-07, § 10, 2-16-94; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-327. Dedication of drainage system; maintenance covenant.

(a) All necessary drainage easements and structures shall be dedicated to the appropriate entity or association at no expense to the County. Dedication for drainage ditches shall include a suitable berm (shoulder) width for maintenance operations. The berm shall be cleared of trees, shrubs and other obstructions and shall have adequate vehicular access. Suitable maintenance areas for the other drainage structures shall be located in drainage easements or rights-of-way. Dedications shall appear in the recorded plat or by deed.

(b) The stormwater management system shall not be dedicated or accepted by the County. This system shall be maintained through a covenant which runs with the land in the form of, but not limited to, deed restrictions, a homeowners' or condominium association, or such other legal mechanisms as will assure the beneficiaries of the stormwater management system that the drainage will be continually maintained. Regardless of the method chosen to provide for the continual maintenance of the stormwater management system, the beneficiaries shall be provided with a legal right to enforce the assurance that the drainage will be continually maintained. The legal documents which provide for the continual maintenance of the stormwater management system shall be accepted only after they are received and approved by the County Attorney's Office for compliance with this section.

(Ord. No. 92-44, § 10(G), 10-14-92; Ord. No. 94-07, § 10, 2-16-94)

Sec. 10-328. Drainage easements.

(a) *Open drainage easements.* Where a proposed development is traversed by or abuts a watercourse, drainageway, canal, IDD easement, lake, pond or stream, or where such a facility is proposed as part of a plan, a drainage easement or right-of-way must be provided that conforms substantially with the limits of the watercourse, drainageway, canal, IDD easement, lake, pond or stream. Additionally, on one side of the watercourse, drainageway, canal, IDD easement, lake pond or stream, a 20-foot wide easement for maintenance purposes must be provided, unless a lesser dimension is approved by the Development Services Director after consultation with appropriate staff. For canals, lakes or flow-ways greater than 50 feet wide, measured at the top of the bank, the developer must provide a 20-foot-wide easement or right-of-way on both sides of the canal, lakes or flow-way for maintenance purposes, unless a lesser dimension is approved by the Director of Development Services. This easement or right-of-way must be kept clear by the property owners and have satisfactory vehicle access. No portion of the required maintenance easement area may be located within the limits of a platted single-family residential lot. Residential docks/facilities may be located within the maintenance easements subject to compliance with section 26-71(g).

(b) *Closed drainage easements.* The width of closed drainage easements must be based upon sound engineering principles including, but not limited to, depth of cut, size of drainage pipe, proximity of structures, etc. Closed drainage easements must be a minimum of 15 feet in width for pipes that are 48 inches or less in diameter. The easement width for multiple pipes or for pipes greater than 48 inches in diameter is 25 feet or more.

(Ord. No. 92-44, § 10(H), 10-14-92; Ord. No. 94-07, § 10, 2-16-94; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-329. Excavations.

(a) *Applicability.* This section provides the permitting and development order requirements for all excavations except:

(1) The removal of surplus material generated from the construction of roads, sewer lines, storm sewers, water mains or other utilities;

(2) Moving materials for purposes of surface water drainage (swales, ditches, or dry retention), or landscaping, provided that the excavated materials are not removed from the premises and no blasting is proposed;

(3) Excavations for mining activities regulated under chapter 12

(4) The temporary removal of topsoil from a lot for landscaping purposes; OR

(5) The removal of excess spoil material resulting from the excavation of a building foundation or swimming pool in conjunction with a valid building permit.

(b) *Excavation types and required approvals.* Excavation are generally constructed either for mining operations, for stormwater retention or as a development site amenity. Table 1 summarizes the various types of excavations and the permits and approvals required for each excavation type.

TABLE 1

TYPES OF EXCAVATIONS, REGARDLESS OF SIZE, AND THE PERMITS AND APPROVALS REQUIRED FOR EACH EXCAVATION TYPE

Excavation Type	**Excavated Materials Destination**	**Permits/Approvals Required[1]**
Excavations for an agricultural use or as an amenity to a single-family residence.	ON-SITE OR less than 1,000 cubic yards of material to be moved off-site.	Type A Limited Review Development Order.
	OFF-SITE—Between 1,000, but less than 10,000 cubic yards to be moved off-site	1. Type D Limited Review Development Order; 2. SFWMD permit (if applicable); and 3. An approved Excess Spoil Removal Plan
	OFF-SITE - 10,000 or more cubic yards to be moved off-site.	1. Type D Limited Review Development Order; 2. SFWMD permit (if applicable); and 3. Planned Development Zoning with "excess spoil removal" as an approved use or, in conventional zoning districts that permit excavation for water retention, a special exception for excess spoil removal.
Development project - stormwater retention, i.e. lakes and ponds, etc. where the material to be moved off-site qualifies as "Surplus material" or "excess material."	OFF-SITE—Material to be moved off-site is less than 20,000 cubic yards in volume.	1. Development Order; and 2. SFWMD permit (if applicable); 3. An approved "Excess Spoil Removal Plan";
	OFF-SITE—Material to be moved off-site is 20,000 or more	1. Development Order; and 2. SFWMD permit; and 3. Planned Development Zoning with

	cubic yards in volume.	"excess spoil removal" as an approved use or, in conventional zoning districts that permit excavation for water retention, a special exception for excess spoil removal.

[1] General requirements for all excavation activities are specified in Chapter 34, Article VII, Division 15. Where the primary use of the site is related to mine activity, a MEPD approval must be obtained under chapter 12 prior to removal of materials from the site.

(c) *Procedures:*

(1) *Projects where spoil materials to be kept on-site or where less than 1,000 cubic yards of excess spoil will be moved off-site.*

a. *Approval required.* A property owner must obtain a Type A Limited Review Development Order when proposing any excavation that:

1. Is accessory to a single-family residence or is for an agricultural purpose and is located in an AG Agricultural zoning district; AND

2. Will keep the excavated materials on the same site or proposes to move less than 1,000 cubic yards of excess material off-site; AND

3. Does not include blasting. (See section 34-341.)

b. *Application content.* The Limited Review Development Order application must contain the following information:

1. The STRAP number and location of the property;

2. The name of the owner and signature of the owner authorizing the excavation;

3. A site plan showing the proposed location of the excavation relative to all property lines, easements, rights-of-way, and existing and proposed structures; the proposed slopes, maximum depth and the controlled water depth of the excavation; and the location, distribution and method of stabilization of the excavated spoil.

(2) *Projects where 1,000 or more cubic yards, but less than 10,000 cubic yards, of excess spoil will be moved off-site.* A property owner must receive an approved limited review development order and administrative approval of an excess spoil removal plan prior to commencing excavation activities when proposing any excavation that:

a. Is accessory to a single-family residence; OR

Is for an existing non-conforming agricultural use that IS NOT located in an AG Agricultural zoning district; OR

Is for an agricultural purpose and IS located within an AG Agricultural zoning district;

AND

b. Anticipates removing 1,000 or more cubic yards, but less than 10,000 cubic yards, of excavated material from the premises;

AND

c. Does not include blasting. (See section 34-341.)

In addition to submitting the information required for a limited review development order, the applicant must provide the information required in subsections 10-329(c)(1).

(3) *Projects where 10,000 or more cubic yards of excess spoil or surplus material will be moved off-site.* A property owner must receive an approved development order AND administrative approval of an Excess Spoil Removal Plan, OR planned development zoning with excess spoil removal or mining as an approved use, prior to commencing excavation activities when proposing an excavation that:

a. 1. Is accessory to a single-family residence; OR

2. For an existing non-conforming agricultural use that IS NOT located in an AG agricultural zoning district; OR

3. Is for an agricultural purpose and IS located within an agricultural zoning district;

AND

4. Anticipates removing 10,000 or more cubic yards of excavated material from the premises;

OR

b. Is for a development that has 20,000 or more cubic yards of surplus material to be moved off-site; OR.

In addition to submitting the information required for a development order, the applicant must provide the information required in subsection 10-329(c)(1).

(4) *Administrative approval of an Excess Spoil Removal Plan.*

a. *Applicability.* The Director of Development Services may authorize the removal of excavated excess spoil material in all zoning districts, with the exception of the Environmentally Critical (EC) district, for agricultural, residential and commercial projects PROVIDED that:

1. A development order application for the project has been filed and approved;

2. No blasting is proposed;

3. The excess material to be removed results from the minimum excavation required to:

i. Meet SFWMD permit requirements; OR

ii. Provide a viable agricultural or recreational amenity that does not exceed eight feet below the dry season water table (DSWT) elevation.

b. *Excess Spoil Removal Plan.* Any applicant requesting administrative approval to remove excavated material to an off-site location must submit an "Excess Spoil Removal Plan" with the Development Order application so as to provide the Director of Development Services sufficient information to determine whether off-site hauling may be approved administratively or if a public hearing will be required.

The "Plan" must include the following information:

1. The approximate location, shape and dimensions of the area to be excavated relative to all property lines, easements, rights-of-way, and existing and proposed structures;

2. The proposed slopes, the maximum and average depth, and the controlled water depth of the proposed excavation;

3. The estimated quantity of excavated material that will be hauled off-site;

4. The proposed truck traffic volume in trips per day;
5. The duration of the off-site hauling;
6. The destination of the removed excavated material;
7. The proposed haul route(s);
8. The proposed method to control dust, mud and debris along the proposed haul route;
9. Identification of the proposed lake maintenance entity together with the submittal of documents creating the entity and establishing its obligations;
10. Evidence that the "destination property" has received or is in the process of receiving a development order indicating where and how the materials will be stored, stockpiled, leveled, contoured and stabilized; and
11. Any other information deemed reasonably necessary by the Director.

c. *Minimum requirements for approval.*

1. Prior to commencement of off-site hauling, areas within the project proposed for development must be cleared and filled to within one foot of final design grade OR the amount of fill required to meet that requirement must be stockpiled and stabilized on-site for future use.
2. If the material will be moved to contiguous property, the receiving parcel must also have a development order indicating how the material will be distributed and stabilized.
3. If the material will be moved to property that is not contiguous, the applicant must show that the path of the hauling route will not adversely affect existing development such as residences, playgrounds, schools, etc.
4. The estimated period of hauling may not exceed one year from issuance of the Development Order.

d. *Director may impose conditions.*

The Director's discretion includes the ability to impose additional conditions as he may deem necessary to ensure compliance with the requirements of the Excess Spoil Removal Plan.

(5) *Approval to dewater.*

a. *General submittal requirements.* Where dewatering is proposed as part of a development project (of any size), except as provided in subsection (c), the following must be provided as part of the development order submittal:

1. Dewatering method and procedure to be used to complete the excavation.
2. Estimated volumes of water to be extracted, impounded or diverted per hour and per day for the duration of the dewatering.
3. A map specifically depicting the location of all dewatering pumps and withdrawal points.
4. A plan/map showing the disposition of the dewatered effluent, whether on or off the development site. The map must depict the size and location of the proposed holding ponds or trenches as well as the calculations used to determine the size of the proposed holding ponds and trenches. A soils report must be included that documents the ability of the sub-surface soils, in the subject location, to percolate the dewatered effluent. If an off-site location is proposed, then the application must include permission from each property owner whose property will be traversed or used to accomplish the dewatering as proposed. This permission/consent must in writing, signed by the property owner,

and acknowledged before a notary. Consents signed by an agent of the property owner will not satisfy this requirement.

5. A copy of the SFWMD Water Use Permit (WUP) application, staff report/recommendation and WUP permit approval.

b. *Additional submittal requirements for dewatering sensitive areas.* If dewatering is proposed to facilitate development of a site known or believed to be subject to dewatering sensitive conditions (examples include but are not limited to: wetlands, existing wells, groundwater contamination, karst induced subsidence), or located in the vicinity of an area subject to dewatering sensitive conditions, then the following additional information may be required at the Director's sole discretion.

1. Engineering estimates of the monthly water balance for the projected highest, lowest and average rainfall sequence for the operation life of the excavation. This estimate must account for all sources of water input to the water recirculation facilities and processing steps, and all water outputs and losses from the system. The submittal must also include a detailed explanation of the computation methods and assumptions used to derive the estimate.

2. Engineering estimates demonstrating that the proposed dewatering will not adversely impact adjacent wetlands and groundwater resource aquifer supply must be submitted if the excavation will extend below the normal wet season groundwater elevation.

3. A proposed groundwater level monitoring plan that specifies the location of all wells comprising the monitoring well network. The proposed water level monitoring plan and process must be sufficient to document changes that are a result of the proposed dewatering with respect to groundwater levels and groundwater flow directions on and/or off the subject project site.

c. Dewatering for underground utility installations are exempt from the requirements of this section.

(d) *Standards.* All new excavations for water retention and detention are subject to the following standards:

(1) *Setbacks for water retention or detention excavations.*

a. No excavations will be allowed within:

1. 25 feet of an existing or proposed street right-of-way line or easement for a local street unless granted an administrative deviation in accordance with section 10-104

2. 50 feet of any existing or proposed right-of-way line or easement for a collector or arterial street unless granted an administrative deviation in accordance with section 10-104. The setback may be reduced to not less than 25 feet if the developer provides for the protection of wayward vehicles through the use of guardrails, berms, swales, vegetation or other suitable methods as determined by the Director.

3. 50 feet of any private property line under separate ownership unless granted an administrative deviation in accordance with section 10-104. The setback for an excavation from a private property line may not be less than 25 feet. This setback does not apply to lots developed concurrently with the excavation for water retention when part of a development order.

b. In all cases, the most restrictive setback will apply.

c. Excavation setbacks must be measured from the mean high water (MHW) or the waterbody control elevation line.

(2) *Setbacks for buildings, accessory buildings, equipment and other structures.* All setbacks for accessory buildings or structures must be shown on the site plan required as part of the application for a development order and must comply with the setback requirements of the zoning district in which the project is located.

(3) *Maximum controlled water depth.* Excavations for water retention or detention permitted under this section may not penetrate through impervious soil or rock layer that prohibits intermingling of various watery strata. The controlled water depth for water retention or detention excavations may not be greater than 12 feet unless the following criteria are met:

a. Excavation depth may exceed 12 feet, to a maximum of 20 feet, if the water depth does not penetrate any impervious soil or rock layer. For all lakes deeper than 12 feet, a "Deep Lake Management Plan" must be submitted and approved prior to development order issuance. The Deep Lake Management Plan must address long-term management strategies for the lakes greater than 12 feet in depth that include, at a minimum, the following:

1. A destratification system must be installed in any lake that exceeds 12 feet in depth prior to certificate of compliance for the development order. Documentation that the proposed destratification system is adequately sized and designed for each lake deeper than 12 feet must be submitted prior to development order issuance.

2. Native shade trees, meeting the specifications of section 10-420 must be planted around the lake perimeter, calculated at one tree per 100 feet of lake shoreline measured at control elevation. The tree planting is in addition to other required trees and must be coordinated with lake littoral plant requirements. The planting locations proposed to meet the wetland herbaceous plant requirements set forth in section 10-418, and other additional trees, must be graphically detailed as part of the Deep Lake Management Plan. All plants must be grouped or clustered together around the lake perimeter.

3. The property owner must record covenants, in a form acceptable to the County Attorney's Office, providing that the lake management techniques, including operation of the destratification system specified in the Deep Lake Management Plan, will be maintained for the life of the lake.

4. A post-construction bathymetric survey, sealed by a professional surveyor and mapper, must be submitted prior to certificate of compliance.

b. Any water retention or detention pond proposed to be greater than 20 feet in depth must be approved as a planned development rezoning deviation or as a condition of a zoning special exception.

c. Approval of a maximum excavation depth does not grant the right to achieve that depth if it creates surplus material that would not otherwise be created if the excavation was ceased at a lesser depth.

d. A post-construction bathymetric survey, sealed by a professional surveyor and mapper, must be submitted prior to certificate of compliance for all lakes regardless of their depth. Spot elevations must be provided to create a contour map on four-foot intervals depicting the entire lake profile including bank slopes.

e. If the excavation exceeds the maximum controlled water depth of 20 feet, the developer will be liable for a fine of $2.00 per cubic yard (in-situ measure) for each cubic yard of material excavated beyond the maximum controlled water depth. This penalty may not exceed those provided for in F.S. Chapter 162.

(4) *Bank slopes.* Excavation bank slopes for new projects. The design of shorelines for retention and detention areas must be sinuous rather than straight, as described in division 6 of this article. The banks of excavations permitted under this section must be sloped at a ratio not greater than six

horizontal to one vertical from the top of bank to a water depth of two feet below the dry season water table. The slopes must be not greater than two horizontal to one vertical thereafter, except where the Director of Development Services determines that geologic conditions would permit a stable slope at steeper than a two to one ratio. Excavation bank slopes must comply with the shoreline configuration, slope requirements and planting requirements for mimicking natural systems specified in section 10-418. Placement of backfill to create lake bank slopes is prohibited unless, prior to the issuance of a certificate of compliance, the applicant provides signed and sealed test reports from a geotechnical engineer certifying that the embankment was placed and compacted to its full thickness to obtain a minimum of 95 percent of the maximum dry density (modified Proctor) for embankments that will support structures, and 90 percent of maximum dry density (modified Proctor) for other embankments in accord with ASTM D1557.

An administrative deviation may be requested from the required six to one slope requirement to allow a slope no steeper than four to one. The deviation may be granted if the Director is satisfied that the enhanced slope protection measures proposed by the applicant will prevent erosion and scouring. Acceptable enhanced slope protection measures include, but are not limited to, use of enhanced herbaceous plantings in combination with an appropriate geosynthetic turf reinforcement mat or similar shoreline stabilization technique that does not include hardened structures such as those identified in section 10-418(3). The design technique used will be determined by the project engineer based upon evaluation of site specific conditions and the proposed development parameters. The deviation request may be processed under section 10-104 or in conjunction with a planned development zoning application.

(5) *Lake maintenance plan.* A lake maintenance plan must be submitted for the long term maintenance of the lake and lake shoreline areas. The plan must be included as part of the application for development order approval and, once approved by the County, must be recorded in the public records as part of the property owners association documents. The lake maintenance plan must include the following elements.

a. Identification of the entity responsibility for the maintenance of the lake area including the lake shoreline.

b. Identification of the methods to remove and control exotic and nuisance plants in perpetuity.

c. Requirements that ensure littoral vegetation remains in a healthy and vigorous state in perpetuity. The use of trimming, mowing and herbicides to remove littoral plants must be prohibited.

d. Demonstration as to how surface water runoff quantities and flow velocities will be controlled to prevent bank erosion, including but not limited to, routing roof drains away from lake shorelines.

e. Requirements that educational materials be provided to residents describing the purpose and function of the bank slope and littoral areas. The materials must also explain the individual property owner's responsibilities with respect to compliance with bank slope and littoral area management plans. Educational materials may take the form of signs and brochures.

(6) *Fencing.* A four-foot fence may be required, at the discretion of the Director, to be placed around excavations for water retention when located less than 100 feet from any property under separate ownership.

(7) *Test borings.* Test borings must be conducted in conformity with section 12-110(18) when required by the Director.

(8) *Excavation or fill material.* All large projects where off-site removal is proposed, must provide soil displacement - cut/fill - calculations and plans certified by a registered engineer indicating:

a. The volume of material proposed to be excavated for water retention/detention purposes with plans showing the areas and cross sections associated with the excavation(s);

b. The volume of the excavated material to be used on-site, with plans showing the areas and cross sections associated with the on-site materials;

c. The volume of material (if any) to be removed from or imported to, the premises; and

d. If the applicant proposes to remove from or import material to the premises, he must submit a map indicating the proposed access route to the nearest collector or arterial road.

(9) *Planned development zoning and general mining permit.* If the Director determines the project does not qualify for administrative approval under subsection 10-329(c) "Procedures," then the property owner must apply for mine excavation planned development zoning (MEPD) and a mine operation permit (MOP) pursuant to chapter 12. Approval from the Board of County Commissioners must be obtained prior to the removal of any materials from the excavation site.

(10) *Director's decision.* The decision of the Director is discretionary and may not be appealed.

(e) *Violations.*

(1) Where removal of excess spoil activities are commenced prior to approval of the development order required by section 10-329(b), a stop work order will be issued and all excavation and excess spoil removal activities must cease until an application to conduct the activities has been submitted and approved.

(2) An application to remove excess spoil after removal activities have commenced in violation of this section will be charged an application fee equal to four times the established fee for the type permit required.

(3) Submittal of the application and payment of the application fee does not protect the applicant from the remedies described in section 10-6. Any of these forms of relief can be sought or maintained by the County until the problem is abated.

(4) SFWMD will receive a copy of any notice of violation issued by Lee County with respect to dewatering activity.

(f) *Restoration of existing approved bank slopes and littoral designs.* Restoration of existing bank slopes that have eroded over time and no longer meet the minimum slope design criteria applicable at the time the lakes were excavated will be strongly encouraged to use the slope protection measures identified above. Restoration activities will require review and approval through the Type D limited review development order process. As part of this review, the previously approved littoral plants and deep lake management plan requirements must be included on the development order plans. If the lake shoreline to be restored is either owned or controlled by an incorporated property owners association, the application for approval must be filed by the association and encompass the entire lake shoreline in order to avoid slope restoration in a piecemeal fashion by individual lot owners.

The use of an appropriate geosynthetic turf reinforcement mat (TRM), a cellular confinement system or similar shoreline stabilization technique that does not include hardened structures, such as those identified in section 10-418(3), will not require an ADD or variance. Use of hardened structures for slope restoration is discouraged, but will be considered administratively on a case by case basis per criteria identified in 10-104(b)(6).

(Ord. No. 92-53, § 2, 12-9-92; Ord. No. 94-07, § 10, 2-16-94; Ord. No. 94-10, § 5, 4-20-94; Ord. No. 94-28, § 19, 10-19-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 96-17, § 2, 9-18-96; Ord. No. 98-03, § 2, 1-13-98; Ord. No. 98-11, § 2, 6-23-98; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 01-03, § 2, 2-27-01; Ord. No. 02-15, § 1, 4-9-02; Ord. No. 02-20, § 3, 6-25-02; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 08-21 , § 1, 9-9-08; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11; Ord. No. 13-10 , § 3, 5-28-13; Ord. No. 14-13 , § 1, 6-17-14)

Cross reference— Excavations generally, § 34-1651 et seq.

Sec. 10-330. Outfall into County right-of-way.

Approval for discharge into a County maintained road right-of-way, watercourse, drainage way canal, IDD (Iona Drainage District) easement, lake pond, or stream must be part of a development order or limited development order as outlined in this chapter. Information to be provided includes:

(1) Demonstration of all the existing and historic drainage from the site;

(2) The existing and proposed quantity of stormwater runoff; and

(3) A site evaluation that includes the existing road drainage sufficient to determine if there are any impacts to existing County drainage facilities all the way to the outfall.

(Ord. No. 07-24 , § 3, 8-14-07)

Secs. 10-331—10-350. Reserved.

DIVISION 4. UTILITIES [5]

Sec. 10-351. Generally.

(a) Public water systems and public sewage systems shall be designed and constructed in accordance with County, state and federal standards, including the domestic requirements established by the appropriate state agency and the fire protection requirements established by the Uniform County Fire Code, as they may be amended from time to time.

(b) Public sewage systems shall be designed by an engineer in accordance with this chapter, and shall be designed, constructed and maintained in such a manner as not to adversely affect the water quality of any existing stream, lake or underground aquifer.

(c) No development order may be issued for any development if adequate provisions for sanitary sewage disposal and potable water service have not been made. For purposes of this section, the term "adequate" is defined as satisfying the regulations of the State Department of Health and the State Department of Environmental Protection, as they may apply, and this chapter.

(d) General location and installation standards are as follows:

(1) All treatment facilities shall be located and constructed to minimize noise, odor and other effects and impacts on the public health, welfare and safety.

(2) All aboveground or partially aboveground facilities (active or passive) shall be set back at least 100 feet from any perimeter property line.

(3) Belowground disposal facilities (drainfields, mound drainfields, injection wells, etc.) shall be no closer than 50 feet from the nearest residential lot.

(4) Location of all facilities shall be in accordance with the applicable local, state and federal regulations.

(Ord. No. 92-44, § 11(A), 10-14-92; Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-352. Potable water systems.

(a) *Connection to central system required for certain developments.* The following types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned water utility, or within the County utilities' future water service areas as delineated on Map 6 in the Lee Plan, must connect to that respective water system:

(1) Any residential development that exceeds 2.5 dwelling units per gross acre, except for a development that contains less than ten dwelling units in any phase or combination of phases located more than one-quarter mile from a point of connection;

(2) Any commercial or industrial development that exceeds 30,000 square feet of gross floor area and any smaller such development that will use more than 5,000 gallons per day of water;

(3) Any commercial or industrial development that will use more than 1,000 gallons per day located adjacent to or within 50 feet of a connection point, as measured from the property line;

(4) Any commercial or industrial development subdivision consisting of more than 5 lots located less than one-quarter mile from a point of connection; or

(5) Any residential, commercial or industrial development of any size where central water lines are or will be available within 90 days of the issuance of the development order.

For purposes of this subsection, the term "available" means located in a public right-of-way or easement adjacent to any portion of the property. The term "gross floor area" has the same meaning as that set forth in section 34-2 for "floor area."

The provisions of this subsection become effective for each investor-owned utility upon the execution of an agreement with the County demonstrating the availability of an equitable program of rebatable agreements.

(b) *Private systems.* If the proposed development is not required to connect pursuant to section 10-352(a):

(1) A development order may be issued upon satisfactory documentation that the development will itself provide water service in accordance with the regulations of the state department of health and rehabilitative services, the state department of environmental regulation and the South Florida Water Management District; and

(2) The water system approved under section 10-352(b)(1) must be removed or abated and connection to that utility must be made not more than 90 days from the date the utility provides written notice to the property owner that potable water service is available at the boundary of the development and connection is mandatory. An appropriate bond or equivalent security may, at the utility's option, be tendered to the affected utility to ensure compliance: and

(3) The private water system installed must comply with Chapter 64E-8 of the Florida Administrative Code, as such provisions now exist or may be amended.

(Ord. No. 92-44, § 11(B), 10-14-92; Ord. No. 94-07, § 11, 2-16-94; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-353. Sanitary sewer systems generally.

(a) *Connection to central system required for certain developments.* The following types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned utility, or within the County utilities' future sewer service areas as delineated on Map 7 in the Lee Plan, must connect to that respective sewer system:

(1) Any residential development that exceeds 2.5 dwelling units per gross acre, except for a development that contains less than ten dwelling units in any phase or combination of phases located more than one-quarter mile from a point of connection;

(2) Any commercial or industrial development that exceeds 30,000 square feet of gross floor area and any smaller such development that will generate more than 5,000 gallons per day of sewage;

(3) Any commercial or industrial development that generates more than 1,000 gallons per day located adjacent to or within 50 feet of a connection point, as measured from the property line;

(4) Any commercial or industrial development subdivision consisting of more than five lots located less than one-quarter mile from a point of connection; or

(5) Any residential, commercial or industrial development of any size where central sewer lines are or will be available within 90 days of the issuance of the development order.

For purposes of this subsection, the term "available" means located in a public right-of-way or easement adjacent to any portion of the property. The term "gross floor area" has the same meaning as that set forth in section 34-2 for "floor area."

The provisions of this subsection become effective for each investor-owned utility upon the execution of an agreement with the County demonstrating the availability of an equitable program of rebatable agreements.

(b) *Individual sewage disposal systems.* If the proposed development is not required to connect pursuant to 10-353(a):

(1) A development order may be issued upon satisfactory documentation that the development will itself provide sanitary sewer service in accordance with the regulations of the state department of environmental protection, or on-site sewage disposal in accordance with the regulations of the state department of health; and

(2) The system approved under 10-353(b)(1) must be removed or abated and connection to the utility must be made not more than 90 days from the date the utility provides written notice to the property owner that sanitary sewer service is available at the boundary of the development and connection is mandatory. An appropriate bond or equivalent security may, at the utility's option, be tendered to the affected utility to ensure compliance.

(3) The individual sewage disposal system installed must comply with Chapter 64E-6 of the Florida Administrative Code as the same now exists or as it may be amended from time to time.

(Ord. No. 92-44, § 11(C), 10-14-92; Ord. No. 94-07, § 11, 2-16-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-354. Reuse water system.

(a) Wherever technically feasible, the irrigation of grassed or landscaped areas must be provided for through the use of a second water distribution system supplying treated wastewater effluent or reuse

water. This reuse water system must be separate and distinct from the potable water distribution system and must be constructed and operated in accordance with the rules of the state department of environmental protection, specifically chapter 17-610, Florida Administrative Code.

(b) Any proposed development which is:

(1) Located in the franchised or certificated service area of a sanitary sewer utility, or the County utilities' future sanitary service area, which is prepared to supply reuse water at a quality and quantity commensurate with the irrigation needs of the proposed development, when the nearest property line of the development is located within one-quarter mile of the reuse distribution system; or

(2) Planned to rely on an on-site wastewater treatment facility whose design average daily flow is 100,000 gallons per day or more;

shall be designed to maximize the use of reuse water from the utility in the case of subsection (1) of this subsection, or on-site wastewater plant in the case of subsection (2) of this subsection.

(c) Additional permissible uses of reuse water include fountains and other landscape water features, fire suppression and toilet flushing (only) in structures containing no dwelling units.

(Ord. No. 92-44, § 11(D), 10-14-92; Ord. No. 96-06, § 4, 3-20-96)

Sec. 10-355. Easements; location of water and sewer lines.

(a) *Generally.*

(1) Water distribution and sewage collection lines shall not be installed under the paved traveled way of any arterial or collector street except as necessary to cross under the street. Unless otherwise permitted by the department of transportation and engineering, water distribution and sewage collection lines that cross under arterial and collector streets shall be installed perpendicular to the street and shall comply with the requirements of the administrative code for utility construction activities in County-owned or County-maintained roadway and drainage rights-of-way and easements. Water distribution lines and sewage collection lines shall not be installed in street rights-of-way or roadway easements unless the installation does not interfere with the ultimate cross section of the roadway and drainage within the right-of-way. Water distribution lines shall be located to accommodate future expansion of arterial and collector streets. For all new local roads or accessways in proposed developments, a minimum ten-foot-wide utility easement shall be provided on both sides of those roads or accessways; actual width shall be determined on a case-by-case basis so as to be accommodated within the utility easements. Water distribution lines shall be installed at the edge of the street right-of-way or street easement or outside of the right-of-way if the water distribution line will conflict with the ultimate cross section of the street. Sewage collection lines may be installed under the traveled way of local streets. Sewage collection lines shall be installed at the edge of street rights-of-way for arterial or collector streets or outside of the right-of-way if the sewage collection lines will conflict with the ultimate cross section of arterial or collector streets.

(2) Utility easements shall be shown on the site plan, and electric, telephone and cablevision lines shall be installed within the easements. Water distribution lines and sewage collection lines shall be installed within the right-of-way or within the easements as noted in subsection (a)(1) of this section (see section 10-715).

(b) *Extension of existing utilities.*

(1) The extension of existing utilities shall be in accordance with the prevailing conditions as they exist, provided no conflict is thereby generated after consideration is given to the ultimate cross section of the roadway and drainage within the right-of-way as determined by the Director of the Department of Transportation and Engineering. For new developments, where no physical or

design conflict would be created, and where not prohibited by the regulations of the state department of transportation, the County Department of Transportation and Engineering, the state department of environmental regulation or the state department of health and rehabilitative services, potable water mains shall be located on the north and west sides of the right-of-way or roadway, and sanitary sewer gravity or pressure lines, force mains and reuse water distribution mains shall be on the side opposite that in which potable water is installed (see section 10-715).

(2) If it is determined after consultation with the Director of the Department of Transportation and Engineering that a conflict with the ultimate cross section is created by the utility, then the proposed utility extensions shall be offset to an easement that is not within the right-of-way when the proposed extension is to be constructed.

(c) *Easements along rear lot line.* When a utility company requests a utility easement along rear lot lines, the easement shall be 16 feet in width and shall be centered on the rear lot line through any block where lots are back to back, or eight feet in width where the adjacent land is vacant or subdivided, or ten feet in width and adjacent to the rear lot line when the adjacent property is a street right-of-way or roadway.

(d) *Easements along side lot line.* When a utility company requests a utility easement along a side lot line, the easement shall be a minimum of 12 feet in width and shall be centered on the lot line.

(e) *Easements along drainage easement.* When a utility company requests a utility easement along a side or rear lot line and there is to be a drainage easement along that lot line, the utility easement shall be provided adjacent to, and in addition to, the drainage easement.

(f) *Reduction or waiver of requirements.* The width of the utility easements specified in subsections (a) through (e) of this section may be reduced, or the requirement for the utility easements may be eliminated, or the number and location of the utility easements may be reduced or modified, if all of the applicable utility companies state, in writing, that the easement may be eliminated or reduced in width. This reduction or waiver of the utility easement requirements may only be addressed at time of local development order review and platting, as applicable.

(g) *Compact PD.* In compact communities regulated by chapter 32, the rights-of-way of local streets are the preferred location for "wet" utility lines such as water and wastewater. Alleys or lanes are the preferred location for "dry" utility lines such as electricity, telephone, and cable television. The proposed location of all utilities in compact communities must be shown on development order plans.

(Ord. No. 92-44, § 11(E), 10-14-92; Ord. No. 02-20, § 3, 6-25-02; Ord. No. 10-25 , § 2, 6-8-10; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-356. Maintenance and operation of water and sewer systems.

(a) Where the developer provides a public water or sewage system, the treatment plants, lines and all other appurtenances shall be maintained and operated through a covenant which runs with the land, in the form of, but not limited to, deed restrictions, a homeowners' or condominium association, or such other legal mechanisms as will assure the beneficiaries of the service that the plant will be continually operated and maintained. Such operation and maintenance shall be in accordance with the rules and regulations of the state department of environmental regulation.

(b) Regardless of the method chosen to provide for the continual maintenance and operation of the plant, the beneficiaries of the service shall be provided with a legal right to enforce the assurance that the plant shall be continually operated and maintained.

(Ord. No. 92-44, § 11(F), 10-14-92)

Sec. 10-357. Inspection of water and sewer systems; piping materials.

(a) The department of utilities shall periodically inspect all construction of water and sewage systems, including systems not to be dedicated to the public.

(b) The department of utilities shall immediately call to the attention of the developer and his engineer any failure of work or material.

(c) The Development Review Director, at the recommendation of the department of utilities, may suspend work that is not in conformity with approved plans and specifications, and shall require inspections as necessary.

(d) After required improvements have been installed, the developer's engineer shall be required to submit certification, including as-built drawings, to the County that the improvements have been constructed substantially according to approved plans and specifications.

(e) Approval of completed water and sewage system improvements must be given in writing by the franchiser to the department of utilities.

(f) Approved utility piping materials for use in rights-of-way are listed in section 10-716

(Ord. No. 92-44, § 11(G), 10-14-92)

Secs. 10-358—10-380. Reserved.

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 6; zoning regulations pertaining to essential services, § 34-1611 et seq. (Back)

DIVISION 5. FIRE SAFETY [6]

Sec. 10-381. Generally.

Fire protection systems and public water systems must be designed by a Florida Registered Engineer and constructed in accordance with County, state and federal standards, including the domestic requirements established by the appropriate state agency and the fire protection requirements established by the Florida Prevention Fire Code, as they may be amended.

(Ord. No. 92-44, § 12(A), 10-14-92; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-382. Applicability of division.

The provisions of this division apply to all developments that occur within existing public water systems, outside of existing public water systems, and inside or outside of an established fire district or taxing unit.

(Ord. No. 92-44, § 12(B), 10-14-92)

Sec. 10-383. Interpretation of division; conflicting provisions.

(a) This division shall be construed to be the minimum regulations necessary for the purpose of meeting the general and specific requirements named in this division.

(b) Where any provision of this division imposes a restriction different from that imposed by any other provision of this chapter or any other ordinance, regulation or law, the provision which is more restrictive shall apply.

(c) Formal interpretations on water supplies and fire department access shall be made by the County Fire Official.

(d) The Board of Adjustments and Appeals holds the jurisdiction to grant variances from the provisions of this division. The procedure and criteria applicable to the variance proceedings is set forth in section 6-71 et. seq.

(Ord. No. 92-44, § 12(C), 10-14-92; Ord. No. 98-03, § 2, 1-13-98)

Sec. 10-384. Minimum standards for all developments.

(a) *Fire department access.* Suitable fire department access must be provided to all structures in accordance with the provisions contained within Chapter 18.2 of the Florida Fire Prevention Code (NFPA 1, FIRE CODE, FLORIDA current edition). Exceptions to this requirement may be permitted where, in the opinion of the County Fire Official and the district fire official, a modified fire department access is required due to size, construction, location or occupancy of a building.

(b) *Fire flows.* Fire flows for all developments will be determined according to this division before the issuance of a development order.

(1) The engineer, contractor or installer of water supply systems in new developments must demonstrate, by actual test, that the capacity of the water supply system will meet fire protection design requirements as set forth in Chapter 18.4 of the Florida Fire Prevention Code (NFPA 1, FIRE CODE, FLORIDA current edition).

(2) A fire flow of the existing public water system must be made before the issuance of a development order for all developments in or within one-quarter mile of an existing public water system.

(3) Fire flow tests must be witnessed by the fire department and other authorities having jurisdiction.

(4) A minimum flow in all cases will be 1,000 gallons per minute with a 20 pounds per square inch residual.

(5) Developments not capable of delivering the required fire flow must provide automatic sprinkler systems in accordance with all current state and local codes. Alternatively, the County Fire Official may allow developments not capable of delivering the required fire flow to provide an additional source of water for fire protection in accordance with section 10-386

(6) *Reductions in Fire Flow Requirements.* Fire flow requirements may be reduced if the building is protected by an automatic sprinkler system installed in accordance with all state and local codes.

a. The fire flow requirement may be reduced in accordance with Sections 18.4.5.1 and 18.4.5.2 of the Florida Fire Prevention Code (NFPA 1, FIRE CODE, FLORIDA) for one- and two-family dwellings and buildings other than one- and two-family dwellings, respectively.

b. The fire flow requirement for one- and two-family dwelling units may be reduced by 25 percent when the units are separated by a minimum of 30 feet.

(c) *Water main installation.* Water main installation will be provided in accordance with the following standards.

(1) Water mains for one- and two-story residential buildings consisting of between one and six dwelling units per building must be no less than eight inches in diameter, and constructed in an external loop connected to intersecting water mains at a maximum distance of 1,500 feet.

(2) Water mains for all commercial buildings and for residential buildings with more than six dwelling units per building or more than two stories in height must be no less than ten inches in diameter, and constructed in an external loop system with intersecting water mains installed every 2,000 feet.

(3) Water mains for all industrial areas and all hazardous storage areas must be no less than 12 inches in diameter and constructed in an external loop system with intersecting water mains installed every 2,000 feet. Fire hydrants must be installed on intersecting water mains.

(4) The maximum allowed dead-end water line must be no longer than one-half the distance required between intersecting water mains.

(5) Any water main along an arterial road or considered by the utility company to be a main transmission line must be sized to accommodate future growth, but in no case less than specified in this section. A letter of approval from the utility company will be acceptable evidence of conformance with this requirement.

(6) The applicant may submit a request for an administrative deviation in accordance with section 10-104(a)(13) for alternatives to line sizing, dead-end and intersecting water main criteria if they embody sound engineering practices and are demonstrated by the applicant's professional engineer.

(d) *Fire hydrant design and spacing.* The design and maximum spacing of fire hydrants will be in accordance with the following standards.

(1) Fire hydrants are required for all developments provided with a public water system.

(2) Fire hydrants must be installed so that the 4½-inch streamer connection is no less than 18 inches and no more than 24 inches above finished grade.

(3) Fire hydrants must be located within ten feet of the curbline of fire lanes, streets or private streets when installed along such accessways.

(4) Fire hydrant spacing must be determined using the last available hydrant on the public water system as the PCP.

(5) Fire hydrant spacing for all developments must be measured along the centerline of the street. For the purposes of this subsection, the term "street" must include all road frontage, including roadways, drives, avenues or any other road designation. Also included must be any private drive

designated as required fire department access. Fire hydrants must be spaced at no greater than the distances indicated within the following table:

Use	Size	Special Notes or Regulations	Fire Hydrant Spacing
Residential	1 or 2 dwelling units per building		800 feet apart
	3 to 6 dwelling units per building	Note (a) & (c)	600 feet apart
	7 or more dwelling units per building	Note (c)	400 feet apart
Commercial	Any size	Note (c)	400 feet apart
Industrial	Any size	Note (b) & (c)	300 feet apart

Notes:

(a) For multifamily buildings taller than two stories, the maximum fire hydrant spacing must be 400 feet apart.

(b) For all hazardous storage areas, the maximum fire hydrant spacing must be provided in accordance with the industrial standard.

(c) On-site fire hydrants must be provided so that in no case will there be a fire hydrant located more than 400 feet from all portions of the ground floor of any building. This must be in addition to any other hydrant spacing requirement.

(Ord. No. 92-44, § 12(D), 10-14-92; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-385. Reserved.

Editor's note—

Ord. No. 13-10, § 3, adopted May 28, 2013, repealed § 10-385 which pertained to developments provided with public water system and derived from Ord. No. 92-44, § 12(E), adopted Oct. 14, 1992; Ord. No. 94-07, § 12, adopted Feb. 16, 1994; and Ord. No. 98-03, § 2, adopted Jan. 13, 1998.

Sec. 10-386. Developments not provided with public water system.

(a) Developments not provided with a public water system must have a fire protection system designed by a state-registered engineer in accordance with NFPA pamphlet #1142, Standard on Water Supplies for Suburban and Rural Fire Fighting, as modified by this section.

(b) Water for fire protection must be made available on the fireground at a rate not less than the required fire flow.

(c) When bodies of surface water are available, drafting points consisting of a dry hydrant assembly, with eight-inch pipe and fire department connections, must be provided unless the fire chief of the applicable fire district indicates, in writing, that the district will not accept a dry hydrant assembly for their use. In that event, an alternate means of fire protection in accordance with NFPA pamphlet #1142 must be provided. A dry hydrant permit approved by the Lee County Fire Official must be obtained prior to installation of a dry hydrant.

(d) Drafting points must be spaced at the same intervals of length as required for fire hydrant spacing.

(e) Extreme care must be taken to ensure that the water supply required by this section will always be available year-round. Means of maintaining the water supply must be provided prior to issuance of a development order. Means of maintenance must include the supply of water, the means of storage of the water, and the associated piping arrangements necessary to deliver the water to the fire department.

(Ord. No. 92-44, § 12(F), 10-14-92; Ord. No. 02-20, § 3, 6-25-02)

Sec. 10-387. Developments located outside of established fire district or taxing unit.

(a) All new development, excluding individual, single-family, mobile home, duplex, two-family and agricultural structures, located outside of an established fire district or taxing unit must arrange for the extension of the service area of an existing district, obtain a charter for a new district, petition for a new district (MSTU) or community development district (CDD) as provided for in F.S. ch. 190, or have a fire protection system designed by a state-registered engineer in accordance with NFPA pamphlet #1142, Standards on Water Supplies for Suburban and Rural Fire Fighting, current edition, as modified in section V A—E, and also in accordance with Ordinance No. 85-20 of the County.

(b) Developments may provide a private water system meeting all the requirements of section 10-386

(Ord. No. 92-44, § 12(G), 10-14-92; Ord. No. 02-20, § 3, 6-25-02)

Sec. 10-388. Reserved.

Editor's note—

Ord. No. 94-31, § 2, adopted Nov. 16, 1994, repealed former § 10-388, which pertained to developments located outside of established fire districts.

Secs. 10-389—10-410. Reserved.

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 6. (Back)

DIVISION 6. OPEN SPACE, BUFFERING AND LANDSCAPING [7]

Sec. 10-411. Title and citation.

This division will be known and cited as the "Lee County Landscape Code."

(Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-412. Purpose and intent.

The purpose and intent of the landscape code is to:

(1) Promote the health, safety, and welfare of residents of Lee County by establishing minimum uniform standards for the installation and maintenance of landscaping;

(2) Improve the aesthetic appearance of commercial, industrial, and residential developments through the requirement of minimum open space and landscaping in ways that compliment the natural and built environment;

(3) Promote preservation and planting of native plants and native plant communities;

(4) Provide benefits to persons through open space and landscaping by reducing noise and glare;

(5) Screen and buffer the harsher visual aspects of urban development;

(6) Improve environmental quality by reducing and reversing air, noise, heat, and chemical pollution through the preservation of native vegetation, relocation of native trees and installation of landscaping; and

(7) Promote water conservation and xeriscape principals by requiring the use of native plants, organic mulch, reduction of turf areas, and appropriate irrigation.

(Ord. No. 92-44, § 13(A), 10-14-92; Ord. No. 94-28, § 20, 10-19-94; Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-413. Definitions.

The following words, terms and phrases, when used in this division, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Open space. Open space means:

(1) Areas of preserved indigenous native vegetation and areas replanted with vegetation after construction, such as natural systems, lawns, landscaped areas and greenways, which comply with the minimum dimensional requirements of section 10-415(d).

(2) The outdoor recreational facilities as listed in section 10-415(d)(2)d.

(3) That portion of bodies of water, existing or proposed, that are within the proposed development area and subject to the restrictions and limitations in section 10-415(d)(2)c.

(4) Archaeological sites, including any area that contains evidence of past human activity ranging from large mound and midden complexes to a group of artifacts, the boundary and extent of which is determined by a survey by a professional archaeologist.

(5) Plazas, atriums, courtyards and other similar public spaces as specified in section 10-415(d)(2)d.

Parking areas means all areas, paved or unpaved, designed, used or intended to be used for the parking or display of vehicles, excluding:

(1) Areas used for parking or vehicle display that are under or within buildings;

(2) Parking areas serving a single structure of two dwelling units or less; and

(3) Areas used for the temporary storage of construction equipment.

Vehicle use area means all ground level impervious surfaces, including impervious parking areas, that may be used by vehicles for parking, circulation, and similar actives within the development. Street right-of-way, roadway easement, and those areas excluded from the definition of parking area are exempted.

(Ord. No. 92-44, § 13(B), 10-14-92; Ord. No. 94-28, § 21, 10-19-94; Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-414. Submittal requirements.

(a) *Landscape plan required.* Prior to the approval of a development order, an applicant whose development is covered by the requirements of this section must submit a landscape plan. The landscape plan must be prepared by and bear the seal of a landscape architect registered in the State of Florida. The plan must include the narrative and calculations to ensure that the proposed landscaping will be in compliance with requirements of this code. However, small projects may qualify for a hardship waiver if the cost of compliance with the landscape architect requirement is disproportionate to the cost of the entire project. This waiver is subject to the sole discretion of the Director.

The landscape plan must be drawn at the same scale as the development order plans and include, at a minimum, the following items where applicable:

LANDSCAPE PLAN REQUIREMENTS

Title of Project including Project Owner's Name	Preserved trees and palms
Preparer's Name	Trees and palms to be relocated
Dimensions and North arrow	Construction vegetation protection barricades
All open space	Permanent vegetation protection techniques
Indigenous open space	Tree and palm staking detail
All landscape areas	Mulch details
Highlight all code required landscaping	Safe sight distance triangles
Vehicle use areas - parking, aisle, driveways	Locations of proposed and existing parking lot lighting
Roadways and access points existing and proposed	Locations of proposed signs and existing signs to remain
Overhead and underground utilities existing and proposed	All easements existing and proposed
Indigenous Vegetation Management Plan	Reference chart that includes: Graphic plant symbols Plants botanical and common name plant quantity, height, trunk caliper and spread Plant spacing and native status

(b) *Irrigation plan required.* Prior to the approval of a development order, an applicant whose development is covered by the requirements of this section must submit an irrigation plan. This requirement can be met by the addition of notes or drawings on the landscape plan sheet of the development order. The irrigation plan requirement does not apply to single-family residential lots created by a development order. The conceptual irrigation plan must, at a minimum, indicate:

(1) The type of automated irrigation system proposed.

(2) All landscape areas, including parking lot islands, will be adequately sleeved for irrigation. This requirement must be included on the grading/paving plan sheet.

(3) A moisture (rain) sensor will be included in the irrigation system and located on the site so that it will receive direct rainfall, not impeded by other objects.

(4) The irrigation system will be designed to eliminate the application of water to impervious areas, including roads, drives and other vehicle use areas.

(5) The irrigation system will be designed to avoid impacts on existing native vegetation that will be retained on the development site.

(c) *Tree location plan.* A tree location plan must be submitted when general trees located within a designated preserve are being claimed for credit. The tree location plan must include specific information about all trees that are being preserved for credit within the entire development footprint. The tree location plan must: (1) be at the same scale as the site plan; (2) show the location of trees to be saved; (3) state the caliper for each tree (four-inch minimum caliper measured at four and one-half feet above ground level); and (4) identify the species of each tree.

(Ord. No. 98-28, § 2, 12-8-98; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-415. Open space.

(a) *Open space calculations.* All development must contain the minimum percentage of open space as outlined in the following table below:

OPEN SPACE REQUIREMENT		
Type of Development	**Open Space as % of Development Area**	
	Small Projects	**Large Projects**
Residential: Type of dwelling units as defined in chapter 34-2 located in conventional zoning districts with conventional zoning district lot coverage.		
Single-family residence or Mobile Home on a single lot with a minimum lot size of 6,500 sq. ft.	None	None
Duplex on a single lot with a minimum lot size of 7,500 sq. ft.	None	None
Two-family attached each on an individual lot with a minimum lot size of 3,750 sq. ft. per unit	None	None
All other residential	35%	40%

Industrial	10%	20%
Other: All other uses including, but not limited to commercial, places of worship, recreational vehicle parks, community facilities, schools (excluding Lee County School District), etc.	20%	30%
Note: multiple use sites with conventional zoning must comply with each corresponding use percentage in this table.		
Planned Development Zoning: Planned developments must provide open space as required in chapter 34 and per the approved master concept plan and resolution. Consistency with the master concept plan is in addition to the requirements of this provision, unless deviations have been granted.		
Compact Communities: Development constructed in accordance with chapter 32 of this Code will provide open spaces in accordance with the provisions of that chapter.		

(b) *Indigenous native vegetation and trees.*

(1) *Preservation.*

a. Large developments, with existing indigenous native vegetation communities must provide 50 percent of their open space percentage requirement through the onsite preservation of existing native vegetation communities. Refer to section 10-701

b. If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage requirement must be met through the onsite preservation of existing native trees consistent with subsection 1 through 4 below. Refer to Appendix E and section 34-373(6)(g).

1. Preservation of indigenous tree clusters is preferred over individual tree protection. Reasonable efforts to retain individual trees must be made. It is recognized that site design requirements (e.g. fill) may limit the ability to retain some individual trees, and in that case the County will allow the removal of those trees.

2. Sabal palms may be relocated in a horticulturally correct manner and clustered within open space areas.

3. Native trees (four to 15-inch caliper dbh) may be relocated to open space areas when proper horticultural methods (e.g. root pruning; use of antitranspirants) are utilized to insure the survivability of the trees, and a vegetation removal permit is obtained.

4. Effort must be made to preserve heritage trees with at least a 20-inch caliper dbh, including but not limited to live oak, South Florida slash pine, or longleaf pine. If a heritage tree must be removed from a site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.

5. Projects greater than five acres in size that abut an arterial or collector road and have existing native trees within 50-feet of the right-of-way must be designed to provide a 50-foot right-of-way buffer for tree preservation. Drainage or utility easements located within or adjacent to the 50-foot right-of-way buffer area must be established in the location with the least amount of trees as determined by onsite inspection by Lee County. The preservation of the existing trees will not require a double hedge row to be installed as part of the right-of-way buffer. The preserve area may not be utilized for drainage or other similar uses that may adversely affect the existing native trees. To increase long-term survival of the existing trees to be retained, appropriate arboricultural techniques to reduce impacts to the existing trees must be used. Those techniques must include ways to reduce impacts to the trees' root systems and crowns during construction and must be clearly provided on the landscape plans of the development order. The native tree preservation right-of-way buffer may be used toward meeting the indigenous preservation requirement.

   Applications submitted pursuant to this section encompassing difficult sites, such as irregularly shaped parcels or indigenous areas, may demonstrate that the intent of this section can be more effectively accomplished through an alternative right-of-way buffer design. Approval of an alternative design is at the discretion of the Director or designee.

c. A minimum setback of 20 feet from buildings is required. For indigenous plant communities subject to fire, such as pine flatwoods, palmetto prairie and xeric scrub, a 30-foot setback is required for fire protection.

(2) *Salvaging existing native plants.* Open space areas must be designed to incorporate as many of the existing large native trees and sabal palms as possible. Irrigation water must be available on the development site and provisions for adequate irrigation provided.

a. *Sabal palms.* For projects greater than ten acres, healthy sabal palms with a minimum eight-foot clear trunk and maximum of 25-foot clear trunk must be salvaged if conditions (e.g., no rock) and sequence of construction allows. If sequence of construction does not allow the on-site relocation of sabal palms, then the sabal palms must be salvaged for an off-site recipient site or sale. The salvage efforts must be coordinated with the division of environmental sciences staff whether used on-site or otherwise. The number of sabal palms to be relocated or salvaged must be shown on the landscape plan approved as part of the development order. Any sabal palms being relocated must be moved in a horticulturally correct manner per Lee County Extension Services brochure Lee 8/2000A. A 90 percent survival for relocated sabal palms is required. Death of over ten percent of the relocated sabal palms will require a 1:1 replanting.

b. *Other trees.* Healthy native trees with a minimum caliper of four inches at four and one-half feet above the ground (dbh) may be relocated onsite for five tree credits toward code required landscaping. The trees must be properly prepared for relocation through root pruning or other horticulturally correct methods approved by the Environmental Sciences Director.

(3) *Credits.*

a. For all developments with required open space, except single-family subdivisions with individual lot area of 6,500 square feet or greater and a maximum lot coverage of 45 percent, an incentive to preserve indigenous native upland plant communities or indigenous native trees in large tracts, a scaled open space credit for single contiguous preserve areas will be granted as follows:

INDIGENOUS PLANT COMMUNITY & NATIVE TREE PRESERVATION AREA CREDITS

Credit provided	Minimum size	Minimum width
110%	½ acre	50 feet
125%	1 acre	75 feet
150%	3 acre	100 feet

b. An additional, maximum ten percent credit will be granted if any of the following are included:

1. Rare and unique uplands as defined by the Lee Plan.
2. Connection to offsite public or private environmental conservation or preserve areas.
3. Upland buffers to natural waterbodies.
4. Preservation adjacent to a roadway.
5. Restoration of native shrubs, grasses, and/or groundcover plants with the native tree preservation area. A minimum planting size of one gallon plant, installed on three foot centers (three-foot o.c.).

(4) *Maintenance.* A plan must be submitted for the long term maintenance of vegetation in indigenous open space areas. This indigenous vegetation management plan must include the following criteria:

a. Method and frequency of pruning and trimming.

b. Methods to remove and control all exotic and nuisance plants in perpetuity.

c. Debris removal.

d. Protected species management plan conditions.

e. Drafts of educational materials (signage and brochures) to be provided to the residents about the purpose and function of these areas.

f. Monitoring reports, including photos, that narratively document preserve area conditions must be submitted to obtain development order approval; and, again after project construction in order to obtain a certificate of compliance (CC). The CC monitoring report must describe and document ecological restoration activity that has occurred in the preserve areas. If review of the monitoring reports reveals death or significant decline to preserve vegetation, then revision of the management plan and restoration in accord with section 10-423 will be required.

(5) *Administrative deviation.* Consistent with the provisions of section 10-104, the Director may permit administrative deviations to reduce the minimum 50 percent indigenous native vegetation requirement within this subsection to a lower percentage. Existing, approved indigenous preserve areas within planned developments are not eligible for administrative deviations, unless the preserve areas are interior to the project (100 feet or more from the property line). The administrative deviation request must include the unique conditions or circumstances that make the property unusable and unreasonably burdensome, and demonstrate why granting the deviation is in the public interest. The applicant must provide details of other actions that will be

taken to offset the reduction (mitigation). Mitigation that will be considered includes, but is not limited to:

a. Onsite ecological creation/restoration, with long-term management. A minimum two to one ratio of creation/restoration area to indigenous area to be mitigated.

b. Offsite land acquisition with perpetual conservation protection. A minimum three to one ratio of acquired land to indigenous area to be mitigated.

c. Offsite ecological restoration on public lands or protected private lands. A minimum three to one ratio of acquired land to indigenous area to be mitigated.

d. Purchase of appropriate credits from a permitted mitigation bank.

e. A minimum three to one ratio of acquired land to indigenous area to be mitigated. Indigenous preservation area credits listed in section 10-415(b)(3)a. do not apply to onsite ecological creation/restoration areas or offsite areas.

(c) *Minimum dimensions.*

(1) The minimum average width of open space areas must be ten feet.

(2) The minimum area of open space must be 180 square feet.

(3) For projects under ten acres in size, indigenous open space areas must have a minimum average width of 20 feet and minimum area of 400 square feet.

For projects over ten acres in size, indigenous open space areas must have a minimum average width of 40 feet and minimum area of 1,500 square feet.

(4) Open space preservation areas must be designed with adequate widths to preserve and allow the continued growth and viability of existing native trees.

(5) Native tree preservation areas must extend to the full drip line of slash pine, three quarter drip line for all canopy type trees, and six feet from the trunk of any native palm, or other protective means, such as retaining walls, must be provided. Except for work related to approved ecological restoration activities, no filling, grading or excavating is allowed in open space preservation areas.

(6) Surface water management systems may overlap with native tree preservation areas only where it can be clearly demonstrated that the effects of water management system construction or operation will not cause death or harm to the preserve tree and indigenous plant community of protected species.

(d) *Use of open space.*

(1) Open space areas must be landscaped in accordance with this division.

(2) The following uses may contribute to the open space requirements provided the minimum dimensions are met:

a. Buffers and landscaped areas in off-street parking areas, except for areas reserved for future parking spaces pursuant to section 34-2017(d);

b. Dry detention areas.

c. Existing or proposed bodies of water, including stormwater management areas and areas subject to saltwater inundation, which may be used to offset up to a maximum of 25 percent of the required open space area.

d. Active and passive recreation areas such as playgrounds, golf courses, beach frontage, nature trails, bikeways, pedestrian ways, tennis courts, swimming pools and other similar open spaces, as long as not more than 20 percent of the recreational area credited as open space consists of impervious surface.

e. Outdoor active and passive public use areas such as plazas, atriums, courtyards and other similar public spaces, which may be used to offset up to a maximum of 20 percent of the required open space.

f. Archaeological sites or zones that are designated as significant historic resources pursuant to chapter 22

g. Removal of native vegetation from indigenous open space areas by mechanical or chemical means is prohibited unless specified by the indigenous vegetation management plan.

(Ord. No. 92-44, § 13(C), 10-14-92; Ord. No. 94-28, § 22, 10-19-94; Ord. No. 95-07, § 8, 5-17-95; Ord. No. 95-12, § 5, 7-12-95; Ord. No. 97-10, § 3, 6-10-97; Ord. No. 98-28, § 2, 12-8-98; Ord. No. 02-20, § 3, 6-25-02; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 10-25 , § 2, 6-8-10; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-416. Landscape standards.

(a) *General.* Landscaping for all new developments, except community and regional parks as defined in the Lee Plan, must include, at a minimum, the following number of trees, in addition to the landscaping required for parking and vehicle use areas and buffers. General tree requirements may be reduced through the utilization of larger trees as specified in section 10-420(c)(2) or through use of an alternative landscape betterment plan (see section 10-419). Existing waterbodies within the development area will not be included in the calculation for general tree requirements.

(1) *Single-family residential developments that are constructed on individual (single) lots.* One tree must be provided per 3,000 square feet of development area. The preferred location to install these trees is on common property (clubhouse, lakes, dry detention or other similar property) prior to the issuance of a certificate of completion. Tree credits should be utilized per section 10-420(j) for indigenous preserves, where applicable.

(2) *Single-family developments with a conventional zoning district lot and lot coverage with minimum lot sizes of 6,500 square feet or greater.* Single-family developments with a conventional zoning district lot and lot coverage with minimum lot sizes of 6,500 square feet or greater will be required to provide a minimum of two trees per lot.

(3) *All other residential developments.* All other residential developments must provide one tree per 3,000 square feet of development area.

(4) *Recreational vehicle developments.* One tree must be provided per 3,000 square feet of development area.

(5) *All other developments.* One tree must be provided per each 3,500 square feet of development area.

(6) *Compact communities.* Development constructed in accordance with chapter 32 must provide street trees on both sides of all streets. Street trees located between a lot and a street may be counted towards the tree planting requirements of this section.

(b) *Building perimeter plantings.* All new development in commercial zoning districts and commercial components of planned development districts and DRIs must provide building perimeter plantings equal to ten percent of the proposed building gross ground level floor area. These planting areas must be located abutting three sides of the building with emphasis on the sides most visible to the public, not including the loading area. The perimeter planting areas must consist of landscape areas, raised planters or planter boxes that are a minimum of five feet wide. These landscape areas must include shrubs and ground cover plants with a minimum of 50 percent coverage of the landscape area at the time of planting. Trees and shrubs must meet the size requirements of section 10-420(d). Groundcover plants must be a minimum one-gallon container size. General trees may be planted within the building perimeter planting areas, especially effective are clusters (three or more) of sabal palms. Turfgrass is

discouraged and is limited to ten percent of the landscape area. Water management areas may not be a part of this five-foot planting area. Pedestrian access ways may cross and loading areas may be placed in the perimeter planting area, but may not be used to meet minimum planting area or open space requirements.

An enlarged perimeter landscape area is required in the front of shopping centers and freestanding retail uses that constitute a large development. An area that is at least five percent of the size of the vehicular use area must be developed as green space within the front of shopping centers and retail establishments and be an enlargement to the front building perimeter planting area. However, it is not a requirement that this area directly abut the front of the building. The enlarged perimeter planting areas must consist of landscape areas, raised planters or planter boxes that are a minimum of five feet wide. These enlarged perimeter planting areas must include trees, shrubs and ground cover plants with a minimum of four trees per 100 linear foot of building and 50 percent coverage of the landscape area at the time of planting. The trees placed around the building will be applied to the general tree requirement. Trees may be installed in clusters and do not need to be located within a 100 linear foot segment. Clusters of trees at the corners of buildings or framing entrances are especially effective. Trees and shrubs must meet the size requirements of section 10-420(d). Groundcover plants must be a minimum 1-gallon container size. Taller palms (16- to 20-foot clear trunk) must be used when building height is greater than 35 feet. Turfgrass is discouraged and is limited to ten percent of the landscape area. Water management areas may not be a part of this enlarged planting area.

This five percent green space area may be used to meet open space requirements if they are in compliance with section 10-415(c), but may not be used to reduce the perimeter planting areas on the sides and rear of the building. These areas must be designed for scenic, noncommercial recreation purposes and be pedestrian-friendly and aesthetically appealing. They may include the following: limited turfgrass, mulch, decorative plantings, landscape, walkways within the interior of the green space area not used for shopping, fountains, manmade watercourses (but not water retention areas), park benches, site lighting, sculptures, gazebos, and any other similar items.

Building perimeter planting standards are not applicable for buildings in compact communities that are constructed on any lot types shown in chapter 32, article II.

(c) *Landscaping of parking and vehicle use areas.* The provisions of this section apply to all new off-street parking or other vehicular use areas. Existing landscaping that does not comply with the provisions of this code must be brought into conformity, to the maximum extent possible, when: the vehicular use area is altered or expanded except for restriping of lots/drives, the building square footage is changed, or the structure has been vacant for a period of one year or more and a request for an occupational license to resume business is made. Consistent with the provisions of section 10-104, the Director may permit administrative deviations where a conflict exists between the application of this division and the requirements for the number of off-street parking spaces or area of off-street loading facilities.

(1) *Vehicular overhang of landscape areas.* The front of a vehicle may overhang any landscaped area a maximum of two feet, provided the landscaped area is protected by motor vehicle wheel stops or curbing. Two feet of such landscaped area or walkway may be part of the required depth of each abutting parking space. Walkways must be designed with a minimum of five feet width that is clear of any vehicle overhang.

(2) *Internal landscaping.* All parking areas must be internally landscaped to provide visual relief and cooling effects and to channelize and define logical areas for pedestrian and vehicular circulation, as follows:

a. Trees must be planted or retained in landscaped areas in parking areas, including landscaped areas reserved for future parking spaces, to provide for canopy coverage when the trees mature. At least one canopy tree or a cluster of three sabal palms must be planted or retained for every 250 square feet of required internal planting area, and no parking space may be more than 200 feet from a tree planted in a permeable island, peninsula or median

of 18-foot minimum width. Canopy requirements must be met with existing indigenous native trees whenever such trees are located within the parking area.

b. Landscaped areas on the parking area perimeter or internal islands must equal or exceed a minimum of ten percent of the total paved surface area. Landscaped areas reserved for future parking spaces pursuant to section 34-2017(d) may not be included in this calculation.

c. The minimum dimension of any required internal landscaped area must be ten feet for projects less than ten acres and 18 feet for projects ten acres or larger.

d. No more than an average of ten parking spaces must occur in an uninterrupted row with a maximum of 13 parking spaces between landscape areas when ten-foot wide landscape islands are used unless optional divider medians, as specified in section 10-416(c)(2)f., are used.

No more than 20 parking spaces must occur in an uninterrupted row when 18 foot wide landscape islands are used unless optional divider medians, as specified in subsection (c)(2)f. of this section, are used.

e. For large developments only, each row of parking spaces must be terminated by landscaped islands that measure not less than five feet in width and not less than 18 feet in length. Curbing is strongly encouraged. If terminal islands are used for required canopy trees, they must be a minimum of ten feet in width.

f. Optional divider medians may be used to meet interior landscape requirements. If divider medians are used, they must form a landscaped strip between abutting rows of parking spaces. The minimum width of a divider median must be 18 feet. One tree must be planted for each 40 linear feet of divider or fraction thereof. Trees in a divider median may be planted singly or in clusters. The maximum spacing of trees must be 60 feet.

g. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation must be landscaped with grass, ground cover, shrubs or other approved landscaping materials, and this must be so noted on the landscape plans. Sand, gravel, rock, shell or pavement are not appropriate landscape materials.

(d) *Buffering adjacent property.* Buffering and screening applies to all new development. Existing landscapes that do not comply with the provisions of this section must be brought into conformity to the maximum extent possible when: the vehicular use area is altered or expanded, except for restriping of lots/drives, the building square footage is increased, or there has been a discontinuance of use for a period of one year or more and a request for an occupational license to resume business is made.

(1) *General.* A buffering area is required along the entire perimeter of the proposed development whenever the proposed development abuts a different use. The existing use or, where vacant, the permitted use, of the abutting property will determine the type of buffering area required for the proposed development. Buffer areas may not be located on any portion of an existing or dedicated street right-of-way or roadway easement except that buffers may be located within slope easements as long as appropriate planting soil is provided in the slope.

(2) *Use categories.* In interpreting and applying the provisions of this section, development is classified into the following use categories:

USES	
AG	Agricultural uses

SF-R	Single-family, duplex or two-family attached situated on individual lots
MF-R	Residential structures containing three or more dwelling units on a single parcel
COM	Commercial uses, public facilities, schools (other than Lee County School District), and recreational vehicle parks
WOR	Places of worship (df)
IND	Industrial use
STP	Sewer treatment plant or water treatment plant
ROW	Public street right-of-way or roadway easement.
REC	Public active recreational park
PRE	Public preserve lands for conservation and/or passive recreation

(3) *Buffer requirements.* The following table provides the required buffer type when a proposed use is abutting an existing use or, in the absence of an existing use, the existing zoning.

BUFFER REQUIREMENTS											
Permitted or Existing Uses											
Proposed Uses		**AG**	**SF-R**	**MF-R**	**CO**	**WOR**	**IND**	**STP**	**RO**	**REC**	**PRE**
	AG	—-	—-	—-	—-	—-	—-	—-	—-	—-	—-
	SF	—-	—-	—-	—-	—-	—-	—-	—-	B	F(2)
	MF	—-	B	—-	—-	—-	—-	—-	D	B	F(2)
	CO	—-	C/F	C/F	A	A	—-	—-	D	A	F(2)

	WO	—-	C/F	C/F	A	A	—-	—-	D	A	F(2)
	IND	—-	(1)	(1)	—-	(1)	—-	—-	D	—-	F(2)
	STP	C/F	E	E	E	E	C/F	—-	D	—-	F(2)
	REC	—-	C/F	C/F	A	A	—-	—-	D	F	F(2)
	PRE	—-	F	F	—-	—-	—-	—-	—-	F	—-

Notes for Buffer Requirements Table:

1. All uses or activities must provide a Type E buffer unless the Director determines that the proposed use or activity will not have an adverse impact on adjacent property. If the Director determines that a Type E buffer is not required, a Type F buffer must be constructed.

2. The required buffer landscaping must be 100 percent native.

3. For development in compact communities constructed in accordance with chapter 32, these buffer requirements do not apply under the following circumstances:

   a. Between lots within a compact community.

   b. Around the perimeter of a compact community that is approved administratively (see chapter 32, article IV).

(4) *Buffer types.* The following table provides six different buffer types. Each type buffer, identified by a letter, provides the minimum number of trees and shrubs per 100 linear foot segment and indicates whether or not a wall or hedge is required.

BUFFER TYPES (per 100 linear feet)						
Buffer types	**A**	**B**	**C**	**D(3)**	**E**	**F**
Minimum width in feet	5	15	15	15	25	30
Minimum # of trees	4	5	5	5	5	10
Minimum # of shrubs	—	Hedge(2)	18(4)	Hedge(2)	30(4)	Hedge(2)
Wall required (1)	No	No	Yes	No	Yes	No

Notes for Buffer Types Table:

1. A solid wall, berm or wall and berm combination, not less than eight feet in height as measured from the finished grade of the project site. All trees and shrubs required in the buffer must be placed on the residential side of the wall. Walls must be constructed to ensure that historic flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.
2. Hedges must be planted in double staggered rows and be maintained so as to form a 36-inch high (F type buffers must be 48 inches at installation and be maintained at 60 inches high) continuous visual screen within one year after time of planting.
3. Trees within the ROW buffer must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. Palms are limited to a maximum of 50 percent of the ROW tree requirement. Palms must be clustered and cannot be planted in a "soldiering" effect, where they are equal distance and in a single row. South Florida slash pine (Pinus elliotii var. densa) and Longleaf pine (Pinus palustris) trees are encouraged for use in the ROW buffers due to their high crown, which provides tree canopy while maintaining good visibility to the development site.
4. Shrubs required by this section are intended to provide visual screening and may not be pruned to reduce height.

(5) Public and quasi-public facilities, including, but not limited to, places of worship, parks, utility facilities, government offices, neighborhood recreational facilities and private schools must provide a type C buffer if, in the opinion of the Director, the proposed development will have a significantly adverse impact on adjacent existing residential uses.

(6) If roads, drives, or parking areas are located less than 125 feet from an existing single-family residential subdivision or single-family residential lots, a solid wall or combination berm and solid wall not less than eight feet in height must be constructed not less than 25 feet from the abutting property and landscaped (between the wall and the abutting property) with a minimum of five trees and 18 shrubs per 100 lineal feet or a 30-foot wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property. Where residences will be constructed between the road, drive or parking area and the existing residential subdivision or lots, the wall or wall and berm combination are not required.

(7) Uses or activities that generate noise, dust, odor, heat, glare or other similar impacts, must provide a type C or F buffer if, in the opinion of the Director, the proposed development will have a significantly adverse impact on adjacent property.

(8) Walls, berms and buffer plantings must not be placed so they violate the vehicle visibility requirements of section 34-3131

(9) *Development abutting natural waterway.* Except where chapter 33 provides a stricter standard for Greater Pine Island (as defined in Goal 14 of the Lee Plan and in section 33-1002), there must be a 50-foot wide vegetative buffer landward of nonseawalled natural waterways as measured from the mean high water line or top of bank, whichever is further landward.

a. In residential subdivisions, the buffer must be located within a common area or tract, and outside of all private property boundaries. Location of the buffers in accord with this section will not prevent the issuance of residential dock permits meeting the requirements of section 26-71(g) or prohibit use of the buffer area for passive recreational uses.

b. Existing native vegetation within the buffer area must be retained. The natural waterway buffer must include, at minimum, six native canopy trees and 50 native shrubs per 100 linear

feet, which may be met through credits from the existing native vegetation within the waterway buffer area at a 1:1 credit ratio. If existing native vegetation is not present to meet the buffer vegetation standards, a planting plan must be submitted to environmental sciences for review prior to local development order approval. All proposed plantings within the natural waterway buffer area must be installed to mimic a natural system, and all plantings must comply with the plant standards set forth in section 10-420. The use of heavy mechanical equipment such as bulldozers, front end loaders, hydraulic excavators, or similar equipment is prohibited, unless prior written approval is obtained from the County.

c. The natural waterway buffer must be designed to incorporate the natural resources maintenance easement required under section 10-328(a). Vegetation removal within the buffer is limited to

1. Routine removal of exotics and downed vegetative debris;

2. Limited removal to allow access of vehicles for maintenance of the waterway;

3. Removal permitted as a condition of dock permit approval; and

4. Prior to removal of native vegetation, approval must be obtained from ES staff.

(10) All freestanding parking areas, whether commercial, public or private, not associated with other development must provide a D type buffer for the right-of-way and C type buffer if they abut single-family residential or multiple-family residential uses or zoning.

(11) *Use of buffer areas.* Required buffers may be used for passive recreation such as pedestrian, bike, or equestrian trails, provided that:

a. No required trees or shrubs are eliminated;

b. Not more than 20 percent of the width of the buffer is impervious surface;

c. The total width of the buffer area is maintained; and

d. All other requirements of this chapter are met.

(Ord. No. 92-44, § 13(E), 10-14-92; Ord. No. 94-28, § 24, 10-19-94; Ord. No. 95-12, § 5, 7-12-95; Ord. No. 98-28, § 2, 12-8-98; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 06-25 , § 1, 11-28-06; Ord. No. 07-19 , § 2, 5-29-07; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 10-25 , § 2, 6-8-10; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-417. Irrigation design standards.

To improve the survivability of required landscaping, cultivated landscape areas must be provided with an automatic irrigation system. All required irrigation systems must be designed to eliminate the application of water to impervious areas, including roads, drives and other vehicle areas. Required irrigation must also be designed to avoid impacts on existing native vegetation.

All new developments that have required landscaping must be irrigated by the use of an automatic irrigation system with controller set to conserve water. Moisture detection devices must be installed in all automatic sprinkler systems to override the sprinkler activation mechanism during periods of increased rainfall. Where existing irrigation systems are modified requiring the acquisition of a permit, automatic activation systems and overriding moisture detection devices must be installed.

(Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-418. Surface water management systems.

Design standards. Techniques to mimic the function of natural systems in surface water management systems are as follows:

(1) *Shoreline configuration of surface water management lakes or ponds.* Shorelines must be sinuous in configuration to provide increased length and diversity of the littoral zone. Sinuous is defined as serpentine, bending in and out, wavy or winding. See Illustration 10-418(1).

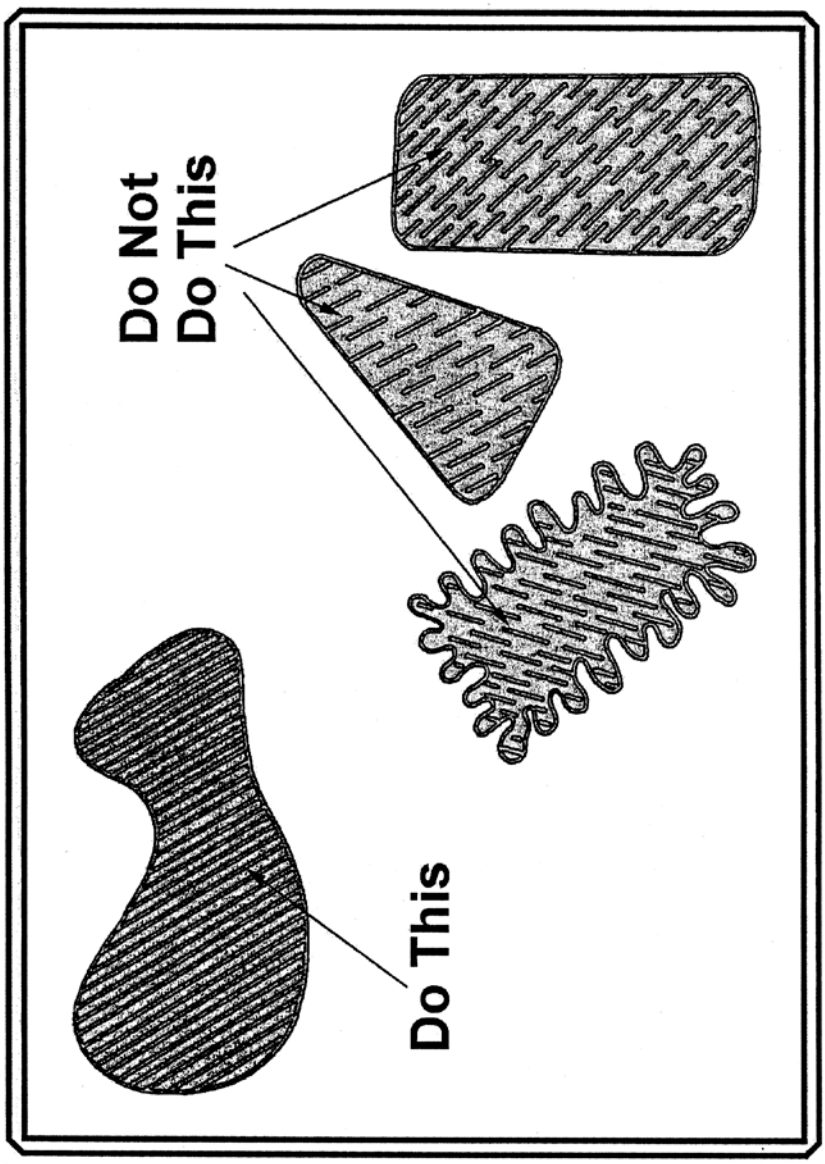

Illustration 10-418(1)

(2) *Planted littoral shelf (PLS).* The following features are considered sufficient to mimic the function of natural systems, improve water quality and provide habitat for a variety of aquatic species, including wading birds and other waterfowl.

a. *Size requirements.* The PLS shoreline length must be calculated at 25 percent of the total linear feet of the lake at control elevation.

b. *Location criteria.*

1. The PLS should be concentrated at one location of the lake, preferably adjacent to a preserve area, to maximize its habitat value and minimize maintenance efforts. The required PLS may be divided and placed in multiple locations as long as no PLS area is smaller than 1,000 square feet. Whenever possible, the PLS must be located away from residential lots to avoid maintenance and aesthetic conflicts with residential users.

2. The PLS may be located adjacent to control structures and pipe outlets or inlets to maximize water quality benefits and not impede flow.

3. If contained within a lake the PLS must function as a typical freshwater marsh in ponds with slopes from 6(H) to 1(V) to not more than 4(H) to 1(V).

c. *Shelf configuration.*

1. The PLS must be designed to include a minimum of a 20 foot wide littoral shelf extending waterward of the control elevation at a depth of no greater than two feet below the control elevation.

2. A detailed cross section of the PLS must be depicted on the approved development order plan.

d. *Plant selection.*

1. Herbaceous plants must be selected based upon the expected water level fluctuations and maximum water depths in which the selected plants will survive. The PLS areas must be planted with at least four different native herbaceous plant species.

2. *Plant calculations.* The required number of herbaceous plants is calculated based upon placement spaced two foot on center for the total area encompassed by the PLS. The PLS must be planted with minimum two-inch liner container herbaceous plants.

The total number of plants for the PLS may be calculated by taking the total linear feet of shoreline multiplied by 25 percent, then multiplied by the 20-foot wide shelf and divided by four to obtain the two-foot on center spacing.

3. Native wetland trees may be substituted for up to 25 percent of the total number of herbaceous plants required. One tree (minimum ten-foot height; 2 inch caliper, with a four-foot spread) may be substituted for 100 herbaceous plants. Trees must meet the minimum standards set forth in section 10-420

e. *Shelf elevation.* The design elevation of the PLS will be determined based upon the ability of the PLS to function as a marsh community and the ability of selected plants to tolerate the expected range of water level fluctuations.

f. *Survival of plant materials.* Trees and herbaceous plants must be maintained in perpetuity consistent with section 10-421(b).

(3) *Bulkheads, geo-textile tubes, riprap revetments or other similar hardened shoreline structures.* Bulkheads, Geo-textile tubes, riprap revetments or other similar hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline. These structures cannot be used adjacent to single-family residential uses. A compensatory littoral zone equal to the linear footage of the shoreline structure must be provided within the same lake meeting the following criteria:

a. A five-foot wide littoral shelf planted with herbaceous wetland plants to provide 50 percent coverage at time of planting. To calculate the littorals for this shelf design indicate the number of linear feet of shoreline structure multiplied by five feet for the littoral shelf width multiplied by 50 percent for the plant coverage at time of planting; or

b. An 8:1 slope littoral shelf with herbaceous wetland plants to provide 50 percent coverage at time of planting; or

c. An equivalent littoral shelf design as approved by the Director.

(4) For each 400 square feet of dry detention area or drainage swale planted with appropriate native herbaceous vegetation (minimum one-gallon container size planted three-foot on center) the general tree requirement may be reduced by one ten-foot tree.

(5) Restoration of existing bank slopes that have eroded over time and no longer meet the minimum littoral design criteria applicable at the time the lakes were excavated will be in accordance with section 10-329(f).

(Ord. No. 92-44, § 13(H), 10-14-92; Ord. No. 94-28, § 27, 10-19-94; Ord. No. 98-28, § 2, 12-8-98; Ord. No. 01-03, § 2, 2-27-01; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-419. Alternate landscape betterment plan.

Projects that can not comply with the criteria of this division may demonstrate how the requirements can be more effectively accomplished through an alternate landscape betterment plan. Alternative, creative designs are encouraged for difficult sites for landscape design, including but not limited to "in-fill" developments, existing developments, and irregularly shaped parcels. The approval of the alternate landscape betterment plan is at the Director's discretion and may include conditions to ensure that the overall landscape design complies with the intent of this division.

The following conditions must be met:

(1) The plan may not deviate from the minimum open space requirements of section 10-415

(2) The plan must be labeled as an alternate landscape betterment plan, and delineate, identify and locate all changes to the requirements of this division.

(3) 100 percent of the required trees installed must be native species.

(4) The plan must designate the location of all plant material to be installed.

(5) The proposed alternate landscape betterment plan must exceed the intent of the minimum landscape requirements.

(6) Any changes to an approved alternate landscape betterment plan must be reviewed as minor change.

(Ord. No. 92-44, § 13(I), 10-14-92; Ord. No. 94-28, § 28, 10-19-94; Ord. No. 98-28, § 2, 12-8-98; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-420. Plant material standards.

(a) *Quality.* Plant materials used to meet the requirements of this division must meet the standards for Florida No. 1 or better, as set out in Grades and Standards for Nursery Plants, Parts I and II, Department of Agricultural, State of Florida (as amended). Root ball sizes on all transplanted plant materials must also meet state standards.

(b) *Native varieties.* At least 75 percent of the trees and 50 percent of the shrubs used to fulfill these requirements must be native Florida species.

(c) *Trees and palms.*

(1) Code-required trees must be a minimum of ten feet in height, have a two-inch caliper (at 12 inches above the ground) and a four-foot spread at the time of installation. Palms must have a minimum of ten feet of clear trunk at planting. Trees having an average mature spread or crown less than 20 feet may be substituted by grouping the same so as to create the equivalent of a 20-foot crown spread. Trees adjacent to walkways, bike paths and rights-of-way must be maintained with eight feet of clear trunk.

(2) Larger trees substituted to reduce the minimum number of general trees must be no less than four inches in diameter at 12 inches above the ground and no less than 16 feet in height at the time of planting. The general tree requirement cannot be reduced in number by more than 50 percent.

(d) *Shrubs and hedges.* Shrubs must be a minimum of 24 inches (48 inches for type F buffers) in height, at time of planting. Saw palmettos (Serenoa repens) and coonties (Zamia floridana) may be used as shrubs, provided they are 12 inches in height at time of planting. All shrubs must be a minimum three-gallon container size and be spaced 18 to 36 inches on center. They must be at least 36 inches (60 inches for type F buffers) in height within 12 months of time of planting and maintained in perpetuity at a height of no less than 36 inches (60 inches for type F buffers).

(e) Required hedges must be planted in double staggered rows and maintained so as to form a continuous, unbroken, solid visual screen within a minimum of one year after time of planting.

(f) The height of all trees and shrubs must be measured from the final grade of the project site.

(g) *Mulch requirements.* A two-inch minimum layer, after watering-in, of mulch or other recycled materials must be placed and maintained around all newly installed trees, shrubs, and groundcover plantings. Each tree must have a ring of mulch no less than 24 inches beyond its trunk in all directions. The use of cypress mulch is strongly discouraged.

(h) *Invasive exotics.* The following highly invasive exotic plants may not be planted, (ie. are prohibited) and must be removed from the development area. Methods to remove and control invasive exotic plants must be included on the development order plans. A statement must also be included on the development order that the development area will be maintained free from invasive exotic plants in perpetuity. For purposes of this subsection, invasive exotic plants include:

Prohibited Invasive Exotics			
Common name	**Scientific name**	**Common name**	**Scientific name**
earleaf acacia	*Acacia auriculiformis*	Old World climbing fern	*Lygodium microphyllum*
woman's tongue	*Albizia lebbeck*	Melaleuca, paper tree	*Melaleuca quinquenervia*
bishopwood	*Bischofia javanica*	downy rose myrtle	*Rhodomyrtus tomentosus*

Australian pines	*All Casuarina species*	Chinese tallow	*Sapium sebiferum*
carrotwood	*Cupianopsis anacardioides*	Brazilian pepper, Florida holly	*Schinus terebinthifolius*
rosewood	*Dalbergia sissoo*	tropical soda apple	*Solanum viarum*
air potato	*Dioscorea alata*	Java plum	*Syzygium cumini*
murray red gum	*Eucalyptus camaldulensis*	rose apple	*Syzygium jambos*
weeping fig	*Ficus benjamina*	cork tree	*Thespesia populnea*
Cuban laurel fig	*Ficus microcarpa*	Wedelia	*Wedelia trilobata*
Japanese Climbing fern	*Lygodium japonicum*		

(i) If dry detention areas are planted with native clump grasses in lieu of sod or seeding, then the plants must be a minimum one-gallon container size planted three-foot on center.

(j) *Credits.*

(1) Except for prohibited invasive exotic species as listed above, every consideration must be given to retaining as much of the existing plant material as possible.

(2) Each existing indigenous native tree preserved in place, which has a trunk diameter of four inches or greater measured at four and one-half feet above the ground (dbh) will receive a credit of five trees against the general landscape requirements. Native palms preserved in place that are eight feet or greater from ground level to base of fronds, will receive a credit of three trees. Existing sabal palms, identified on the development order plans that are relocated onsite will be given a two tree credit. Credits for existing trees may not be used to reduce the required parking canopy trees in parking or vehicle use areas. Existing native trees in buffers may be used for credit provided they occur within the required 100-foot buffer segment.

Credits will apply only when the trees are labeled as protected-credit trees. If the protected-credit trees die within three years from the development order certificate of compliance, they must be replaced by the number of credit trees taken.

(3) Credits will apply where the preserved tree is in a barricaded area at least two-thirds the radius of the crown spread of the tree measured from the trunk center. In no case may this area radius be less than two and one-half feet. For indigenous native pine trees, the barricaded area may be no less than the full crown spread of the tree, unless other measures such as tie-walls or special slope treatment are constructed for additional protection. Prior to the land clearing stage of

development, the owner, developer or agent must erect protective barriers that are at minimum made of three-foot high silt fence, three-foot high orange construction fence or approved alternative barricading material. For all native, indigenous open space areas, including shrubs and ground cover, barricades must be erected around the perimeter of the vegetation. The owner, developer or agent may not cause or permit the movement of equipment or the storage of equipment, material, debris or fill to be placed within the required protective barrier. The protected trees must remain alive and healthy at the end of the construction in order for this credit to apply.

(4) A tree location plan must be submitted when general trees located within a designated preserve are being claimed for credit. The tree location plan must include specific information about all trees that are being preserved for credit within the entire development footprint. The tree location plan must: (1) be at the same scale as the site plan; (2) show the location of trees to be saved; (3) state the caliper for each tree (four-inch minimum caliper measured at four and one-half feet above ground level); and (4) identify the species of each tree.

(Ord. No. 92-44, § 13(F), 10-14-92; Ord. No. 94-28, § 25, 10-19-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 98-28, § 2, 12-8-98; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 11-08 , § 4, 8-9-11)

Sec. 10-421. Plant installation and maintenance standards.

(a) *Installation.* Plant materials must be installed in soil conditions that are conducive to the proper growth of the plant material. Limerock located within planting areas must be removed and replaced with native or growing quality soil before planting.

A plant's growth habit must be considered in advance of conflicts that might be created (e.g. views, signage, overhead power lines, lighting, buildings, and circulation). Trees may not be placed where they interfere with site drainage, subsurface utilities, or overhead utility lines, or where they will require frequent pruning in order to avoid interference with overhead power lines. Light poles must be located outside of all parking islands containing required trees. See Illustration 10-421(a).

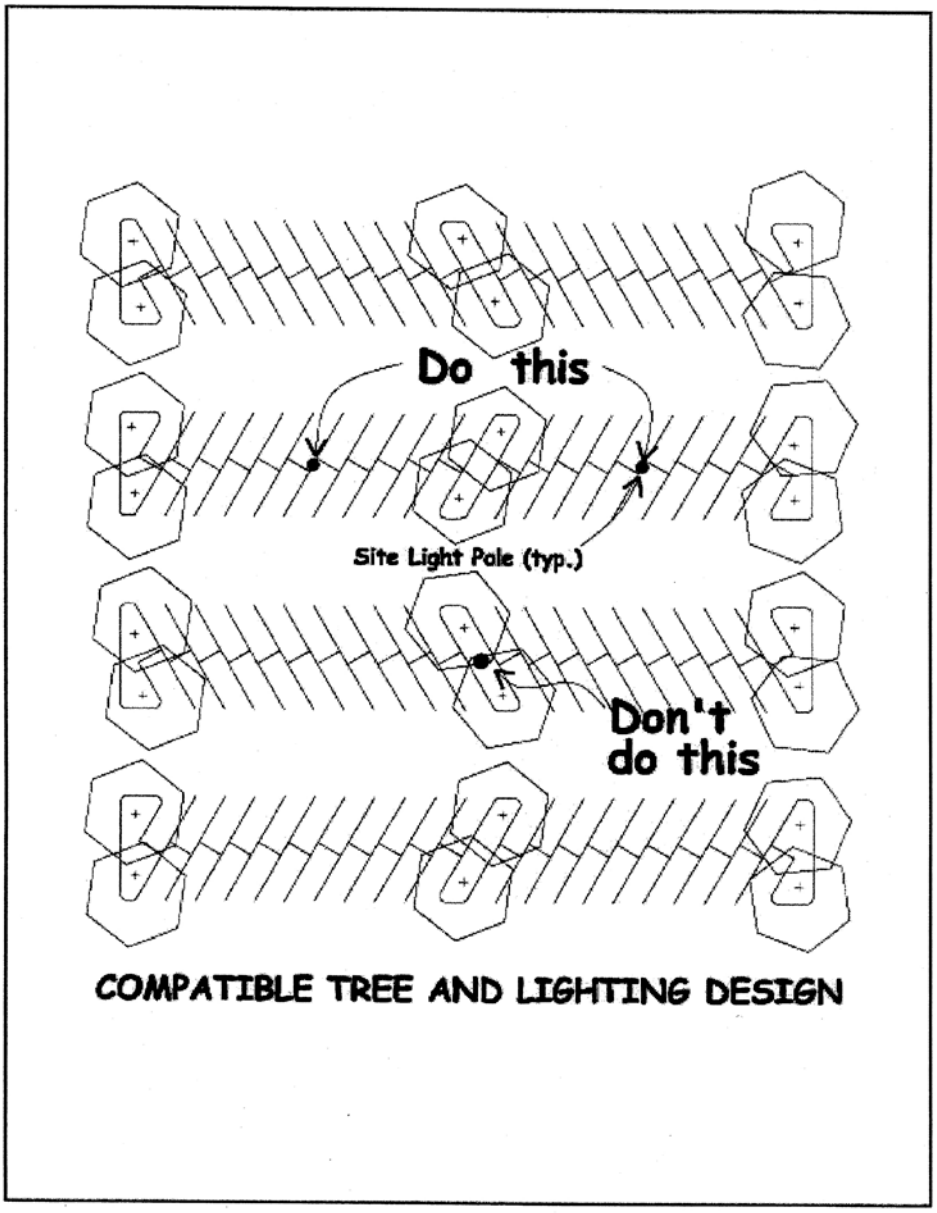

Illustration 10-421(a)

All landscape materials must be installed in a recognized horticultural correct manner. At a minimum, the following installation requirements must be met:

(1) All landscape areas must be mulched unless vegetative cover is already established.

(2) Trees and shrubs used in buffers must be planted in a minimum width area equal to one-half the required width of the buffer. However, in no case may the planting area be less than five feet in width.

(3) All landscaped areas must be provided protection from encroachment by any type of vehicle.

(4) All required plants used in buffers and landscaping must be installed using xeriscape principles. Xeriscape principles include water conservation through drought-tolerant landscaping, the use of appropriate plant material, mulching, and the reduction of turf areas.

(5) Utility or drainage easements may overlap required buffers; however, no code required trees or shrubs may be located in any utility or drainage easement unless a written statement, from the entity holding the beneficial interest in the easement, is submitted specifically stating that the entity has no objection to the landscaping and, that the proposed landscaping will not interfere with the long term maintenance of the infrastructure within easement area. No code required landscaping may be located in any street easement or right-of-way. To avoid conflicts with overhead utility lines, only trees less than 20 feet in height at maturity may be used directly adjacent to an overhead line. Variances or deviations from the requirements of this subsection are prohibited

(6) Safe sight distance triangles at intersections and vehicle connections. Where an access way intersects a right-of-way or when a property abuts the intersection of two or more rights-of-way, a minimum safe sight distance triangular area must be established. Within this area, vegetation must be planted and maintained in a way that provides unobstructed visibility at a level between 30 inches and eight feet above the crown of the adjacent roadway. Landscaping must be located in accordance with the roadside recovery area provisions of the State of Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction, and Maintenance of Streets and Highways (FDOT Green Book) where appropriate.

(7) Signage located within or adjacent to landscape buffer area. All trees and shrubs located within landscape buffer must be located so as not to block the view of signage.

(8) If a wall or fence is proposed, but not required, then the required buffer plantings must be installed on the exterior side (between the wall and the abutting property or street right-of-way) of the wall or fence.

(b) *Maintenance of landscaping.* The owner is responsible for maintaining the required landscaping in a healthy and vigorous condition at all times. Tree and palm staking must be removed within 12 months after installation. All landscapes must be kept free of refuse, debris, disease, pests, and weeds. Ongoing maintenance to prohibit the establishment of prohibited invasive exotic species is required.

(c) *Pruning.* Vegetation required by this code may only be pruned to promote healthy, uniform, natural growth of the vegetation (except where necessary to promote health, safety, and welfare) and be in accordance with "American National Standard for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning) (A300, Part 1)" by the American National Standard Institute, and "Best Management Practices: Tree Pruning" by the International Society of Arboriculture (ISA).

Trees must not be severely pruned to permanently maintain growth at a reduced height or spread. Pruning must not interfere with the design intent of the original installation. Severely pruned trees must be replaced by the property owner. Replacement trees must meet the tree size requirements of LDC section 10-420. A plant's growth habit must be considered in advance of conflicts which might arise (i.e. views, signage, overhead power lines, lighting, circulation, sidewalks, buildings, and similar conflicts).

(Ord. No. 92-44, § 13(G), 10-14-92; Ord. No. 94-28, § 26, 10-19-94; Ord. No. 98-28, § 2, 12-8-98; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-422. Landscape certificate of compliance.

The landscape architect must inspect and certify that all open space area, landscaping and the irrigation system are in substantial compliance with the landscape and irrigation plans approved as part of the development order. An "as built" landscape plan highlighting any changes to the approved plans must

be included with the certification. Any changes to an "alternative landscape betterment plan" must be approved by minor change to the development order. The general certificate of compliance procedure outlined in section 10-183 is applicable.

(Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-423. Restoration standards for native vegetation removed without approval.

A restoration plan based on the minimum standards set out in this division will be required if indigenous native vegetation has been removed without permit or approval. Restoration plantings for vegetation other than trees must be nursery grown, containerized, and planted at no less than three feet on center. The number of replacement plantings will be computed by the square footage of the area destroyed. All other restoration criteria as set forth in chapter 14, article V, pertaining to tree protection, will also apply. Restoration plantings for indigenous native trees must be in compliance with the standards set forth in chapter 14, article V.

(Ord. No. 92-44, § 13(J), 10-14-92; Ord. No. 94-28, § 29, 10-19-94; Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-424. Landscape requirements for specific uses.

The following uses require landscaping or screening beyond the minimum standard requirements:

Recreational vehicle planned developments, section 34-939(a)(3).

Private recreational facilities planned developments, section 34-941.

Display, sale, rental or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment, section 34-1352.

Wireless communications facilities, section 34-1447(c)(4)(c).

Essential services and facilities, section 34-1616(b).

Mining, chapter 12.

Residential project walls, section 34-1743(b)(3).

Open storage, section 34-3005(b)(1).

San Carlos Island Redevelopment Overlay Districts, Chapter 33.

(Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 08-21 , § 1, 9-9-08)

Secs. 10-425—10-440. Reserved.

FOOTNOTE(S):

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Cross reference— Environment and natural resources, ch. 14; tree protection, § 14-371 et seq.; zoning regulations pertaining to environmentally sensitive areas, § 34-1571 et seq. (Back)

DIVISION 7. PUBLIC TRANSIT [8]

Sec. 10-441. Applicability of division.

Except as provided in section 10-443, all proposed developments which are wholly or partially within one-half mile of a public transit route, as shown in the mass transit element of the Lee Plan, and which meet or exceed one of the thresholds set forth in this division, shall be required to provide public transit facilities as set out in this division.

(Ord. No. 92-44, § 14(A), 10-14-92; Ord. No. 94-07, § 13, 2-16-94)

Sec. 10-442. Required facilities.

(a) Residential developments exceeding 100 living units and commercial establishments with less than 30,000 square feet of total floor area shall be subject to the following:

(1) A paved walkway to the nearest bus stop shall be provided if the bus stop is within one-fourth mile of the vehicular entrance to the property.

(2) If there is no bus stop within one-fourth mile of the property and the property abuts the bus route, the developer shall provide signage and a bicycle rack for a new bus stop.

(b) Residential developments exceeding 500 living units and commercial establishments with 30,000 square feet or more of total floor area shall be subject to the following:

(1) A paved walkway to the nearest bus stop shall be provided if the bus stop is within one-fourth mile of the vehicular entrance to the property, as well as a bicycle storage rack.

(2) If there is no bus stop within one-fourth mile and the property abuts the bus route, the developer shall provide for a bus stop, including a shelter, signage, walkways, bicycle rack and lighting and a bus pull-off area so passengers can get on or off the bus out of the line of traffic.

(Ord. No. 92-44, § 14(A)1, 2, 10-14-92; Ord. No. 94-07, § 13, 2-16-94)

Sec. 10-443. Exceptions.

(a) This division shall not be interpreted to mean that a developer is required to purchase additional private property for the purpose of constructing the walkway required by this division.

(b) Where the proposed right-of-way is greater than the existing right-of-way to the extent that the construction of the facilities prior to the road widening is not practical, the developer may post a security with the Director of Lee Plan for the cost of constructing or erecting the facilities.

(c) The Director may waive the requirements of section 10-442 where a developer has provided bikeways or pedestrian ways and those facilities provide equivalent access to the nearest bus stop.

(Ord. No. 92-44, § 14(A)3, 10-14-92; Ord. No. 94-07, § 13, 2-16-94; Ord. No. 95-12, § 6, 7-12-95; Ord. No. 11-08 , § 4, 8-9-11)

Secs. 10-444—10-470. Reserved.

FOOTNOTE(S):

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Cross reference— Bus depots, stations and terminals, § 34-1381 et seq. (Back)

DIVISION 8. PROTECTION OF HABITAT [9]

Sec. 10-471. Purpose of division.

The purpose of this division is to provide criteria, guidelines and requirements to protect listed animal and plant species which inhabit the County by safeguarding the habitat in which these species are found from the impacts associated with land development.

(Ord. No. 92-44, § 15(A), 10-14-92; Ord. No. 93-17, § 2, 6-30-93; Ord. No. 94-10, § 6, 4-20-94)

Sec. 10-472. Definitions.

The following supplemental definitions are unique to the protected species requirements of this chapter. The general definitions pertaining to this chapter are contained in section 10-1.

Conservation easement means a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open or wooded condition; retaining such areas as suitable habitat for fish, plants or wildlife; or maintaining existing land uses; and which prohibits or limits the activities described in F.S. § 704.06, as such provisions now exist or may be amended.

Degradation means any adverse or negative modification (from the perspective of the subject species) of the hydrological, biological or climatic characteristics supporting the species or of plants and animals co-occurring with and significantly affecting the ecology of the species.

FLUCCS means the Florida Land Use, Cover and Forms Classification System, published by the state department of transportation.

Game commission means the state game and fresh water fish commission, or its successor.

Habitat means the place or type of site where a species naturally or normally nests, feeds, resides or migrates, including, for example, characteristic topography, soils and vegetative covering.

Habitat, critical means habitat which, if lost, would result in elimination of listed species individuals from the area in question. Critical habitat typically provides functions for the listed species during restricted portions of that species' life cycle.

Habitat, occupied means property that provides critical habitat and which is documented to be actively utilized by a listed species.

Habitat, significantly altered: Critical or occupied habitat which has been altered due to natural or man-made events.

Lee County listed species means any plant or animal (vertebrate) species found in the County that are endangered, threatened or of special concern and are manageable in the context of private land development. A list of such species is contained in appendix H. The bald eagle (Haliaeetus leucocephalus) is excluded as long as chapter 14, article II, division 3, relating to bald eagle nesting habitat, is in effect in the County.

Management means a series of techniques applied to maintain the viability of species in a location. These techniques include but are not limited to controlled burning, planting or removal of vegetation, exotic species control, maintaining hydrologic regimes, and monitoring.

Management plan means a plan prepared to address conservation and management of listed species and their habitat, which is approved by the Director, following recommendations from the Game Commission.

Mitigation park means an area acquired with the express purpose of mitigating impacts of land development on listed species.

Occupied habitat buffer area: Occupied habitat, the dimensions of which coincide with the recommended buffer guidelines established in section 10-719 and section 10-474(b).

Property means the land which is the subject of the specific development application.

(Ord. No. 92-44, § 15(B), 10-14-92; Ord. No. 93-17, § 2, 6-30-93; Ord. No. 94-10, § 6, 4-20-94)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 10-473. Development application requirements.

(a) A survey must accompany all planned development rezoning applications and all development order applications where the Florida Land Use, Cover and Forms Classification System codes for the property indicate a possible presence of a Lee County listed species, except as set forth in subsection (c) of this section. The survey must be prepared by using survey methods which are set forth in administrative code, except that an alternative method may be approved by the Director. Such survey must include Lee County listed species presence (sightings, signs, tracks, trails, nests, evidence of feeding, etc.), population estimates and occupied habitat boundaries. A map and narrative must describe the methodology as applied and the findings. The mapped information must be at the same

scale as the development order or zoning application plans and an aerial map at a scale of one inch is less than or equal to 400 feet.

Approved species surveys are valid for five years from the date of approval. If the subject parcel has significantly altered habitat, the Director may, in his discretion, determine a partial or complete resurvey is sufficient.

(b) A management plan may be submitted with any planned development rezoning applications. A management plan meeting the requirements of section 10-474 will be required for all development order applications if listed species are found on the property, except as set forth in subsection (d) of this section. The management plan is subject to final approval by the Director.

(c) Surveys and management plans are not required for:

(1) Small developments;

(2) Properties rezoned to planned development (PD) or planned unit development (PUD) prior to September 1, 1989; or

(3) Property subject to a preliminary development order issued prior to September 1, 1989.

However, if the property is rezoned or if the master concept plan has been vacated, a species survey and management plan will be required. The Director may waive survey and management plan requirements if the Director deems that prior surveys and management plans are adequate.

(d) Management plans are not required for any final development order application if the preliminary development order was issued prior to September 1, 1989, and the final development order application does not substantially deviate from the preliminary development order.

(e) For development order applications, submittal items that are common to both the species survey and the management plan can be provided in a single integrated report.

(Ord. No. 92-44, § 15(C), 10-14-92; Ord. No. 93-17, § 2, 6-30-93; Ord. No. 94-10, § 6, 4-20-94; Ord. No. 94-28, § 30, 10-19-94; Ord. No. 96-06, § 4, 3-20-96)

Sec. 10-474. Management plan.

(a) *Components of plan.* The management plan required under this division includes:

(1) A 1 inch equals 200 feet aerial map and a map at the scale of the development order drawings or zoning site plan drawing to include the following:

a. Habitat classification depicted by using the Florida Land Use, Cover and Forms Classification System;

b. Location of individuals, nest sites, dens, burrows, feeding locations, roosting and perching areas, and trails, as appropriate;

c. Areas to be preserved, including habitat and buffers;

(2) Recommended management activities; and

(3) An action plan with specific implementation activities, schedules and assignment of responsibilities.

(b) *Occupied habitat buffer areas established.* Occupied habitat buffer areas must be established for occupied habitat and must extend at a distance appropriate for the listed species as set forth in section 10-719 except where off-site mitigation is permitted in accordance with section 10-475. In the event the florida game commission has already established the size and dimensions of an occupied habitat buffer area, those boundaries will supersede the distances shown in section 10-719

(c) *Development and occupied habitat buffer areas.* The occupied habitat buffer area must remain free of development, except for development that will not degrade species existing on the site as determined by the Director. Occupied habitat buffer areas may be impacted by development if off-site mitigation is utilized in accordance with section 10-475. These buffer areas must be identified on all associated applications and plats where applicable. Buffer areas may not be divided by lot lines unless the Director determines that the division of these buffer areas by lot lines is consistent with the protected species management plan. A conservation easement or similar property interest must be granted to the County for the preserved property as a condition of the development order approval or final plat approval, unless the Director determines it would not be logistically or economically feasible for the County to maintain the easement. Encroachments into occupied habitat and habitat buffer are permissible only after the incentives set forth in subsection (e) of this section have been exhausted or off-site mitigation is permitted in accordance with section 10-475

(d) *Conservation easements.* If adjacent parcels include conservation easements or other public interest in the land, effort must be made to connect the easements.

(e) *Incentives.* The County will allow certain incentives in return for the preservation of occupied habitat areas. This incentive system applies only to those areas where other incentives have not been utilized and that are not preserved under chapter 14, article IV, pertaining to wetlands protection. Occupied habitat buffer area incentives are as follows:

(1) Required occupied habitat buffer areas may be used to fulfill any applicable minimum open space requirements at a ratio of one unit habitat and habitat buffer to 1.5 unit required open space (1:1.5). In no event will this credit be interpreted to reduce any required occupied habitat buffer area.

(2) Those single-family developments consisting solely of conventional single-family dwelling units on lots of no less then 6,500 square feet and that do not have an open space requirement will be exempt from division 6 of this article, pertaining to open space, buffering and landscaping except for the minimum buffer requirements, so long as the applicant preserves occupied habitat buffer areas consisting of no less than 10 percent of the development area.

(3) To the extent that occupied habitat buffer areas exceed applicable minimum open space requirements after the use of the above-described ratio, or as in subsection (e)(2) above exceed 10 percent of the development area, the County must either allow encroachment into the occupied habitat or permit a credit against regional park impact fees.

The credit against the impact fees may not exceed the appraised value of the preserved land. The appraisal must be based on the value of the property prior to the issuance of the development order that includes the occupied habitat buffer area and on the average of the two appraisals approved by the Director. The credit will be approved upon the grant of the conservation easement.

(f) *Consideration of game commission guidelines for listed species.* In cases where guidelines have been prepared by the game commission for a listed species, those guidelines must be considered in the preparation of the management plan.

(g) *When determination made without game commission expertise.* If the game commission fails to review any plan in conjunction with County staff's allotted time schedules, determinations will be made without the benefit of game commission expertise.

(h) *Responsibility for implementation of management plan; monitoring report review.* The applicant or his successor in interest is responsible for all aspects of the implementation of the management plan. A monitoring report as to the condition of the habitat and management techniques applied to the habitat must be submitted to the Director for Review on an annual basis from the date that the development order is issued for five consecutive years.

(i) *Management plan finalization.* The management plan must be finalized prior to issuance of the development order.

(Ord. No. 92-44, § 15(D), 10-14-92; Ord. No. 93-17, § 2, 6-30-93; Ord. No. 94-10, § 6, 4-20-94; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-475. Off-site mitigation.

(a) Off-site mitigation is permitted in lieu of the preservation of occupied habitat buffer areas as required in section 10-474 above to the extent consistent with the requirements of the U.S. Fish and Wildlife Service and the game commission.

(b) Before development order approval, the applicant must obtain and submit appropriate permits for off-site mitigation.

(c) A permanent management commitment for the relocation recipient site which is compatible with long-term protected species viability must be ensured by either filing conservation easements for sites under F.S. § 704.06 or other formal commitments enforceable by the County.

(Ord. No. 92-44, § 15(E), 10-14-92; Ord No. 93-17, § 2, 6-30-93; Ord. No. 94-10, § 6, 4-20-94)

Sec. 10-476. Variance procedures and appeals.

(a) Requests for variance from the terms of this division will be administered and decided in accordance with the requirements for variances set forth in chapter 34

(b) Any decision made by the Director or his designee may be appealed under the procedures set forth in chapter 34 for appeals of administrative decisions.

(Ord. No. 92-44, § 15(F), 10-14-92; Ord. No. 93-17, § 2, 6-30-93; Ord. No. 94-10, § 6, 4-20-94)

Secs. 10-477—10-500. Reserved.

FOOTNOTE(S):

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Cross reference— Environment and natural resources, ch. 14; wildlife and habitat protection, § 14-41 et seq.; zoning regulations pertaining to environmentally sensitive areas, § 34-1571 et seq. (Back)

DIVISION 9. RESERVED [10]

Secs. 10-501—10-530. Reserved.

Secs. 10-501—10-530. Reserved.

FOOTNOTE(S):

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Editor's note— Ordinance No. 97-10, § 3, adopted June 10, 1997, deleted §§ 10-501—10-510. Formerly, such sections pertained to Six Mile Cypress Watershed and derived from Ord. No. 92-44, §§ 16(A—D, I, J,), 10-14-92; Ord. No. 94-28, § 31—36, 10-19-94; Ord. No. 96-06, § 4, 3-20-96. (Back)

DIVISION 10. LAKES REGIONAL PARK WATERSHED [11]

Sec. 10-531. Findings of fact.

The Board of County Commissioners finds the following facts to be true:

(1) That the County has created for the benefit of the peoples of the County and Southwest Florida the Lakes Regional Park as a water-oriented recreational resource;

(2) That the lakes within the Lakes Regional Park are a series of manmade water bodies which are the result of previous rock mining operations, the only sources of water for these lakes being rainwater and surface runoff;

(3) That the watershed of the Lakes Regional Park, as described and delineated in exhibits A and B to Ordinance No. 85-46, which are on file in the office of the County Department of Public Resources, is characterized by increased urbanization;

(4) That the County Health Department and the Division of Environmental Services have concluded that the urbanization and attendant land uses within the watershed of the Lakes Regional Park affect the quality of water in the Lakes Regional Park via surface water runoff and groundwater movement;

(5) That the Board agrees with the conclusions of the County Health Department and the Division of Environmental Services; and

(6) That the potential exists for the degradation of surface water and groundwater quality within the Lakes Regional Park Watershed as a result of pollutants contained in urban runoff.

(Ord. No. 85-46, § 2, 10-23-85)

Sec. 10-532. Intent of division.

The intent and purpose of this division is to protect the public health, safety and welfare of the residents of the County by requiring all development within the Lakes Regional Park Watershed to meet the development criteria contained in this division, thereby protecting, preserving and enhancing the water quality of the Lakes Regional Park and its watershed.

(Ord. No. 85-46, § 3, 10-23-85)

Sec. 10-533. Definitions.

(a) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department means either a department or division, as these words may apply at any time to any one or more of the subunits of the government of the County or the state.

Developer means any person who owns or desires to undertake development, as defined in this division, of land within the watershed of the Lakes Regional Park, as defined in this division.

Development means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels, and shall include the activities and uses described in F.S. § 380.04(2) and exclude the operations and uses described in F.S. § 380.04(3)(a)—(d) and (f)—(h). The use of any land for the purpose of growing plants, crops, trees and other agricultural or forestry products, the raising of livestock, and the use of the land for other agricultural purposes is "development," as the word is used in this division.

Watershed means the Lakes Regional Park Watershed, as delineated in section 10-539.

Wet detention/retention area means a water storage area with a bottom elevation lower than one foot above the control elevation of the area.

(b) Unless specifically defined in this division, the words or phrases used in this division and not defined in subsection (a) of this section shall be interpreted so as to give them the meaning they have in common usage and to give this division its most reasonable application.

(Ord. No. 85-46, § 4, 10-23-85)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 10-534. Penalty for violation of division.

Any person who violates any provision of this division shall, upon conviction, be punished as provided in section 1-5. Such person also shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

(Ord. No. 85-46, § 10, 10-23-85)

Sec. 10-535. Additional remedies.

In addition to any criminal penalties which may be imposed pursuant to section 10-534, the Board of County Commissioners and any of its employees to whom the Board may have entrusted responsibility, either in whole or in part, for compliance with this division, or for the operation of the Lakes Regional Park, shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this division, including injunctive relief to enjoin and restrain any person from violating this division.

(Ord. No. 85-46, § 11, 10-23-85)

Sec. 10-536. Conflicting provisions.

Whenever the requirements or provisions of this division are in conflict with the requirements or provisions of any other lawfully adopted ordinance, the most restrictive requirements shall apply.

(Ord. No. 85-46, § 12, 10-23-85)

Sec. 10-537. Compliance with division; notice of violation.

(a) It is a violation of this division to commence any development within the watershed without first obtaining all necessary development permits.

(b) Any violations, either during or after construction, of the requirements of this division, including the minimum standards for surface water runoff quality, shall require that construction of the development be halted or that the discharge of water from the site cease until the violation has been corrected.

(c) Whenever it is determined that there is a violation of this division, a notice of violation shall be issued and sent, by whatever reasonable method seems most likely to ensure that the notice is received, to the person committing the violation. The notice of violation issued shall:

  (1) Be in writing;

  (2) Be dated and signed by the authorized County agent issuing the notice;

  (3) Specify the violation;

  (4) State that the violation shall be corrected within ten days of date of notice of violation; and

  (5) State that, if the violation is not corrected by the specified date, civil and criminal proceedings may be commenced.

(Ord. No. 85-46, § 9, 10-23-85)

Sec. 10-538. Variances.

Requests for variances from the terms of this division shall be administered and decided in conformance with the requirements for variances which are set forth in chapter 34.

(Ord. No. 85-46, § 8, 10-23-85; Ord. No. 88-33, § 4, 7-20-88)

Sec. 10-539. Delineation of watershed.

The lands which comprise the Lakes Regional Park Watershed and which shall be subject to the provisions of this division are described in exhibit A and delineated in exhibit B attached to Ordinance No. 85-46, which are made a part of this division by reference.

(Ord. No. 85-46, § 5, 10-23-85)

Sec. 10-540. Surface water management permit required; development standards.

(a) In order to protect and maintain the quality of water in the Lakes Regional Park as per standards established in Florida Administrative Code, section 10D-5.120 and chapter 17.3, and to ensure that waters discharged in the watershed area do not exceed those levels, all development within the watershed must obtain a surface water management permit from the South Florida Water Management District pursuant to F.S. ch. 373 and chapters 40E-4 and 40E-40 of the Florida Administrative Code.

(b) In those areas within the watershed where a public sewer system is in operation, all new development within one-quarter mile of the system must connect to it.

(c) Underground stormwater detention/retention systems are prohibited within the watershed.

(d) On-site drainage detention/retention areas must meet the following additional requirements:

  (1) Bulkheads are limited to 40 percent of the length of the shoreline with compensating littoral zone provided.

  (2) A minimum of 25 percent of the detention/retention pond must have a bottom elevation no deeper than two feet below the control elevation. This area must be immediately upstream from the control elevation and planted with appropriate aquatic vegetation which will aid in the polishing or settling of runoff.

  (3) Special treatment systems such as storage tanks, traps or other devices meeting best management standards must be installed to prohibit any grease, emulsifiers, lubricants, cleaners, oxidizing agents, solvents, flammable gas and other contaminants from entering the storm drainage system or otherwise leaving the project.

(e) Except for surface water runoff from individual single-family residential lots upon which residential structures are built, surface water runoff from any development must be discharged from a single point. The peak discharge for the 25-year three-day storm event may be no greater than 102 cf/s/sm. Surface water runoff from developed individual single-family residential lots must be by sheet flow leading to an approved common drainage system. If such lots are part of a larger development, the development as a whole must have a single discharge point.

(f) Water quality must be monitored for a period of one year, beginning with the first discharge from the project site, in order to ensure that pollutants will be identified and treated in a timely manner. Such monitoring must meet the following minimum standards:

  (1) Testing of samples must be done by the County environmental laboratory, the Natural Resources Division or their designee.

  (2) The cost of testing will be charged to the developer of the property whose surface discharge is being tested, and testing will be required for a period of one year beginning with the first discharge from the project site. Additional phases requiring a development order will require testing for the same time period.

(3) Monitoring required of developers is confined to points within the development boundaries. If additional sampling is needed in order to assess off-site impacts of a project, such sampling will be conducted by the County environmental laboratory, the Natural Resources Division or by their designee.

(4) Test samples must be taken at least monthly, and monitoring results must be expressed as a monthly average. Monitoring must consist of preliminary sampling of indicator parameters, which may be revised as necessary based on results of the preliminary sampling.

(5) The rate of discharge at the time of sample collection and the total monthly discharge each month for the period being monitored may be estimated.

(Ord. No. 85-46, § 6, 10-23-85; Ord. No. 97-10, § 3, 6-10-97; Ord. No. 98-11, § 2, 6-23-98; Ord. No. 14-13 , § 1, 6-17-14)

Sec. 10-541. Compliance with water quality requirements; monitoring of water quality.

(a) All development proposals within the watershed shall include a determination during the site plan review process of whether the proposed development will satisfy the minimum water quality standards established by this division. Approval of such site plans shall be conditioned upon the development actually meeting water quality minimum requirements, as measured by subsequent monitoring and testing.

(b) Water quality of surface discharge from developments shall be monitored as detailed in section 10-540(f):

(1) To determine if the pollution abatement practices incorporated into the design for the drainage system are functioning properly; and

(2) To determine whether water quality degradation is occurring despite proper operation of the approved drainage system.

(c) So as to comply with the monitoring requirements set forth in this division, on-site surveys, conducted under the supervision of the County Health Department, shall be started as soon as a development order is received for the water management system and the point source is in place.

(d) The surveys required pursuant to subsection (c) of this section shall be in addition to the other surveys required by this division and shall include consideration of present and possible future pollution of the recreational areas from potential sources of contamination, including but not limited to:

(1) Outfalls;

(2) Industrial drainage and waste outfall;

(3) Drainage;

(4) Sanitary landfills;

(5) Open dumps;

(6) Wildlife populations;

(7) High erosion areas;

(8) Bottom deposits;

(9) Turbidity of water;

(10) Decaying vegetation;

(11) Surface runoff;

(12) The anticipated user load of the facility; and

(13) Any and all other generally recognized forms of pollution not specifically enumerated in this section.

(Ord. No. 85-46, § 7, 10-23-85)

Secs. 10-542—10-599. Reserved.

FOOTNOTE(S):

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Cross reference— Environment and natural resources, ch. 14. (Back)

ARTICLE IV. DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL BUILDINGS AND DEVELOPMENTS

Sec. 10-600. Purpose and intent.

The purpose of these standards and guidelines is to supplement existing development criteria with specific criteria that apply to the design of commercial buildings and developments. Commercial

development depends on high visibility from public streets. In turn, their design of building(s) and site determines much of the image and attractiveness of the streetscapes and character of a community. Massive and/or generic developments that do not contribute to, or integrate with, the community in a positive manner can be detrimental to a community's image, and sense of place. The goal is to create and maintain a positive ambiance and strong community image and identity by providing for architectural and site design treatments that will enhance the visual appearance of commercial development in Lee County, while still providing for design flexibility. These standards are intended to enhance the quality of life in Lee County.

(Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-601. Definitions.

The following words, terms or phrases, when used in this article only, will have the following meanings ascribed to them:

Arcade means a roof, similar to an overhang or canopy but where the outer edge is supported by a line of pillars or columns.

Awning means a cover of lightweight material such as canvas, plastic, or aluminum, extending over a single doorway or window, providing protection from the elements.

Canopy, attached means a permanent structural cover affixed to and extending from the wall of a building, protecting a doorway or walkway from the elements.

Canopy, detached means a freestanding structure which covers a walkway or service area.

Facade means the exterior faces of a building.

Facade, primary means any facade of a building facing an abutting street. On a corner lot, each wall facing an abutting street is considered a primary facade. If a building is angled to an abutting street, both walls roughly facing the street are primary facades.

Overhang means the structural projection of an upper story or roof beyond the story immediately below.

Parapet means the part of an exterior wall that extends above the roof.

Portico means an architectural entry feature structurally supported by columns or arches and protecting a doorway or walkway from the elements.

Shopping center means a multiple-occupancy building or complex wherein the predominant tenants are retail businesses and offices.

Wall, front means the wall closest to, and running roughly parallel to, the front lot line. On a corner lot, there are two front walls.

(Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-602. Applicability.

(a) *Applicability.* Provisions of this article are applicable to all new development and for renovations and redevelopments (as provided below) in all commercial zoning districts as well as in commercial components of planned development districts and DRIs. However, places of worship (df) are specifically excluded; and commercial and mixed-use buildings that are built in compact communities on any of the lot types set forth in article II of chapter 32 must comply with the standards in chapter 32

Where a proposed parking garage is located on a parcel adjacent to or abutting an existing taller residential use, all exposed parking spaces on the top level of the garage must provide additional design

treatments, at the Director's discretion, to obscure view of the spaces from residential use. Design treatments may include, but are not limited to, a combination of landscaped trellises, opaque covers and permanent landscaping. In addition, surfaces of exposed parking aisles and drives must be comprised of specialty pavers or colored stamped concrete having nonreflective matte surface.

(b) *Renovations and redevelopment.* In the case of additions or renovations to, or redevelopment of, an existing building, where the cumulative increase in total floor building area exceeds 50 percent of the square footage of the existing building being enlarged or renovated, the provisions of this article will apply. Where there are inherent problems retrofitting existing buildings, the Director may waive some or all requirements if other equivalent enhancements are provided.

(c) *Discontinuance:*

(1) Where the use of a structure or building is discontinued or abandoned for one year (except when government action impedes access to the land), the provisions of this article will apply. Where there are inherent problems retrofitting existing buildings, the Director may waive some or all requirements if other equivalent enhancements are provided.

(2) The intent of the owner, lessee or other user is not relevant in determining whether the use has been discontinued or abandoned.

(Ord. No. 98-28, § 2, 12-8-98; Ord. No. 01-18, § 2, 11-13-01; Ord. No. 05-14 , § 3, 8-23-05; Ord. No. 10-25 , § 2, 6-8-10; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-603. Illustrations.

Illustrations provided portray a specific provision or provisions set forth herein. Variations from these illustrations which nonetheless adhere to the provisions of this article, are encouraged.

(Ord. No. 98-28, § 2, 12-8-98)

Sec. 10-604. Required site development or improvement plan.

Compliance with the standards set forth in this article must be demonstrated on the drawings or site development plan to be submitted when applying for a development order (or building permit application, if a development order is not applicable). At the discretion of the development services Director a development order can be issued with the condition that the standards will be reviewed and approved prior to submitting a building permit application. This will not prevent simultaneous applications for a development order and a building permit on the same parcel.

(Ord. No. 98-28, § 2, 12-8-98)

Secs. 10-605—10-609. Reserved.

Sec. 10-610. Site design standards and guidelines for commercial developments.

(a) *Purpose and intent.* The purpose and intent of these provisions is to supplement and enhance existing regulations and to encourage the design of developments that will provide safe, convenient, and efficient access for vehicles while also providing safe, convenient, and efficient passage for pedestrians from the public right-of-way to the commercial building or development, and between buildings within the commercial development. It is further the purpose and intent of these provisions to require parking, lighting, and lighting fixtures to be designed, installed, and maintained in a consistent and coordinated manner for the entire site (including their out parcels) and integrated and designed so as to enhance the visual appearance and impact on the community. The Development

Services Director is hereby authorized to grant deviations from the technical standards in this sub-section, subject to the criteria set forth in section 10-104

(b) *Lighting standards.* All outdoor lighting must comply with section 34-625

(c) *Buffering and shielding (df).*

(1) *Purpose and intent.* The purpose and intent of this section is to diminish, the visual impacts outdoor storage and service functions that may detract or have a negative impact on the street scape, landscape and/or the overall community image.

(2) Loading areas and docks (including delivery truck parking), outdoor storage, trash collection, heating/air conditioning and other similar mechanical equipment, solid waste disposal facilities, trash compaction, recycling, and other similar service function areas must be fully shielded from adjacent properties and street rights-of-way when viewed from ground level. The shielding must extend vertically a distance equal to or greater than the items, delivery trucks, or facilities being shielded.

Shielding material and design must be consistent with design treatment of the primary facades of the commercial building or development and the landscape plan.

(3) Roof top mechanical equipment must be shielded from view at ground level by parapet or similar architectural features.

(4) Garden centers located in shopping centers or associated building materials sales establishments or department stores etc., must shield all materials (except plants) from adjacent properties and street rights-of-way from view at ground level.

(d) *Pedestrian walkways and bicycle parking.*

(1) *Pedestrian access standards.* Pedestrian ways, linkages or paths internal to the project must provide access between parking areas, building entries, surrounding streets, external sidewalks, and out parcels. The pedestrian facilities must provide safe access through the project from external sidewalk facilities or bus stops to the building entry.

If external sidewalk facilities identified on the official bikeways/walkways facilities plan are not in existence at the time of development, then the project must construct the internal pedestrian facilities up to the property line, and external sidewalks consistent with section 10-256. Use of the internal pedestrian facilities as open space is subject to the limitations set forth in section 10-415(d)(2)d.

(2) Pedestrian ways may be incorporated within a required landscape perimeter buffer in compliance with section 10-416(d)(4) Note (11). Shared pedestrian walkways are encouraged between adjacent commercial projects.

(3) *Bicycle parking requirements.*

a. *Number of spaces.* Safe and secure bicycle parking spaces must be provided as follows: spaces totaling five percent of required motor vehicle spaces in accord with section 34-2020 up to 1,000 vehicle spaces. For each 500 spaces above 1,000 vehicle spaces, four additional bicycle parking spaces are required. A minimum of two bicycle parking spaces must be provided.

b. *Design.*

1. A bicycle parking facility suited to a single bicycle may be a stand-alone inverted - U design measuring a minimum of 36 inches high and 18 inches wide [of one and one-half (1½) inch Schedule 40 pipe, ASTM F 1083] bent in one piece ("bike rack") mounted securely to the ground [by a 3/8-inch thick steel base plate, ASTM A 36] so it is capable of securing the bicycle frame and both wheels.

2. Each bicycle parking space must have a minimum of three feet of clearance on all sides of the bike rack.

3. Bicycle parking spaces must be surfaced with materials consistent with those approved for the motor vehicle parking lots, lighted and located no greater than 100 feet from the building entrances providing access to the public.

4. Extraordinary bicycle parking designs and surfaces that depart from the bike rack standard, but are consistent with the development's design theme may be considered by the Development Services Director. Bike racks that are freely oriented, function without securing the bicycle frame, or require the use of a bicycle kick stand are prohibited.

(e) *Parking lot interconnections.* Adjacent commercial uses must provide parking lot interconnections for automobile traffic. Interconnections are not intended to satisfy the criteria for site location standards as outlined in Lee Plan Policy 6.1.2(5).

(f) *Project entrance.*

(1) The entrance to a commercial development generating more than 300 trip ends total, or at an entrance with more than 100 entering vehicles during the peak hour of the generator, must include two entrance lanes.

(2) The driveway length must provide adequate throat depth consistent with the FDOT Driveway Handbook.

(3) Sidewalks must be provided along the entrance to a commercial development generating more than 300 trip ends during the peak hour of the generator.

(4) An administrative deviation may be granted from this section by the Director of Development Services in consultation with the Department of Transportation Director.

(Ord. No. 98-28, § 2, 12-8-98; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 03-16, § 3, 6-24-03; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 12-20 , § 1, 9-11-12; Ord. No. 14-13 , § 1, 6-17-14)

Secs. 10-611—10-619. Reserved.

Sec. 10-620. Design standards and guidelines for commercial buildings.

(a) *Purpose and intent.* The purpose and intent of these provisions is to maintain and complement the street scape by requiring that buildings be designed with architectural features and patterns that provide visual interest consistent with the community's identity and local character while reducing the mass/scale and uniform monolithic appearance of large unadorned walls. (See Illustration 4 below.)

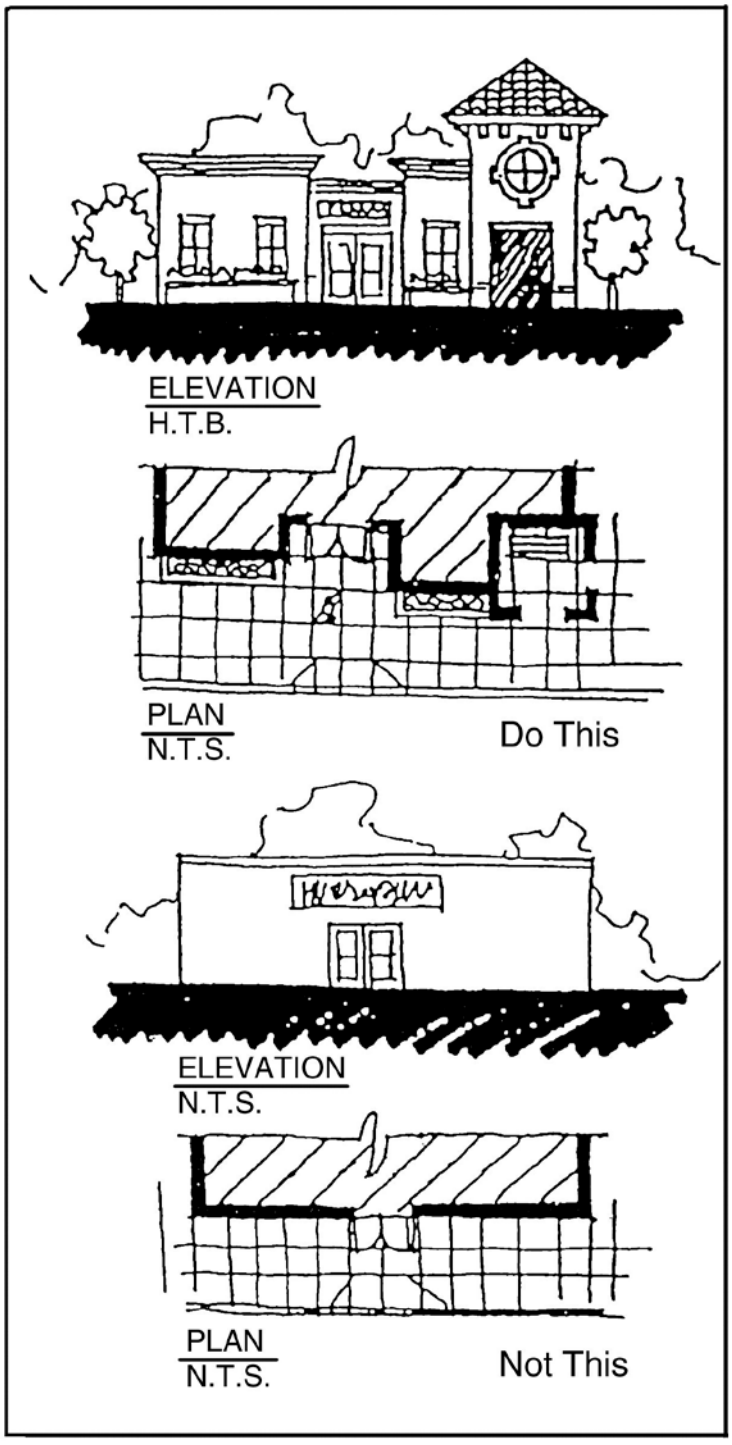


ILLUSTRATION # 4

(b) *Building/view orientation standards.* Buildings must be oriented to maximize pedestrian access, use and view of any adjacent navigable water bodies.

(c) *Facades.*

(1) *Wall height transition.* New buildings that are more than twice the height of any existing building within 300 feet must be designed to provide a transition between buildings of lower height. (See Illustration 5 below.)

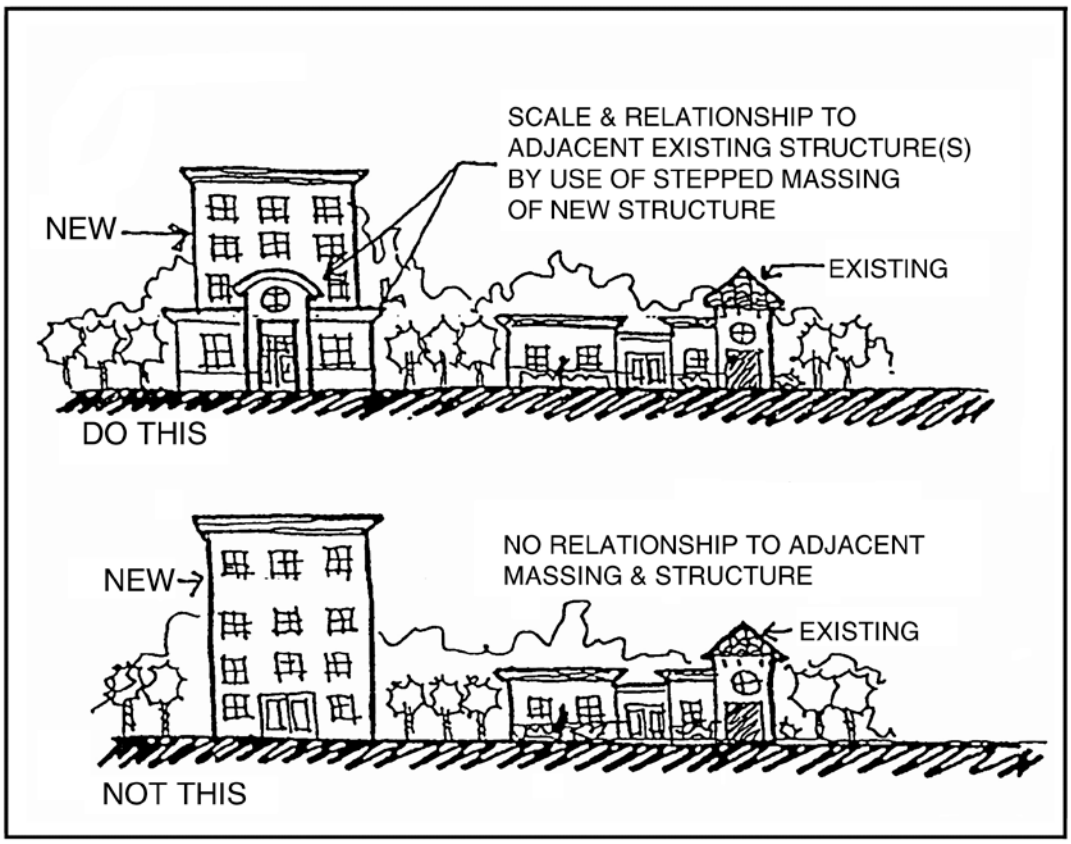


ILLUSTRATION # 5

(2) *Architectural design.*

a. All primary facades of a building must be designed with consistent architectural style, detail and trim features.

b. Buildings must provide a minimum of three of the following building design treatments integrated with the massing and style of the buildings. (See Illustrations 6 and 7 below.) If awnings, canopies and overhangs are used they must conform to a unified plan of compatible colors, shapes and materials.

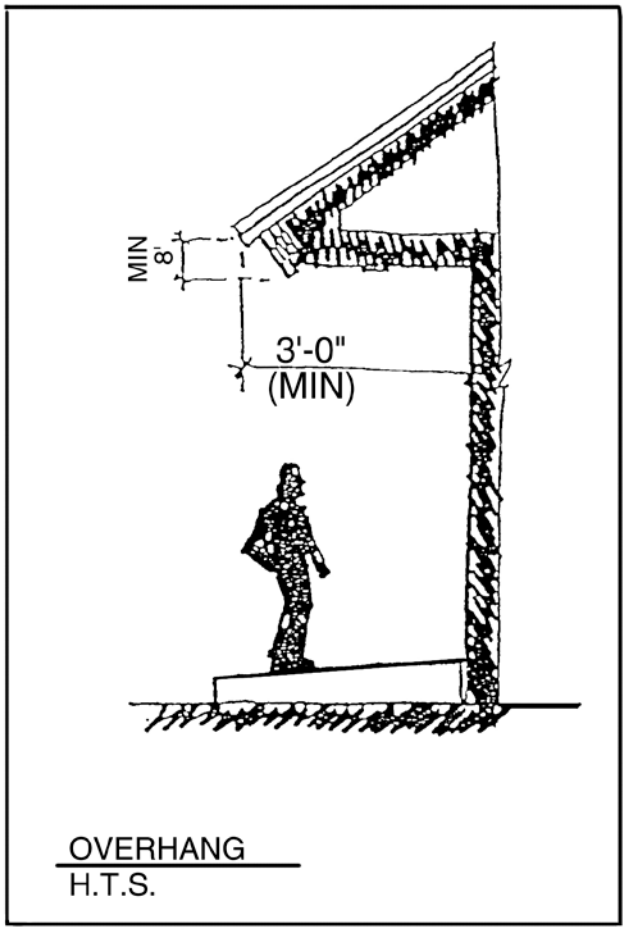


ILLUSTRATION #6

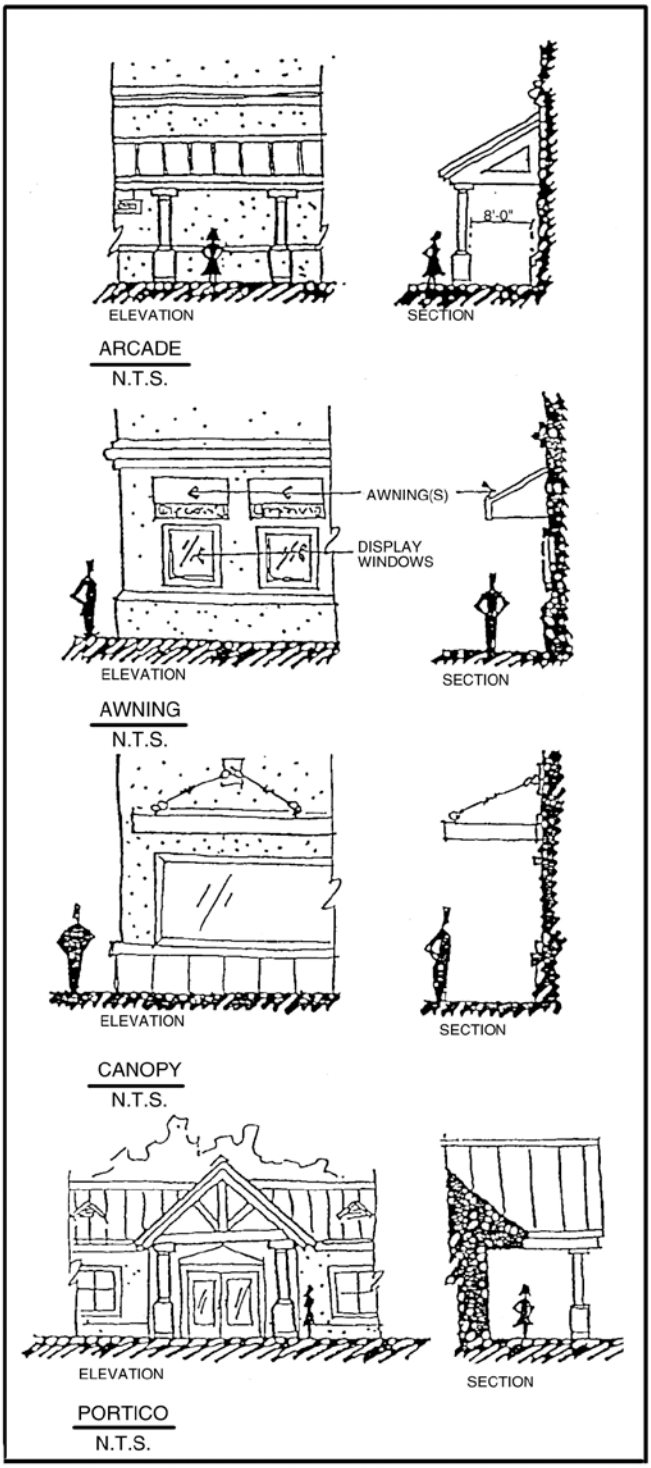


ILLUSTRATION # 7

1. Awnings or attached canopies;

2. Overhangs;
3. Porticos;
4. Arcades, minimum of eight feet clear in width;
5. Peaked roof forms;
6. Display windows along a minimum of 50 percent of front walls and any other wall alongside a pedestrian walkway;
7. Clock or bell towers; or
8. Any other treatment which the Development Services Director finds meets the intent of this section:

and on large projects one of the following site design elements:

1. Integration of specialty pavers, or stamped concrete along the building's walkway. Said treatment must constitute a minimum of 60 percent of walkway area;
2. Fountains, reflection ponds or other water elements, a minimum of 150 square feet in area for every 300 lineal feet of primary facade length; or
3. Any alternative treatment or combination of the above elements that the Development Services Director finds meets the intent of this section.

(3) *Corner lots.* In addition to the above, corner lots at an intersection of two or more arterial or collector roads must be designed with additional architectural embellishments, such as corner towers, or other such design features, to emphasize their location as gateways and transition points within the community.

(d) *Roof treatments.*

(1) *Purpose and intent.* Variations in roof lines must be used to add interest to, and reduce the massing of buildings. Roof features and materials must be in scale with the building's mass and complement the character of adjoining and/or adjacent buildings and neighborhoods. The following standards identify appropriate roof treatments and features.

(2) *Roof edge and parapet treatment.* The roof edge and/or parapet must have a vertical change from the dominant roof condition, in two locations. At least one such change must be located on a primary facade. (See Illustration 8 below.)

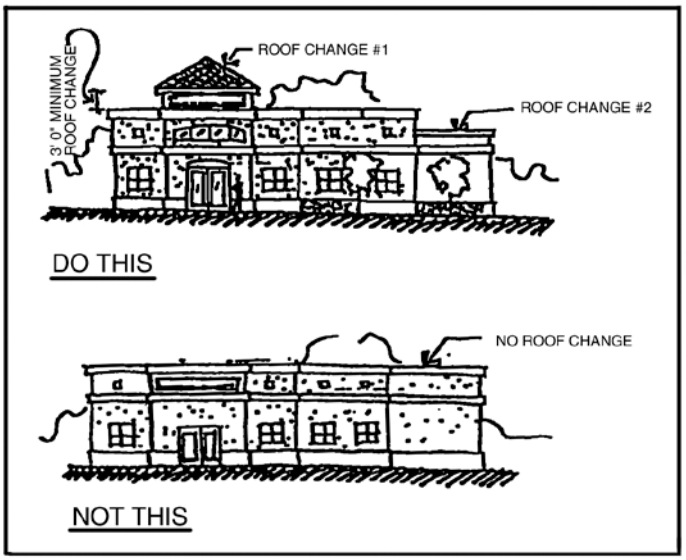


ILLUSTRATION #8

(3) Roofs must be designed to also meet at least two of the following requirements:

a. Parapets used to conceal roof top equipment and flat roofs;

b. Three or more roof slope planes per primary facade. (See Illustration 9 below);

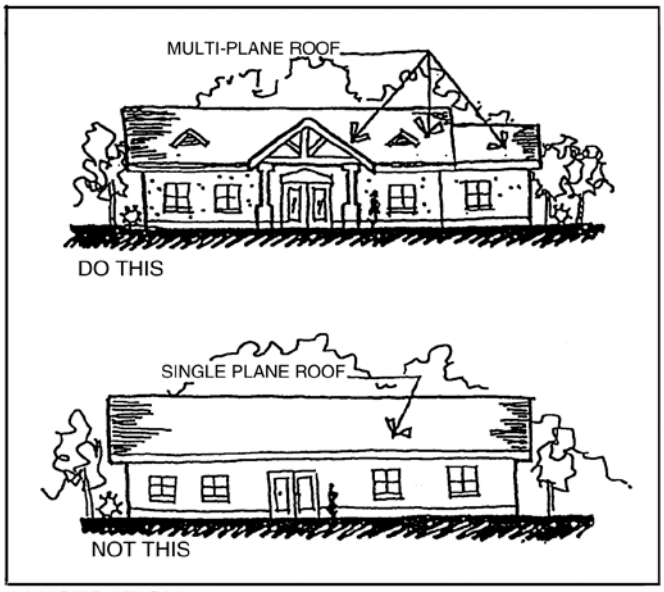


ILLUSTRATION #9

c. Sloping roofs, which do not exceed the average height of the supporting walls, must have an average slope equal to or greater than 4V:12H but not greater than 12V:12H;

d. Additional vertical roof changes with a minimum change in elevation of two feet (flat roofs must have a minimum of two changes): or

e. Three-dimensional cornice treatment which must be a minimum of ten inches in height with a minimum of three reliefs.

(4) *Prohibited roof types and materials.* The following types of materials are prohibited:

a. Roofs utilizing less than or equal to a 2V:12H pitch unless utilizing full parapet coverage or mansard; and

b. Mansard roofs except roofs with a minimum vertical distance of eight feet and an angle between 45 and 70 degrees from horizontal.

(e) *Detail features.* The design elements in the following standards must be integral parts of the building's exterior facade and must be integrated into the overall architectural style. These elements may not consist solely of applied graphics, or paint.

(1) *Blank wall areas.* Building walls and facades, must avoid large blank wall areas by including at least three of the design elements listed below, in a repeating pattern. At least one of the design elements must repeat horizontally.

a. Texture change;

b. Material change;

c. Architectural features such as bandings, bays, reveals, offsets, or projecting ribs. (See Illustration 10 below);

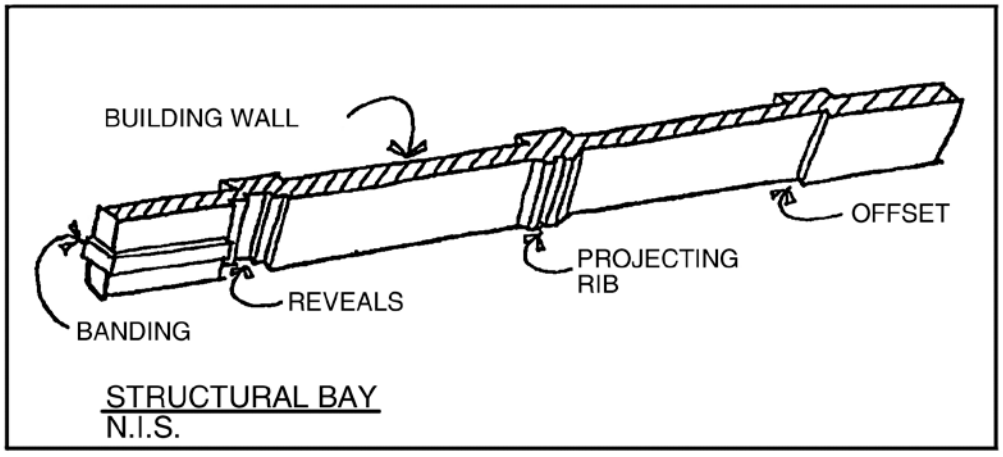


ILLUSTRATION #10

d. Building setbacks or projections; or,

e. Pattern change.

(2) *Materials.* Exterior building materials contribute significantly to the visual impact of a building on the community. They must be well-designed and integrated into a comprehensive design style for the project.

a. The following exterior building materials can not be used on more than 50 percent of the building facade area:

1. Plastic or vinyl siding except to establish the "old Florida" look;

2. Corrugated or reflective metal panels;

3. Tile (prohibition does not apply to roofs);

4. Smooth, scored or rib faced concrete block;
5. Any translucent material, other than glass; or
6. Any combination of the above.

b. Building trim and accent areas, consistent with the overall building, are limited to ten percent of the affected wall area, with a maximum trim width of 24 inches.

(Ord. No. 98-28, § 2, 12-8-98; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 13-10 , § 3, 5-28-13)

Secs. 10-621—10-629. Reserved.

Sec. 10-630. Signs.

(a) *Purpose and intent.* Signs are intended to be designed to complement rather than detract from the visual impact of a commercial development by utilizing design elements consistent with those employed in the structure's architecture and by minimizing conflicts with on-site landscaping areas and vehicular use areas.

(b) *Development standards.* In addition to the provisions set forth in chapter 30 of this Code, the following requirements apply.

(1) *Unified sign plan.* Where multiple on-premise signs are proposed for a single site or development, or in the case of a shopping center or other multiple-occupancy complex including out parcels under unified control with the main development, a unified sign plan must be employed. An application for a development order (or a building permit if a development order is not required) must be accompanied by a graphic and narrative representation of the unified sign plan to be utilized on the site. The unified sign plan may be amended and resubmitted for approval to reflect style changes or changing tenant needs. Design elements which must be addressed (in both graphic and narrative form) include:

a. Colors;
b. Construction materials and method;
c. Architectural design;
d. Illumination method;
e. Copy style;
f. Sign type(s) and location(s); and,
g. In the case of a shopping center or multiple occupancy complex and developments with multiple structures on-site, including outparcels, the unified sign plan must indicate conformance with the following:

1. All wall signs for multi-use buildings must be located at a consistent location on the building facade, except that anchor tenants may vary from this locational requirement in scale with the anchor's larger primary facade dimensions. All signs must adhere to the dimensions provided for in the unified signage plan; and
2. Pole signs must include colors and/or materials common to those used in the design of the building to which the sign is accessory. A minimum 100 square foot planting area must be provided around the base of any ground or pole sign. These landscape areas must include shrubs and ground cover plants with a minimum of 50 percent coverage of the landscape area at the time of planting. Turfgrass is discouraged and is limited to 10 percent of the landscape area.

(2) *Building permit requests.* Requests for building permits for permanent on premise signs must adhere to the unified signage plan, which will be kept on file in the community development department. Requests to permit a new sign, or to relocate, replace or structurally alter an existing sign must be accompanied by a unified sign plan for the building or project the sign is accessory to. Existing permitted signs may remain in place; however, all future requests for permits, whether for a new sign, or relocation, alteration, or replacement of an existing sign, must adhere to the unified sign plan for the property.

(Ord. No. 98-28, § 2, 12-8-98)

Secs. 10-631—10-639. Reserved.

Sec. 10-640. Out parcels.

(a) *Purpose and intent.* The purpose and intent of these provisions is to assure unified architectural design and site planning between out-parcel buildings and the main building(s) on the site, to enhance the visual impact of the buildings, and to provide for safe and convenient vehicular and pedestrian access and movement within the site.

(1) All exterior facades of an out-parcel building must be considered primary facades and must employ architectural, site, and landscaping design elements which are integrated with and common to those used on the main development on-site including colors and materials. associated with the main building.

(2) When the use of common wall, side by side development occurs, continuity of facades and consolidated parking for several businesses on one parking lot may be used.

(3) Out-parcel structures that are adjacent to each other must provide for vehicular connection between their respective parking lots and provide for interconnection of pedestrian walkways.

(Ord. No. 98-28, § 2, 12-8-98)

Secs. 10-641—10-649. Reserved.

Sec. 10-650. Exceptions and interpretations.

(a) *Exceptions.* Unless specifically indicated to the contrary, deviations and variances to the provisions of this article may not be granted due to the flexibility and choice of design incorporated into the provisions.

(b) *Interpretations.* Should an applicant and staff be unable to concur on the application of a specific provision or provisions of this article, the Community Development Director is authorized to make a final determination. The Director must render a finding in writing within 15 days of receipt of a written request from the applicant. The determination of the Community Development Director may not be appealed.

(Ord. No. 98-28, § 2, 12-8-98)

Secs. 10-651—10-700. Reserved.

ARTICLE V. ILLUSTRATIONS, TABLES AND DIAGRAMS [12]

Sec. 10-701. Major indigenous plant communities of the County.

Major indigenous plant communities of the County are as follows:

		Sources*			
Communities		(1) FLUCCS	(2) LONG	(3) WARD	(4) SCS
Uplands:					
	Coastal strand	X	X	X	X
	Tropical hammock	X	X	X	X
	Coastal hammock	X	X	X	X
	Xeric oak scrub	X	X	X	X

	Scrubby flatwoods	X	X	X	X
	Xeric pine flatwoods	X	X		X
	Mesic pine flatwoods	X	X	X	X
	Hydric pine flatwoods	X	X		X
	Hardwood pine hammock	X	X	X	X
	Hardwood hammock	X	X	X	X
Wetlands:					
	Tidal waters	X	X		
	Mangroves	X	X	X	X
	Tidal marshes	X	X	X	X
	Tidal flats	X			
	Inland ponds/sloughs	X			
	Submergent/emergent	X			
	Aquatic marsh	X	X	X	X
	Cypress swamp	X	X	X	X
	Hardwood swamp	X	X	X	X
	Wet prairie	X	X	X	X
	Intermittent ponds	X			
	Cypress-pine	X			

*Due to the extraordinary number of species of grasses, herbaceous and woody plants, and trees that are indigenous to Southwest Florida, each species cannot be listed in this section. The following sources, which are referenced in the table in this section, contain the names of those indigenous plant species recognized as characteristic of each represented plant community:

(1) Florida Land Use, Cover and Forms Classification System. Department of Transportation, State Topographic Bureau, Thematic Mapping Section.

(2) A Flora of Tropical Florida, Robert W. Long and Olga Lakela.

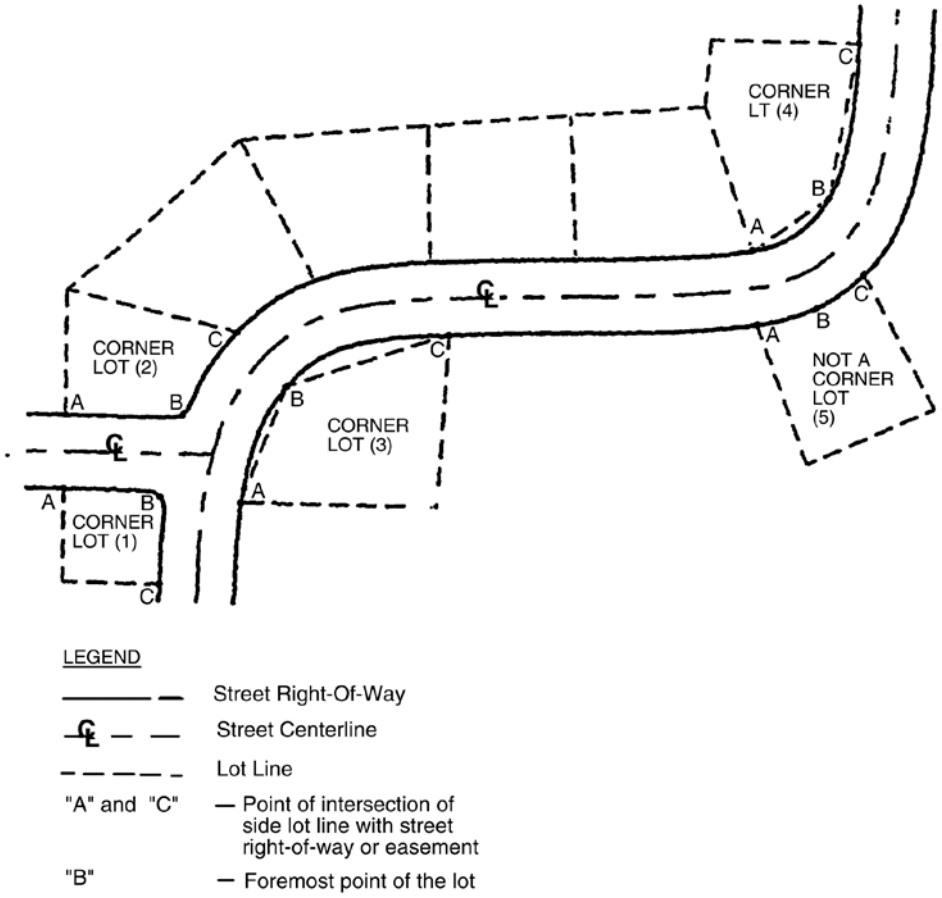
(3) Rare and Endangered Biota of Florida, Volume Five—Plants, edited by Daniel B. Ward.

(4) 26 Ecological Communities of Florida, Soil Conservation Service.

(Ord. No. 92-44, app. 1-1, 10-14-92; Ord. No. 99-05, § 4, 6-29-99)

Sec. 10-702. Corner lots.

The following illustrations apply to corner lots:



CORNER LOTS

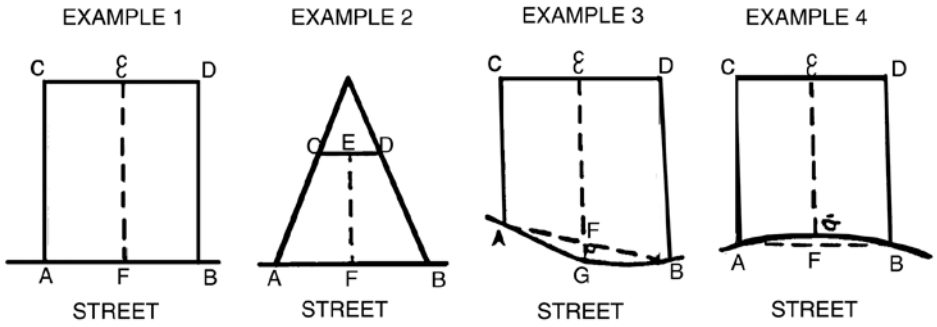
Notes:

Lots 1 and 2	Corner lots formed by two intersecting streets.
Lots 3 and 4	Angle formed by intersection of lines A-B and B-C is less than 135 degrees.
Lot 5	Angle formed by intersection of lines A-B and B-C is more than 135 degrees, therefore, this is not a corner lot.

(Ord. No. 92-44, app. 1-2, 10-14-92)

Sec. 10-703. Lot depth.

The following illustrations apply to lot depth:



LOT DEPTH

Legend:

Points A and B	Intersection of side lot lines with street right-of-way.
Points C and D	Intersection of side lot lines with rear lot line; in example 2, C-D is 20 feet long.
Point E	Midpoint of line C-D.
Point F	Midpoint of line A-B.
Point G	Point of intersection between the curved arc between points A and B and a line drawn perpendicular to the midpoint of the line between points A and B.

Notes:

(1) In examples 1 and 2, the depth of the lot is measured from point E to point F.

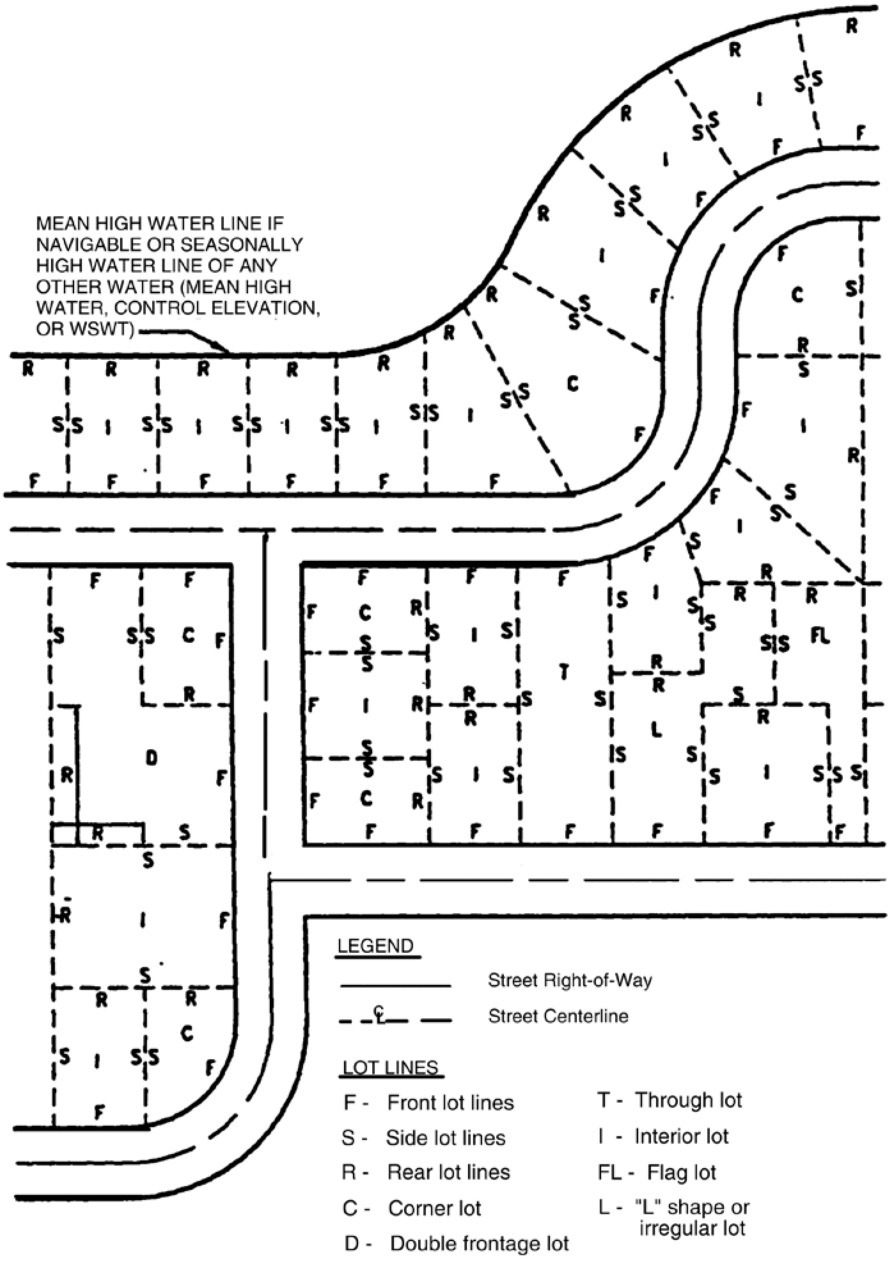
(2) In examples 3 and 4, the depth of the lot is measured from point E to point G.

(Ord. No. 92-44, app. 1-3, 10-14-92)

Sec. 10-704. Types of lots and lot lines.

The following diagram illustrates types of lots and lot lines:

TYPES OF LOTS AND LOT LINES



(Ord. No. 92-44, app. 1-4, 10-14-92)

Sec. 10-705. Reserved.

Editor's note—

Ord. No. 94-28, § 37, adopted Oct. 19, 1994, repealed former § 10-705, which pertained to lot width and lot frontage.

Sec. 10-706. Minimum specifications for bridge improvements.

Minimum specifications for bridge improvements are as follows:

Category				Minimum Specifications		
				All plans, specifications and submittals for bridge improvements must be submitted to the Director of Development Review, who will review the submittals in conjunction with the County Engineer.		
A	B	C	D	(1)	*Structural design criteria.* The criteria for the design of waterway crossings are as follows:	
					(a)	*Vehicular bridge and culvert crossings.* The structural design of all members of vehicular bridges and culverts must be in accordance with the requirements of the American Association of State Highway and Transportation Officials, referred to in this section as AASHTO standard specifications for highway bridges and the state department of transportation standard specifications for road and bridge construction.
					(b)	*Pedestrian and utility crossings.* These crossings must be designed according to a recognized rational analysis.
				(2)	*Design loading.* The loading for the design of waterway crossings are as follows:	
					(a)	*Vehicular bridge and culvert crossings.* The loading of a vehicular bridge must be one of the following as designated by the AASHTO specifications:
						All streets: L-93.
						Wind load: AASHTO adjusted to 120 miles per hour for structures over 30 feet in height.
					(b)	*Pedestrian crossings.*
						Live load: At the option of the design engineer subject to approval of the County Engineer.
						Dead load: As designed.

									Wind load: The Florida Building Code
					(c)	*Utility crossings.*			
									Live load: At the option of the design engineer subject to approval of the County Engineer.
									Dead load: As designed.
									Wind load: The Florida Building Code
				(3)	The dimensions of all waterway structures must be no less than the following:				
					(a)	*Width.*			
						1.	*Vehicular bridges.* Requirements as described in the AASHTO standard specifications for highway bridges.		
						2.	*Pedestrian crossing.* A minimum clear width between handrails of five feet is required.		
						3.	*Utility crossing.* A utility crossing must be designed wide enough to suit the facility it is supporting.		
						4.	*Culverts.* Box culvert crossings must be designed to conform to the roadway requirements of vehicular bridges over the entire cross section, including roadway width, curb height, sidewalk, handrail and drainage.		
					(b)	*Length.*			
						1.	*Bridges or utility crossings.* The length of structure must be a function of the waterway to be crossed. In no case may the clear length between abutments be less than the sum of the following measured along the centerline of the roadway or structure:		
							a.	Waterway bottom width.	
							b.	Horizontal projection of approved bank slope.	

							c.	Berms: width as required by the preliminary approval.
							d.	Plus additional width as may be required for future widening of channel.
							e.	Or as required for drainage.
						2.		*Culverts.* The culvert section should be selected to suit the special conditions of the proposed location, such as canal capacity, pipe cover, design water elevation, drainage area, etc. Culverts under roads must be long enough to accommodate the roadway, shoulders, rails or barriers, and side slopes.
					(c)	*Height elevation.*		
						1.		*Bridges or utility crossings.* The County Engineer and any other controlling agency, such as the U.S. Coast Guard, will establish the minimum design water elevation of the waterway to be crossed and the minimum clear vertical distance between the design water elevation and the lowest point of the superstructure. A survey of all upstream boat heights may be required.
						2.		*Culverts.* The County Engineer must approve the design water elevation. The cover over a culvert must be as required by the design loading on the particular type of culvert to be used.
					(d)	*Utilities.* Provisions must be made in or on all bridges for all applicable present and future utilities as specified by the County Engineer. However, utilities may be hung from the bridge only as a last resort.		
				(4)	*Geometrics.*			
					(a)	*Location and alignment.* All bridges must be designed with abutments and intermediate bents parallel with the waterway flow, and all culverts must be located parallel with the waterway flow.		
					(b)	*Horizontal curves.* When a bridge is located on a horizontal curve, the bridge must be designed and constructed concentric to the centerline curve. When a box culvert is located on a horizontal curve and the roadway is directly on the culvert and there are no headwalls, the culvert must be long enough to accommodate the roadway plus shoulders and rail or barrier. If the headwalls are used and act as curbs, they must be cast concentric to the centerline curve. If the roadway is placed on fill, the		

						culvert must be long enough to accommodate the roadway, shoulders, rail or barrier, and side slopes.
					(c)	*Approach grades and vertical curves.* If the design elevation of a bridge or culvert structure differs from the connecting roadway elevation, the connection must be made with approach grades not to exceed four percent with an appropriate vertical summit curve over the bridge and vertical sag curves at each approaching roadway connection. All AASHTO nonpassing sight distance requirements must be met.
				(5)	*Materials and tests.*	
					(a)	*Bridge structures.* All permanent bridge structures must be designed for and constructed of reinforced concrete, prestressed concrete or approved structural metal. This includes both substructure and superstructure. An exception may be made for footbridge piling, in which case timber may be used, provided it meets the requirements of the County Building Code.
					(b)	*Culverts in County-maintained roadways.* All culverts under County-maintained roadways must be reinforced concrete pipe or other approved material. All pipes must conform to all requirements of the state department of transportation standard specifications. The distance from the finished pavement centerline to the top of the culvert must be at least 36 inches, unless a higher strength pipe acceptable to the Director of Transportation is used. If a higher strength pipe is approved, the minimum distance may not be less than 18 inches.
					(c)	*Backfill at bridge approaches.* All bridge approach embankments must be compacted to a density of no less than 96 percent of the maximum dry density as determined by AASHTO T-180 designation for an approved backfill material.
					(d)	*Material test.* All material used in a bridge or culvert structure may be subjected to tests. Tests, if required by the County Engineer, must be paid for by the developer. Minimum tests must be for concrete slump and compression strength in accordance with state department of transportation standard specifications.
					(e)	*Unusual design.* The County Engineer may require tests of structural members of an unusual design. Tests, if required by the County Engineer, must be paid for by the developer.
				(6)	*Design criteria.*	

					(a)	*Vehicular and pedestrian bridges.* All components and loading requirements of the bridge construction must conform to the current AASHTO standard specifications for highway bridges.
					(b)	*Pedestrian bridge railings.* Each rail of the handrail for pedestrian bridges must be so designed that it will withstand a load of 100 pounds per linear foot simultaneously applied horizontally and vertically. Handposts must be designed to withstand a load of 100 pounds per linear foot applied to the top rail in the directions producing the maximum movement.
					(c)	*Special protection in addition to handrails.* For certain locations the County Engineer may require additional protection for the safety of pedestrians.
					(d)	*Approach slabs.* All vehicular bridges having a surface elevation equal to the roadway elevation must be provided with reinforced concrete approach slabs equal to the bridge roadway width and extending a minimum of 15 feet from the abutment as measured parallel with the centerline of the roadway.
					(e)	*Drainage.*
						1. *On bridges.* The bridge roadway must slope a minimum of 3/16 inch per foot from crown to curb. All two-lane bridges must have a drainage structure equivalent to a four-inch pipe located no greater than 20 feet center to center each side. These drains must be located to prevent the discharge of water against any portion of the structure.
						2. *On approaches and embankments.* Drainage facilities must be provided for the bridge approaches that are adequate to prevent erosion of the embankment. This may require curbs, gutters and spillways along roadway edges from the bridge to the bottom of the approach embankment.
					(f)	*Guardrail.* State department of transportation approved guardrails must be provided in accordance with state department of transportation standards. Greater lengths may be required if deemed necessary by the County Engineer.
					(g)	*Concrete reinforcement cover.* All cover requirements of the American Concrete Institute (ACI) 318 Code must be followed. In extreme sea exposure conditions, the County Engineer may require special additional cover.

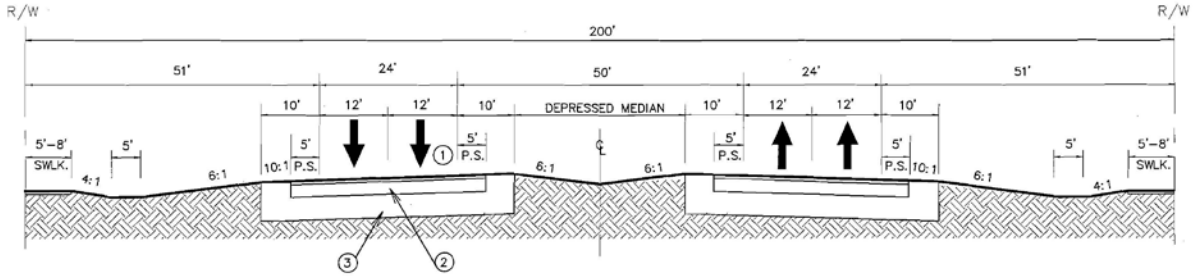
					(h)	*Penetration and cover for piles.*		
						1.	*Penetration into soil.*	
							a.	*Freestanding piles (intermediate bents).* All freestanding piles must have a minimum penetration of one-third of their length but not less than ten feet in firm material; provided, however, that penetration is sufficient to develop the required capacity of the pile.
							b.	*Fully supported piles (abutments).* Where stable bank slopes are provided, the minimum tip elevation of the piles must be equal to the elevation of the channel bottom. Where vertical bank slopes may occur, the minimum tip elevation of the piles must be ten feet below the channel bottom.
						2.	*Penetration into pile cap.* The minimum penetration of a pile into a cap is 12 inches, provided adequate anchorage is obtained.	
						3.	*Concrete cover.* The minimum cover between the exterior face of piling and the nearest exterior face of pile cap must be six inches.	
					(i)	*Bridge abutments.* The abutments of vehicular bridges must be constructed upon pile foundations or any other engineered system that is proved to be adequate and accepted by the County Engineer.		
					(j)	*Concrete retaining slabs.* All retaining walls or retaining slabs designed to support the embankment adjacent to a bridge structure must be provided with a positive means of anchorage to the abutments or pile caps. The retaining walls and slabs must be designed to resist all loads that are expected to come upon them, including all live loads required by AASHTO standard specifications for highway bridges.		
					(k)	*Test borings for bridges.*		
						1.	*Vehicular bridges.* A minimum of two test borings are required for each bridge location. These borings must be made as close as possible to the location of two of the pile bents of the proposed structure. The borings must be performed under the control of a registered engineer and two copies of the results must be attached to the plans submitted to development review for approval. In addition to the two test borings, the County Engineer may require other test borings in order that complete subsurface conditions can be determined.	

						2.	*Pedestrian bridges.* The procedure for pedestrian bridges is the same as required above for vehicular bridges except that a minimum of one test boring is required for each bridge location. This requirement may be waived in the case of small crossings at the discretion of the County Engineer.
				(7)	*Utilities on bridges.* Provisions must be made on all bridges for utility crossings such as water mains, sewer mains, telephone, cablevision or power conduits, and gas mains. Any or all of these requirements for utility support may be waived by the County Engineer.		

(Ord. No. 92-44, app. 9-1, 10-14-92; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-707. Four- and six-lane arterial roadways.

(a) The following illustration applies to four-lane arterial roadways in 200 foot right-of-way depressed median, open drainage and on-site retention (rural section) (Rural = clear zones and open ditches):



LDC SECTION 10-707(a)
4-LANE RURAL ARTERIAL
DESIGN SPEED = 60 MPH
(AS APPROVED BY THE DIRECTOR)
N.T.S.

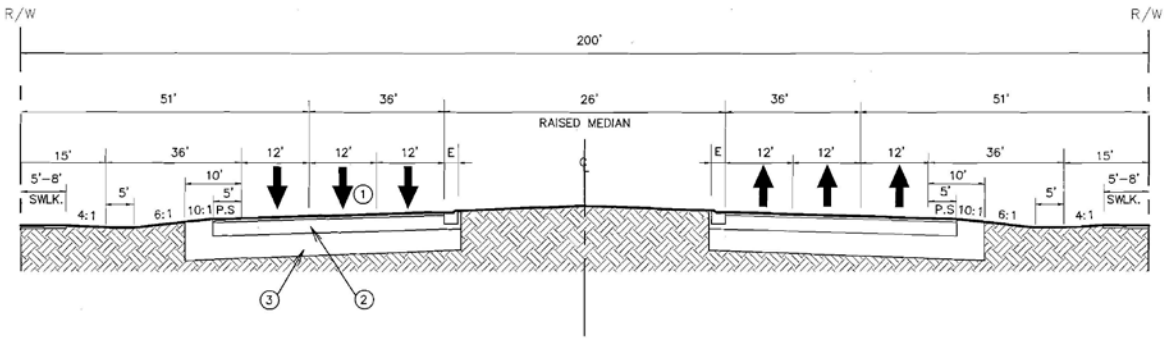
Notes:

(1) One inch S-III wearing surface plus two and one half inch type S-1 asphaltic concrete.

(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(b) The following illustration applies to six-lane arterial roadways in 200 feet of right-of-way with open drainage, and on-site retention (rural section) (Rural = clear zones and open ditches):



LDC SECTION 10-707(b)
6-LANE RURAL ARTERIAL
DESIGN SPEED = 50 MPH
(AS APPROVED BY THE DIRECTOR)
N.T.S.

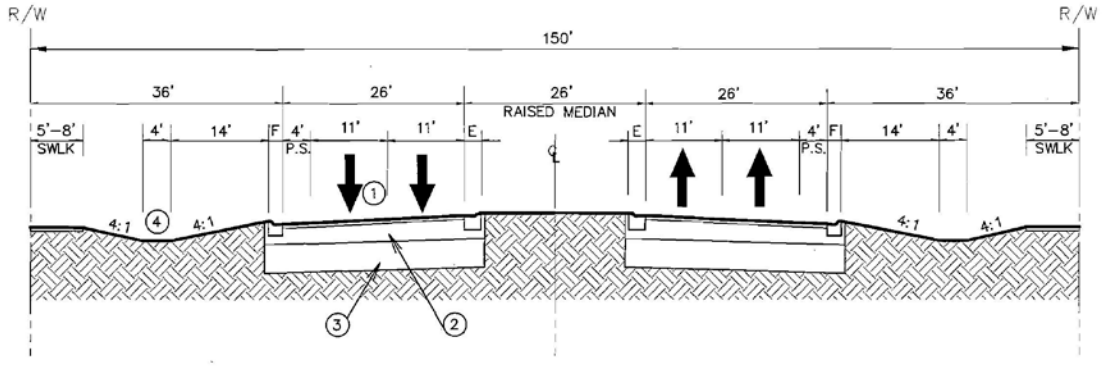
Notes:

(1) One inch S–III wearing surface plus two and one half inch type S–1 asphaltic concrete.

(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(c) The following illustration applies to four-lane arterial roadways in 150 feet of right-of-way with raised median, open drainage and on-site retention (suburban section) (Suburban = curb and gutter and open ditches):



LDC SECTION 10-707(c)
4-LANE SUBURBAN ARTERIAL
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

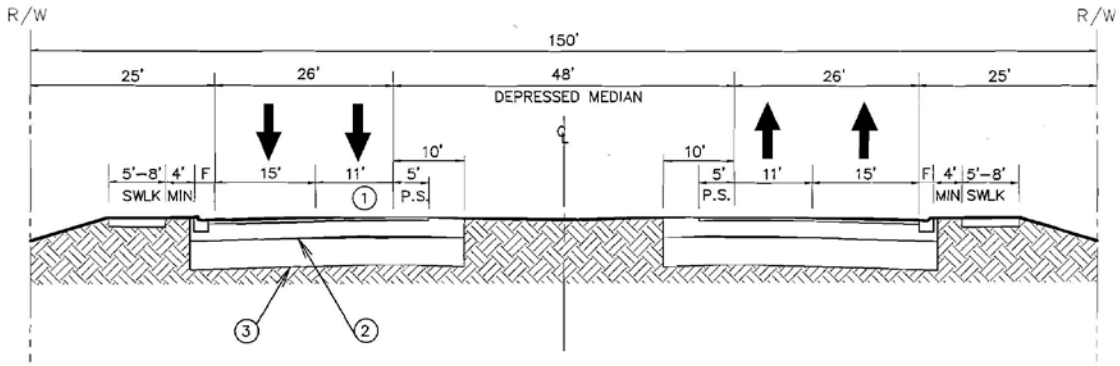
(1) One inch S-III wearing surface plus two and one half inch type S-1 asphaltic concrete.

(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(4) This size open drainage ditches are insufficient in size to retain all stormwater. Off-site retention ponds or additional drainage easements may be required.

(d) The following illustration applies to four-lane arterial roadways in 150 feet of right-of-way with depressed median, closed drainage and on-site retention (urban section) (Rural = clear zones and open ditches):



LDC SECTION 10-707(d)
4-LANE URBAN ARTERIAL
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)

N.T.S.

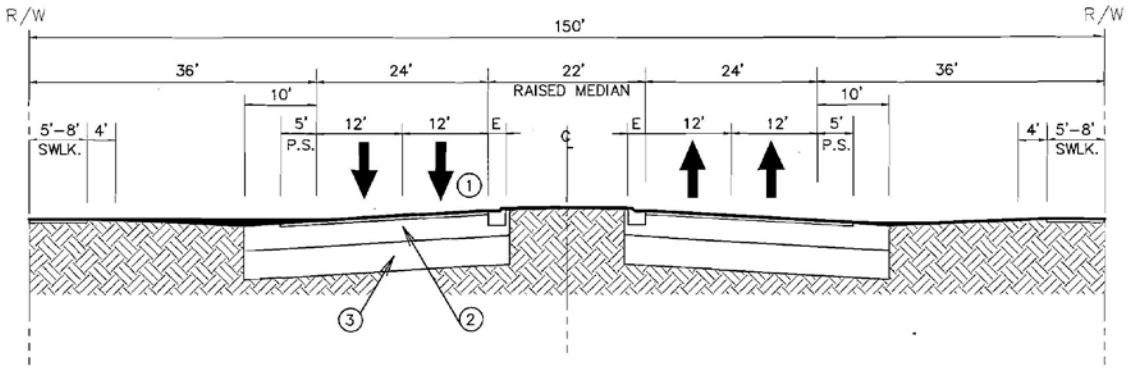
Notes:

(1) One inch S–III wearing surface plus two and one half inch type S–1 asphaltic concrete.

(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(e) The following illustration applies to four-lane arterial roadways in 150 feet of right-of-way with raised median, open drainage and on-site retention (rural section) (Rural = clear zones and open ditches):



LDC SECTION 10–707(e)
4–LANE RURAL ARTERIAL
DESIGN SPEED = 50 MPH
(AS APPROVED BY THE DIRECTOR)
N.T.S.

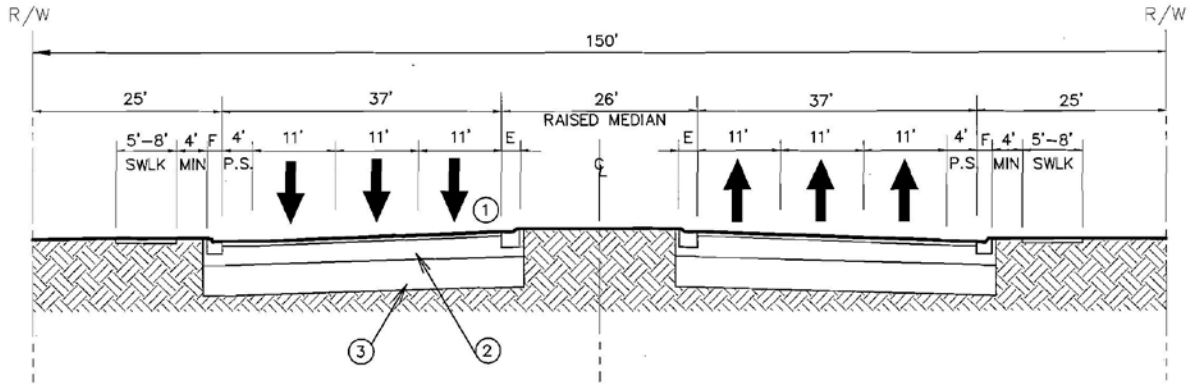
Notes:

(1) One inch S–III wearing surface plus two and one half inch type S–1 asphaltic concrete.

(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(f) The following illustration applies to six-lane arterial roadways in 150 feet of right-of-way with raised median, closed drainage and off-site retention (urban section):



LDC SECTION 10-707(f)
6-LANE URBAN ARTERIAL
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

(1) One inch S–III wearing surface plus two and one half inch type S–1 asphaltic concrete.

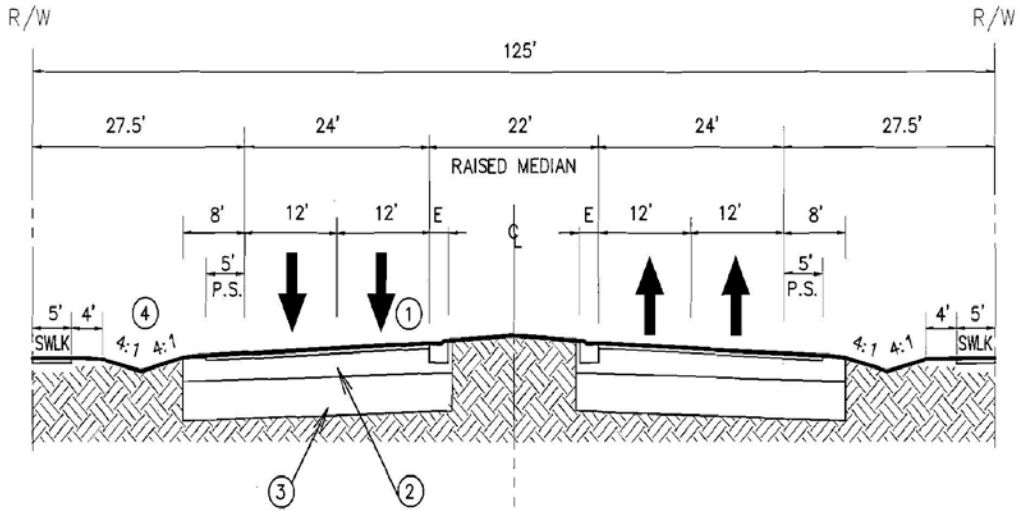
(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(Ord. No. 92-44, apps. 9-2A—9-2D, 10-14-92; Ord. No. 94-28, §§ 38—73, 10-19-94; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-708. Collector streets.

(a) The following illustration applies to four-lane major collector roadways in 125 feet of right-of-way with raised median, open drainage and off-site retention (rural section) (Rural = clear zones and open ditches):



LDC SECTION 10-708(a)
4-LANE RURAL MAJOR COLLECTOR
DESIGN SPEED = 50 MPH
(AS APPROVED BY THE DIRECTOR)
SWALES FOR CONVEYANCE

N.T.S.

Notes:

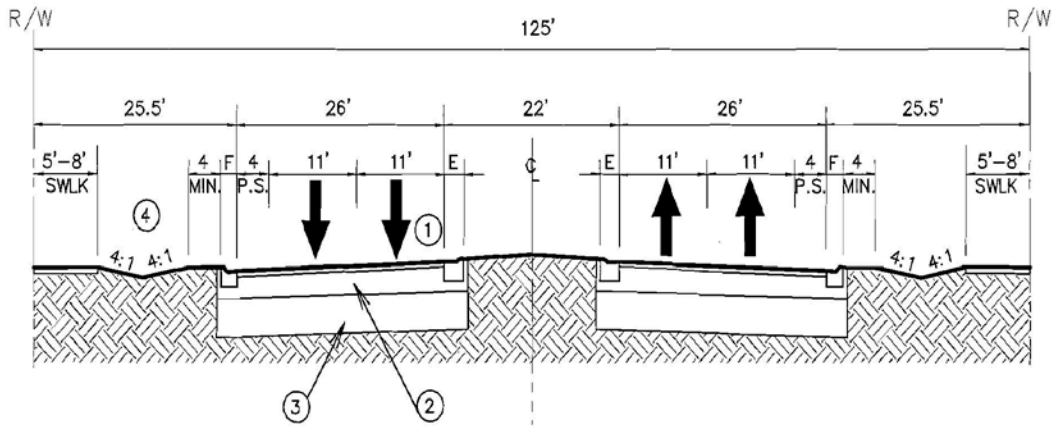
(1) One and one half inch S–I plus one inch type S–III asphaltic concrete.

(2) Eight inch compacted limerock (optional basegroup 9).

(3) 12 inch thick stabilized subgrade LBR 40.

(4) This size open drainage ditches are insufficient in size to "retain" stormwater. They may be used for conveyance only and off–site retention ponds or additional width in drainage easements would be required.

(b) The following illustration applies to four-lane major collector roadways in 125 feet of right-of-way with raised median, open drainage and off-site retention (suburban section) (Suburban = curb and gutter and open ditches):



LDC SECTION 10-708(b)
4-LANE SUBURBAN MAJOR COLLECTOR
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)
SWALES FOR CONVEYANCE
OFF ROAD PEDESTRIAN FACILITY
SUBSTITUTED FOR 3 FEET OUTSIDE
LANE WIDTH
N.T.S.

Notes:

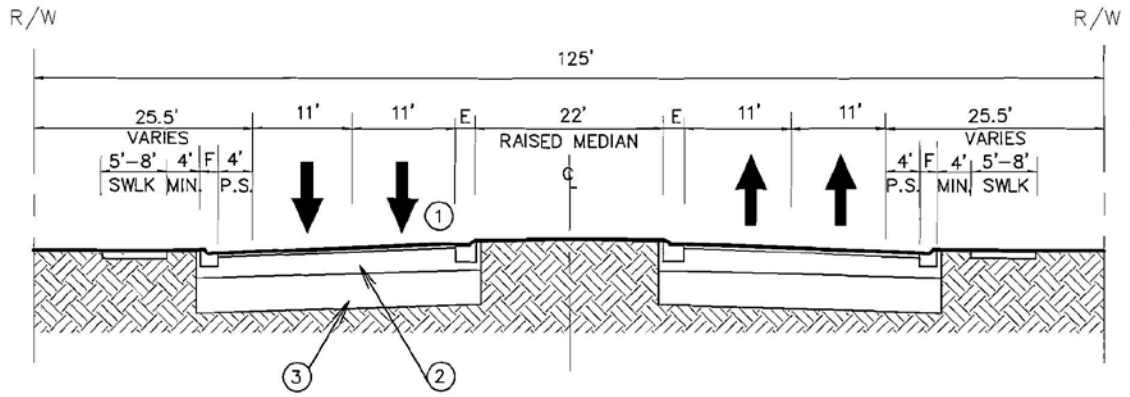
(1) One and one half inch S–I plus one inch type S–III asphaltic concrete.

(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(4) This size open drainage ditches are insufficient in size to "retain" stormwater. They may be used for conveyance only and off–site retention ponds or additional width in drainage easements would be required.

(c) The following illustration applies to four-lane major collector roadways in 125 feet of right-of-way with raised median, closed drainage and off-site retention (urban section) (Urban = curb and gutter and closed drainage):



LDC SECTION 10-708(c)
4-LANE URBAN MAJOR COLLECTOR
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

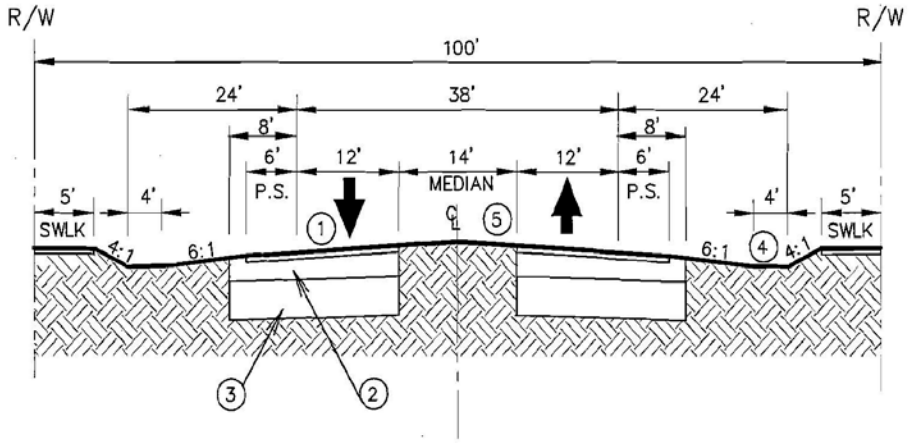
(1) One and one half inch S–I plus one inch type S–III asphaltic concrete.

(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(d) [*Reserved.*]

(e) The following illustration applies to three-lane collector roadways in 100 feet of right-of-way with a TWLTL (two-way left-turn lane) median with open drainage and off-site retention (rural section) (Rural = clear zones and open ditches):



LDC SECTION 10-708(e)
3-LANE RURAL MAJOR COLLECTOR
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)
SWALES FOR CONVEYANCE
N.T.S.

Notes:

(1) One and one half inch S–I plus one inch type S–III asphaltic concrete.

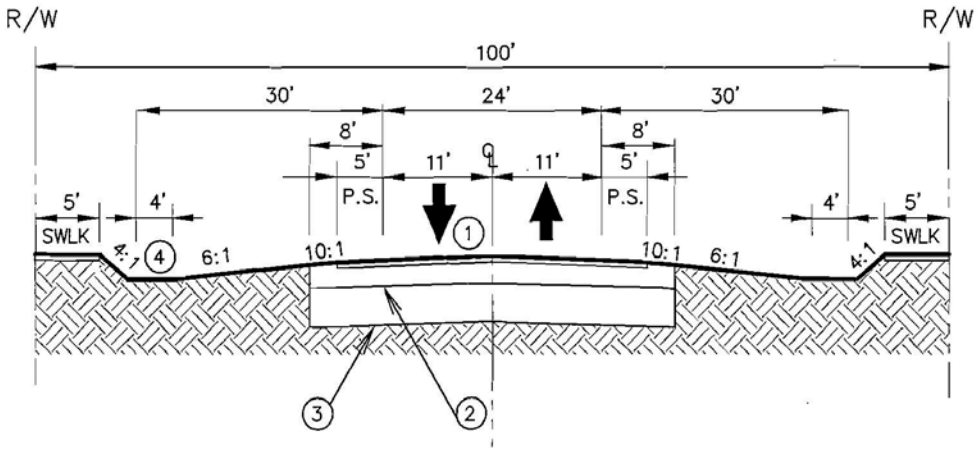
(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(4) This size open ditches are insufficient in size to "retain" stormwater. They must be used for conveyance only and off–site retention ponds or additional width in drainage easements would be required.

(5) A 14 foot two–way left turn lane may be considered subject to approval by the Director of Transportation and consistent with AC–II–3.

(f) The following illustration applies to two-lane collector roadways in 100 feet of right-of-way, with no median, open drainage and on-site retention (rural section) (Rural = clear zones and open ditches):



LDC SECTION 10-708(f)
2-LANE RURAL COLLECTOR
DESIGN SPEED = 55 MPH
(AS APPROVED BY THE DIRECTOR)
ON SITE RETENTION

N.T.S.

Notes:

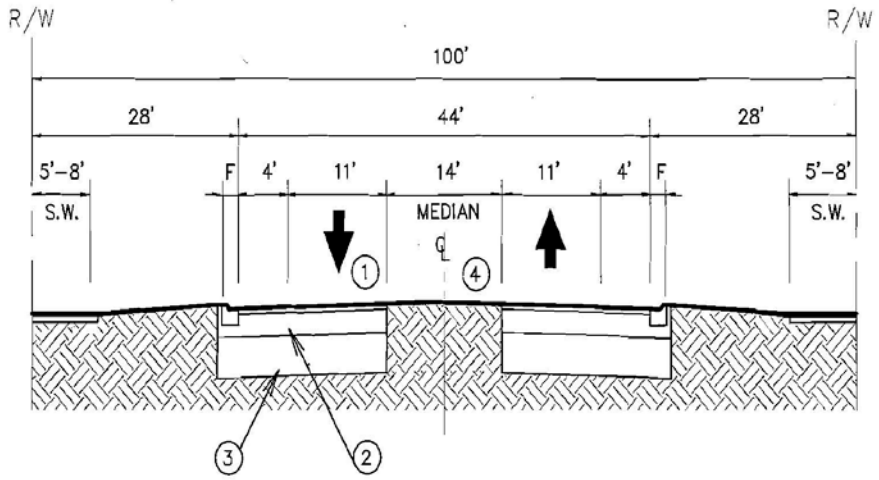
(1) One and one half inch S–I plus one inch type S–III asphaltic concrete.

(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(4) This size open drainage ditches are insufficient in size to "retain" stormwater. They may be used for conveyance only and off–site retention ponds or additional width in drainage easements would be required.

(g) The following illustration applies to three-lane collector roadways in 100 feet of right-of-way with a two-way left turn (TWLTL) median, closed drainage and off-site retention (urban section) (Urban = curb and gutter and closed drainage):



LDC SECTION 10-708 (g)
3-LANE URBAN COLLECTOR
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

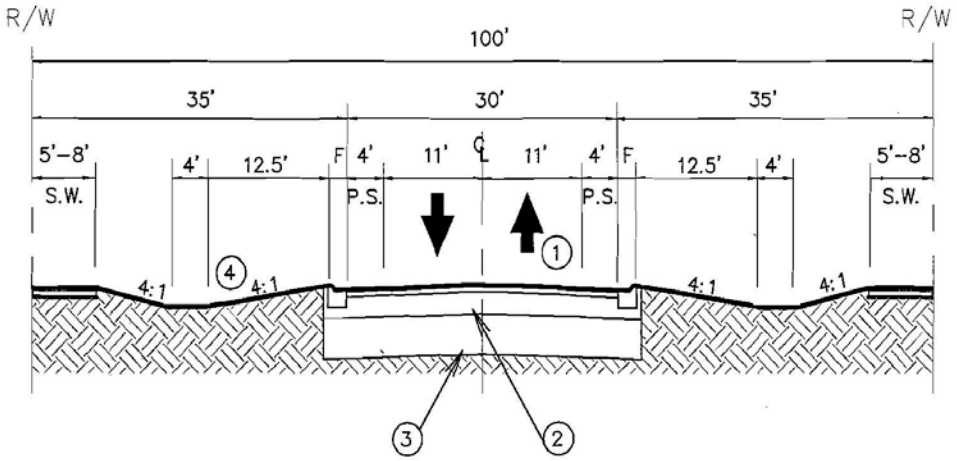
(1) One and one half inch S–I plus one inch type S–III asphaltic concrete.

(2) FDOT Optional BaseGroup 9 – 8"compacted limerock.

(3) 12 inch thick stabilized subgrade LBR 40.

(4) A 14 foot two–way left turn lane may be considered subject to approval by the Director of Transportation and consistent with AC–II–3.

(h) The following illustration applies to two-lane collector roads in 100 feet of right-of-way with no median, open drainage and off-site retention (suburban section) (Suburban = curb and gutter and open ditches):



LDC SECTION 10-708(h)
2-LANE SUBURBAN COLLECTOR
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)
DITCHES FOR CONVEYANCE
N.T.S.

Notes:

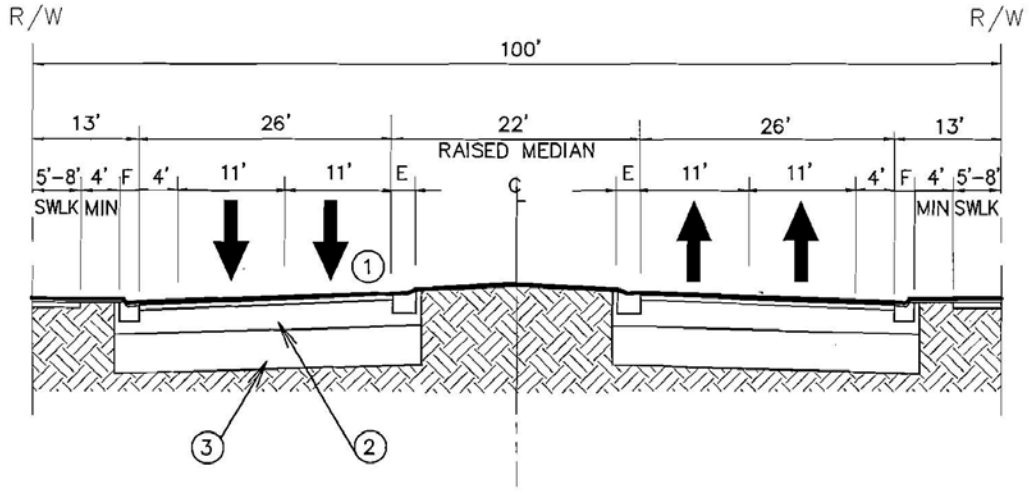
(1) One and one half inch S-I plus one inch type S-III. asphaltic concrete.

(2) Eight inch compacted limerock (optional basegroup 9).

(3) 12 inch thick stabilized subgrade LBR 40.

(4) This size open drainage ditches are insufficient to "retain" stormwater. They may be used for conveyance only and off-site retentional ponds or additional width in drainage easements would be required.

(i) The following illustration applies to four-lane collector roadways in 100 feet of right-of-way with raised median, closed drainage and off-site retention (urban section) (Urban = curb and gutter and closed drainage):



LDC SECTION 10-708(1)
4-LANE URBAN COLLECTOR
DESIGN SPEED = 45 MPH
(AS APPROVED BY THE DIRECTOR)

N.T.S.

Notes:

(1) One and one half inch S–I plus one inch type S–III. asphaltic concrete.

(2) Eight inch compacted limerock (optional basegroup 9).

(3) 12 inch thick stabilized subgrade LBR 40.

(Ord. No. 92-44, apps. 9-3A—9-3D, 10-14-92; Ord. No. 94-28, §§ 44—53, 10-19-94; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 07-24 , § 3, 8-14-07)

Sec. 10-709. Public local streets.

(a) The following illustration applies to publicly maintained local streets with closed drainage and on-road bikeways, with a volume of less than 800 vehicles per day:

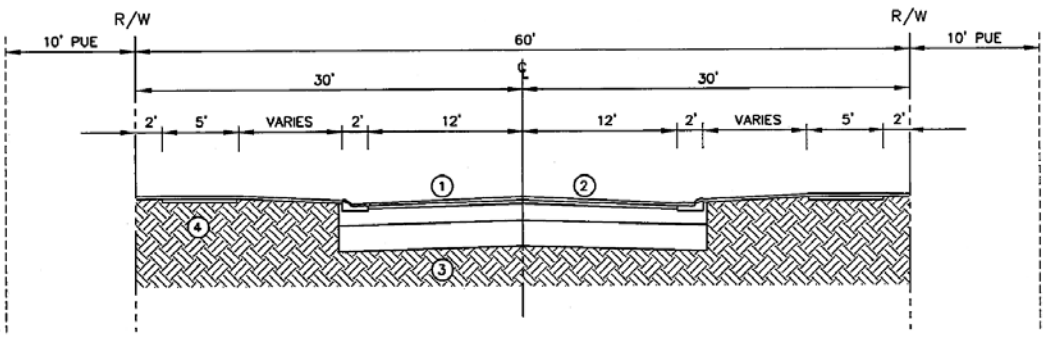


ILLUSTRATION 10-709 (a)
PUBLICLY MAINTAINED LOCAL STREET
WITH CLOSED DRAINAGE, ON-ROAD BIKEWAYS
N.T.S.

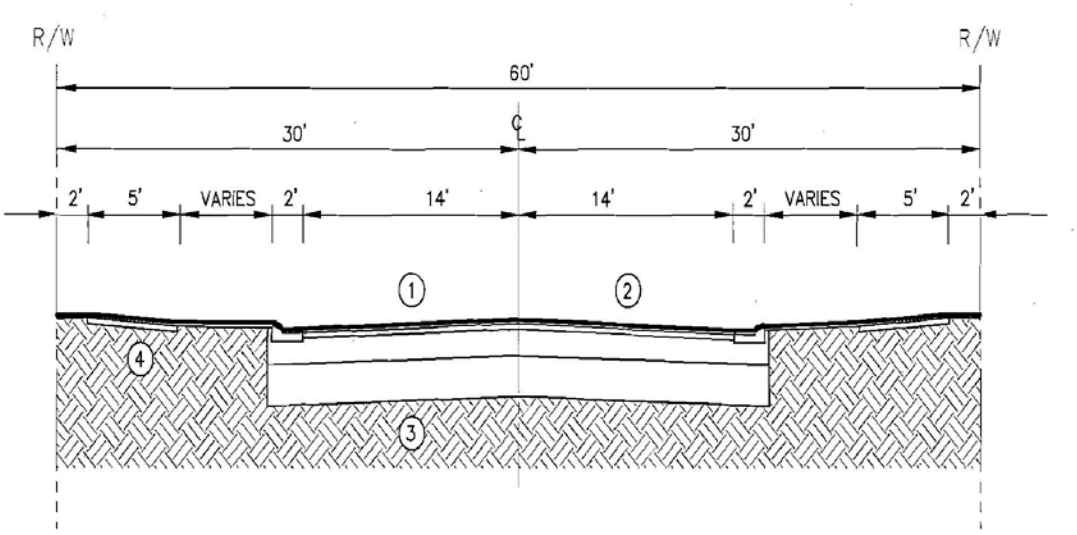
	CATEGORY B & C	**CATEGORY A**
1.	1½" Type S-III or S-I asphalt concrete (2)	1½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk — one side only	Sidewalk — one side only

Notes:

(1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.

(2) Two ¾-inch lifts may be installed in accord with section 10-296(h)(4)a if type S-III is used.

(b) The following illustration applies to publicly maintained local streets with closed drainage and on-road bikeways, with a volume of more than 800 vehicles per day:



LDC SECTION 10-709(b)
PUBLICLY MAINTAINED LOCAL STREET WITH CLOSED DRAINAGE AND ON-ROAD BIKEWAYS-VOLUME MORE THAN 800 VEHICLES PER DAY

N.T.S.

P.S. = PAVED SHOULDER

	CATEGORY B & C	**CATEGORY A**
1.	1½" Type S-III asphalt concrete	1½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk — one side only	Sidewalk — one side only

Notes:

(1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

(c) The following illustration applies to local public streets with closed drainage and off-road bikeways:

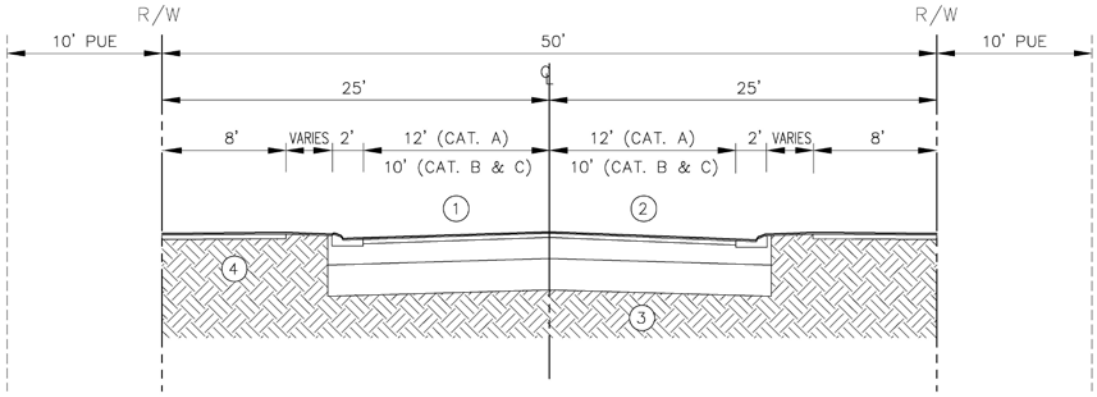


ILLUSTRATION 10-709(c)
PUBLICLY MAINTAINED LOCAL STREET
WITH CLOSED DRAINAGE AND OFF-ROAD
BIKEWAYS
N.T.S.

	CATEGORY B & C	**CATEGORY A**
1.	1½" Type S-III or S-I asphalt concrete (2)	1½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk — one side only	Sidewalk — one side only

Notes:

(1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.

(2) Two ¾-inch lifts may be installed in accord with section 10-296(h)(4)a if type S-III is used.

(d) The following illustration applies to publicly maintained local streets with open drainage and on-road bikeways, with a volume of less than 800 vehicles per day:

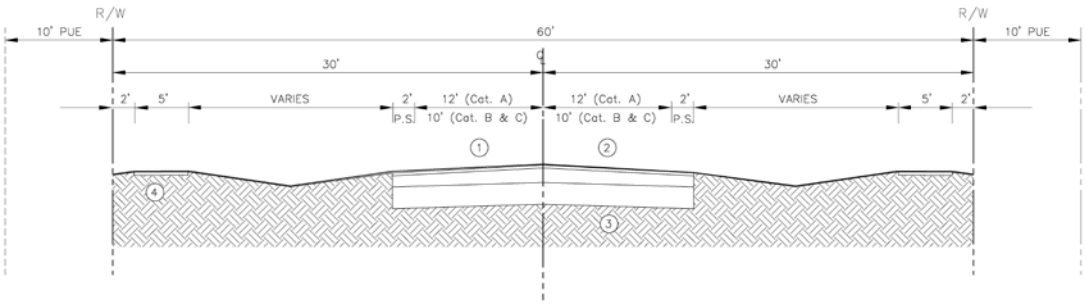


ILLUSTRATION 10-709 (d)
PUBLICLY MAINTAINED LOCAL STREET
WITH OPEN DRAINAGE, ON-ROAD BIKEWAYS
N.T.S.

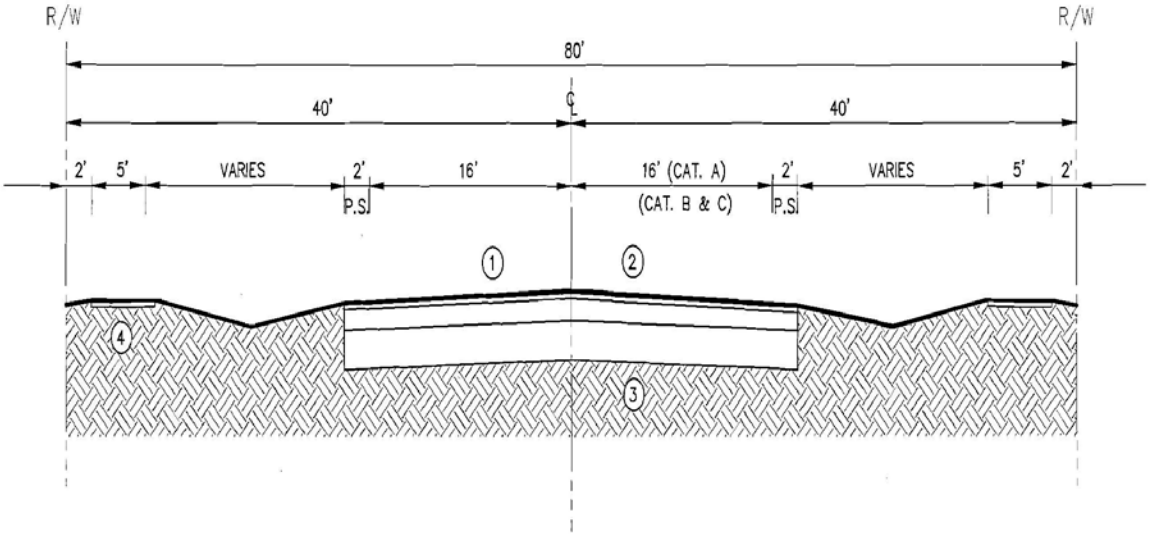
	CATEGORY B & C	**CATEGORY A**
1.	1½" Type S-III or S-I asphalt concrete (2)	1½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk — one side only	Sidewalk — one side only

Notes:

(1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.

(2) Two ¾-inch lifts may be installed in accord with section 10-296(h)(4)a if type S-III is used.

(e) The following illustration applies to publicly maintained local streets with open drainage and on-road bikeways, with a volume of more than 800 vehicles per day:



LDC SECTION 10-709(e)
PUBLICLY MAINTAINED LOCAL STREET
WITH OPEN DRAINAGE, ON-ROAD BIKEWAYS
WITH A VOLUME OF MORE THAN 800
VEHICLES PER DAY

N.T.S.

	CATEGORY B & C	**CATEGORY A**
1.	1½" Type S-III asphalt concrete	1½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk — one side only	Sidewalk — one side only

Notes:

(1) A ten-foot-wide public utility easement must be provided on each side of the right-of-way.

(f) The following illustration applies to publicly maintained local streets with open drainage and off-road bikeways:

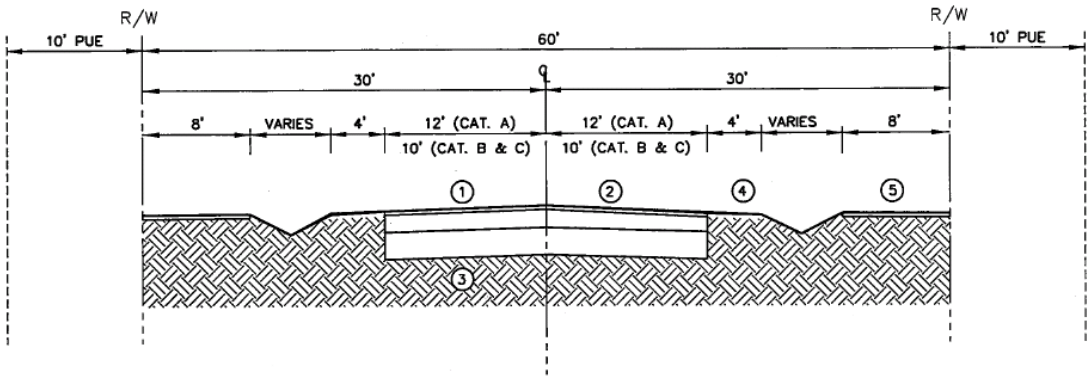


ILLUSTRATION 10-709 (f)
PUBLICLY MAINTAINED LOCAL STREET
WITH OPEN DRAINAGE AND OFF-ROAD
BIKEWAYS
N.T.S.

	CATEGORY B & C	**CATEGORY A**
1.	1½" Type S-III or S-I asphalt concrete (2)	1½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk — one side only	Sidewalk — one side only

Notes:

(1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.

(2) Two ¾-inch lifts may be installed in accord with section 10-296(h)(4)a if type S-III is used.

(g) Illustrations for publicly dedicated local streets in compact communities are provided in chapter 32

(Ord. No. 92-44, apps. 9-4A—9-4F, 10-14-92; Ord. No. 95-12, § 7, 7-12-95; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09; Ord. No. 10-25 , § 2, 6-8-10)

Sec. 10-710. Private local streets.

(a) The following illustration applies to private local streets with closed drainage:

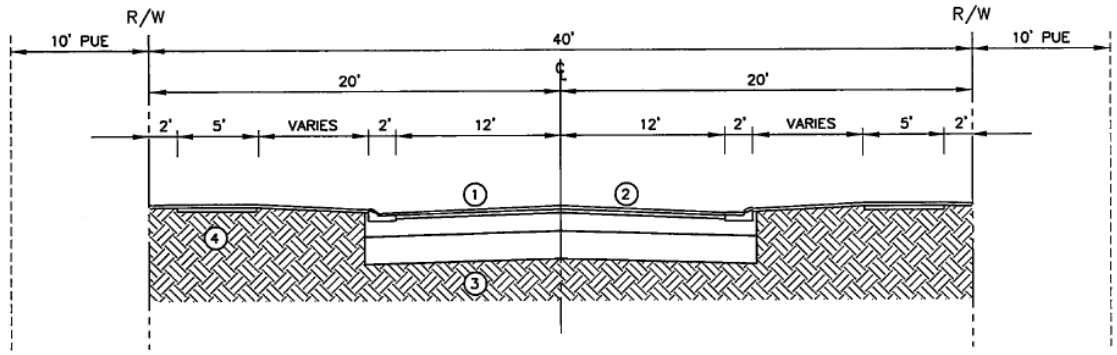


ILLUSTRATION 10-710 (a)
PRIVATE LOCAL STREET
WITH CLOSED DRAINAGE
N.T.S.

	CATEGORY B, C & D	**CATEGORY A**
1.	1" Type S-III asphalt concrete*	1½" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Optional sidewalk	Optional sidewalk

Note:

(1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.

* For Category D streets, an asphaltic concrete wearing course is not required.

(b) The following illustration applies to private local streets with open drainage:

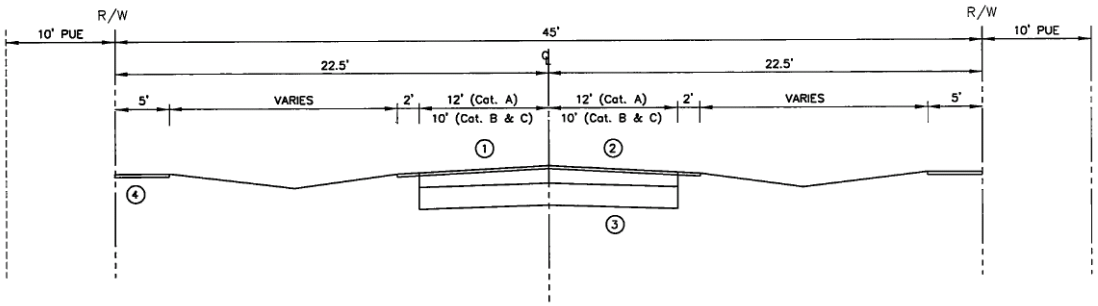


ILLUSTRATION 10-710 (b)
PRIVATE LOCAL STREET
WITH OPEN DRAINAGE
N.T.S.

	CATEGORY B, C & D	**CATEGORY A**
1.	1″ Type S-III asphalt concrete*	1½″ Type S-III asphalt concrete
2.	6″ Base	8″ Base
3.	6″ Stabilized subgrade	12″ Stabilized subgrade
4.	Optional sidewalk	Optional sidewalk

Note:

(1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.

* For Category D streets, an asphaltic concrete wearing course is not required.

(Ord. No. 92-44, apps. 9-5A, 9-5B, 10-14-92; Ord. No. 99-05, § 4, 6-29-99; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 07-24 , § 3, 8-14-07; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-711. Access streets.

(a) The following illustration applies to access streets with swale or ditch—50 feet right-of-way if County maintained or 40 feet right-of-way if privately maintained.

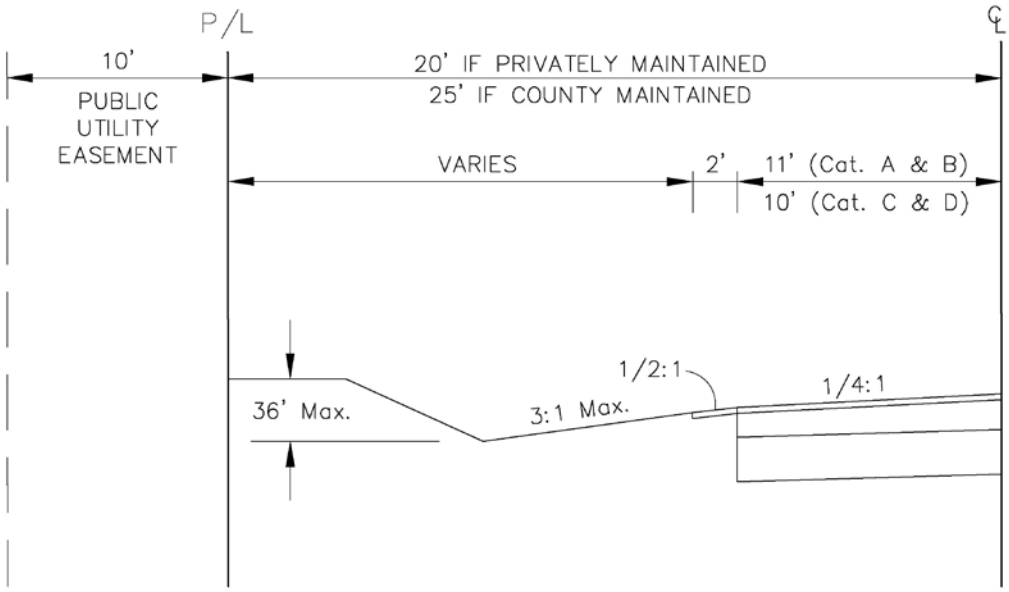


ILLUSTRATION 10-711(a)
ACCESS STREET
WITH SWALE OR DITCH
N.T.S.

Note:

(1) This standard applies to front streets only. The local street standards apply to all other access streets including reverse frontage.

(b) The following illustration applies to privately maintained access streets with underground drainage.

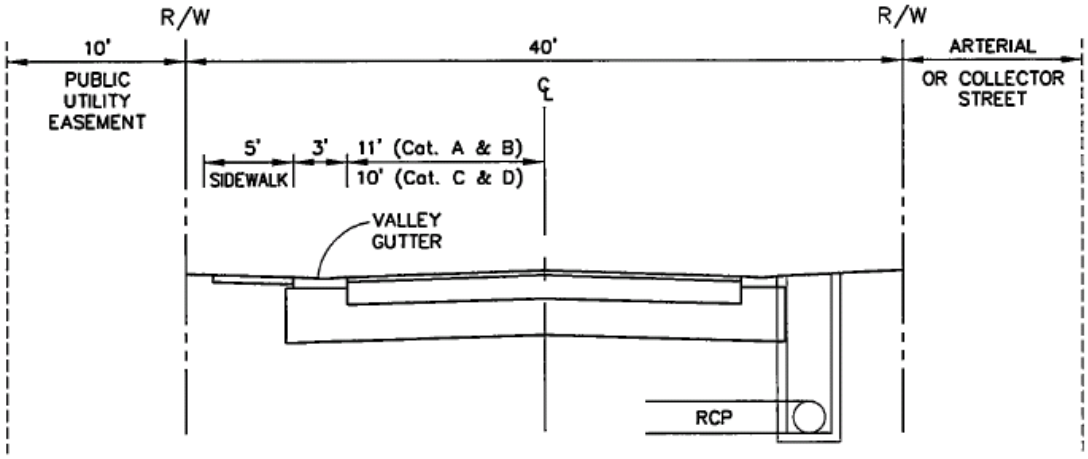


ILLUSTRATION 10-7II (b)
ACCESS STREET
WITH UNDERGROUND DRAINAGE
N.T.S.

Development Category	**Minimum Pavement Width**	**Aspahlic Conc. Surface Course**	**Base**	**Stabilized Subgrade LBR 40**
A	22′	1½′ Type S-I	8′	12′
B	22′	1′ Type S-III	6′	6′
C	20′	1′ Type S-III	6′	6′
D*	20′	N/A	6′	6′

Note:

*The County will not accept maintenance of these streets in this type document.

(c) The following illustration applies to County maintained access streets with underground drainage.

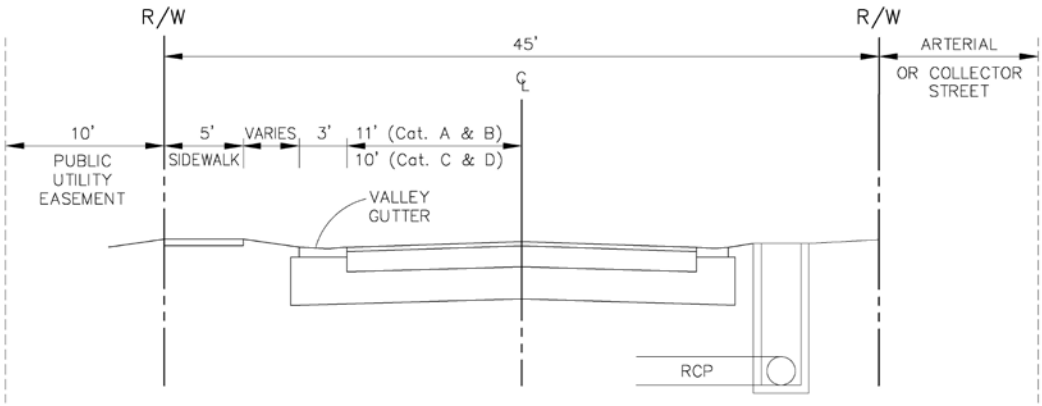


ILLUSTRATION 10-7II (c)
ACCESS STREET
WITH UNDERGROUND DRAINAGE
N.T.S.

Development Category	**Minimum Pavement Width**	**Surface Course**	**Base**	**Stabilized Subgrade LBR 40**
A	22′	1½″ Type S-III	8″	12″
B	22′	1½″ Type S-III	6″	6″
C and D	20′	1½″ Type S-III	6″	6″
D*	20′	N/A	6″	6″

Note:

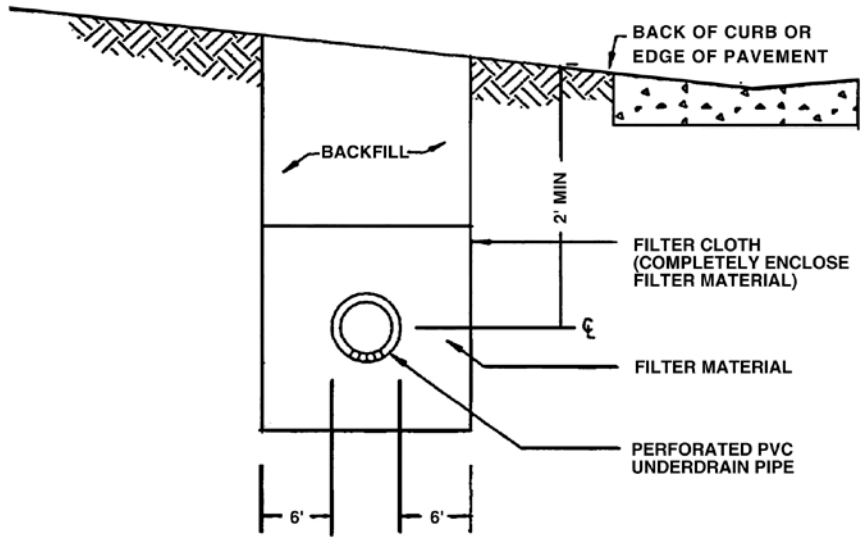
*The County will not accept maintenance of these streets in this type development.

(Ord. No. 92-44, app. 9-6, 10-14-92; Ord. No. 95-12, § 7, 7-12-95; Ord. No. 96-06, § 4, 3-20-96; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 09-23 , § 4, 6-23-09)

Sec. 10-712. Recommended underdrain details.

The following diagram illustrates recommended underdrain details:

RECOMMENDED UNDERDRAIN DETAILS



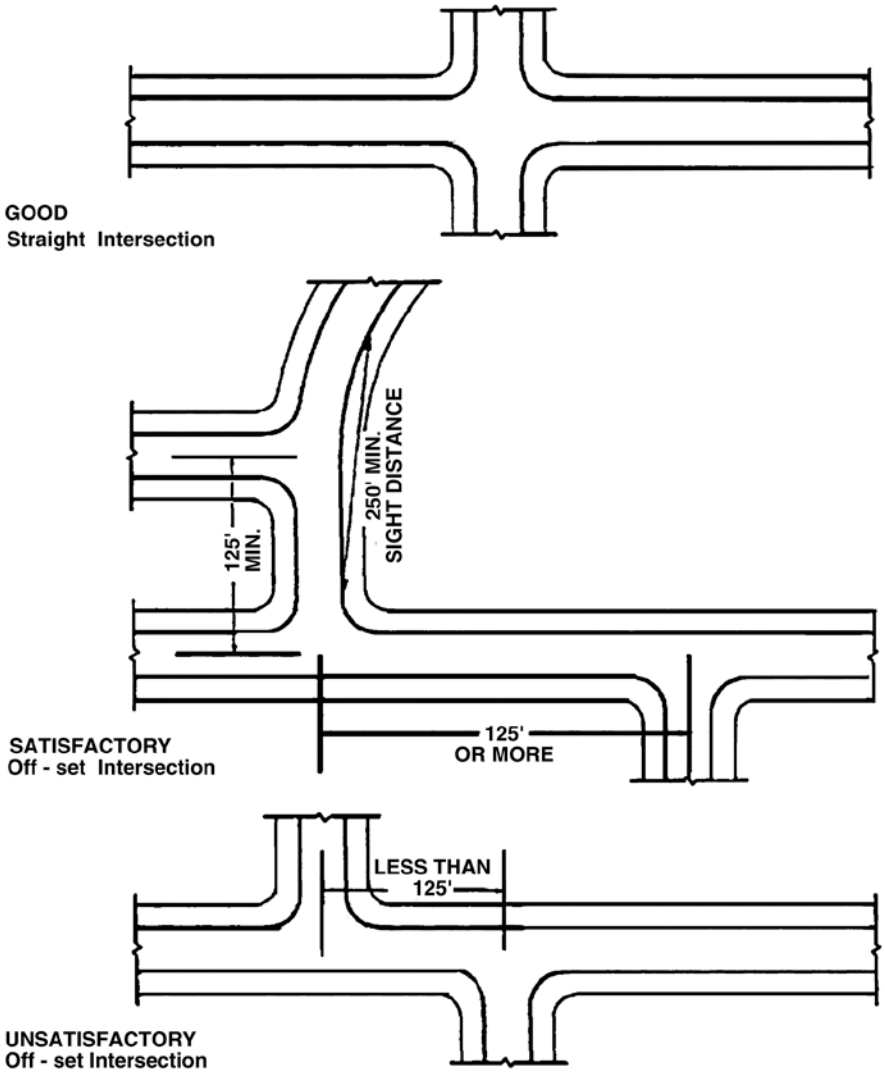
Note: Trench shall be backfilled in such a manner as to avoid damage to pipe or barrier or displacement of the filter material. Trench shall be compacted to a density equal to the adjacent soils.

(Ord. No. 92-44, app. 9-7, 10-14-92)

Sec. 10-713. Street intersections.

The following illustrations apply to street intersections:

STREET INTERSECTIONS



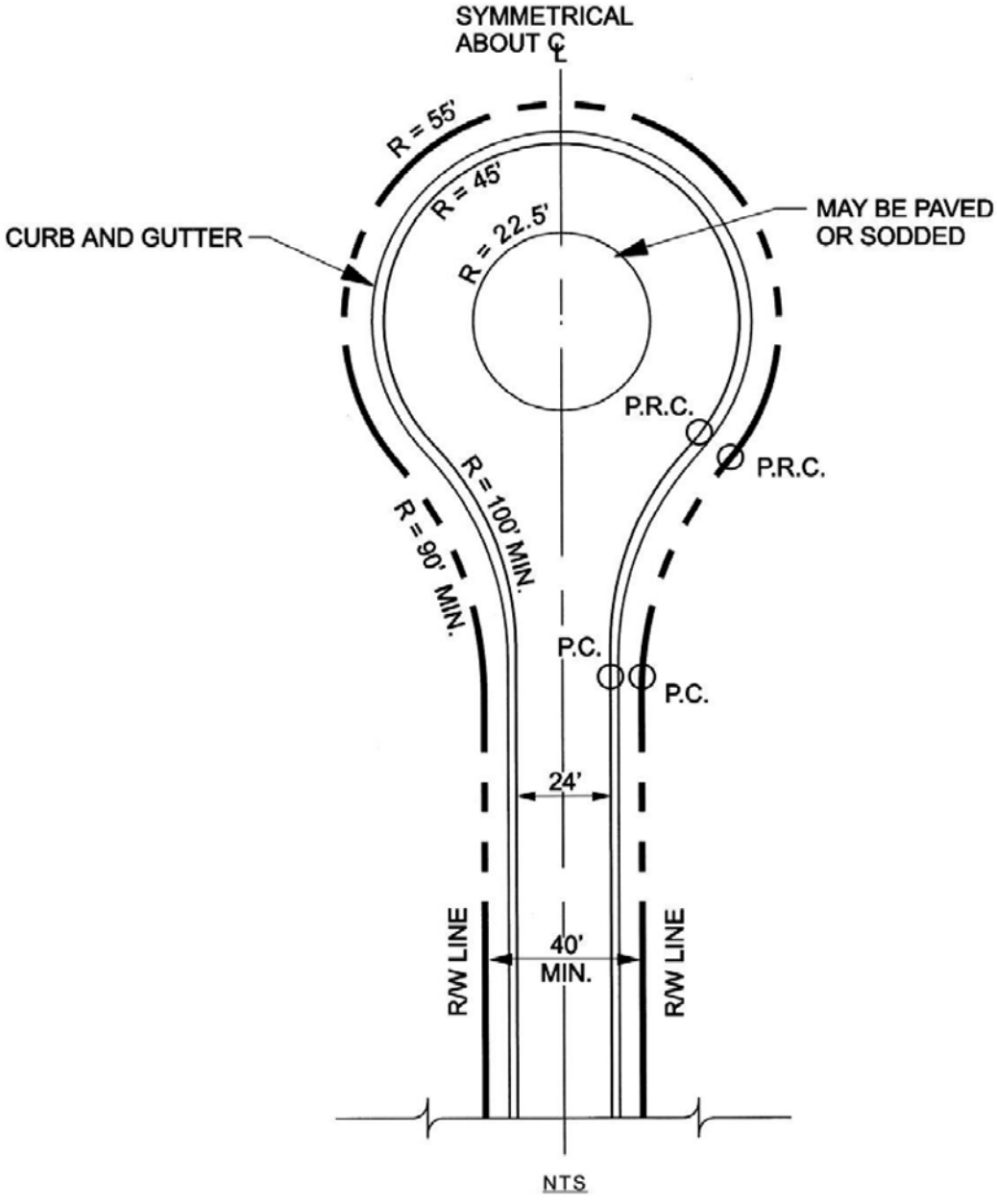
Note: All dimensions shall conform with requirements of the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.

(Ord. No. 92-44, app. 9-8, 10-14-92)

Sec. 10-714. Culs-de-sac.

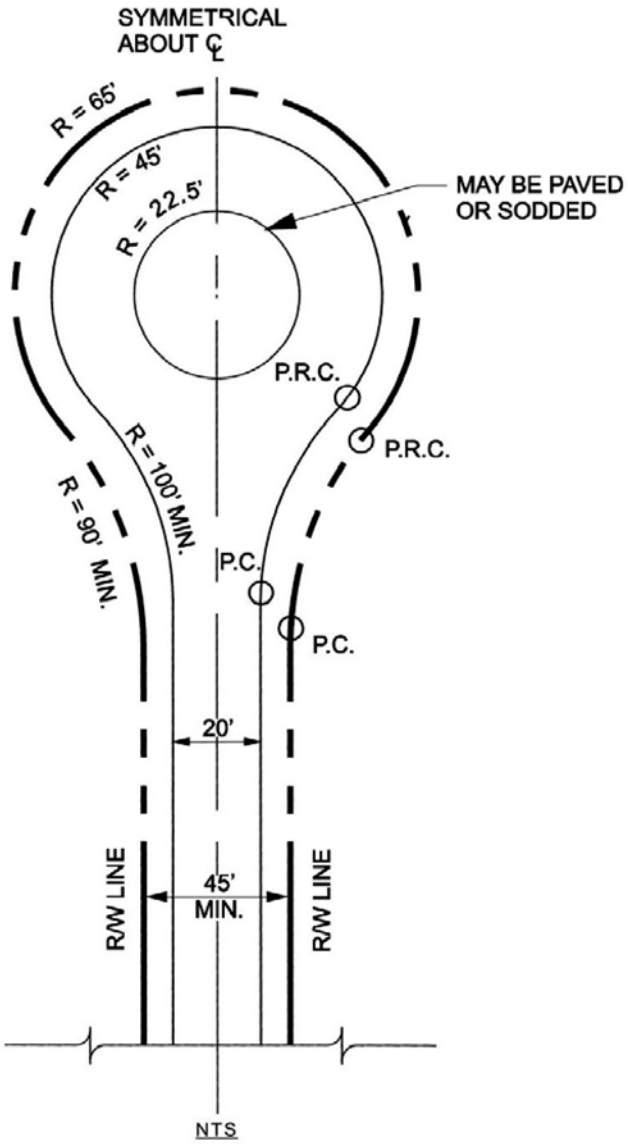
(a) The following illustration applies to culs-de-sac with curb and gutter:

CUL-DE-SAC CURB AND GUTTER



(b) The following illustration applies to culs-de-sac with ditch swale:

CUL-DE-SAC DITCH SWALE

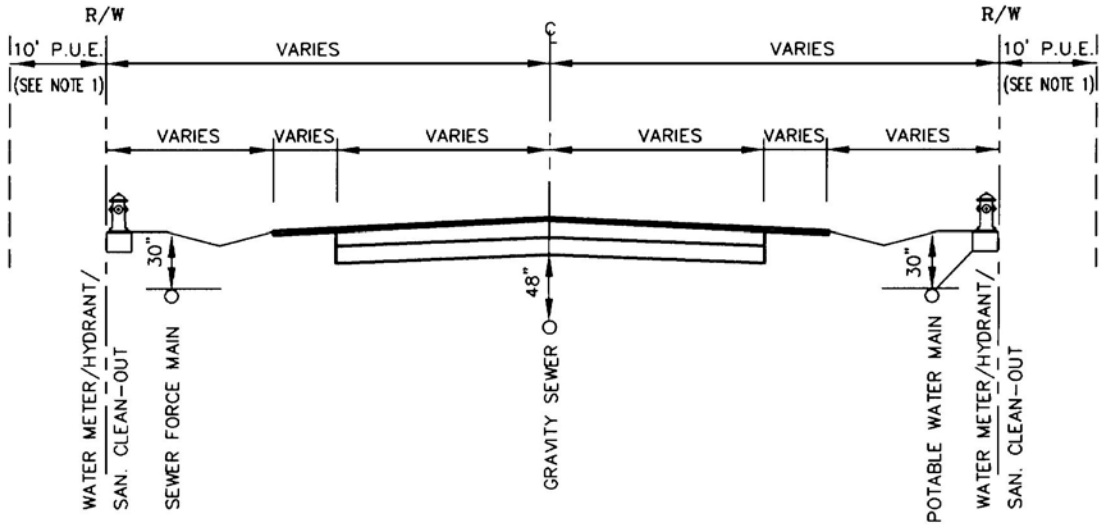


(Ord. No. 92-44, apps. 9-9A, 9-9B, 10-14-92; Ord. No. 13-10 , § 3, 5-28-13)

Sec. 10-715. Utility placement in local streets.

(a) The following illustration applies to utility placement in local streets:

TYPICAL LOCAL STREET CROSS SECTION SHOWING UTILITY PLACEMENT



Notes:

(1) The ten-foot-wide utility easement on each side of the right-of-way may be used for power lines, telephone lines, cable television lines, and gas lines.

(b) Utility placement in compact communities must comply with chapter 32

(Ord. No. 92-44, app. 11-1, 10-14-92; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 10-25 , § 2, 6-8-10)

Sec. 10-716. Piping materials for use in right-of-way.

Approved utility piping materials for use in rights-of-way are as follows:

		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)
Stormwater lines in drainage easement		Yes	No	No	Yes (4)	Yes (4)	No

(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 County-maintained roads.

(5) Not on County-maintained Arterial or Collector roads.

(Ord. No. 92-44, app. 11-2, 10-14-92; Ord. No. 00-14, § 3, 6-27-00; Ord. No. 11-08 , § 4, 8-9-11)

Secs. 10-717, 10-718. Reserved.

Editor's note—

Ord. No. 94-28, §§ 54 and 55, adopted Oct. 19, 1994, repealed former §§ 10-717 and 10-718, which pertained to buffer types and buffer requirements.

Sec. 10-719. Designated status of animal and plant species.

The designated status of animal and plant species is indicated in Appendix H.

(Ord. No. 92-44, app. 15-1, 10-14-92)

Sec. 10-720. Driveway permit requirements.

Classification of drainage swales. There are three conditions of roadside drainage not including curb and gutter which govern the construction of any structure in the drainage swale:

Condition A. Drainage swales of 0.7 feet (8¼ inches) or less below the edge of road pavement, or swales or ditches designed to provide driveway access without culvert pipe.

Condition B. Drainage swales beginning 0.70 feet (8¼ inches) below the edge of the road to:

(1) *Residential.* Depth equal to 0.70 feet plus pipe diameter and the top wall thickness (i.e., 2.15 feet (25¾ inches)) for 15-inch RCP*; or

(2) *Commercial.* Depth equal to one foot plus the pipe diameter and the top wall thickness (i.e., 2.45 feet (293/8 inches)) for 15-inch RCP*.

Condition C. Beginning at:

(1) *Residential.* Depth equal to 0.70 feet plus the pipe diameter and the top wall thickness*; or

(2) *Commercial.* Depth equal to one foot plus the pipe diameter and the top wall thickness and to any depth greater than the above*.

No pipe, either driveway or continuous swale pipe, will be permitted under Condition A. For this condition, driveways must be paved following the slope of the designed swale grade.

For Condition B, property owners may install a properly sized pipe in the swale for driveway purposes providing they meet the conditions of subsections (1) and (2) in the section of specifications of structures.

For Condition C, the owners may install either properly sized driveway pipe or continuous pipe across the property. If continuous property pipe is proposed, one or more standard catch basis with grates will be required as dictated by the specific conditions of the area.

(Ord. No. 94-28, § 56, 10-19-94)

FOOTNOTE(S):

--- (**12**) ---

Editor's note— Ord. No. 98-28, § 2, adopted Dec. 8, 1998, renumbered former Art. IV as Art. V. (Back)

Chapter 11 RESERVED

Chapter 12 RESOURCE EXTRACTION

ARTICLE I. - IN GENERAL

ARTICLE II. - MINING AND EXCAVATION

ARTICLE I. IN GENERAL

Secs. 12-1—12-100. Reserved.

ARTICLE II. MINING AND EXCAVATION

Sec. 12-101. Legislative findings.

(a) Mining operations by their nature are not compatible with most other uses. However, the Lee Plan acknowledges that mining is a valuable resource.

(b) It is important to seek opportunities to site and permit mines in a manner that fosters compatibility between the environment and surrounding communities and minimizes, to the extent possible, the creation of additional impacts on the environment and surrounding community.

(c) Construction aggregate materials are a finite natural resource.

(d) A reliable and predictable supply of construction aggregate materials is necessary to sustain public and private construction in Lee County without interruption.

(e) The process of properly siting and permitting a mine in a time efficient and effective manner can be accomplished through the coordination and cooperation of all involved regulatory entities, including but not limited to, Lee County, Florida Department of Transportation, South Florida Water Management District, Department of Environmental Protection and the Army Corps of Engineers in order to successfully address all permitting and compatibility issues.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-102. Purpose and intent.

(a) This chapter establishes the general requirements for mining activities and sets forth the procedures, requirements and regulations pertaining to an application for approval and subsequent operation of mining activity in Lee County.

(b) This chapter is intended to establish an integrated review and approval process based upon submittal of detailed information to be used by multiple reviewing entities to achieve siting and permitting of a mine in a comprehensive and time effective manner.

(c) The review process set forth in this chapter seeks to eliminate redundancies with respect to submittal and review within Lee County and coordination of approvals between local, state and federal permitting entities.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-103. Applicability.

This article is applicable to resource extraction activity, specifically mining, within the unincorporated areas of Lee County.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-104. Exemptions.

(a) Excavation activity that may be permitted and approved under the provisions set forth in section 10-329 are exempt from compliance with this chapter.

(b) Approval for excavation activity issued prior to September 1, 2008 does not exempt the mining activity from compliance with the provisions of this article if the issuance of a renewal permit is required to continue the mining operation.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-105. Definitions.

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Asphalt batch plant means a facility used for the manufacture of asphalt paving products by combining crushed limestone, sand or screening with a heated petroleum binder in a kiln.

Concrete batch plant or *ready mixed concrete plant* means a facility used for the delivery of limestone aggregate, sand or screenings, cement and water into mixer trucks as part of a concrete manufacturing process. The facility may contain a system of conveyor belts, chutes, storage silos, stockpile areas, water and air systems, and weight scale and meters for the accurate dispensing of raw materials to produce the desired strength and type of concrete.

Construction materials mining means the extraction of limestone and sand suitable for production of construction aggregates, sand, cement and road base materials for shipment off-site by any person or company primarily engaged in the commercial mining of any such natural resources.

Diligent pursuit means the attentive, persistent and consistent effort to secure or attain a particular goal. In the context of this chapter, the goal will likely be a permit approval.

Director means the Director of the Department of Community Development or designee.

Excavation means the stripping, grading or removal by any process of natural minerals or deposits, including but not limited to peat, sand, rock, shell, soil, fill dirt or other extractive materials, from their natural state and location.

Excavation depth means the vertical distance measured from the lowest existing natural grade along the bank of the proposed excavation to the deepest point of the proposed excavation.

Existing mine means a mine as defined in section 12-121.

Extraction or *resource extraction* means the removal of resources from their location so as to make them suitable for commercial, industrial or construction use; but does not include excavation solely in aid of on-site farming or on-site construction, nor the process of searching, prospecting, exploring or investigating for resources by drilling.

Fill dirt means material suitable for use to improve land by distributing over the surface of the land to raise the ground level to above base flood elevation. Fill dirt is not deemed suitable for production of construction aggregates, sand, cement or road base materials.

General mining permit means the approval, granted as a special exception or planned development by the Board of County Commissioners or the Hearing Examiner prior to September 1, 2008, indicating that a proposed mining development or a specific phase of a mining development received all necessary zoning approvals.

Limestone means any extracted material composed principally of calcium or magnesium carbonate.

Mine or *mining* means excavation for the primary purpose of removing the extracted material for use off-site. This does not include the removal of surplus materials defined in chapter 10.

Mine development order (MDO) means the permit issued subsequent to zoning approval that allows the applicant to commence improvements to the mine site as a precursor to commencement of resource extraction and off-site hauling of extracted materials and active operation of accessory mine facilities (e.g.

batch plants). The MDO is similar to a full development order approval under chapter 10 and is reviewed in accordance with the provisions set forth in section 10-108, 10-108.1, 10-109 and 10-110. A MDO is also required for certain existing mines meeting the requirements of 12-121(a) and (b).

Mine excavation planned development (MEPD) means the approval granted by the Board of County Commissioners entitling the applicant to pursue a mine site construction permit and mine operation permit.

Mine operation permit (MOP) means the approval issued by the Director after staff review evidencing compliance with all conditions of the mine excavation planned development resolution (or underlying zoning approval if an existing mine) and site construction permit. Issuance of the mine operation permit allows extracted resource materials to be hauled off-site and commencement or operation of mining accessory uses and activities. A valid MOP is necessary to conduct mining activity starting with the initial excavation and continuing through completion of reclamation.

Mine Site Plan means the set of maps and engineering plans complying with the provision of section 12-111.

Mining accessory use means uses normally ancillary and subordinate to a mining excavation development and shown on the approved Mine Site Plan. Mining accessory uses include but are not limited to:

(1) Administrative offices, including scale house and scales

(2) Vehicle repair and service limited solely to the maintenance and repair of vehicles and equipment for the mining operations

(3) Entrance gate and gate house, in accordance with Chapter 34

(4) Excavation, water retention in accordance with Chapter 10

(5) Self-service fuel pumps, further limited by Note 24 in section 34-934 to two pumps for the on-site business to provide fuel for the mining operation's own fleet of vehicles and trucks

(6) Stone, Clay, Glass, and Concrete Products manufacturing, limited to asphalt plant, concrete batch plant and concrete block and brick plant

(7) Storage, open (as defined in section 34-2

(8) Signs, in accordance with Chapter 30

Natural background or *predisturbed* means the condition of waters before man induced alterations based upon the best scientific information available.

Overburden means the soil and rock removed to gain access to the resource in the process of extraction.

Processing means the washing, sizing, storage, drying and grinding of excavated material and reasonably related activities, but not the manufacturing of material into another product.

Reclamation means the rehabilitation of land where resource extraction/mining activity has occurred to establish soil stability, habitat enhancement, revegetation, water resources and safe conditions appropriate to the area.

Rock crushing and screening plant means a facility comprised of systems used for the automated conveying, crushing, segregation and blending of crushed rock in order to manufacture the basic materials used in construction such as concrete, concrete block, cement, asphalt, road base and many other rock products. A rock crushing and screening plant facility includes portable crushing facilities.

Substantial change means a significant alteration to a mine excavation approval that will require consideration and approval through the public hearing process. Requests related to expansion/contraction of the project boundary, expansion of the mine excavation (mine footprint) area, increase in the depth of the mine, reduction of conservation, preserve or wildlife habitat areas, decrease in the reclamation standards, extension of the mine duration, addition/expansion of uses permitted on the site, elimination or

amendment of a zoning condition, request for dewatering or a variance from the provisions of this chapter will be deemed a substantial change.

Water budget means an analysis and accounting of inflow, outflows and net storage of water over time within a given region. Water budgets include contributions from atmospheric, surface and groundwater systems. This generally includes contributions from precipitation, evaporation, evapotranspiration, overland flow and groundwater recharge and subsurface flow.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-106. Approvals required.

It is unlawful for any person to commence mining activities within the unincorporated areas of the County, or for an owner to allow the conduct of mining activities on property without first obtaining a MEPD approval and MDO, with the sole exception of mines meeting the criteria set forth in section 12-121(a) and (b). It is unlawful for any person to haul excavated materials off-site without a valid MOP. All permits and approvals required by this chapter must be posted at the mine site. Any violation of the MEPD approval, MDO or MOP, including any terms or conditions applicable to those approvals, may result in enforcement proceedings as set forth in section 12-123.

Existing mines may lawfully continue operation in accord with the provisions set forth in section 12-121.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-107. Lee Plan consistency.

The following Lee Plan policies must be adhered to in applying for and conducting mining activities:

(1) Mining activities and mining reclamation plans in or near important water resource areas must be designed to minimize the possibility of contamination of the water during mining activity and after completion of the reclamation.

(2) Mining operations must meet or exceed local, state and federal standards for noise, air, water quality, and vibration. (Lee Plan Policy 7.1.1)

(3) Mining activities must be located and designed so as to minimize adverse environmental impacts and water resource impacts.

(4) Mining activities, and industrial uses accessory to mining activities, must:

   a. Have adequate fire protection, transportation facilities, wastewater treatment and water supply; and

   b. Not precipitate significant negative effects with respect to dust, glare, light trespass and noise on surrounding land uses and natural resources.

(5) Mining activities and reclamation efforts must facilitate the connection of natural resource extraction lakes and borrow lake excavations into a system of interconnected lakes and flowways that will enhance wildlife habitat values, and strengthen environmental benefits.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-108. Approval process for mine excavation planned development.

(a) *Process objective.* The objective of this process is to provide a unified process based upon comprehensive information submitted for review of both the use and development rights. The process

is designed to minimize review and resubmittal time frames as well as the time elapsing between approval of the proposed mining activity and actual resource extraction on the mine site.

(b) *Effect of Chapters 10 and 34.* The process and resulting approvals are not subject to the provisions in Chapter 10 or Chapter 34 unless specifically stated.

(c) *Mandatory preapplication meeting.* The applicant must attend a preapplication meeting with appropriate County staff prior to submittal of the MEPD application. Appropriate County staff representatives from the following departments must be in attendance at this meeting: Zoning, Development Services, Department of Transportation, Natural Resources and Environmental Sciences; and local representatives from the Department of Environmental Protection, Florida Department of Transportation, South Florida Water Management District and the Army Corps of Engineers should also be invited to attend. During the meeting the applicant must be prepared to discuss the following topics: location of the project, extent/boundaries of the mine project, size of mine, depth of the mine, amount of material the applicant anticipates will be excavated over the life of the mine, proposed duration of mine activity, mine design alternatives including cell mining, potential associated mine activities, phasing, water issues, transportation impacts, watershed boundaries, habitat issues, environmental issues, water monitoring, surrounding uses, Lee Plan compliance, and state and federal permit issues. The applicant must bring maps and other documentation to facilitate discussion with respect to these issues. Subsequent to the meeting, the County will provide the applicant with a memorandum outlining issues relevant to the applicant's future submittal. This memorandum is intended to assist the applicant in preparing the formal submittal and does not confer any specific rights to the applicant with respect to approvals or submittals.

(d) *Mine Excavation Planned Development (MEPD) approval.* The MEPD approval is issued by the Board of County Commissioners based upon the recommendations of the County staff and Lee County Hearing Examiner in accordance with sections 34-83 and 34-145(d). A hearing before the Board of County Commissioners will be scheduled after the applicant submits a MEPD application on the form specified by the County, achieves sufficiency for hearing before the Hearing Examiner, and obtains a recommendation from the Hearing Examiner to the Board for consideration at the end of a regular Board Zoning agenda day. The specific Board hearing date will be determined by County staff.

Unlike typical chapter 34 zoning approvals, the MEPD approval will encompass and be based upon zoning issues as well as technical information and detail traditionally reserved for review under chapter 10. The Board's decision with respect to the MEPD application will be set forth in a resolution, along with the findings and conclusions applicable to the approval or denial. A resolution approving the MEPD will include conditions applicable to the mine operation along with a detailed set of plans for site development and subsequent mine operation activity.

(e) *Mine development order (MDO).* The MDO is intended to address all on-site and off-site improvements necessary to carry out the mine operation as approved by the Board and is based upon the conditions and exhibits that constitute the MEPD resolution. Therefore, the County encourages concurrent submittal and review of the MEPD and MDO applications in order to achieve the time efficiencies anticipated by this mine permitting process.

Review of the MDO application requires the County staff to verify that the site construction plans accurately and substantively reflect the conditions of the MEPD approval. The applicant may not propose substantive changes or amendments to the MEPD approval resolution through the MDO process. However, the Director has the discretion to administratively approve, as part of the MDO, nonsubstantial changes to the MEPD approval necessary to achieve the intent of the MEPD approval as granted by the Board.

MDO applications and submittals will be processed in the manner set forth in section 10-108 through 10-110.

A MDO will not be issued to allow activity within an area under Army Corps of Engineers' jurisdiction, as identified by the permit application submitted to the State/Federal agency, prior to obtaining the necessary State/Federal approvals.

(f) *Mine operation permit (MOP).* A MOP approval allows the mine operator to commence off-site hauling, and to place into use accessory operations on the mine site such as concrete and asphalt batch plants. The items that must be complete prior to the issuance of a MOP approval will be specified in the MEPD resolution and the MDO approval.

On-site and off-site improvements and related documents that will typically precede issuance of a certificate of compliance under the MDO, which results in the issuance of the MOP and allows off-site hauling of extracted resources or operation of accessory mine facilities, may include, but are not limited to:

(1) Installing off-site turn lanes and other on-site roadway improvements.

(2) Constructing on-site truck staging area.

(3) Installing truck wash and tire wash facilities.

(4) Constructing on-site paved ingress/egress roads from the front gate to the scale house.

(5) Installing on-site groundwater and surface water monitoring wells.

(6) Installing pollution contamination containment structures and devices.

(7) Installing stormwater pollution prevention devices such as silt barriers and turbidity control devices as required.

(8) Approval of sureties related to pavement maintenance, reclamation etc.

(9) Constructing perimeter berms and buffers.

(10) Installing dewatering hydraulic recharge trenches and staff gauges for monitoring water elevation in trenches.

(11) Compliance with all conditions of the ERP and water use permits relative to excavation activities.

(12) Approval of a transportation impact mitigation plan.

(13) Installation of required permanent traffic count stations.

(14) Installation of utilities.

(15) Recording conservation easements.

(16) Other items required under conditions of the MEPD.

The MOP approval will be contained in the certificate of compliance issued by the Director with respect to full compliance with the MDO approval. The MOP will be issued only after review of all required applicant certifications (engineer, landscape architect, etc) and verification that all MDO permit requirements are complete based upon County mine site inspections. Inspections will be performed by appropriate County departments to verify completion in the manner set forth in chapter 10 as applicable to the issuance of a development order certificate of compliance. The MOP is valid for ten years. The date the MOP is issued will establish the effective date for purposes of determining when the MOP must be renewed.

(g) *Renewal of mine operation permit.* A MOP renewal allows the mine operator to continue full operation of the mine and related accessory mine uses in accord with all permit approvals. A MOP for mines approved after September 1, 2008, must be renewed in accordance with section 12-115. Existing mines must obtain MOP renewal in accord with section 12-121

(h) *Sufficiency of applications and review.* Applications submitted with respect to zoning and development approval under this article will be reviewed by County staff within 30 business days after receipt; and, a letter advising the applicant of the status of the application will be provided. If insufficient, the letter will include a brief explanation as to why the application is not complete for review and request the necessary additional information. The applicant will have 60 days to submit a written response and the requested information. If the applicant requires more than 60 days to submit a response, the County may grant an additional 60 days to respond based upon the applicant's written request to the Director

substantiating diligent pursuit of the response or resubmittal. If the applicant fails to submit a response or request additional time within the 60-day period, the County may deem the application withdrawn. This submittal and review process will be repeated until the application is found sufficient for hearing, if a rezoning request, or approval of a MDO/MOP request.

Once an application has been found sufficient for hearing through the rezoning process, any new information submitted by the applicant or changes made to the information reviewed by County staff in preparing its recommendation, may at the discretion of the Director, be grounds for the County staff to defer or continue the public hearing depending on the advertised status of the hearing. County staff may also revoke the finding of sufficiency and withdraw the case from Hearing Examiner consideration without regard to the status of the advertising.

(Ord. No. 08-21 , § 2, 9-9-08; Ord. No. 11-08 , § 5, 8-9-11)

Sec. 12-109. Issuance of Approvals; Duration of approvals

(a) *Mine excavation planned development (MEPD) approval.*

(1) Initial approval of a MEPD must be granted by the Board of County Commissioners through the public hearing process, as outlined in sections 34-83 and 34-145(d) and modified by this chapter. Amendments to the MEPD resolution that constitute a substantial change, as defined in section 12-105, must be approved through the public hearing process.

(2) A MEPD approval automatically vacates ten years from the date of the Board approval unless excavation is occurring on the site in accord with a valid MOP issued under this chapter or an extension is granted in accord with section 12-109(d).

Once vacated a MEPD resolution may not be reinstated or extended and all mine activity on the site must cease. A new MEPD application approval will be required to obtain the right to conduct mining activities on the subject property.

(3) Amendment of the site plan attached to the MEPD resolution may be achieved administratively with respect to nonsubstantial changes as part of and during the MDO process in accord with section 12-108(e).

(4) The MEPD resolution is valid for a period of ten years from the date of the Board hearing approving the mine project. If the applicant obtains both MDO and MOP approvals in accord with this chapter, the effectiveness of the MEPD resolution is extended in accord with the time frames applicable to these subsequent approvals.

(b) *Mine development order (MDO).*

(1) A MDO approval is issued by the Development Services Director.

(2) MDO approval is valid for six years from the date of issuance in accord with section 10-115

(3) The applicant may apply for a new MDO approval, or an extension, only if a valid MEPD approval is in place. Approval of a MDO extension does not extend the life of an otherwise vacated MEPD approval. Likewise submittal of an application for a MDO does not act to extend the life of a MEPD approval pending issuance of the MDO approval.

(4) MDO applications will be processed in accord with the procedures set forth in sections 10-108 through 10-112, 10-114 and 10-116 based upon the criteria set forth in this article. Any conflicts between the provisions of chapters 10 and 12 will be resolved in favor of chapter 12

(5) Amendments to MDO approvals will be processed in accord with section 10-118

(c) *Mine operation permit (MOP).*

(1) Approved by the Development Services Director.

(2) Approval is valid for ten years from the date the permit is issued. Renewal may be granted only if the mining activity is in compliance with all conditions of the MOP.

(3) Upon expiration, the mine operator/property owner will be required to obtain a new MOP, including a MEPD approval in the event the underlying zoning approval is no longer valid.

(d) *Extensions.*

(1) *MEPD.*

a. *Administrative extension.* One, one-year extension may be granted administratively by the Director if the applicant/mine operator is diligently pursing approval of a MDO permit.

b. *Board extension.* An additional extension may be granted by the Board of County Commissioners if:

1. The extension does not extend the life of the MEPD approval more than 15 years from the date the Board approved the original MEPD.

2. The applicant/mine operator files a written request for extension at least 120 days prior to expiration of the MEPD approval (or administrative extension approval, if granted) on the form established by the County, accompanied by the documents and evidence set forth in section 12-109(d)(1)c.

c. As a basis for review and action on a request for MEPD extension by the Board, the applicant/mine operator must include the following:

1. A copy of the approved MEPD resolution.

2. A current TIS meeting the requirements of section 12-116

3. A copy of the MDO application and latest correspondence regarding pursuit of approval.

4. A detailed narrative explaining why the MDO approval has not been issued and a chronology setting forth the elements related to the applicant's diligent pursuit of the MDO approval.

5. A written statement describing the MEPD's current status with respect to the criteria set forth in 12-109(d)(1)d.

d. The Board of County Commissioners will consider the request for extension during a public hearing scheduled on a Board Zoning Administrative agenda. County staff will provide a recommendation with respect to the request, accompanied by the application and supporting documents submitted by the applicant/mine operator. The staff recommendation will address the following criteria:

1. Whether the MEPD resolution is consistent with the current Lee Plan.

2. Whether the MEPD resolution and related mining plan is compatible with the existing and approved development in the surrounding area.

3. Whether the mining plan will, by itself or in conjunction with existing and approved development, place an unreasonable burden on essential public facilities.

4. Whether the reasons the MDO approval has not been issued are reasonably beyond the control of the applicant/mine operator and the applicant/mine operator is diligently pursuing approval of the required MDO.

e. The decision of the Board to approve or deny the extension request is discretionary.

(2) *MDO.* An approved MDO may be extended administratively by the Director, in accord with the procedure set forth in section 10-123 as modified below, if:

a. The mine operator files a written request at least 60 days prior to expiration of the MDO on the form established by the County.

b. The mine operator provides proof of diligent pursuit of the MOP approval (i.e. certificate of compliance for the MDO).

c. The extension is not for greater than a one year period and will not extend beyond the expiration date of the MEPD approval.

d. The underlying MEPD approval is valid.

(e) *Aggregate mine zoning approvals granted prior to September 9, 2008.*

(1) Notwithstanding anything in Chapter 34 to the contrary, Master Concept Plans for aggregate mining approved as a planned development prior to September 9, 2008, are valid for a period of 20 years from the date originally approved by the Board of County Commissioners.

(2) One extension of the Master Concept Plan may be approved by the Board of County Commissioners for a period not to exceed five years. The applicant must submit a request for extension to the Department of Community Development at least 180 days prior to the expiration of the Master Concept Plan.

(3) The request for extension of the Master Concept Plan must include the following:

a. Completed application form as established by the Department of Community Development and payment of the appropriate fee as established by the County.

b. A copy of the original zoning resolution approving the Master Concept Plan and all subsequent amendments.

c. A narrative providing justification for the extension request. The narrative must provide a detailed basis for the requested extension, a copy of all other permits that have been obtained for the proposed aggregate mine operation, a discussion of other permits that are pending or not applied for and the status of such permit requests, and such other documentation demonstrating that the applicant has been pursuing mine operation approvals in a diligent manner since adoption of the original Master Concept Plan.

(4) The application for extension will be reviewed by the Department and scheduled for consideration by the Board of County Commissioners on a Board Zoning Agenda. The staff recommendation will address the following criteria:

a. Whether the Master Concept Plan is consistent with the current Lee Plan.

b. Whether the justification for the extension request submitted by the applicant demonstrates diligent pursuit of the permits necessary to commence mining operations; and, whether the failure to obtain the necessary permits was beyond the reasonable control of the applicant.

(5) The decision of the Board to approve or deny the extension request is discretionary.

(6) In conjunction with an application for a Master Concept Plan extension, an applicant may request modification of the Master Concept Plan and conditions of zoning approval in order to bring the proposed mining operation into greater conformance with current existing regulations. In such event, the narrative required pursuant to section 12-109(e)(3)c. must address the changes requested and demonstrate the extent to which greater conformance with current regulations would be achieved by the modified Master Concept Plan and conditions. The application must include all contiguous property under common ownership for which aggregate mine zoning approvals have been granted but have not received subsequent development order approvals for mining, including those approved as an Industrial Planned Development, Residential Planned Development, or Special Exception.

(Ord. No. 08-21 , § 2, 9-9-08; Ord. No. 10-26 , § 1, 6-8-10)

Sec. 12-110. Application Submittals.

(a) *Mine excavation planned development approval.* Application for a MEPD approval must be made on a form prepared by Lee County and be submitted with the appropriate fee. Application sufficiency and resubmittal timing will be in accord with section 34-373(d). The application must address the following:

(1) *Legal description and sketch of the subject property.* The legal description and accompanying sketch must comply with the requirements set forth in section 34-202(a)(1).

(2) *Boundary survey.* The survey must comply with the provisions of section 34-202(a)(2). It must also be based upon the title certification required under subsection (3) below.

(3) *Title certification.* A document meeting the requirements of section 10-154(2) must be provided with the survey.

(4) *Owner, applicant and developer information.* This information must be consistent with the provisions set forth in section 10-153(2).

(5) *Surrounding property owners list and map.* These documents must comply with the provisions set forth in sections 34-202(a)(6) and (7).

(6) *Aerial photograph.* The Aerial must meet the requirements of section 10-154(9).

(7) *Traffic Impact Statement (TIS).* A TIS must be submitted meeting the criteria set forth in section 12-116(a).

(8) *Traffic mitigation plan.* A traffic mitigation plan addressing the impacts recognized by the TIS and the criteria set forth in sections 12-116(b), (c) and (d).

(9) *Reserved.*

(10) *Existing agricultural use affidavit.* This affidavit must meet the requirements set forth in section 34-202(b)(7).

(11) *Narrative describing the proposed mine operation.* A description of the excavation operation, including a description of methods to be employed in removing extracted materials from the ground and from the premises. If blasting is to be used, the type of blasting material as well as the frequency and hours of blasting contemplated. See section 34-202(b)(6) for other required information.

(12) *Proposed accessory mine uses.* A description of the proposed accessory mine uses such as rock crushing, concrete/asphalt batch plants, cement plant etc. This description also must identify where the activities will occur and the type of building/structure that will encompass the activity.

(13) *Physical plant facilities.* The specific location and description of all physical plant facilities or other facilities for the operation, including but not limited to, proposed fueling, vehicle servicing and truck and tire washing facilities.

(14) *Hours of operation.*

a. The proposed hours for office operations and business transactions and the hours that trucks will enter and leave the site with excavated materials. No blasting, excavation or trucking operations may be conducted on Sunday or Federal holidays.

b. The proposed hours for excavation operations (i.e. dragline operations and blasting activities) and rock crushing operations.

(15) *Mining plan.* The mining plan is based upon the proposed area to be excavated, also known as the "mine footprint". It is a graphic depiction of the mine footprint in relation to the boundary of the mine site and other site related activities. The mining plan also includes an estimate of the life of the mine in years based upon the yardage or material to be removed while the mine is in operation and the length of time necessary to process the material and haul it off-site. The mine plan must

include a realistic estimate with respect to when the mine excavation activity will be complete and reclamation will be commenced.

If a proposed mine project is comprised of areas that will be mined separately, though located within the boundary of the mine project, then a "separate" mining plan will be required for each proposed mine cell or area. As an example, if there is a natural boundary between two excavation footprints/mine lakes created by a wetland or conservation area, each of these areas must be specifically and separately addressed in the mining plan.

(16) *Hazardous materials emergency plan.* A hazardous materials management plan must be submitted to address potential ground and surface water contamination that may result from the proposed mining operation. The plan must comply with the requirements in chapter 14 for storage, handling and disposal of all regulated materials and waste.

(17) *Historical and archeological data.* Submittal information must indicate whether the property:

a. Is located within a Level 1 or 2 zone of archeological sensitivity pursuant to the survey titled "An Archeological Site Inventory and Zone Management Plan for Lee County, Florida," or

b. Contains an archeological site that is listed on the Florida Master Site File.

If the property is located in an archeologically sensitive zone, a certificate to dig must be included with the application. Florida Master Site File forms for historical or archaeological resources, facade or other historic or scenic easements related to the subject property or reports prepared by a professional archaeologist as may be required by chapter 22 must be included.

(18) *Test boring data.* Data from test borings conducted on each proposed excavation site at intervals determined by the Division of Natural Resources during the pre-application meeting. Soil borings taken within the footprint of each proposed mine cell or area must be provided to the Division of Natural Resources. Information submitted must include:

a. Soil borings must extend to either the bottom of the confining zone of the proposed mine aquifer or ten feet deeper than the proposed depth of the mine cell or area, whichever is greater. A minimum of one boring must be taken within the footprint of each proposed mine cell or area within the boundary of the mine project. Additional borings must occur at every one-foot of elevation change within each mine cell or area. Locations of the test borings based upon site specific conditions. The depth of borings must exceed a minimum of ten feet beyond the proposed total depth of excavation. If wetlands are existing on-site a minimum of two borings per wetland are required, with one located at the edge of the wetland and the second a distance of 25 feet away;

b. Nature and depth of overburden;

c. Likely yield of extractive material;

d. Complete chemical characteristics of water in each water-bearing strata to be penetrated;

e. Groundwater levels; and

f. A map contouring the first confining layer below the depth of excavation and thickness of the layer within the project site. Thickness and contouring of all intermediate confining layers between the land surface and depth of excavation must be depicted.

After evaluation by the Division of Natural Resources, the test borings must be plugged from bottom to top with cement as required by the Lee County well code (Ord. 06-09).

(19) *Federal and State Permits/applications.* A complete copy of the permit applications and correspondence meeting the requirements set forth in section 12-114

(20) *Fire protection plan.* Where the development falls outside of a fire district, the applicant must submit proof, in writing, that it has provided for fire protection as approved by the County fire official.

(21) *Environmental assessment report.* The report must be a thorough evaluation of natural resources with a particular emphasis on the protection or improvement of surface and groundwater quantity and quality. An environmental assessment report must be submitted that includes a scientifically based evaluation of the following:

a. Existing and historic Florida Land Use and Cover and Classification System mapping (FLUCCS Levels 4 and 3, respectively) hydric soils map, wetland boundary delineation and general locations of existing native trees on recent aerial photos.

b. Preservation and restoration of natural resources, including but not limited to wetlands, natural existing and historic flowway corridors, sloughs, creeks, ponds and lakes, and native plant communities and native trees.

c. A protected species survey meeting the requirements set forth in section 10-471 et seq.

d. Submittals meeting the requirements applicable to groundwater, surface water, water quality and water quantity as set forth in section 12-117

e. Environmental and water resource impacts due to stock piling of material.

f. Fire and safety.

g. Noise, odor, visual impacts.

h. Air quality emissions.

i. Methods for sewage and solid waste disposal.

j. Stormwater Pollution Plan in accord with section 14-477

k. State verified wetland jurisdictional lines.

(22) *Reclamation plan.* A proposed reclamation plan meeting the requirements set forth in section 12-119 must be submitted.

(23) *Wildlife habitat.* A submittal meeting the wildlife habitat design standards set forth in section 12-113(p).

(24) *Post mining plan/Future uses.* A proposed plan or statement regarding the applicant's proposed use of the property subsequent to the conclusion of the mine operation and the completion of all reclamation. This plan must provide detail regarding the criteria and issues set forth in section 12-122

(25) *Site maps and engineering plans.* A site map and engineering plan set in accord with section 12-111

(26) *Landscape Plans.* A landscape plan prepared by a Landscape Architect registered in the State of Florida meeting the requirements set forth in sections 12-113 and 12-119

(b) *Mine development order (MDO) approval.* An application for a MDO must be submitted on the form prepared by the County and be accompanied by the appropriate fee. The application must include the following:

(1) Copy of the approved and fully executed MEPD resolution, including a copy of all documents set forth in 12-110(a).

(2) Copy of the approved set of engineering plans and studies prepared in accordance with section 12-111 demonstrating compliance with the site design requirements identified in section 12-113 and the MEPD resolution.

(3) Copies of all required state and federal permit applications, including drawings, and related correspondence.

(4) Copy of state permit for surface water management (e.g. SFWMD or FDEP).

(5) Copy of the stormwater pollution prevention plan notice of intent filed with the Department of Environmental Protection.

(6) Copy of Army Corps of Engineers verified wetland jurisdictional lines.

(7) Copies of recorded conservation easements required by the conditions of the MEPD or MDO approval.

(8) Copies of all State and Federal permits approving the mine activity issued subsequent to MEPD approval.

(9) Site landscaping and engineering plans reflecting any changes to the plans as approved under the MEPD.

(c) *Mine operation permit approval.* MOP approval is granted when the final Certificate of Compliance for the underlying MDO is issued by the County. The request for a MOP (or final MDO Certificate of Compliance) must be made on the form prescribed by the County. Additionally, the following items must be provided:

(1) Proof as to County acceptance of the surety documents required as a condition of County approval, including, but not limited to, off-site roadway maintenance and reclamation.

(2) Documents required by the MEPD or MDO to be approved prior to the issuance of the MOP.

(3) Engineer letter of substantial compliance, along with evidence of County inspection and approval as to:

a. Site landscaping.

b. Infrastructure installation, including roads, utilities.

c. Site depth, if applicable.

d. Other site specific items identified in the MDO.

(d) *Renewal of mine operation permit.* The submittal requirements for renewal of a MOP are set forth in sections 12-115 and 12-121

(e) *Waiver from submittal requirements.* Upon written request, the Director may modify the submittal requirements where it can be clearly demonstrated that the submission will have no bearing on the review or processing of the application. The request and the Director's written response must accompany the application submitted and will become part of the permanent file.

(Ord. No. 08-21 , § 2, 9-9-08; Ord. No. 13-01 , § 3, 2-12-13; Ord. No. 13-10 , § 4, 5-28-13)

Sec. 12-111. Mine site plan; site map and engineering plan set.

A series of maps and engineering plans, including drawings prepared and sealed by an appropriate registered professional in the State of Florida (e.g. engineer, architect, surveyor) must be provided to obtain MDO approval in accord with the provisions of this section. This map and plan series, known as the Mine Site Plan, must meet and include the following minimum criteria:

(1) Be drawn at an appropriate scale, to be determined at the pre-application meeting based upon the size of the property. The scale must be sufficient to allow all information to be clearly and legibly depicted and described. A consistent scale between the maps and plans is preferred and recommended to assist in review of the information provided and to minimize the need to request additional submittals.

(2) Identify the date each document is prepared and any subsequent revision dates.

(3) Include a north directional arrow, pointing to the top of the page or to the left side of the page.

(4) Include a certification statement specifically stating: "I, the undersigned, hereby certify that this map is correct, and shows the information required by the requirements of the Land Development Code to obtain a MEPD, MDO or MOP."

(5) *Mining plan.* Consistent with the mining plan criteria set forth in section 12-110(a)(15), the extent of the area to be mined (i.e. mine footprint) must be depicted. This includes all proposed mine cells or areas. Other mine uses and facilities must also be depicted.

(6) The names and location of existing:

a. Streams, creeks, sloughs, natural flowways, floodways, wetlands, water bodies within the determined watershed area.

b. Indigenous vegetation areas.

c. Wildlife habitat areas.

d. Easements within the property boundary (as identified on the required title certification provided pursuant to section 12-110(a)(3)) including publicly- and privately-owned conservation easements and the means by which access to the easements is obtained.

e. Percolation ponds and drainfields within the determined watershed area.

f. Public and private roads; and vehicle access routes to nearest county-maintained road.

g. Railroad.

h. Utility lines and easements.

i. Existing buildings.

j. Cemeteries within 100 feet of the property boundary.

k. Test boring locations.

l. Public wellfields.

m. Public and permitted private wells with GPS or surveyed locations of wells along with wellhead elevations within a one mile radius around the mine project boundary.

(7) The specific locations and descriptions of proposed:

a. Conservation and preservation areas, along with the access to these areas.

b. Buffers.

c. Indigenous areas to remain and indigenous replanting areas.

d. Littoral zone created wetland areas.

e. Physical plant facilities or other facilities supporting the operation, including but not limited to, scale houses, administrative offices, proposed fueling, vehicle servicing, and truck and tire washing facilities.

f. Accessory mine operation facilities such as, but not limited to, rock crushing operations, concrete and asphalt batch plants, cement plants etc.

g. Stockpile areas, including a typical cross-section of the area.

(8) Profile plans showing:

a. The proposed depth of excavation and slope of banks during excavation operations and after reclamation.

b. The proposed littoral zone created wetland areas.

c. Buffer areas.

d. Any other areas that need a cross-section to demonstrate compliance with the code requirements.

(9) *Engineering plans.* Engineering plans must be provided with a level of detail that would otherwise be found sufficient to allow issuance of a development order under chapter 10 for the proposed mine activity, including but not limited to the following items:

a. Traffic related issues:

1. Vehicular ingress and egress to the project from the public right-of-way, including site related improvements required under section 12-116

2. On-site access roads and truck staging areas; services delivery areas and off-street parking areas.

3. Traffic count stations required under section 12-116

b. Water related issues:

1. Monitoring wells required under section 12-117

2. If dewatering is proposed, the details of the proposed activity must be provided in accord with the provisions set forth in section 12-117

c. Environmental issues:

1. *Drainage and stormwater management plan.* A drawing showing the location of all curbs and gutters, inlets, culverts, swales, ditches, water control structures, water retention or detention areas, and other drainage or water management structures or facilities must be submitted. Sufficient elevations must be shown to adequately depict the direction of flow of stormwater runoff from all portions of the site. A copy of all drawings and calculations submitted to the South Florida Water Management District must also be submitted. The plan must identify the U.S. Department of Agriculture Soil Conservation Service soils classifications of the site to determine the feasibility of the proposed pollution control and drainage plans.

2. Reclamation plan meeting the requirements of section12-119

(10) *Proposed buildings or proposed structures.* The building envelope, including the perimeter of the area within which the building will be built, the height of all buildings and structures, the maximum gross floor area, and a depiction of no less than the minimum number of required parking spaces, including handicapped spaces.

(11) *Utilities.* A statement indicating the proposed method intended to provide water, sewer, electricity, telephone, refuse collection and street lighting, including but not limited to:

a. The names and address of all utilities, governmental or private, intended to supply the service.

b. The names and addresses of the owners of all existing public water and sewage systems within one-quarter mile of the proposed development.

c. A plan showing the location and size of all water mains and services, fire hydrants, sewer mains and services, treatment plants and pumping stations, together with plan and profile drawings showing the depth of utility lines and points where utility lines cross one another or cross storm drain or water management facilities. The location of services must be shown.

(12) *Exterior lighting plan, photometrics and calculations.* An exterior lighting plan and photometric information must be submitted. The plan and photometric information must be provided in full

compliance with section 34-625 and demonstrate compliance with all standards and criteria specified therein.

(13) *Calculations and other pertinent materials.* The Development Services Director may also require submission of calculations in support of all proposed drawings, plans and specifications. Calculations, data and reports to substantiate engineering designs, soil condition, flood hazards, compensation of floodplain storage (see section 10-253), wet season water table, etc., may be required.

(Ord. No. 08-21 , § 2, 9-9-08; Ord. No. 13-01 , § 3, 2-12-13)

Sec. 12-112. Hearing Process.

The hearing process for approval of MEPD applications is as set forth in sections 34-83 and 34-145. This includes the requirements applicable to notice for hearings and criteria for review. In addition to the findings required to support a rezoning, the Hearing Examiner and Board must also consider and find that the applicant has proven entitlement to MEPD rezoning by demonstrating:

(1) The mining activity will not create or cause adverse effects with respect to dust, noise, lighting and odor on existing agricultural, residential, conservation activities, or other nearby land uses.

(2) The applicant has given special consideration to protection of surrounding private and publicly owned conservation and preservation lands.

(3) Approval of the request will maintain the identified wet and dry season water level elevations and hydro periods necessary to restore and sustain water resources and adjacent wetland hydrology on and off-site during and upon completion of the mining operations.

(4) The site is designed to avoid adverse effects to existing agricultural, residential or conservation activities in the surrounding area.

(5) The site is designed to avoid adverse effects from dust, noise, lighting, or odor on surrounding land uses and natural resources.

(6) The site is designed to mimic or restore the natural system predisturbed water budget to the maximum extent practicable.

(7) Approval of the request will serve to preserve, restore and enhance natural flowways deemed important for local or regional water resource management.

(8) Approval of the request preserves indigenous areas that are occupied wildlife habitat to the maximum extent possible.

(9) Approval provides interconnection to off-site preserve areas and conservation lands via indigenous preservation areas, flowway preservation or restoration, and planted buffer areas.

(10) Compliance with the traffic mitigation standards set forth in section 12-116

(11) Compliance with the reclamation standards set forth in section 12-119

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-113. Site Design Requirements.

(a) *Design Standards.* Mining activities will be subject to the following design standards. The Board of County Commissioners may modify these standards as a condition of approval when in the public interest, or where they determine a particular requirement unnecessary due to unusual circumstances.

(b) *Mining operations must be located, designed and operated to:*

(1) Be compatible with surrounding private and publicly owned lands with special consideration given to protection of surrounding conservation and preservation owned lands.

(2) Avoid adverse effects to existing agricultural, residential or conservation activities in the surrounding area.

(3) Avoid adverse effects from dust, noise, lighting, or odor on surrounding land uses and natural resources.

(4) Comply with the outdoor lighting provisions (except fixture mounting height standards) of this Code.

(5) Cause minimal impacts to onsite and offsite ambient surface or groundwater levels quality and quantity.

(6) Maintain established premining wet and dry season water level elevations and hydroperiods to restore and sustain water resources and adjacent wetland hydrology on and off-site during and upon completion of the mining operations.

(7) Preserve and enhance existing natural flowways that the County deems important for local or regional water resource management.

(8) Restore historic flowways that the County deems important for local or regional water resource management.

(9) Preserve indigenous areas that are occupied wildlife habitat to the maximum extent possible.

(10) Provide interconnection to off-site preserves and conservation lands via indigenous preservation, flowway preservation or restoration, and appropriate planted open space or buffer areas.

(11) Maintain minimum surface and groundwater levels within the site boundaries as deemed appropriate by Natural Resources staff during the MEPD approval process.

(12) Be designed to mimic or restore the natural system predisturbed water budget.

(c) *Setbacks for excavation site.*

(1) Excavations are prohibited within:

a. 150 feet of an existing street right-of-way line or easement; and

b. 150 feet of any private property line under separate ownership.

c. 150 feet from an adjacent residential property line.

In all cases, the most restrictive setback will apply.

(2) A 500-foot radial setback is required from existing permitted public well sites for mining operations approved after June 24, 2003.

(3) To ensure protection of surface and groundwater resources, appropriate excavation setbacks from preserve areas and adjacent properties will be determined through the environmental analysis and review process based upon site specific conditions.

(4) The Board of County Commissioners may allow reduced setbacks as part of the MEPD approval provided:

a. The reclamation plan indicates how access will be made to future development;

b. The reclamation plan indicates that the setback area will not be developed after restoration; and

c. A closer setback will not be injurious to other property owners or the water resources.

(d) *Setbacks for accessory buildings or structures.*

(1) Setbacks for accessory buildings or structures must be shown on the engineered site plan set.

(2) No crusher, mixing plant, bin, tank or structure directly involved in the production process may be located less than:

a. 660 feet from any residentially zoned property or use under separate ownership; or

b. 250 feet from all nonresidential zoning districts under separate ownership.

To allow flexibility, the general area of accessory buildings, structures and processing facilities must be shown on the site plan with the appropriate setbacks noted.

(e) *Minimum lot size.* All uses permitted under this subdivision must have a minimum lot size of ten acres.

(f) *Security.* All entrances to mining activity areas must be restricted from public access during working hours and locked at all other times.

(g) *Reclamation Standards.* Mining operations will be subject to the reclamation standards set forth in section 12-119

(h) *Transportation impacts.* Mine operations will be subject to the transportation mitigation standards set forth in section12-116. This section requires the mine operator to be fully responsible for maintaining, repairing or replacing the accesses to the mine within the limits of the site related improvements as defined in section 12-116(c)(3).

(i) *Fire protection.* The mining operation must be designed to provide adequate fire protection, transportation facilities, wastewater treatment and water supply. The owner or operator, at its sole cost, will be responsible for providing these services and facilities in the event of a deficiency.

(j) *Maximum depth.* The Board of County Commissioners will establish maximum excavation depths and mining activity depth after reviewing the findings and recommendations of the South Florida Water Management District and County staff, as applicable. The permitted depth may not exceed the depth permitted by the South Florida Water Management District or County staff, as applicable and may not penetrate through impervious soil or other confining layer that presently prohibits intermingling of two or more aquifers.

(k) *Certificate to dig; historic management plan.* When applicable, an archaeological/historic resources certificate to dig must be obtained from the County and submitted as part of the application. Florida Master Site File forms for historical or archaeological resources, facade or other historic or scenic easements related to the subject property or reports prepared by a professional archaeologist as may be required by chapter 22 must be submitted to the Director.

(l) *Open Space.* For purposes of chapter 12 only, open space requirements applicable to the mine will be deemed satisfied if the mine site maintains the buffers, indigenous area, setbacks, and wildlife habitat areas required under this chapter or as otherwise provided in the approved MEPD resolution. The lake (or mine footprint) is considered the impacted area and is not included as a means of meeting open space requirements otherwise contemplated by the underlying zoning approvals.

(m) *Indigenous Preservation and Replanting.* Mines must provide 25 percent of the project site as indigenous preservation or as on-site indigenous replanting if the property does not contain existing indigenous plant communities.

Created marsh wetland littoral zone areas may be counted towards the on-site indigenous preservation requirements.

On-site indigenous replanting plans approved by the County must include a minimum of four native tree and four native shrub species. Native trees must be installed at a minimum of 100 feet on center per acre and native shrubs must be installed at a minimum of 50 feet on center per acre. 50 percent of the native trees must be three feet tall and the balance of the trees may be one foot tall. Native shrubs must be installed at one gallon container size. No more than 25 percent of one species can be utilized. Indigenous replanting areas must have 80 percent survivability for a period of five years and be maintained in

perpetuity. The indigenous preserve and replanting areas must be designed to provide interconnectivity to adjacent preserves and conservation lands with a particular emphasis on the incorporation of existing and historic flowways. An indigenous management plan must be submitted to address the long term maintenance of the on-site preservation/conservation easement areas.

The created marsh wetland littoral zone, indigenous preserves, replanted indigenous areas, preserved and restored flowways, buffers, and open space used to meet County requirements must be maintained in perpetuity even with a change in land use.

(n) *Invasive Exotic Removal.* An invasive exotic removal plan must be adopted as part of the MEPD approval that is acceptable to environmental sciences. The removal may be phased with long term maintenance continuing in perpetuity. The invasive exotics to be removed must be consistent with section 10-420(h).

(o) *Buffers.* Buffers are required in accordance with the following standards.

(1) The following buffers must be provided when the mine property abuts the listed use or zoning district, whichever is most restrictive:

a. *Right-of-way:*

1 Minimum 50 feet width, maintained at natural grade;

2. Every 100 feet of the right-of-way buffer must consist of:

Ten ten-foot trees with two-inch caliper and four-foot spread

Ten 5-foot trees with one-inch caliper and two-foot spread

100 native shrubs 24 inches in height

3. 50 percent of the required trees must be native pines; 30 percent must be large native canopy trees (e.g. live oaks); and 20 percent native palms or appropriate native wetland vegetation.

b. *Residential:*

1. Minimum 150 feet width, maintained at natural grade;

2. Every 100 feet of the residential buffer must consist of:

Fifteen ten-foot trees with two-inch caliper and four-foot spread

Ten five-foot trees with one-inch caliper and two-foot spread

150 native shrubs 24 inches in height

3. 50 percent of the required trees must be native pines; 30 percent must be large native canopy trees (e.g. live oaks); and 20 percent native palms or appropriate native wetland vegetation.

c. *Agricultural:*

Minimum 50-foot width, maintained at natural grade.

d. *Conservation Lands:*

1. Minimum 100-foot width, maintained at natural grade;

2. Every 100 feet of the conservation lands buffer must consist of:

Ten ten-foot trees with two-inch caliper and four-foot spread

Ten five-foot trees with one-inch caliper and two-foot spread

100 native shrubs 24 inches in height

3. Seeded with native herbaceous plants.

(2) *Standards applicable to all Buffers.*

a. Vegetation must be allowed to grow to natural height and form. Trimming is limited to health and safety maintenance pruning (i.e. shrubs, trees, and palms may not be hedged or formally shaped).

b. Buffer plantings must occur at grade, unless otherwise conditioned within the MEPD resolution.

c. Existing native vegetation may be used to meet the buffer requirements.

d. The County may grant a request to use smaller plant material, as long as the equivalent overall height is achieved per linear foot.

e. Buffer plants may not be installed in a straight line. Plantings must be installed in a random fashion throughout the width of the buffer to mimic a natural system.

f. The Director has the discretion to require a more restrictive buffer when deemed necessary for compatibility in accord with the following:

1. If a berm is deemed necessary by the County, it must be located at the distance closest to the mine within the buffer. Berms may not exceed 3:1 slope and must be limited to a maximum height of eight feet.

2. If any portion of the buffer plantings is to occur on the berm, a specific condition must be included in the MEPD resolution or MDO approval.

g. Buffers must be installed prior to issuance of a MOP (via final MDO certificate of compliance) and prior to the excavation of materials for hauling off-site.

h. Created marsh wetland littoral zone areas, on-site indigenous preserve areas and wildlife habitat areas may be counted towards the buffer area requirements.

(p) *Wildlife habitat.* In order to provide interconnectivity of wildlife habitat areas, including Florida panther and Florida black bear habitat, and to allow these large mammals to move locally within their range, projects located within any USFWS Florida panther protection zone must be designed to allow movement of Florida panther and Florida black bear through indigenous preserves or appropriately planted buffer and open space areas. If existing adjacent uses are not suitable for Florida panther or Florida black bear, then a deviation from this requirement may be requested during the MEPD application process.

(1) Local wildlife habitat areas must be a minimum 300 feet wide, designed to allow mammals to traverse the project property, and connect to adjacent preserves or conservation lands that are existing or anticipated to occur in the future.

(2) Prior to the issuance of a MOP, the 300-foot wide area must be planted with a continuous native shrub hedge (33 shrubs per 100 linear feet; minimum three-gallon container size) along the perimeter of the habitat area and a minimum of 20 native trees per 100 linear foot clustered (minimum ten trees per cluster; minimum 7-gallon container size) within the habitat area to provide cover. Existing native vegetation may be used to meet the planting requirement.

(3) The wildlife habitat plantings may count toward any buffer, general tree, or indigenous replanting requirement if they meet the minimum standards for buffers, general trees, or indigenous replanting.

(4) Preferred vegetation includes, but is not limited to:

Trees: live oak (*Quercus virginiana*), laurel oak (*Quercus laurifolia*), south Florida slash pine (*Pinus elliottii var. densa*), cypress (*Taxodium distichum; Taxodium ascendens*)

Shrubs: wax myrtle (*Myrica cerifera*), cocoplum (*Chrysobalanus icaco*), saw palmetto (*Serenoa repens*), Florida privet (*Forestiera segregata*).

(5) Created marsh wetland littoral zone areas, on-site indigenous preserve areas and buffer areas may be counted towards the wildlife habitat area requirements.

(q) *Truck and tire wash.* The use of a truck and tire wash system is mandatory for all projects. The truck and tire wash must:

(1) Be installed on the property with a minimum setback of 150 feet from the project boundary;

(2) Be located on the paved access connection at least 100 feet from the interior terminus of the paved access connection; and

(3) Provide water quality treatment and recycling for the truck and tire wash water.

(r) *Truck staging.* Truck staging within limits of either public or private roads external to the mine site is prohibited. The mine is required to provide adequate on-site stacking space to accommodate staging of mine trucks arriving at the site prior to the opening of the mine for active hauling operation.

(s) *Best management practices.* Contractors, sub-contractors, laborers, material men, and their employees using, handling, storing, or producing regulated substances must use the applicable best management practices generally accepted in the industry.

(t) *Pollution prevention plan.* A Pollution Prevention Plan must be approved by the County and kept on the mine site. The plan must address potential sources of contamination and provide Best Management Practices (BMPs) to avoid on-site and off-site surface water and groundwater contamination. The plan must include an inspection program to ensure the proper operation of the implemented BMPs and contaminant spill containment and disposal procedures.

(u) *Deviations and variances.* A deviation or variance from the design standards may be granted only through the MEPD approval process.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-114. State and federal permits.

A complete copy of the permit applications submitted to South Florida Water Management District, Department of Environmental Protection, Florida Fish and Wildlife Commission, and Army Corps of Engineers necessary to support or achieve approval of the mine activity must be included in the MEPD application. Copies of correspondence to and from the state and federal agencies must also be submitted to the County contemporaneously so that the County will be fully apprised of the activity with respect to these permits.

A copy of the Environmental Resource Permit (ERP) is required prior to issuance of the MDO.

Copies of required state and federal permits, other than the ERP, must be submitted to the County prior to issuance of a county permit covering areas required to obtain state or federal approval to allow mining activity.

Lee County may impose conditions more restrictive than state and federal permit requirements if deemed necessary to afford consistency with the Lee Plan or compatibility with surrounding uses.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-115. Mine operation permit renewal requirements.

(a) *Renewal of a Mine operation permit.*

(1) Approved by the Development Services Director.

(2) Issued based upon a demonstration of compliance with all conditions and regulations imposed by the Board for the mine operation. As a result of the renewal process, mine operations will be required to update a number of previously submitted documents, such as but not limited to, mining plans, reclamation plans, monitoring requirements and surety documents, as a basis for approval.

(3) A renewed MOP is valid for a period of ten years from the date the approval is issued. Subsequent renewal requests must be submitted at least 90 days prior to expiration of the renewed MOP.

(b) *Submittal requirements for renewal.*

(1) Cumulative monitoring reports. The five year cumulative monitoring reports, meeting the criteria set forth in section 12-118(b), outlining the trends revealed by the quarterly and annual reports submitted over the previous ten year period, beginning from the date the initial or renewal MOP was issued.

(2) Copies of the annual monitoring reports and underlying information as required by the MEPD resolution and section 12-118

(3) Updated reclamation schedule.

(4) Updated protected species survey.

(5) Status of exotic removal.

(6) Reclamation plan meeting the standards set forth in section 12-119

(7) Updated TIS based upon the requirements set forth in section 12-116(a) addressing adequacy of turn lanes and other off-site traffic improvements.

(8) Analysis demonstrating compliance with the conditions set forth in the MEPD resolution and related approvals.

(9) Updated cost estimates and surety documents required by the MEPD resolution and this article.

(10) Details of noncompliance events, data trends, and methods of resolving such events.

(c) *The cumulative monitoring reports submitted every five years and with the MOP renewal request will be reviewed to determine whether any adverse impacts are precipitated by the mine activity.* Adjustments to the mine site plan intended to eliminate or ameliorate the impacts to the greatest extent possible will be required as a condition of the MOP renewal approval or in response to adverse conditions evidenced by an interim five year cumulative report.

(d) *Existing Mines approved before September 1, 2008.* The requirements to obtain a MOP renewal for existing mines approved before September 1, 2008 are set forth in section 12-121

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-116. Transportation issues.

(a) *Traffic Impact Statement (TIS).* A traffic impact statement is required for all mine related applications and approvals, including MEPDs, MOPs and MOP renewals.

(1) Prior to preparing the TIS, a meeting with County staff is required to discuss the procedure and study assumptions, including but not limited to, the scope and limits of the TIS, the date requirements, traffic projections (including the traffic projections from permitted mines on the

affected road corridor not yet in operation), traffic growth factors, the basis of trip distribution assumptions, the truck factors to be used and the analysis software.

(2) The TIS must be prepared using the mine's peak traffic operating hours, the AM and PM, and the two highest on-street peak hours to establish which hours have the highest directional traffic impact on the adjacent road system and adjacent signalized intersections. Full analysis of two or more separate peak hours may be required as determined by the Department of Transportation Director through conducting a review of the traffic data. The nearest signalized intersections in each direction or those intersections within one mile of the mine's entrance/exit onto the road system, whichever is greater must be analyzed using approved traffic operations analysis methods and procedures.

(3) The TIS must address, at minimum, the following criteria.

a. Projected yearly volume and the total amount of excavated material to be removed from the site.

b. Projected number of peak hour and annual average daily truck trips.

c. Ownership, condition and maintenance plans for access routes from the actual excavation to the nearest county-maintained roads.

d. Projected distribution of truck trips on the county and state road network.

(b) *Site related improvements.*

(1) *Turn lanes.* To protect public safety and welfare, left turn and right turn deceleration and storage lanes must be installed at the mine entrance on all collector and arterial roads, whether public or private. Acceleration lanes are required unless the data and analysis clearly demonstrate that the turn lane is not warranted and will not be necessary to protect public safety and welfare.

A full turn lane and an acceleration lane analysis must be prepared, using truck factors from the latest USDOT study measuring loaded width to horsepower ratio. The appropriate truck factors must be used to establish the length of deceleration and acceleration lanes. The storage lane length must be based upon the truck length plus the applicable headway distance for trucks. Turn lane pavement design must be determined in accord with the FDOT Flexible Pavement Design Manual (latest edition).

(2) *Permanent Count stations.* The mine operator will be required to construct paved channelized access from a minimum of 200 feet inside the mine property boundary up to the public road in order to provide for a properly improved surface to safely accommodate all entering and existing traffic. No alternative unpaved access will be permitted.

The mine operator must install a permanent count station to monitor daily vehicular trips. The mine operator must also provide the County with a warranty for repairs, major maintenance and replacement of the count station facilities due to frequent failure, age, vandalism, accident, incidents and acts of God. The warranty is intended to provide assurance that the County will obtain the benefit of a continuous fully operational permanent count station and vehicle classifier in accordance with the County's current specifications for permanent count stations and traffic sensors. The Department of Transportation will monitor the count station and receive count and classification data over a phone line connection provided by the mine. The mine operation must pay the annual operational and maintenance fees invoiced by Lee County within 30 days of receipt of the invoice. The fees charged will be established in the Lee County Administrative Code. The annual fee must be sufficient to cover the monthly and annual costs associated with the permanent count station.

(3) The mining operation must provide paved access connections to the County's road network. Paved access connections must:

a. Satisfy the minimum street construction standards (Category "A" standards as set forth in section 10-296) for industrial development specified in this Code.

b. Be constructed to a minimum depth of 300 feet on the mine property.

(c) *Transportation impact mitigation.*

(1) The mine operator, at no cost to Lee County, will contract for the services of law enforcement personnel to provide continuous (i.e. during the hours trucks are hauling off-site) monitoring of truck traffic entering and exiting the mine. Mine operators may coordinate enforcement efforts with other mines in the area to comply with this requirement. The monitoring performed must include but is not limited to the following:

a. Truck operating speeds and general driving behavior.

b. Retention of loads within the trucks. (Off-site dumping on public or private rights-of-way external to the mine is prohibited.)

c. Proper installation and maintenance of load covers.

d. Effectiveness of internal truck and tire wash facilities to provide adequate dust and mud control.

e. Proper load covers to prevent "sandblasting" and other effects to vehicular traffic.

(2) The mine operator must develop and enforce a truck hauling operation plan that includes, but is not limited to, the following:

a. Development of a bilingual driver education manual (Truck Hauling Operation Practice Manual) regarding mine policies and procedures to be provided in written form to each driver.

b. Conduct an annual driver education workshop for the purpose of reinforcing the policies and procedures contained in the Truck Hauling Operation Practice Manual defined in section 12-116(c)(2)a.

c. Develop a set of enforcement policies to include the termination of access to the mine by independent or contract truck operators for violation of the mine's policies and procedures.

d. Provide standards regarding truck and tire cleanliness for loaded trucks exiting the mine.

e. Provide that loaded trucks use appropriate covers to protect the motoring public from "sandblasting" or other impacts to off-site vehicular traffic or property.

(3) The mine operator is fully responsible for maintaining, repairing or replacing the access within the limits of the off-site specific improvements (i.e. site-related improvement areas) in accordance with County standards in the event a County inspection finds deterioration, unsafe conditions, or that the improvement is failing or has reached the end of its useful life. The "off-site specific improvements" include, but are not limited to, the pavement surface, the subgrade base and the pavement markings, including the limerock, any black-base and other base and stabilized material within the limits of the site access.

(4) The County is considering the adoption of a user fee intended to provide funds to repair and maintain roadways and related facilities used and degraded by heavy mining truck traffic. The mine operator will be required to provide certain information to establish the fee amount.

(d) *Monitoring and inspections.*

(1) *Annual site access pavement inspections.* The Department of Transportation will conduct an annual inspection of the site access pavement areas. This inspection will consist of a site visit to assess the general condition of the site access and turn lanes, and photographing of the pavement condition. The costs associated with this inspection will be the responsibility of the mine. If the Department of Transportation Traffic Engineer determines that immediate correction or pavement repairs are required, notice will be provided to the mine operator regarding the

repairs needed. The mine operator must provide a written response to the notice, within five business days after receipt, detailing the repairs to be made and indicate a date certain for their completion. Failure to provide the written response or complete the necessary repairs constitutes a violation of this article and will be subject to the process and sanctions set forth in section 12-123

The mine operator, as a condition of the MOP approval, may choose to retain an independent engineer to perform and provide a signed and sealed, detailed annual inspection of the site access and turn lanes for annual submittal to Lee County. Upon receipt, the report will be reviewed and verified by County staff; and, any pavement problems will be brought to the mine operator's attention.

(2) *Annual turning movement monitoring.* The mine operator must provide the County with manual turning movement counts taken at the mine entrance. The annual turning movement counts must be conducted by an independent traffic consultant that must coordinate directly with and receive direction from Lee County Department of Transportation with regard to scheduling and requirements for the count. The dates and time of manual counts may not be announced by the independent traffic consultant to the mine operator or owner in advance of the count dates. The mine operator may not take any action to reduce traffic or reduce mining operations due to the commencement of the counts. The mine operator may not take action that would reduce truck traffic without prior notification to the County and the independent traffic consultant.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-117. Water quality and quantity issues.

(a) *Application submittal information and standards.*

(1) Watershed. Delineation of the watershed basin, as defined in the preapplication meeting or MEPD resolution (if a renewal request), overlaid on the most recent aerial photograph available.

Watershed topography showing one-foot elevation intervals based upon NAVD 1988 datum for all property within the watershed, as defined at a preapplication meeting, based on existing data (e.g. USGS Quad maps; etc.); or, if none exists, data collection may be required.

(2) *Baseline analysis.* A baseline surface and groundwater analysis designed and conducted to establish baseline data for surface and groundwater monitoring for the mining project area. The analysis must be designed to identify historical pre-development and existing surface and groundwater levels throughout the year, as well as the collection of surface and groundwater quality baseline data. Prior to commencing the baseline study, the proposed methodology must be submitted for review, comment, and approval by the County. The baseline study must be based upon sufficient temporal and spatial site specific data to ensure average or representative surface and groundwater levels are documented prior to application submittal. Data collected during an extreme dry or wet year will not be deemed appropriate representation of average water levels or quality. This analysis must include available data on ground and surface water levels within the watershed basin, as defined in the preapplication meeting, along with a cumulative impact analysis.

(3) *Historic flows.* Historic (prior to construction of ditches and other drainage structures), existing, and proposed drainage patterns including flowways on and within the vicinity of the site.

(4) *Existing drainage structures or facilities.* Location and purpose of existing ditches, canals, swales, and other stormwater structures or facilities including infall/outfall elevations, size of the structures and the invert/control elevations.

(5) *Water budget.* Water budget for the project site based upon sufficient site specific data to ensure accurate evaluations of the proposed project's effect on the water resources. In addition to the

existing data from previous permits, studies, and reports, new data must be collected on-site through various means such as piezometers, staff gauges, rainfall gauges, aquifer performance tests, geological investigations and evaporation measurements. These new and existing hydrologic and hydraulic data will be used in the water budget analysis (generally in the form of a model simulation) to determine baseline and appropriate projected normal wet and dry season water level elevations, flow directions within and adjacent to the proposed project area, and subsequently the proposed development impact on the water resources, water management and ecology.

(6) *Topography contours.* Detailed topography of the site showing one-foot contours based upon NAVD 1988 datum, with sufficient data points to support these contours in accordance with professional land surveying and mapping standards; cross-sections (on an x − y axis) of all state and federal jurisdictional wetlands at sufficient intervals to represent the hydrologic flows and storage within the wetlands, extending a minimum of 200 feet into the adjacent uplands; and cross-sections of all ditches within and immediately adjacent to the site.

(7) *Water levels.* Current and historic seasonal high water levels based on natural benchmarks and aerial photography for each wetland to include a sufficient number of locations to determine accurate water levels.

(8) *Public and private wells.* Public and permitted private wells with GPS or surveyed locations of wells along with wellhead elevations within a one mile radius around the mine property boundary.

(9) *Salt water intrusion.* Potential of introduction or existence of salt water intrusion and any methods to prevent further degradation of surface and groundwaters.

(10) *Observation wells.* The South Florida Water Management District Water Use permit requirements must be satisfied.

(11) *Water Use permit (WUP).* A copy of the SFWMD WUP application is required to obtain MEPD approval. Thereafter, the applicant must provide contemporaneous copies of correspondence regarding the application to the County. A copy of the approved WUP must be submitted to the County prior approval of the MDO.

(b) *Water Quality Standards.*

(1) *Monitoring.*

a. The intent of the monitoring plan in and around the mine is to evaluate native natural background water quality and potential contaminants entering into the natural resources as a result of the mine operation.

b. As new mines are excavated, nested monitoring wells must be constructed around the perimeter of the mine to monitor contaminants entering from the mine and then going into the water table and possible deeper aquifers. At minimum, two pair of wells, one pair on the upstream and one on downstream of the groundwater flow, must be installed. The number of wells per mine will be determined by Natural Resources staff based upon the area and perimeter length of the mine site. Mining conducted within the water table aquifer may require a lower level of monitoring.

c. Water collected from monitoring wells must be analyzed by an environmental laboratory certified by the State of Florida. Sample collection and analytical protocols must be in accord with FAC ch 62-160. Reporting format of the water quality sample monitoring results must be in accordance with the standards established by the Lee County Environmental Laboratory. Surface and groundwater samples must be collected at the same time in order to provide a contemporaneous reading of the water quality.

d. Initial monitoring of surface water for mine sites with existing lakes:

1. The following samples must be collected at the deepest location of the existing lake. Two samples must be collected: one sample at a half meter above the bottom of the lake, and the second sample at mid depth of the lake. A third sample must be collected one half meter below the surface at the lake's outfall or discharge point. If no outfall or discharge point exists, the third sample will be collected at one half meter below the surface at the deepest location. The samples must be tested for the primary and secondary drinking water standards excluding asbestos, dioxin, bacteria, disinfection byproducts and radionuclides. Additional parameters checked on the Table -1: Water Quality Monitoring Check List, as set forth in Appendix O, must be analyzed and reports must be provided.

2. Additionally, a profile of field parameters (temperature, conductivity, pH and dissolved oxygen) must be collected and recorded in three foot increments at the deepest location of the lake at the time of sample collection in order to establish a water quality profile.

e. Initial monitoring of surface water for mine sites with drainage discharges:

Samples must be collected at the inflow and discharge points on the site. Water quality parameters listed on the Table -1: Water Quality Monitoring Check List must be analyzed and reports must be provided to the County staff.

f. Initial monitoring of groundwater quality:

Water samples collected from all groundwater monitoring wells must be analyzed for chloride, TDS (total dissolved solids), sulfate, pH, conductivity, iron, total hardness, and FL-PRO (Florida Petroleum Residual Organic, an environmental sample analysis method). Groundwater level elevation within monitor wells with reference to NAVD 1988 datum also must be submitted.

g. Subsequent monitoring plans of surface and groundwater quality beyond initial monitoring will be decided by the County staff after reviewing the results of initial monitoring. Initial monitoring not covered by any of the above scenarios will be determined by Natural Resources staff based on site-specific conditions. After commencement of the mining operation, quarterly water quality and stage reports must be submitted to Natural Resources. Groundwater quality standards must not exceed natural background as identified in FAC ch. 62-520.

h. All field activities must be conducted in accordance with FDEP's standard Operating Procedures for Field Activities, FDEP-SOP-00101, February 1, 2004 (or current revision). Analytical tests must be conducted by a Florida Department of Health National Environmental Laboratory Accreditation Conference (DOH NELAC) certified laboratory.

i. Construction activities may not result in an exceedance of natural background water quality defined in this article and as refined by preconstruction data.

(c) *Dewatering.* If dewatering is proposed as part of a mining operation, the following information must be provided:

(1) Detailed description of the dewatering method and procedure to be used to facilitate the excavation. This description must include a time line phasing, proposed depth and amount of water pumped. The submittal must explain assurances that will be provided, or activities that will be employed, to ensure there will be no adverse impacts to existing on-site or off-site wellfields, nearby properties, or wetlands adjacent to the excavation operation associated with withdrawals from the project.

(2) Estimated volumes of water to be extracted, impounded or diverted per hour and per day for the duration of the dewatering.

(3) A map specifically depicting the location of all dewatering pumps and withdrawal points.

(4) A plan/map showing the disposition of the dewatered effluent, whether on or off the development site. The map must depict the size and location of the proposed holding ponds or trenches as well as the calculations used to determine the size of the proposed holding ponds and trenches. A soils report must be included that documents the ability of the sub-surface soils to percolate the dewatered effluent. If an off-site location is proposed, then the application must include permission from each property owner whose property will be traversed or used to accomplish the dewatering as proposed. This permission/consent must be in writing, signed by the property owner and acknowledged before a notary. Consents signed by an agent of the property owner will not satisfy this requirement.

(5) Engineering estimates of the monthly water balance for the projected highest, lowest and average rainfall sequence for the operation life of the excavation. This estimate must account for all sources of water input to the water recirculation facilities and processing steps, and all water outputs and losses from the system. The submittal must also include a detailed explanation of the computation methods and assumptions used to derive the estimate.

(6) Engineering estimates demonstrating that the proposed dewatering will not detrimentally impact adjacent wetlands and water table aquifer must be submitted if the excavation will extend below the normal wet season groundwater elevation.

(7) A proposed groundwater level monitoring plan that specifies the location of all wells comprising the monitoring well network. The proposed water level monitoring plan and process must be sufficient to document changes to groundwater levels and groundwater flow directions on and off the subject project site that may result from the proposed dewatering activity.

(8) A copy of the SFWMD Water Use Permit (WUP) application for dewatering, including support documentation.

(d) *Monitoring.*

(1) All water quality data must be submitted in electronic form, spreadsheet format, so that it may be incorporated by Lee County into its data for developing local or regional water quality profiles and trends.

(2) If at any time the established baseline constituent concentrations are exceeded at any level, the mine operator must immediately notify the Natural Resources Director.

(3) *Water level monitoring.*

a. *Groundwater wells.* A pair of well consisting of one well constructed to the bottom of the unconsolidated formation, and a second well constructed to the bottom of the consolidated formation or top of confining unit that supercedes the aquifer that is being mined. The applicant must construct a pair of wells for every 2,500 feet of mine bank to be created. Each well must be fitted within an electronic data logger that is capable of taking and recording a measurement every six hours.

b. *Surface water.* Two staff gauges must be installed in each mine cell or area to monitor surface water levels at the lowest and the highest preconstruction grade elevations. Each gauge must be fitted with an electronic data logger capable of taking and recording measurements every six hours.

(4) Lee County will periodically review the monitoring requirements to determine if a reduction or elimination of the monitoring requirements are justified. Justification for reduction or elimination will be based on non-exceedance of baseline or Class 1 (based upon FAC 62-302.400) water quality standards by waters within the project. In the event that a laboratory analytical result indicates that a surface water or groundwater sample exceeds baseline or Class 1 standards, verification sampling and laboratory analytical testing must be performed by the mine operator as permittee. Non-exceedance of baseline or Class 1 standards in subsequent tests will keep the project in compliance. Any exceedance of the applicable standards by the project, after

verification testing, will require immediate cessation of use of the items causing the exceedance. A revised management plan must be submitted, within 60 days of the test identifying the exceedance, setting forth the changes that will or have taken place to continue operation of the mine without further exceedance of the standards for the water on and emanating from the project.

(Ord. No. 08-21 , § 2, 9-9-08; Ord. No. 11-08 , § 5, 8-9-11)

Sec. 12-118. Monitoring requirements; inspections.

(a) *Purpose.* Given the overall life of mining operations, adjustments to the design, maintenance, operation and monitoring of the mine excavation may be appropriate over time. By requiring monitoring reports at consistent intervals over time the County and applicant/mine operator will have a realistic opportunity to discover and address adverse impacts precipitated by the mine activity.

(b) *Comprehensive/cumulative monitoring report.* A five year cumulative monitoring report, including all elements required to be monitored under this section and the MEPD resolution, is required every five years, beginning with this initial MOP approval under this article, and at the time of MOP renewal. The purpose of the report is to identify trends with respect to the elements monitored in order to determine whether certain actions or changes are appropriate to increase compatibility of ongoing mine activity with its surroundings.

(c) *Monitoring reports.* Monitoring reports must be submitted in accord with this section unless the MEPD resolution conditions provide otherwise.

(1) *Water quality.* In addition to the requirements set forth in section 12-117, the operator of the mining operation together with the property owner must submit an annual report that provides:

a. Copies of periodic surface, and groundwater levels and quality monitoring requirements, at intervals determined by Natural Resources or as conditioned in the MEPD approval, pertaining to the baseline levels identified in the approved pre-development analysis and those anticipated for use in conjunction with the proposed mining project. All data must be submitted in an electronic format as set forth in section 12-117(d).

b. Water quality parameters to be tested for both the surface and groundwater are listed on Table 1: Water Quality Monitoring Check List set forth in appendix O.

c. Signed and sealed bathymetric surveys covering the new areas excavated and providing the depth of the existing excavation as well as the quality and type of materials excavated.

d. Details of noncompliance events, data trends, and methods of resolving such events.

e. Water level measurements must be conducted under the guidance of a Florida registered professional engineer with an established quality assurance plan. The report must be signed and sealed certifying accuracy and supervision of data collection.

This report must be submitted to the Department of Community Development every year beginning on the anniversary of the date that the mining operation received the first MOP to commence the mining operation. A report must be submitted annually until the reclamation of the mining operation is complete.

f. The monitoring report must use the data collected during the previous year and state any cumulative trends or noteworthy changes in discharge concentration or volumes related to background, as well as any modification necessary in the operating procedures to better manage/reduce negative impacts or trends. If management measure modifications were proposed in a previous report, the subsequent monitoring report must include an evaluation of the effectiveness of the proposed modification in controlling negative trends or impacts.

g. Additional monitoring issues as set forth in the MEPD resolution and MOP approval.

(2) *Environmental.* The annual monitoring report must include the following:

a. An updated exotic removal plan.

b. Areas proposed to be mined and progress in relation to the reclamation plan.

c. Indigenous preserve status including any replanting updates.

d. Conditions of plants installed or retained within buffer areas.

(3) *Traffic.* The annual report must address the items outlined in section 12-116(d).

(4) Five year cumulative monitoring report. A report meeting the criteria set forth in section 12-118(b) is required every five years beginning with this initial MOP approval under this article.

(d) *Adjustments to mine operating permit.* The cumulative monitoring reports submitted every five years and with the MOP renewal request will be reviewed to determine whether any adverse impacts are precipitated by the mine operation. Adjustments to the mine site plan intended to eliminate or ameliorate the impacts to the greatest extent possible may be required as a condition of the MOP renewal approval or in response to adverse conditions evidenced by the interim five year cumulative report.

(e) *Inspections.* The County staff has a right to enter the mine property upon reasonable notice to the mine operator to verify the information provided as part of the monitoring reports or to otherwise inspect the mine operation and property.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-119. Reclamation requirements.

(a) *Reclamation plan.* The excavated lake must be designed to ensure appropriate native wetland areas will be created as a littoral shelf to provide long term water quality benefits; a source of natural organics for the lake; and wildlife habitat. Additionally, the final shoreline configuration outside of the littoral zone created wetland areas must be designed to prevent shoreline erosion. The overall reclamation plan must provide long term plans to sustain or improve the baseline water quality as well as sustain healthy fish and wildlife populations.

Plans and other appropriate documents accurately depicting the plan of reclamation, consistent with the standards detailed in section 12-119(b) are required. The reclamation plan must be consistent with the mining plan and include:

(1) Typical section indicating side slopes, the depth of excavation and proposed seasonal water levels.

(2) Sufficient cross-sections, notes, and details to illustrate compliance with the minimum reclamation plan standards listed in Section 12-119(o).

(3) Proposed elevations, depth of topsoil and other soil amendments and final grading plan.

(4) A schedule for the commencement and phasing of reclamation, and the planting plan for the littoral zone created wetland areas and any indigenous replanting including the species, quantities, and size upon planting. The reclamation must begin no later than 30 calendar days after completion of mining as identified in the mining plan in compliance with section 12-110(a)(15). Reclamation must be completed within 6 months or when mining in a mining cell or area is completed in accord with the MOP.

(5) A detailed analysis of the estimated cost for the reclamation program for each increment of the mining plan. The analysis must include breakdowns for the cost of grading, resloping of the lake banks, topsoil, grass stabilization, littoral zone creation, plant installation, monitoring, exotic and

nuisance plant species maintenance and any other work required to complete the reclamation of the area.

(6) The created wetland littoral shelf must be designed and incorporated into the mine excavation. The mine lake bank cannot be back filled to create the wetland littoral shelf, but must be designed into the lake excavation.

(7) Bank slope. After excavation is complete and upon reclamation of the site, the banks of the excavations outside of the required marsh creation area must be sloped at a ratio not greater than six horizontal to one vertical from the top of the finished grade to a water depth of four feet below the dry season depth. Deviation or variance from the slope requirement is prohibited. This prohibition does not apply to a mine located within the "Future Limerock Mining" area as shown on Map 14 of the Lee County Comprehensive Plan. A deviation or variance from this standard may be granted to a mine located on Map 14 through the public hearing process.

(b) *Reclamation Standards.* Mining operations will be subject to the following reclamation standards to ensure long term plans to sustain or improve the baseline water quality as well as sustain fish and wildlife. The Board of County Commissioners may modify these standards as a condition of approval when in the public interest, or where they determine a particular requirement unnecessary due to unusual circumstances. These conditions are not intended to conflict with the wetland permitting requirements of the U.S. Army Corps of Engineers, Florida Department of Environmental Protection or South Florida Water Management District.

(1) All disturbed areas of the mine site including the top of lake banks must be stabilized with native plants, sod or grass seeding at completion of mining or completion of a separate mining cell or area.

(2) Reclamation must be completed along the perimeter of the excavation and within the excavated lake. A minimum area equivalent to 25 percent of the post construction lake (mine footprint) surface area must have a littoral zone composed of created wetlands to improve water quality and create wildlife habitat. These created wetlands must be a minimum of 50 feet wide and meandering up to 100 feet in width for an expansive wetland littoral zone.

(3) The entire created wetland littoral zone must be planted with native herbaceous wetland plants (three feet on center). In addition, ten percent of the created wetland littoral zone must consist of native wetland shrubs (ten feet on center) and native wetland trees (25 feet on center).

(4) Created littoral zone native wetland plants must meet or exceed the following standards: Herbaceous plants bare root; shrubs 12 inches in height; and, trees three feet in height.

No more than 25 percent of one plant species can be utilized within the created littoral wetland zone. At least six native species must be installed as part of the created littoral wetland zone.

(5) The created wetland littoral zone must be designed with an appropriate slope to provide a littoral shelf that reaches a depth of not less than -3.0 from control elevation or seasonal high water level.

(6) 80 percent survival of herbaceous wetland plants, trees and shrubs must be met within five years of planting and maintained in perpetuity. The created littoral shelf must be maintained free of exotic or nuisance plant species in perpetuity.

(7) The mine reclamation required should be designed to compliment post mine uses. The created wetlands may be used as wetland impact mitigation required by federal, state or water management district permits.

(8) The created wetland littoral zone areas must be protected from impacts during and after mining. If the agricultural use of livestock is the intended post mine use, adequate fencing must be installed to protect the created littoral zone from livestock damage.

(9) If appropriate, organic soils (muck) must be excavated from impacted wetlands on the site and placed in the created littoral zone wetland areas. The existing "A" and "B" soil horizons must be

utilized to ensure successful wetland creation. The "A" horizon must be stored in a manner that prevents the soil from oxidizing. The "B" horizon may be stockpiled. The "B" horizon will be placed over a base of sand with the "A" horizon placed over the "B" horizon during the reclamation process.

(10) The reclamation design must include varying depths within the created wetland littoral zone to provide foraging "pockets" for woodstorks and other wading birds as water levels recede.

(11) All spoil piles and stockpiles of material must be removed from the site or incorporated into the reclamation plan when the excavation is completed.

(12) A recorded Conservation Easement dedicated to the County and any other appropriate government organization for all indigenous preserves, indigenous replanting areas, preserved or restored flowways, buffers, wildlife habitat areas, and the created marsh wetland littoral shelf zone may be required as part of the reclamation.

(13) Monitoring reports for the littoral plantings for each mining cell or area in the mining plan must be submitted annually starting with the completion of contouring and continuing through the installation of the littoral plants (Time Zero Report) for at least five years.

(Ord. No. 08-21 , § 2, 9-9-08; Ord. No. 13-10 , § 4, 5-28-13)

Sec. 12-120. Surety or assurance of completion.

The County may require, as a condition of MEPD or MOP approval or renewal, surety provisions and instruments deemed necessary to allow approval of the mine activity and ensure protection of the public health, safety and welfare or to otherwise ensure completion and operation of the project in accord with all applicable approvals.

The standards set forth in Lee County Administrative Code 13-19 relating to surety instruments control with respect to submittal form and substance.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-121. Existing mine operations.

(a) *Existing mine defined.* An existing mine is a mine operation approved by the Board of County Commissioners or Hearing Examiner prior to September 1, 2008 that meets the following criteria:

(1) Approved by special exception under chapter 34; **or**

(2) Approved as an Industrial Planned Development (IPD) or Residential Planned Development (RPD) under chapter 34 and has a valid/current master concept plan in place; **and**

(3) The right to pursue mining activity on either the special exception or IPD/RPD zoned property has not expired under the terms and condition of the zoning approval.

(b) *Continuing existing mine activity.* An existing mine may continue to operate and obtain MOP approvals if:

(1) The underlying zoning approvals as noted in section 12-121(a) remain valid; and

(2) The mine has a valid LDO/MOP approval in place prior to September 1, 2008, and continues to obtain MOP renewals in accord with this section; OR

(3) The existing mine without a MOP approval in place as of September 1, 2008, obtains a MDO approval, encompassing the entire mine boundary approved under the special exception or IPD/RPD resolution, in accord with section 12-121(c) on or before December 31, 2018; and,

thereafter obtains a MOP approval on all or a portion of the mine project no later than ten years after the date the MDO is issued.

Extension of the MDO approval is prohibited. If the mine operator fails to obtain a MOP on all or a portion of the mine project within ten years after the MDO is issued, a new MDO approval must be obtained in accord with section 12-121. The mine operator will be subject to compliance with all amendments to the provisions of section 12-121 adopted subsequent to the initial MDO approval (i.e. the approval issued prior to December 31, 2018). For purposes of this section the phrase "all or a portion of the mine" means (a) at least 20 percent of the gross acreage encompassed by the entire mine boundary; and, (b) including area to be excavated; but, (c) may not encompass solely mine footprint area or accessory mine uses.

If a mine required to comply with this subsection is the subject of litigation that will likely prevent the mine operator from obtaining a MDO by December 31, 2018, the County will toll the time required to comply with this provision provided: (a) the mine operator is diligently pursuing conclusion of the litigation that prevents compliance with this provision; (b) the mine operator provides the County with a copy of the pleadings concurrent with their filing or receipt, or as close to this time frame as reasonably possible; (c) the mine operator notifies the County as to settlement or other conclusion of the litigation within five business days after action by the tribunal; and, (d) the mine operator files a MDO application within six months after the litigation is concluded and obtains a MDO approval during the time attributable to the tolling/pendency of the litigation, including the six-month preparation period mentioned above.

(c) *Submittal requirements for existing mine MDO approval.* An application for existing mine MDO approval must be submitted on a form prepared by the County and be accompanied by the appropriate fee. The application will be processed in accord with the procedure set forth in section 12-108(e) through (h). The application must include the following:

(1) *Underlying zoning approval.* A complete, legible copy of the approved and fully executed zoning resolution or Hearing Examiner decision permitting the mining activity.

(2) *Legal description and sketch.* A legal description and sketch, complying with the requirements of section 34-202(a)(1), encompassing the entire mine project boundary, including conservation or preserve areas required by the underlying mine approval.

(3) *Owner, applicant/developer information.* This information must be consistent with the provisions set forth in section 10-153(2).

(4) *Traffic impact statement.* The TIS must be consistent with the requirements set forth in section 12-121(g)(9).

(5) *Traffic mitigation plan.* Consistent with the provisions of section 12-121(g)(9).

(6) *Existing Agricultural use affidavit.* This affidavit must meet the requirements set forth in section 34-202(b)(7).

(7) *Narrative of proposed mine operation.* Consistent with section 12- 110(a)(11).

(8) *Mining plan.* Consistent within section 12-110(a)(15).

(9) *Engineering site plans* meeting the provisions of section 12-121(f).

(10) *State and Federal permits.* Copies of state and federal permit applications, including drawings and related correspondence.

(11) *Surface water management permit.* Copy of the approved surface water management permit for the site.

(12) *Pollution Prevention Plan.* Copy of pollution prevention plan consistent with section 12-121(g)(13).

(13) Copies of recorded conservation easements required by the conditions of the underlying zoning or MDO approval.

(14) Site landscaping and engineering plans detailing any changes to the plans previously approved under the existing zoning approval.

(d) *Amendment of existing mine MDO approval.* The MDO approval may be amended in accord with the provisions set forth in section 10-118(a) and (c). The amendment application will be reviewed in accord with the provisions of section 12-121

(e) *Initial MOP approval for existing mines.* MOP approval is granted when the final Certificate of Compliance for the underlying MDO is issued by the County. The request for a MOP (or final MDO Certificate of Compliance) must be made on the form prescribed by the County. The application must include the following items:

(1) Proof as to County acceptance of the surety documents required as a condition of County approval, including but not limited to, off-site roadway maintenance and reclamation.

(2) Documents required by the underlying zoning to be approved prior to the issuance of the MOP.

(3) Letters of substantial compliance from appropriate professionals registered in the State of Florida, along with evidence of County inspection and approval as to:

a. Site landscaping.

b. Infrastructure installation, including roads, utilities.

c. Site depth, if applicable.

d. Other conditions set forth in the underlying zoning or MDO approval.

(f) *Site map and engineer plan set for existing mine MDO or MOP renewal/approval.* A series of maps and engineering plans, including drawings prepared and sealed by an appropriate registered professional in the State of Florida (e.g. engineer, architect, surveyor) must be provided to obtain MDO or MOP approval in accord with the provisions of this section. This map and plan series must meet and include the following minimum criteria:

(1) Be drawn at an appropriate scale to allow all information to be clearly and legibly depicted and described. A consistent scale between the maps and plans is preferred and recommended to assist in review of the information provided and to minimize the need to request additional submittals.

(2) Identify the date each document is prepared and any subsequent revision dates.

(3) Include a north directional arrow, pointing to the top of the page or to the left side of the page.

(4) Include a certification statement specifically stating: "I, the undersigned, hereby certify that this map is correct, and shows the information required by the requirements of the Land Development Code to obtain a MDO or MOP.

(5) *Mining plan.* Consistent with the mining plan, the extent of the area to be mined (i.e. mine footprint and depth) must be depicted. This includes all proposed mine cells or areas. Other mine uses and facilities must also be depicted.

(6) *The names and location of existing:*

a. Streams, creeks, sloughs, natural flowways, floodways, wetlands, and water bodies within the determined watershed area.

b. Indigenous vegetation areas.

c. Wildlife habitat areas.

d. Easements within the property boundary (as identified on the required title certification provided pursuant to section 12-110(a)(3)) including publicly and privately owned conservation easements and the means by which access to the easements is obtained.

e. Percolation ponds and drainfields within the determined watershed area.

f. Public and private roads; and vehicle access routes to nearest county-maintained road.

g. Railroad.

h. Utility lines and easements.

i. Existing buildings.

j. Cemeteries within 100 feet of the property boundary.

k. Test boring locations.

l. Public wellfields within a one mile radius around the mine boundary.

m. Public and permitted private wells with GPS or surveyed locations of wells along with wellhead elevations within a one mile radius around the mine property boundary.

(7) *The specific locations and descriptions of the following areas required under the existing zoning approval:*

a. Conservation and preservation areas, along with the access to these areas.

b. Buffers and required setbacks.

c. Indigenous areas to remain and indigenous replanting areas.

d. Littoral zone created wetland areas.

e. Physical plant facilities or other facilities supporting the operation, including but not limited to, scale houses, administrative offices, proposed fueling, vehicle servicing, and truck and tire washing facilities.

f. Accessory mine operation facilities such as, but not limited to, rock crushing operations, concrete and asphalt batch plants, cement plants etc.

g. Stockpile areas, including a typical cross-section of the area.

(8) *Profile plans showing:*

a. The proposed depth of excavation and slope of banks during excavation operations and after reclamation.

b. The proposed littoral zone created wetland areas.

c. Buffer areas.

d. Any other areas that need a cross-section to demonstrate compliance with the code requirements.

(9) *Engineering plans.* Engineering plans must be provided with a level of detail that would otherwise be found sufficient to allow issuance of a development order under chapter 10 for the proposed mine activity, including but not limited to the following items:

a. *Traffic related issues:*

1. Vehicular ingress and egress to the project from the public right-of-way, including site related improvements required under section 12-116

2. On-site access roads and truck staging areas; services delivery areas and off-street parking areas.

3. Traffic count stations required under section 12-116(b)(2).

b. *Water related issues:*

1. Monitoring wells required under section 12-117(a), (b) and (d).

2. If dewatering is proposed, the details of the proposed activity must be provided in accord with the provisions set forth in section 12-117

(10) *Environmental issues:*

a. *Drainage and stormwater management plan.* A drawing showing the location of all curbs and gutters, inlets, culverts, swales, ditches, water control structures, water retention or detention areas, and other drainage or water management structures or facilities must be submitted. Sufficient elevations must be shown to adequately depict the direction of flow of stormwater runoff from all portions of the site. A copy of all drawings and calculations submitted to the South Florida Water Management District or the Department of Environmental Protection must also be submitted. The plan must identify the U.S. Department of Agriculture Soil Conservation Service soils classifications of the site to determine the feasibility of the proposed pollution control and drainage plans.

b. Reclamation plan meeting the requirements of section 12-121(g)(17).

(11) *Proposed buildings or proposed structures.* The building envelope, including the perimeter of the area within which the building will be built, the height of all buildings and structures, the maximum gross floor area, and a depiction of no less than the minimum number of required parking spaces, including handicapped spaces.

(12) *Utilities.* A statement indicating the proposed method intended to provide water, sewer, electricity, telephone, refuse collection and street lighting, including but not limited to:

a. The names and address of all utilities, governmental or private, intended to supply the service.

b. The names and addresses of the owners of all existing public water and sewage systems within one-quarter mile of the proposed development.

c. A plan showing the location and size of all water mains and services, fire hydrants, sewer mains and services, treatment plants and pumping stations, together with plan and profile drawings showing the depth of utility lines and points where utility lines cross one another or cross storm drain or water management facilities. The location of services must be shown.

(13) *Blasting.* If blasting is to be performed,

a. A copy of the Blasting Permit issued from the State Fire Marshal's Office.

b. A list of materials used in the blasting process along with the Material Safety Data Sheets for these substances.

(14) *Exterior lighting plan, photometrics and calculations.* An exterior lighting plan and photometric information must be submitted. The plan and photometric information must be provided in full compliance with section 34-625 and demonstrate compliance with all standards and criteria specified therein.

(15) *Calculations and other pertinent materials.* The Director may also require submission of calculations in support of all proposed drawings, plans and specifications as well as additional information consistent with section 12-121(g) to address issues not reflected the by the balance of the requirements set forth in section 12-121(f). Calculations, data and reports to substantiate engineering designs, soil condition, flood hazards, compensation of floodplain storage (see section 10-253), wet season water table, etc., may be required.

(g) *Renewal of an existing mine operating permit by an existing mine.* Existing mines will be required to obtain a MOP under the provisions of chapter 12 as set forth below. The ability to renew an existing MOP is specifically limited to mines that have a valid limited development order (LDO) or mine operating permit allowing mining activity in place on September 1, 2008; or, a MOP issued in accord

with section 12-121(b)(3). The request to renew the mine operating permit must be filed at least 90 days prior to the expiration of the existing mine operating permit issued as a result of the LDO approval or MOP approval under this section. A MOP issued under this section is valid for a period of ten years, provided however, if a MOP renewal is timely filed and diligently pursued the previous MOP approval will remain in effect until a renewal is issued. The request to renew must be filed on the MOP renewal form prescribed by the County and be accompanied by the appropriate fee. MDO applications will be processed and reviewed in accord with section 12-109(b)(4). The submittal must provide the following:

(1) *Permit Approvals.* A copy of all permit approvals issued by Lee County, including zoning, development orders, transportation, environmental, natural resources, and wells; along with copies of all State and federal permit approvals issued to support the operation of the mine.

(2) *Legal and sketch of the mine project boundary.* This submittal must meet the requirements of section 12-121(c)(2).

(3) *Owner, applicant, mine operator information.* This information must be consistent with the provisions set forth in section 10-153(2).

(4) *Existing Agricultural use affidavit.* This affidavit must meet the requirements set forth in section 34-202(b)(7).

(5) Narrative addressing compliance with conditions of the zoning or special exception approval issued prior to September 1, 2008.

(6) *Survey.* A Bathymetric Survey signed by a surveyor licensed in the State of Florida. The bathymetic information must be overlayed, along with the mining site plan (or master concept plan for the initial MOP renewal or approval for an existing mine), on a copy of the most recent aerial photo available.

(7) *Mining plan.* The existing phasing schedule must be replaced with a mining plan meeting the requirements of section 12-110(a)(15).

(8) *Monitoring reports.* A copy of all monitoring reports required by the underlying County approvals as well as the five year comprehensive monitoring report required under section 12-118(b).

A letter from the Division of Natural Resources indicating that they have received the required water monitoring reports in the appropriate format.

(9) *Transportation.*

a. A letter from the Department of Transportation confirming that the roads providing access to the mine have been inspected and there is no evidence of damage from the mine activity. If there is damage that needs to be repaired, a permit must be obtained from the Department of Transportation for work in the right-of-way. If the damage is not repaired prior to issuance of the renewal permit, it will become a condition of the MOP renewal.

b. An updated TIS with a particular emphasis on need for turn lanes if they are not already in place.

c. A letter from the Department of Transportation detailing additional conditions deemed necessary to approval of the MOP renewal.

(10) *Environmental issues.*

a. Documentation regarding the status of existing exotic vegetation removal; required buffers, indigenous preservation and open space.

If exotic removal is not an on going activity, a proposed plan to address exotics must be submitted.

b. Updated protected species survey.

(11) *Water issues.*

a. A site map depicting the following:

1. The project boundaries.

2. The location of all known wellfield protection zones within a five mile radius of the project.

3. The distance to the closest known wellfield.

b. A water budget that addresses both surface and groundwater on the total project and possible changes that will occur once mining is concluded.

c. Soil borings must extend to either the top of the confining zone of the proposed mine aquifer or ten feet deeper than the proposed depth of the mine cell or area, whichever is greater. Borings must be taken within the footprint of each proposed mine cell or area and must occur at every one-foot of elevation change within the mine cell or area.

d. Wet and dry season water levels prior to any development. These water levels must be derived from either a minimum of three years of actual onsite data taken prior to development of the mine and approved by Lee County, or based upon data obtained from a Lee County accepted source that provides a minimum of five years of data.

e. Public and permitted private wells with GPS or surveyed locations of wells along with wellhead elevations within a one mile radius around the mine property boundary.

f. Documentation indicating that sets of two wells or Piezometer Tubes have been installed meeting the following minimum criteria: (0′ to 8′), (0′ to 25′) and a set of wells was placed at every one-foot of elevation change throughout the project.

g. Evidence that the mine operator has installed a pair of wells meeting the following requirements: one well extends to the lowest depth of the sand formation; and the second well extends to the proposed bottom depth of the mine. The second well must record water quality and level profiles for every change in material until the bottom depth of the proposed mine is reached.

(12) *Dewatering.* If the underlying zoning approval specifically allows dewatering activities:

a. A dewatering plan in compliance with the provisions of section 12-117(c) denoting the routing of dewatering effluent. Depict location and cross-section of hydraulic recharge trenches and staff gauge locations.

b. A table of pumps used stating diameter, horsepower, maximum gallons per minute that a pump can deliver and depth of dewatering. Also provide the total amount of water that can be pumped if all pumps listed were running at full throttle.

c. A copy of the South Florida Water Management District Water Use Permit.

(13) *Pollution Prevention Plan.*

a. Copy of the Storm Water Pollution Prevention Plan (SWP3) prepared in compliance with section 14-477

b. A letter from Lee County Natural Resources (Pollution Prevention Section) indicating its inspection confirmed that the site is using Best Management Practices in the handling, storage and disposal of regulated materials.

c. An updated Pollution Prevention Plan (PPP).

d. A copy of the approved pollution prevention plan for all mechanical repair/maintenance activities addressing all storage, handling, fueling and disposal practices of hazardous materials/waste. The Plan should contain the following:

1. A contaminated soil recovery component that includes storage of recovered contaminated soils protected from the weather. All disposal receipts of contaminated soils must be provided to the Pollution Prevention Program within 24 hours of soil disposal.
2. A requirement that all disposal receipts of contaminated soils must be provided to the Pollution Prevention Program within 24 hours of soil disposal.
3. Requirement that any spill of regulated materials such as oils, greases, fuels, solvents, equipment/vehicle coolants, and liquid explosive materials in excess of 10 gallons must be reported within five business days to the Pollution Prevention Program at (239) 652-6126.
4. Requirement that mechanical operational activities must comply with all applicable regulations contained within Lee County's Hazardous Waste Ordinance 07-03.
5. Requirement that all materials utilized in explosive activities must be approved for use before brought on-site and be under the control of a Florida licensed User or Blaster at all times.
6. A list of regulated materials and their Material Safety Data Sheets for the regulated materials utilized on-site must be provided prior to being brought on-site and used.
7. A spill prevention plan for regulated materials. This plan must include the contact person's name, title and emergency phone number.
8. Documentation of First Responders notification.

(14) *Fire District/EMS.*

a. A letter from the Fire District servicing the location of the mining operation stating the Fire Department has inspected the site and has approved the Fire Prevention Plan.

b. If the site is required to have an emergency helicopter landing site, a letter from Lee County Emergency Medical Services Aviation Division confirming inspection of the landing pad and that the location and pad configuration are acceptable.

(15) *Utilities.* A letter from Lee County Utilities indicating review of the renewal application and their findings.

(16) *Blasting.* If blasting is to be performed,

a. A copy of the Blasting Permit issued from the State Fire Marshals Office.

b. A list of materials used in the blasting process along with the Material Safety Data Sheets for these substances.

(17) *Reclamation.*

a. A copy of the previously approved phased reclamation plan.

b. A reclamation schedule for the mining site.

c. Documentation as to status of the reclamation activity to date.

(18) *Surety.*

a. An updated cost estimate for all areas that will require reclamation within the boundary of the project.

b. A new surety to reflect any deficiencies in bond amounts already provided to Lee County for reclamation of the site at 110 percent of the approved cost estimate.

(19) *Violations.*

a. If the mine has received a mine inspection report from Lee County depicting a violation that is unresolved, provide a detailed plan with respect to the manner and timing of activity to correct the existing violation.

b. If the mine has received findings of non-compliance for this site from agencies other than the County, provide information as to the nature of the problems, identifying the agency issuing the non-compliance determination, along with a detailed plan and schedule regarding the action to be taken to eliminate the non-compliance issue.

(h) *Waiver from submittal requirements.* Upon written request, the Director may modify or waive the submittal requirements where it can be clearly demonstrated that the submission will have no bearing on the review or processing of the application. The request and the Director's written response must accompany the application submitted and will become part of the permanent file.

(i) *Conditions of approval.* The Director has the authority to issue the MOP renewal approval subject to conditions applicable to the following issues, even if not previously addressed in the underlying zoning approval supporting the existing mine:

(1) Compliance with the transportation impact mitigation issues set forth in section 12-116(c).

(2) Removal of invasive exotics in accord with section 12-113(n).

(3) The MDO approval or MOP renewal for an existing mine must permit excavation to the stated depth within the specific mine footprint approved under the most recent zoning approval issued prior to September 1, 2008 for an existing mine project.

(j) *Limited amendments to existing mine zoning approvals.* Amendment to an existing mine zoning approval constituting a substantial change must be approved through the public hearing MEPD process; provided, however, an existing mine, meeting the criteria set forth in section 12-121(a), may obtain a limited amendment to the underlying zoning approval for dewatering or an extension of the mine duration as follows:

(1) The mine operator must file an application on the form prescribed by the County along with the appropriate fee. The contents of the application must include, at minimum, those items set forth in section 12-121(g); and

a. For dewatering: submittals addressing the issues set forth in section 12-117(c).

b. For an extension of mine duration:

1. A narrative substantiating the need for the extension and its proposed duration.

2. Submittal substantiating compliance with the following additional criteria:

i. Continued consistency with the Lee Plan.

ii. Compatibility with existing and approved development in the surrounding area.

iii. Whether the extension will place an unreasonable burden on essential public facilities and infrastructure.

3. Documents establishing that the extension request was filed at least six months prior, but not more than one year before, the expiration date set forth in the underlying zoning approval; and, that the mine was in active physical operation at the time of the request.

(2) The request for a limited amendment under this section may only be filed if the underlying zoning is valid at the time the request is filed.

(3) The request for a limited amendment must be processed in accord with the procedure set forth in sections 34-83 and 34-145, including the review criteria, regarding Hearing Examiner and Board review and action on the request.

(4) This subsection may not be expanded to include other amendments to the underlying zoning approval, even if filed in conjunction with the request to dewater or extend the mine duration.

(k) *Elimination or modification of duration limitations on certain existing mines.* Due to their existing permitting and location in the established Alico Road mining corridor, existing mines that have a valid development order and are located in the established Alico Road mining corridor may request the elimination or modification of duration limitations contained in applicable zoning resolutions and subsequent mining approvals, provided the right to pursue mining activity has not expired under the terms and conditions of previous zoning approvals. A request must include a reasonable estimate of the life of the mine. The Director is authorized to approve the modification or elimination of such duration limitations as an administrative amendment pursuant to section 34-380, so long as the mining operation is deemed to be consistent with the Lee Plan. If the request is not approved administratively, the applicant must file an application for public hearing.

(Ord. No. 08-21 , § 2, 9-9-08; Ord. No. 10-26 , § 1, 6-8-10; Ord. No. 10-30 , § 1, 8-24-10; Ord. No. 13-01 , § 3, 2-12-13)

Sec. 12-122. Post mining use of land.

Post mining plan/Future uses. Due to the increased vulnerability of groundwater contamination from overlying land uses in mining areas, stringent and diligently applied measures are required to protect groundwater quality. Urban and other land uses that include land management practices such as fertilization, stormwater management, chemical application, and irrigation may be prohibited or restricted to protect groundwater from contamination.

As part of the MEPD application, the applicant may submit a conceptual plan of post mining uses that considers the unique aspects of mined areas, including but not limited to, open pits with steep walls, littoral zone created wetlands, preservation areas, wildlife habitat and the interplay between proposed future uses, including associated impacts on the environment. The conceptual post mining plan will not impede the review and approval process for mining activities.

Given the longevity of mine operations and the economic benefit realized over the life of the mine, post mining uses may be appropriately limited to address public health, safety and welfare concerns. Subsequent to use of the property for mine operations, a rezoning request may be filed and considered by the County in accord with the provisions of chapter 34. However, a property owner does not have a vested right to achieve post mine density and intensity otherwise attributable to land that has not been the subject of mine activity.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-123. Enforcement; violations

(a) *Liability.* As a condition of the issuance of any MOP the mine operator will be subject to liability for damages resulting from the discharge, emission, spill or release of substances, from vibrations, noise or groundwater withdrawals or pit dewatering caused by the mine operator, or from failure of the mine operator to complete reclamation of lands as required.

(b) *Inspections.*

(1) Mine operators must allow representatives of the County that are Mine Safety and Health Administration (MSHA) certified, unrestricted access to the mine property at reasonable times for the purpose of performing inspections to ensure compliance with the terms and conditions of approved zoning, permit approval conditions, and all other County regulations.

Mining operators must allow County inspectors that are not MSHA certified access, with an escort if required, to all areas of the mine property at reasonable times for the purpose of performing inspections to ensure compliance with all County regulations and approvals.

(2) By requesting or obtaining a MEPD, MDO, or MOP approval under this chapter, the owner/mine operator consents to and grants County staff reasonable access, in accord with section 12-123(b)(1), during regular mine business hours, with or without advance notice from the County.

(3) The mine operator must inform County staff about specific on-site safety training requirements for the mine operation. These on-site safety requirements must be part of the mine's overall safety training program for vendors and employees. If the established training requirements are amended or changed, the mine operator must provide the County staff with notice of the changes within 48 hours of their adoption.

(4) The mine operator must provide County staff conducting mine site inspections with the opportunity to attend all required site specific safety training sessions free of charge. If the on-site safety training program is amended, the mine operator must provide County staff with an opportunity to receive the safety training within two weeks of the date the requirements are added to the program. The mine operator must provide a copy of the safety program manual, along with any modifications to County staff.

(5) If a MSHA certified County inspector arrives at the site and is denied access, due to the implementation of the new or changed on-site specific safety training requirements, and the mine operator failed to provide the County with notice of the change as required in section 12-123(b)(4), the County inspector will find that a violation of this section has occurred.

(c) *Violations.* The following actions constitute a violation of this article and are prohibited.

(1) Failure to comply with the terms, criteria, standards or requirements of this article.

(2) Failure to comply with the terms and conditions of the MEPD, MDO, MOP or any other approval adopted or issued by the Board of County Commissioners, Lee County Department of Transportation, or the Director of Development Services pursuant to lawful authority.

(3) Failure to obtain the permits and approvals required by this article.

(4) Knowingly making a false statement, representation or certification in an application, report, record, plan, map or other document filed or required to be filed or maintained under this article.

(5) Falsifying monitoring reports or using monitoring information that the mine owner knows or has reason to believe is inaccurate due to tampering with a monitoring device required to provide information under the provisions in this article or as a condition of approval.

(6) Failure to timely notify the Director with respect to any changes to the MEPD resolution or MOP approval ordered by a local, State or Federal agency.

(7) Failure to provide the Director with copies of any notice of violation, noncompliance order, stop-work order or other written notice affecting the mine operation issued by a State, Federal or local agency within 48 hours of receipt of the notice.

(8) Violation of applicable statutes or regulatory requirements imposed by Federal, State and local agencies relating to the regulation of mining.

(9) Failure to comply with the inspection site access requirements listed in section 12-123(b)(1).

(10) Exceeding the established maximum excavation depth or exceeding the approved limits of excavation.

(11) Allowing or causing the water levels to fall below the approved design standards.

(12) Failure to timely file monitoring reports required under this article.

(d) *Administrative Enforcement Procedures.* Administrative enforcement of a violation of this chapter may be pursued by the County in accord with the procedures set forth in section 2-420 et seq. and Ch. 162, Florida Statutes, as modified below.

(1) *Increased fines or penalties.* Under the provisions of F.S. § 162.09(d), Florida Statutes, the Board of County Commissioners hereby adopts, by a vote of at least a majority plus one, the provisions necessary to grant the Lee County Code Enforcement Hearing Examiner the power and authority to impose fines in excess of $500.00 per day, per violation. Specifically, the Board grants the Hearing Examiner with the authority to impose:

a. A fine of up to $1,000.00 per day per violation for the first violation.

b. A fine of up to $5,000.00 per day per violation for a repeat violation.

c. A fine of up to $15,000.00 per violation if the Hearing Examiner finds the violation to be irreparable or irreversible in nature.

d. The Hearing Examiner may also impose additional fines to cover all costs incurred by the County in enforcing the provisions of this chapter.

(2) *Findings for imposition of increased fines.* In order to determine the amount of the fine, the Hearing Examiner must consider:

a. The gravity of the violation;

b. Any actions taken by the violator to correct the violation;

c. Any previous violations committed by the violator; and

d. The timeliness of the actions taken by the mine operator to address the violation once notified of its existence.

(3) *Notice and hearing for violation constituting irreparable or irreversible harm.* If the Code Enforcement Officer inspection reveals a violation of an irreparable or irreversible nature, the officer may immediately request a special hearing before the Lee County Code Enforcement Hearing Examiner to be held within ten business days of the request. Notice of the hearing will be provided to the mine operator, by hand delivery to the mine administrative offices, at least 72 hours prior to the hearing. If the Hearing Examiner finds a violation constituting irreparable or irreversible harm, a fine of up to $15,000.00 may be imposed for the violation.

(e) *Judicial Enforcement Procedures.*

(1) *Citation.* Judicial enforcement of a violation of this article may be pursued by the County in accord with the procedure set forth in section 2-430 and Ch. 162, Florida Statutes, as modified below.

a. In the event the Code Enforcement Officer finds a violation of an irreparable or irreversible nature, the officer may immediately issue a citation for county court. The citation may be properly delivered to the mine operator by hand delivery to the mine administrative offices.

b. In addition to a fine of up to $500.00 for the violation, the violator/mine operator may be sentenced to a definite term of imprisonment, not to exceed 60 days, in a municipal detention facility or other facility authorized by law.

(3) Each violation of this article be may also be prosecuted in the same manner as a first degree misdemeanor pursuant to F.S. § 125.69, as amended.

(f) *Suspension and Revocation.* The Director, may post a stop work order, or suspend or revoke a MOP where a determination is made that the mine operation is in violation of the terms and conditions of this article, the MEPD resolution, MOP conditions or other local, state or Federal regulations. The Director has the ability to take whatever action is deemed appropriate to resolve issues involving the mine operation that may affect the health, safety and welfare of the public. This includes, but is not limited to, revoking the MOP to the extent it allows off-site hauling, stopping all or part of the work on

the site, adjusting operational work hours, posting a stop work order, modifying the conditions of the approved MOP or notifying the mine operator/owner that certain actions must occur to avoid any of the aforementioned actions.

(g) The County retains the right and authority to pursue enforcement of the terms of this article in accord with all other available remedies including injunction.

(Ord. No. 08-21 , § 2, 9-9-08)

Sec. 12-124. Appeals.

A final decision of the Board of County Commissioners rendered with respect to a MEPD may be appealed in accord with section 34-85.

Decisions rendered by a Director under this article may be appealed in accordance with the provisions of section 34-145(a), unless otherwise specifically provided.

A decision of the Code Enforcement Hearing Examiner may be appealed in accordance with the provisions set forth in section 2-420.

(Ord. No. 08-21 , § 2, 9-9-08)

Chapter 13 RESERVED

Chapter 14 ENVIRONMENT AND NATURAL RESOURCES [1]

FOOTNOTE(S):

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Cross reference— Transfer of development rights, § 2-141 et seq.; open space, buffering and landscaping, § 10-411 et seq.; protection of habitat, § 10-471 et seq.; Lakes Regional Park Watershed, § 10-531 et seq.; environmentally sensitive areas, § 34-1571 et seq. (Back)

ARTICLE I. IN GENERAL

Sec. 14-1. Planning community regulations.

Activities in the following communities must also comply with the regulations set forth in Chapter 33 pertaining to the specific community.

(a) Estero Planning Community.

(b) Greater Pine Island.

(c) Page Park.

(d) Caloosahatchee Shores.

(e) Lehigh Acres.

(f) North Fort Myers.

(g) Matlacha.

(h) Upper Captiva.

(i) North Olga.

(Ord. No. 07-19 , § 3, 5-29-07; Ord. No. 11-08 , § 6, 8-9-11; Ord. No. 12-01 , § 2, 1-10-12; Ord. No. 12-14 , § 1, 6-12-12; Ord. No. 14-13 , § 2, 6-17-14; Ord. No. 14-20 , § 1, 10-21-14)

Secs. 14-2—14-40. Reserved.

ARTICLE II. WILDLIFE AND HABITAT PROTECTION [2]

DIVISION 1. - GENERALLY

DIVISION 2. - SEA TURTLE CONSERVATION

DIVISION 3. - SOUTHERN BALD EAGLE

DIVISION 4. - MANATEE PROTECTION; CALOOSAHATCHEE RIVER SYSTEM

DIVISION 5. - BEACH AND DUNE MANAGEMENT

FOOTNOTE(S):

--- (2) ---

Cross reference— Protection of habitat, § 10-471 et seq. (Back)

DIVISION 1. GENERALLY

Secs. 14-41—14-70. Reserved.

Secs. 14-41—14-70. Reserved.

DIVISION 2. SEA TURTLE CONSERVATION [3]

Sec. 14-71. Purpose and applicability of division.

Sec. 14-72. Definitions.

Sec. 14-73. Violations, enforcement of division and penalty.

Sec. 14-74. Exemptions from division.

Sec. 14-75. Lighting for existing development.

Sec. 14-76. Lighting for new development.

Sec. 14-71. Purpose and applicability of division.

(a) The purpose and intent of this division is to protect endangered and threatened sea turtles along the Gulf of Mexico beaches in the unincorporated areas of the county. This division protects nesting sea turtles and sea turtle hatchlings from the adverse effects of artificial lighting, provides overall improvement in nesting habitat degraded by light, and increases successful nesting activity and production of hatchlings on the beaches, as defined in this division.

(b) The provisions of this division apply during the nesting season.

(Ord. No. 98-03, § 3, 1-13-98)

Sec. 14-72. Definitions.

When used in this division, the following words, terms and phrases have the meanings set forth below, except where their context clearly indicates a different meaning:

Administrator means the county manager, or his designee, who is responsible for administering the provisions of this division.

Artificial lighting or illumination means light emanating from a manmade point source (see *Point source of light,* below).

Beach has the same meaning given it in section 14-170.

Bug type light means any yellow colored incandescent light bulb that is specifically treated in such a way so as to reduce the attraction of bugs to the light, but does not include bug killing devices.

Construction means the carrying out of any building, clearing, filling, excavating or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, the term "construction" refers to the act of constructing or the result of construction, and includes reconstruction or remodeling of existing buildings or structures.

Decorative lighting means lighting used for aesthetic reasons, primarily landscaping.

DEP means Florida Department of Environmental Protection or successor agency.

Directly illuminated means illuminated by one or more point sources of light directly visible to an observer on the beach, dune, or other sea turtle nesting habitat.

Development has the same meaning stated in section 34-2.

Dune has the same meaning given it in section 14-170.

Existing development means completed development having received official approval in the form of a certificate of compliance, final building permit inspection, or other final governmental approval as of January 31, 1998.

FWC means the Florida Fish and Wildlife Conservation Commission or its successor.

Ground-level barrier means any vegetation, natural feature or artificial structure rising from the ground intended to prevent beachfront lighting from shining directly or indirectly onto the beach, dune, or other sea turtle nesting habitat.

Hatchling means any individual of a species of sea turtle, within or outside of a nest, that has recently hatched from an egg.

Indirectly illuminated means illuminated by one or more point sources of light not directly visible to an observer on the beach, dune, or other sea turtle nesting habitat.

Low-profile lighting means a light fixture which places the low wattage source of light no higher than 48 inches above grade and is designed so that a point source of light does not directly or indirectly illuminate sea turtle nesting habitat.

Mechanical beach cleaning has the same meaning given it in section 14-170.

Nest means an area where sea turtle eggs have been naturally deposited or subsequently relocated by an FWC-authorized marine turtle permit holder.

Nesting season means from 9:00 p.m. until 7:00 a.m. during the period May 1 through October 31 of each year.

New development means construction of new buildings or structures as well as renovation or remodeling of existing development, and includes the alteration of exterior lighting, including lighted signs, occurring after January 31, 1998.

Point source of light means a manmade source emanating light, including, but not limited to: incandescent, tungsten-iodine (quartz), mercury vapor, fluorescent, metal halide, neon, halogen, high-pressure sodium and low-pressure sodium light sources, as well as, torches, camp and bonfires.

Sea turtle means any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or using the beach as nesting habitat, including *Caretta caretta* (loggerhead), *Chelonia mydas* (green) and *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), *Lepidochelys kempi* (Kemp's ridley). For purposes of this division, sea turtle is synonymous with marine turtle.

Sea turtle nesting habitat means the beach, any adjacent dunes or areas landward of the beach used by sea turtles to deposit sea turtle eggs.

Tinted glass means any glass treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less.

(Ord. No. 98-03, § 3, 1-13-98; Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-73. Violations, enforcement of division and penalty.

(a) *Violations.*

(1) Failing in any respect to comply with the provisions of this division.

(2) A rebuttable presumption that there is a violation of this division exists when:

a. A shadow is created or cast by artificial lighting directly or indirectly illuminating an opaque object in sea turtle nesting habitat during the nesting season; or

b. The disorientation or mortality of a nesting sea turtle or sea turtle hatchling is caused by artificial lighting directly or indirectly illuminating sea turtle nesting habitat during the nesting season.

(b) *Enforcement and penalty.* Violations of this division will be prosecuted in accordance with Chapter 2, Article VII. The county may take action against the property owner, occupant or person otherwise responsible for causing the violation. In addition to code enforcement action, the county may pursue

other legal means of obtaining compliance, including civil and criminal remedies, that are available by law.

(Ord. No. 98-03, § 3, 1-13-98)

Sec. 14-74. Exemptions from division.

Administrative exemptions. The administrator may authorize, in writing, any activity or use of lighting otherwise prohibited by this division for a specified location and period of time. The authorization must be for the minimum duration and amount of lighting from a point source of light.

(Ord. No. 98-03, § 3, 1-13-98; Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-75. Lighting for existing development.

Existing development must ensure that sea turtle nesting habitat is not directly or indirectly illuminated by artificial lighting originating from the existing development during the nesting season. Existing development must incorporate and follow the measures outlined in section 14-79 to reduce or eliminate interior light emanating from doors and windows visible from the beach, a dune, or other sea turtle nesting habitat.

(Ord. No. 98-03, § 3, 1-13-98; Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-76. Lighting for new development.

New development must comply with the following requirements:

(a) Artificial lighting must conform to the general requirements of section 14-75

(b) A lighting plan must be submitted to the county for review prior to the earlier of building permit or development order issuance for all new development on the barrier islands identified in Appendix B, as follows:

(1) Seaward of the coastal construction control line, as defined in section 6-333 (CCCL), a lighting plan is required for all new development.

(2) Landward of the CCCL, a lighting plan is required for all commercial and industrial development, and for all multi-story developments in multi-family zoning districts.

(3) The location, number, wattage, elevation, orientation, fixture cut sheets, and types of all proposed exterior artificial light sources, including landscape lighting, must be included on the lighting plan. A county approved lighting plan is required before a building permit will be issued and final inspections for a certificate of occupancy or certificate of compliance will be performed by the county; and

(4) Tinted glass, or any window film applied to window glass that meets the definition for tinted glass in section 14-72, must be installed on all windows and glass doors visible from the beach. The alternative selected to comply with this subsection must be identified on the building permit plans.

(5) Exterior light fixtures visible from the beach must meet all of the following criteria to be considered appropriately designed:

a. Completely shielded downlight-only fixtures or recessed fixtures having 25-watt yellow bug type bulbs and non-reflective interior surfaces are used. Other fixtures that have appropriate shields, louvers, or cutoff features may also be used, if they comply with section 14-75. Mercury vapor and metal halide lighting is prohibited.

b. All fixtures must be mounted as low as possible through the use of low-mounted wall fixtures, low bollards, and ground level fixtures.

c. All exterior lighting must be installed so that the cone of light will fall substantially within the perimeter of the property. Through the use of shielding and limitations on intensity, artificial light traveling outward and upward producing a sky glow must be reduced to the greatest extent possible without unduly interfering with the purpose of the exterior lighting.

d. Lighting on ceiling fans placed on balconies or porches visible from the beach is prohibited.

e. Artificial lighting, including but not limited to uplighting, is not permitted seaward of the 1978 CCCL.

f. A colored or partially opaque lens must be installed over pool and spa lights.

(6) Parking lot lighting must use:

a. Poles no higher than 12 feet in height;

b. Shoebox-style fixtures containing high pressure sodium or low pressure sodium bulbs 150 watts or less; and

c. Opaque shields with a non-reflective black finish on the inside that completely surrounds each fixture and extends below each fixture at least 12 inches.

(7) Low profile artificial lighting is encouraged, such as step lighting or bollards with louvers and shields that are no taller than 48 inches with bulbs of 35 watts or less. Opaque shields must surround 180 degrees of each fixture to keep direct light off the beach.

(8) Illuminated signs must conform to the requirements of section 14-76. Reverse lighting signs are recommended, where the background is opaque and the letters/logo are illuminated from within the sign. If exterior lighting is used to illuminate the sign, the lights must be downlights with shields and louvers to pin point the light. The use of neon is not permitted.

(c) Prior to the issuance of a Certificate of Occupancy (CO), the exterior lighting of new development must be inspected after dark by the county, with all exterior lighting turned on, to determine compliance with an approved lighting plan and this division.

(Ord. No. 98-03, § 3, 1-13-98; Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-77. Publicly owned lighting.

Streetlights and lighting at parks and other publicly owned beach access areas are subject to the following requirements:

(a) The beach must not be directly or indirectly illuminated by newly installed or replaced point sources of light.

(b) Artificial lighting at parks or other public beach access points must conform to the provisions of section 14-75

(Ord. No. 98-03, § 3, 1-13-98)

Sec. 14-78. Additional regulations affecting sea turtle nesting habitat.

(a) *Fires.* Fires are prohibited on the beach during the sea turtle nesting season.

(b) *Driving on the beach.* Driving on sea turtle nesting habitat, specifically including the beach, is prohibited during the nesting season, except as follows:

(1) *Research or patrol vehicles.* Only authorized permittees of the FWC, DEP officials, and law or code enforcement officers conducting bona fide research or investigative patrols, may operate a motor vehicle on the beach or in sea turtle nesting habitat during the nesting season. No lights may be used on the vehicles during the nesting season unless they are covered by appropriate red-colored filters. The vehicles must travel below the previous night's mean high tide line to avoid dunes, dune vegetation, sea turtle nests and bird nesting areas.

(2) *Mechanical beach raking.* The mechanical raking of the beach or wrack line is prohibited, except in accordance with section 14-174. During the nesting season, mechanical beach raking:

a. Must not occur before 9:00 a.m. or before completion of daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder, whichever occurs first; and

b. Must not disturb any sea turtle or sea turtle nest; and,

c. Must avoid all staked sea turtle nests by a minimum of ten feet.

(3) *Beach furniture and equipment transport.* During the nesting season, the transport of beach furniture and equipment:

a. May not be set out in the morning until after a sea turtle monitor has inspected the beach in the area of the authorized activity to ensure any new sea turtle nests are identified and marked.

b. May not travel within ten feet of a sea turtle nest or dune vegetation.

(4) See section 14-175 for other restrictions on vehicular traffic on the beach that apply before and after the nesting season.

(c) *Parking.* Vehicle headlights in parking lots or areas on or adjacent to the beach must be screened utilizing ground-level barriers to eliminate artificial lighting directly or indirectly illuminating sea turtle nesting habitat.

(Ord. No. 98-03, § 3, 1-13-98; Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-79. Guidelines for mitigation and abatement of prohibited artificial lighting.

(a) Appropriate techniques to achieve lighting compliance include, but are not limited to:

(1) Fitting lights with hoods or shields.

(2) Utilizing recessed or down fixtures with low wattage bulbs.

(3) Screening light with vegetation or other ground-level barriers.

(4) Directing light away from sea turtle nesting habitat.

(5) Utilizing low-profile lighting.

(6) Turning off artificial light during the nesting season.

(7) Motion detectors set on the minimum duration.

(8) Lowering the light intensity of the lamps to 25-watt yellow bug lights.

(9) Spraying reflective surfaces within fixtures or globes on fixtures with a flat black grill or oven paint.

Although plastic sleeves for fluorescent bulbs may help to reduce the amount of artificial light to an acceptable level if the bulbs are of sufficiently low wattage, additional shielding is still needed as sea turtles are more sensitive to the wavelengths of fluorescent light.

(b) Opaque shields for lights covering an arc of at least 180 degrees and extending an appropriate distance below the bottom edge of the fixture on its seaward side may be installed so that the light source or any reflective surface of the light fixture is not visible from sea turtle nesting habitat.

(c) Floodlights, uplights, spotlights, and decorative lighting directly or indirectly visible from sea turtle nesting habitat should not be used during the nesting season. The ideal alternatives within direct line-of-sight of the beach are completely shielded downlight-only fixtures or recessed fixtures, with any visible interior surfaces or baffles covered with a matt black non-reflective finish.

(d) Appropriate techniques to eliminate interior lighting directly or indirectly illuminating the beach, include, but are not limited to: applying window tint film to windows, using tinted glass, moving light fixtures away from windows, closing blinds or curtains, and turning off unnecessary lights.

(Ord. No. 98-03, § 3, 1-13-98; Ord. No. 05-14 , § 4, 8-23-05)

Secs. 14-80—14-110. Reserved.

FOOTNOTE(S):

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Editor's note— (Back)

DIVISION 3. SOUTHERN BALD EAGLE [4]

Sec. 14-111. Purpose of division.

In order to maintain a stable or increasing population of the southern bald eagle in Lee County by protecting eagle habitat, it is necessary and appropriate to protect, enhance, and preserve the nest of the eagle and its immediate environs. With reasonable land compensation incentives and proper habitat management, the southern bald eagle population in the county can be maintained. This division is intended to protect the critical nesting habitat of the southern bald eagle and promote national, state, and county pride and esteem by negotiating with owners of land surrounding eagle nests to provide an optimal management plan for land subject to imminent development, including providing special compensation incentives to private property owners for loss of property committed to critical southern bald eagle nesting habitat. This division is also intended to provide information and assistance to property owners to enable them to avoid violations of county, state and federal law.

(Ord. No. 86-15, § 1, 6-11-86; Ord. No. 95-02, § 1, 1-4-95; Ord. No. 08-25 , § 1, 10-28-08)

Sec. 14-112. Definitions.

The following words, terms and phrases, when used in this division, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Active nest means a nest that shows or showed evidence of breeding by bald eagles, such as an adult attending the nest or in incubating position, a clutch of eggs, or a brood of nestlings, at any time during the current or most recent nesting season.

Abandoned nest means a nest that is intact or partially intact but has been inactive through five or more consecutive nesting seasons.

Alternate nest means a nest that is intact or partially intact and has been used by bald eagles at any time during the past five nesting seasons, but was not used during the current or most recent nesting season. An inactive nest is considered to be an alternate nest until it has been inactive for five consecutive nesting seasons, at which time it becomes an abandoned nest.

Buffer area means that area designated by the Board of County Commissioners in accordance with section 14-119 that must remain predominantly in its natural state to protect eagles, nest trees, or other critical eagle nesting habitat. Buffer areas may range in any distance up to 660 feet from a nest and be irregularly shaped areas, except that a larger buffer area may be offered voluntarily in accordance with section 14-120(3).

Critical eagle nesting habitat means habitat which, if lost, could result in the elimination of nesting eagles from the area in question. Critical eagle nesting habitat typically provides functions for the southern bald eagle during the nesting portion of that species' life cycle. This area includes eagle nest trees and their immediate environs and may include other areas or features such as perch trees, flight paths, and alternate nests within the buffer area.

FWC means the Florida Fish and Wildlife Conservation Commission or its successor.

Fledgling means a young eagle that is capable of flight and has left the nest, usually at 10-12 weeks of age. Fledglings may return to the nest for several weeks to be fed or to roost.

Flight path means the route within the buffer area most frequently traveled by eagles directly to and from their nest, perch trees, and important foraging areas.

Inactive nest means a nest that was not used during the current or most recent nesting season.

Lost nest means a nest where the nest or nest tree is destroyed by natural causes (e.g., nest that fell apart or was blown out of a tree, or tree itself was lost) and is not rebuilt in the same tree within three nesting seasons.

Nesting season means the period from October 1 to May 15, unless the young fledge before or after May 15.

Nestling means a young eagle (eaglet) that is incapable of flight and is dependent on its parents. Once an eaglet fledges (i.e., leaves the nest), it becomes a fledgling.

Perch tree means a tree used by bald eagles for resting, sleeping, foraging, hunting, feeding, lookout, display or thermal benefit.

Southern bald eagle (Haliaeetus leucocephalus) means a mature eagle with white plumage on its head and tail feathers, or an immature eagle with dark plumage, which resides throughout the state around estuarine areas and along the lakes and river drainage basins within the interior of the state and county.

Unified control has the same meaning as defined in section 10-1.

USFWS means the United States Fish and Wildlife Service or its successor.

(Ord. No. 86-15, § 2, 6-11-86; Ord. No. 95-02, § 1, 1-4-95; Ord. No. 08-25 , § 1, 10-28-08)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 14-113. Violation of division; penalty.

(a) Any person convicted of violation of any of the provisions of this division may be punished as provided in section 1-5. Such person will also be responsible for costs and expenses involved in the case. Each day such violation continues will be considered a separate offense.

(b) Any violator of this division may be required to restore the critical eagle nesting habitat to its original undisturbed condition. If restoration is not undertaken within a reasonable time after notice, the county may take necessary corrective action, the cost of which will be placed as a lien upon the property.

(c) In addition, any violation of this division is a public nuisance and may be restrained by injunction by any interested party.

(d) Lee County will notify the FWC of wildlife complaints or potential FWC rule violations. Lee County will coordinate with FWC in enforcement activities.

(Ord. No. 86-15, § 11, 6-11-86; Ord. No. 95-02, § 1, 1-4-95; Ord. No. 08-25 , § 1, 10-28-08)

Sec. 14-114. Provisions of division supplemental.

This division does not replace the Federal Endangered Species Act, the Federal Migratory Bird Treaty Act, the Federal Bald and Golden Eagle Protection Act, the Florida Endangered Species Act, or the permitting requirements of FWC's Bald Eagle Permitting Framework, that is incorporated in FWC Rule 68A-16.002, Florida Administrative Code, but is intended to supplement those laws to ensure protection of critical eagle nesting habitat in Lee County.

(Ord. No. 86-15, § 12, 6-11-86; Ord. No. 95-02, § 1, 1-4-95; Ord. No. 08-25 , § 1, 10-28-08)

Sec. 14-115. Applicability of division.

This division applies only to all real property within 660 feet (or 750 feet pursuant to section 14-120(3)) of a nest unless the nest is abandoned or lost. Compliance with this division will be required prior to receiving a building permit, development order, zoning approval, notice of clearing, vegetation removal permits or amendments thereto.

(Ord. No. 86-15, § 5, 6-11-86; Ord. No. 95-02, § 1, 1-4-95; Ord. No. 08-25 , § 1, 10-28-08)

Note—Formerly § 14-117

Sec. 14-116. Eagle technical advisory committee.

(a) The county eagle technical advisory committee (ETAC) will consist of five residents of the county appointed by the Board of County Commissioners for the purpose of advising the Board of County Commissioners on matters relating to the protection of the southern bald eagle. Each eagle technical advisory committee member should have extensive technical or practical knowledge of the southern bald eagle biology and must be qualified by either training or experience to render advice regarding the protection of critical southern bald eagle nesting habitat.

(b) The term of office for a member of the eagle technical advisory committee will be two years; however, so as to provide for staggered terms, two members will be appointed initially to one-year terms, and the remaining three members to two-year terms.

(c) The eagle technical advisory committee will review all pertinent or current eagle technical documents and provide expert advice to the Board of County Commissioners, the department of community development and the general public.

(d) The eagle technical advisory committee will review management plans and make recommendations to the Board of County Commissioners in accordance with section 14-119

(e) The county department of community development and environmental sciences division will serve as support staff to the eagle technical advisory committee.

(f) The eagle technical advisory committee will document and report to the FWC the presence of new or relocated southern bald eagle nests not included on FWC's annual southern bald eagle nesting survey.

(g) The eagle technical advisory committee, with assistance of appropriate staff, will maintain and update as necessary a list or map of active, abandoned and alternate southern bald eagle nests and will monitor nest sites on a regular basis, with the permission of the property owner, if required.

(Ord. No. 86-15, § 4, 6-11-86; Ord. No. 95-02, § 1, 1-4-95; Ord. No. 08-25 , § 1, 10-28-08; Ord. No. 13-01 , § 4, 2-12-13)

Note—Formerly § 14-115

Sec. 14-117. Public acquisition of rights and interest in critical eagle nesting habitat lands.

The county may acquire rights and interests in real property designated as a critical eagle nesting habitat. When a developer or property owner cannot accommodate critical eagle nesting habitat through reasonable site planning or proper access, the county may acquire an interest through:

(1) Receiving donations of critical eagle nesting habitat lands;

(2) Purchase or conveyance by dedication of a perpetual conservation easement;

(3) Outright purchase or lease of critical eagle nesting habitat;

(4) Acquisition through eminent domain proceedings pursuant to article II, section 9, and article X, section 6, of the state constitution and applicable provisions of the Florida Statutes; or

(5) Implementation by the Board of County Commissioners of any combination of these or other actions to acquire rights and interests that balance the public and private interests.

(Ord. No. 86-15, § 6, 6-11-86; Ord. No. 95-02, § 1, 1-4-95; Ord. No. 08-25 , § 1, 10-28-08)

Note—Formerly § 14-118

Sec. 14-118. Notification procedure.

Lee County will notify the FWC and the USFWS upon receipt of any application for a planned development rezoning, a development order, a notice of clearing, or a building permit for any property located within 660 feet of a nest. The notice must include any available information gathered by the eagle technical advisory committee regarding the behavior of the eagles who are occupying the nest.

(Ord. No. 95-02, § 1, 1-4-95; Ord. No. 08-25 , § 1, 10-28-08)

Sec. 14-119. Mechanisms for the protection of critical eagle nesting habitat.

(a) *Construction of single- or two-family dwelling unit (including accessory structures.)* Appropriate conditions limiting or prohibiting development during the nesting season may be attached to building permit approvals for property to which this division is applicable where such conditions are deemed necessary by the director of the department of community development (or designee) to prevent a loss of critical eagle nesting habitat. Such conditions may include, but are not limited to, defining the dates, equipment, and hours of operation for exterior construction to avoid disturbing a nesting eagle, eggs or nestlings.

(b) *Agricultural activities.* All persons intending to conduct new agricultural activities on property to which this division is applicable must consult with Lee County staff and the eagle technical advisory committee prior to approval of an application for a notice of clearing or the commencement of activities. Any improvements within 330 feet must be conducted with a bald eagle management plan consistent with the FWC Bald Eagle Management Plan and designed to protect the habitat. Any proposal for improvements within 330 feet must indicate that the crop planting or harvesting will not occur during nesting season to avoid impacts to the bald eagle habitat.

(c) *All other development.*

(1) All persons contemplating the development of property to which this division is applicable are encouraged to consult with the eagle technical advisory committee and the environmental sciences division as early in the planning and design process as possible to ensure enhancement or protection of critical eagle nesting habitat within the buffer area. No construction (structures or site work) may occur within 660 feet during the nesting season, unless otherwise modified in an approved bald eagle management plan.

(2) With assistance from the eagle technical advisory committee, all such persons are required to prepare a management plan that protects critical eagle nesting habitat. However, no new bald eagle management plan will be required for projects in which a bald eagle management plan was submitted to and accepted by Lee County to support a building permit, local development order, Development of Regional Impact, or zoning application approval. A new or amended bald eagle management plan will be required if subsequent development or a change in use is proposed that is inconsistent with the previously reviewed bald eagle management plan, or if a new or revised bald eagle management plan is required by condition or stipulation of the existing authorization.

a. Prior to consideration and approval by resolution of the Board of County Commissioners, all eagle management plans must be submitted and will be reviewed by environmental sciences staff and ETAC.

b. ETAC must recommend approval, denial, or approval of the proposed eagle management plan with conditions, or continue consideration of the proposed eagle management plan until the next meeting date in order to seek technical advice from outside sources or to meet further with the applicant to revise or modify the proposed eagle management plan. If ETAC lacks a quorum for a period of 90 days then ES staff can recommend to formally review and

transmit the proposed bald eagle management plan to the Board of County Commissioners without ETAC recommendations.

c. Evidence of the ETAC decision and findings of fact must be by the record of the proceedings of the ETAC meeting.

d. Staff will present the proposed bald eagle management plan to the Board of County Commissioners, along with the written staff opinion and the ETAC recommendation, if any.

(3) All development within critical eagle nesting habitat and buffer areas must be consistent with the approved management plan.

(4) Management plans to protect or enhance critical eagle nesting habitat, must include the following items, where applicable:

a. Description of the landscape within and surrounding the critical eagle nesting habitat, including FLUCCFS map, locations and height of active and alternate nest tree and perch tree, tree survey, and a description of the location, height, species and density of understory and canopy vegetation;

b. History and behavior patterns of the eagle pair;

c. A one inch equals 200 feet aerial map and a map at the scale of the development that shows the location of the eagle's nest, flight path to and from the nest, location and size of visual obstacles, such as trees, between the nest and proposed development, nearest known foraging area for the eagle, location and type of existing and permitted developments within 1500 feet of the nest, and other critical eagle nesting habitat features as well as the proposed development;

d. The boundaries, size, and shape of the proposed buffer area;

e. Conservation measures designed to minimize potential adverse impacts of the development on nesting bald eagles that may result in abandonment of the nest, including but not limited to, establishment of a planted landscape buffer, construction phasing indicating timing and location of construction activities during nesting and non-nesting periods, i.e. no construction within 330 feet of a nest during nesting season, height limits on buildings within the buffer area, protection of the flight path and the nesting tree, monitoring of eagles and nests using the federal monitoring guidelines, conservation easement, and other necessary measures to protect or enhance critical eagle nesting habitat;

f. Techniques to maintain viable nesting habitat. These techniques may include controlled burning, planting, or removal of vegetation, invasive exotic species control, maintaining hydrologic regimes, and monitoring;

g. Deed restrictions, protective covenants, easements, or other legal mechanisms running with the land that provide reasonable assurances that the approved management plan will be implemented and followed by all subsequent owners of the property in question;

h. A commitment to educate future owners, tenants, or other users of the development about the specific requirements of the approved eagle management plan and the state and federal eagle protection laws.

(5) The legal effect of management plans will be limited geographically to property owned or controlled by the proponent of the plan.

(6) In determining whether the proposed project and conservation measures protect or enhance eagle habitat in accordance with this division and the Lee Plan, division of environmental sciences staff and the eagle technical advisory committee will consider the intensity of the proposed and existing development, quality of habitat, behavior of the specific nesting eagles, extent of measures proposed in the eagle management plan, and the consistency with the guidelines promulgated by FWC and the USFWS in the review of management plans and may request

technical assistance from the FWC or the USFWS whenever necessary. This review will be the basis of staff and ETAC's recommendation to the Board of County Commissioners.

(7) An approved management plan will remain effective notwithstanding the abandonment of a nest unless the abandonment occurs prior to the use of any incentives (see section 14-120 below) and the property owner relinquishes the incentives by amending the development order or taking other appropriate action.

(Ord. No. 86-15, § 10, 6-11-86; Ord. No. 95-02, § 1, 1-4-95; Ord. No. 08-25 , § 1, 10-28-08)

Note—Former § 14-122.

Sec. 14-120. Compensation incentives for protection of critical eagle nesting habitat.

If the Board of County Commissioners elects not to acquire a critical eagle nesting habitat, then the board may permit all or some of the following special compensation benefits as incentives to the developer or property owner for the purpose of protecting critical eagle nesting habitat in exchange for the property owner's agreement to institute mechanisms for protection or enhancement of critical eagle nesting habitat on the property:

(1) For a buffer area of 330 feet in radius or an approximate equivalent acreage, minimum, the following benefits will be granted:

a. The property owner will be allowed to transfer density from within the buffer area to designated upland areas within the subject property at the same density permitted for the property as determined through the residential planned development process. For a buffer, area or portion thereof, composed of wetlands, an internal transfer of one development right per five acres will apply.

b. The property owner will be allowed priority review and processing of zoning and development applications for the subject property, and, if applicable, one other parcel under unified control.

(2) For a buffer area of 660 feet in radius or an approximate equivalent acreage, the following benefits, in addition to those set forth in subsection (1) of this section, may be granted:

a. The county will waive the zoning application fee on the subject property;

b. The county will waive building permit application fees on the subject property;

c. The county will waive development review related fees on the subject property; and

d. The eagle preserve will be available to offset any indigenous preserve or open space requirement at a ratio of 1.5:1 (1.5 acre of indigenous preserve or open space area is offset by each acre of eagle preserve); provided however, that such incentive has not already been applied in accordance with section 10-415(b)(3) or section 10-474(e).

(3) For a buffer area of 750 feet in radius, or an approximate equivalent acreage, the following benefits, in addition to those set forth in (1) and (2) of this section, will be granted: The county will provide a credit against regional park impact fees on the subject property, and if applicable, one other parcel under unified control located within the same regional park impact fee district. In no event will the credit towards regional park impact fee exceed the appraised value of the dedicated land.

(4) In order to receive the benefits mentioned in this section, the buffer areas must be designated as critical eagle nesting habitat and must be conveyed to the county by either warranty deed or by dedication of a perpetual conservation easement.

(5) In no event will the amount of fees waived or credited set forth in subsection (2) and (3) of this section exceed twice the appraised value of the buffer area conveyed to the county. The appraised value will be based on two current documented appraisals of the fair market value or sales price of the land. Appraisals must be prepared by qualified appraisers and are subject to approval by the county administrator.

(Ord. No. 86-15, § 7, 6-11-86; Ord. No. 95-02, § 1, 1-4-95; Ord. No. 96-17, § 3, 9-18-96; Ord. No. 08-25 , § 1, 10-28-08)

Note—Former § 14-119

Secs. 14-121—14-150. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 95-02, § 1, adopted Jan. 4, 1995, repealed former §§ 14-116, 14-120, and 14-121, added a new § 14-118, and renumbered and revised this division in its entirety. See the Code Comparative Table for a detailed analysis of inclusion. (Back)

DIVISION 4. MANATEE PROTECTION; CALOOSAHATCHEE RIVER SYSTEM [5]

Sec. 14-151. Purpose of division.

The purpose of this division is to provide increased protection for the West Indian Manatee in Lee County.

(Ord. No. 89-39, § 2, 9-20-89; Ord. No. 09-23 , § 5, 6-23-09)

Sec. 14-152. Approval of the Manatee Protection Plan.

The Lee County Manatee Protection Plan (Manatee Protection Plan), dated June 17, 2004, was approved by the Board of County Commissioners on June 29, 2004. The terms and conditions contained in the Manatee Protection Plan, as it may be amended from time to time, are incorporated herein by reference.

(Ord. No. 09-23 , § 5, 6-23-09)

Editor's note—

Ord. No. 09-23, § 5, adopted June 23, 2009, repealed former §§ 14-152—14-154, which pertained to definitions and rules of construction; penalty for violation of division and enforcement of division.

Sec. 14-153. Conflicting provisions.

If any provision in this division is found to be contrary to any other existing county ordinance covering the same subject matter, then the more restrictive provisions will apply.

(Ord. No. 89-39, § 10, 9-20-89; Ord. No. 09-23 , § 5, 6-23-09)

Sec. 14-154. Jurisdiction.

The jurisdiction of this division will be all public navigable waters, creeks, bayous, canals and channels, whether natural or manmade, and appurtenant adjacent lands within unincorporated Lee County.

(Ord. No. 89-39, § 4, 9-20-89; Ord. No. 09-23 , § 5, 6-23-09)

Secs. 14-155—14-169. Reserved.

Editor's note—

Ord. No. 09-23, § 5, adopted June 23, 2009, repealed §§ 14-156, 14-158—15-160, which pertained to exemptions from division; designation of regulated area; designation of special management areas; additional areas of special management.

FOOTNOTE(S):

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Cross reference— Marine facilities and structures, ch. 26. (Back)

State Law reference— (Back)

DIVISION 5. BEACH AND DUNE MANAGEMENT

Sec. 14-170. Definitions.

When used in this division, the following words, terms and phrases have the meanings set forth below, except where their context clearly indicates a different meaning:

Beach means the area of sand along the Gulf of Mexico that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, usually the effective limit of storm waves. Beaches include dunes and dune vegetation.

Beach furniture or equipment means any manmade apparatus or paraphernalia designed or manufactured for use or actually used on the beach or in the adjacent tidal waters. Examples include: chairs, tables, cabanas, lounges, umbrellas, sailing vessels, personal watercraft, concession storage units, canoes, kayaks, paddle vessels, sailboards, surfboards, fishing gear, sporting equipment, floatables, tents, and bicycles.

Coastal Construction Control Line (CCCL) has the same meaning given it in section 6-333.

Dune means a mound, bluff, ridge, or emergent zone of loose sediment, usually sand-sized sediment, lying upland of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location (see, F.S. § 161.54; FAC Rule 62B-33.002). It encompasses those ecological zones that, when left undisturbed, will support dune vegetation. As to areas restored or renourished pursuant to a permit issued by the county or state, it encompasses the area specified in the permit as a dune or any area specified as suitable for establishment of dune vegetation.

Dune vegetation means pioneer species of native vegetation which, if left undisturbed by manmade forces, will begin to grow on a dune, including species such as bitter panicum, coastal panic grass, crowfoot grass, saltmeadow cordgrass, sandbur, seacoast bluestem, sea oats, seashore dropseed, seashore paspalum, seashore saltgrass, stiffleaf eustachys, beach bean, blanket flower, dune sunflower, fiddle-leaf morning glory, partridge pea, railroad vine, sea purslane, beach creeper, nicker bean, coin vine, inkberry, lantana, saw palmetto, seashore elder, baycedar, and seagrape.

Mechanical beach raking means the cleaning of the beach seaward of the dune and vegetation line of trash and other debris on or near the surface by use of a rake or other similar porous device that penetrates no more than two inches below existing ambient grade and results in no removal of *in situ* sand.

Wrack means the natural organic marine material cast on the shore, including seaweed and other vegetative and animal debris, but excluding manmade material.

(Ord. No. 05-14 , § 4, 8-23-05; Ord. No. 09-23 , § 5, 6-23-09)

Sec. 14-171. Purpose and intent.

The purpose of this division is to encourage a steward-like attitude toward one of the county's most valuable assets, the beach. It is the intent of this division to preserve and improve the condition of the beach asset as a place for recreation, solitude, and preservation of beach vegetation and marine wildlife.

This division establishes minimum standards to safeguard the beach.

(Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-172. Destruction or diminishment of dune or beach system.

(a) No person may conduct or allow any of the following activities on the beach, upon a dune, or in the water adjacent to the beach, unless otherwise specifically permitted in accordance with section 14-172(b).

(1) Harass, molest, or disturb wildlife;

(2) Plant vegetation other than native dune vegetation;

(3) Destroy or harm a dune or mow or remove native dune vegetation;

(4) Maintain a dump of, or discard or leave litter, garbage, trash or refuse, vegetative clippings, or debris;

(5) Deposit and leave human or animal waste;

(6) Destroy or grossly interfere with the natural wrack line by grooming or non-selective raking except as authorized in section 14-174

(7) Operate any air-powered or any engine-powered non-watercraft vehicle, machine, or implement, including any battery or electrical powered vehicle, machine, or implement, except for a wheelchair or approved conveyance for a person with a disability which is actually being used by the person with a disability or as authorized in section 14-175

(8) Excavate, mine, and remove, or haul sand or soil from the beach or dune except in emergency situations as permitted by DEP;

(9) Detonate any explosive devices, including fireworks;

(10) Light or maintain any open fire on the beach;

(11) Temporarily reside, camp, or sleep overnight;

(12) Deposit/install rocks, concrete, or other shoreline stabilization materials without a permit from DEP and the county;

(13) Deposit/add sand to the beach and dune system without a permit from DEP. All fill material will be sand that is similar to the existing beach sand in both coloration and grain size and be free of debris, rocks, clay, or other foreign matter; or

(14) Conduct any commercial activities not explicitly authorized by this Code or by other county ordinances.

(b) Permits may be issued by the county for activities prohibited under section 14-172(a), which the director finds are:

(1) Necessary for reasonable accommodation of persons with disabilities;

(2) Adjunct to a lawfully existing activity;

(3) For the conduct of a civic or educational activity; for the conduct of scientific research; or

(4) For any purpose otherwise necessary to protect or to promote the public welfare.

To the extent that a permit is issued for any of the above activities, the standards and procedures for issuance will be governed by this Code.

(Ord. No. 05-14 , § 4, 8-23-05; Ord. No. 12-01 , § 2, 1-10-12)

Sec. 14-173. Beach furniture and equipment.

(a) From May 1 through October 31, all beach furniture and equipment must be removed from the beach as follows:

(1) All beach furniture and equipment must be removed daily from the beach to behind the 1978 CCCL between the hours of 9:00 p.m. until 8:00 a.m.

(2) Beach furniture and equipment that is removed from the beach must be safely stacked in areas no larger than ten feet by ten feet and each stack must be at least 50 feet removed or apart from the next stack.

(b) Trash containers are not included in the definition of beach furniture and equipment and may be left in place on the beach at all times.

(c) All beach furniture and equipment (such as chairs, umbrellas, cabanas, and rental podiums) must be set landward of the mean high water line and at least ten feet from a sea turtle nest or dune vegetation.

(d) Vendors or property owners using a vehicle to transport furniture and equipment to and from the beach are required to follow these additional restrictions:

(1) Equipment may not be set out in the morning before 8:00 a.m. or completion of daily monitoring by a FWC-authorized marine turtle permit holder examining the beach in the area of the authorized activity to ensure any new sea turtle nests are identified and marked, whichever occurs first.

(2) Transporting vehicles may not travel within ten feet of a sea turtle nest or dune vegetation.

(3) The vehicle, trailer, and equipment may not exceed a maximum ground-to-tire pressure of ten PSI (pounds per square inch) using the formula in section 14-174(a)(3)d.1. Beach furniture and equipment may be placed on a vehicle or on a wheeled trailer, but may not be dragged or pushed by a vehicle. After setup, the vehicle and trailer must be removed from the beach.

(Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-174. Beach raking and wrack line policy.

(a) Under normal circumstances, the raking of the beach or wrack line is prohibited. The only exceptions require an appropriate DEP permit based on a determination that existing health or safety issues require action in accord with the following:

(1) A larger than normal wrack line resulting from extraordinary circumstances may be raked if the wrack line is at least ten feet landward of the normal high tide line.

(2) If health or safety issues are present, such as a large fish kill or a red tide event, the wrack line may be raked up to ten feet landward of the normal high tide line.

(3) If this occurs during sea turtle season (May 1 through October 31), the raking must be in compliance with the following conditions:

a. Mechanical beach raking activities must be confined to daylight hours and may not begin before 9:00 a.m. or completion of daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder, whichever occurs first.

b. The permittee is responsible for ensuring that a daily sea turtle nest survey, protection, and monitoring program is conducted throughout the permitted beach raking area. Surveys and associated conservation measures must be completed after sunrise and prior to the commencement of any mechanical beach raking. The sea turtle survey, protection, and monitoring program may be conducted only by individuals possessing appropriate expertise in the protocol being followed and a valid FAC Rule 68-E Permit issued by the FWC. To

identify those individuals available to conduct marine turtle nesting surveys within the permitted area, please contact the FWC, Bureau of Protected Species Management.

c. All turtle nests will be marked with wooden stakes, flagging tape, and an FWC sea turtle nest sign. No mechanical raking equipment is allowed inside of the staked area. All equipment operators must be briefed on the types of marking utilized and must be able to easily contact the individual responsible for the nest survey to verify any questionable areas.

d. Mechanical beach raking equipment must meet the following standards:

1. The vehicle and equipment may not exceed a maximum ground-to-tire pressure of ten PSI (pounds per square inch) using the following formula:

PSI = vehicle weight in pounds (includes person and equipment) divided by the footprint in square inches

EXAMPLE: 404 lbs. (ATV weight) + 200 (person + equipment) divided by 198 square inches (ATV with 6″ × 8.25″ footprint × 4 tires) = 3.1 PSI

2. Raking must be accomplished with a pronged rake that limits penetration into the surface of the beach to a maximum of two inches. Box blades, front- or rear-mounted blades, or other sand sifting/filtering vehicles are not allowed.

3. Operators of mechanical beach raking equipment must avoid all native salt-tolerant dune vegetation and staked sea turtle nests by a minimum of ten feet.

4. Burial or storage of any debris (biotic or abiotic) collected is prohibited seaward of any frontal dune, vegetation line, or armoring structure. Removal of all accumulated material from the beach must occur immediately after raking has been performed in an area. Prior to removing the debris, and to the greatest extent possible, beach compatible sand must be separated from the debris and kept on site.

5. Mechanical beach raking equipment must travel seaward of the mean high water line with the rake disengaged when driving on the beach from one raking area to another, and may not disturb any dune or dune vegetation.

(b) The use of box blades on the beach or dune is prohibited. In an emergency or storm event the use of a box blade may be allowed with the approval of DEP.

(Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-175. Prohibition of vehicular traffic on the beach.

The operation of any engine-powered vehicle, machine, or implement, including any electrical powered vehicle, machine, or implement, on the beach, dune, or sea turtle nesting habitat, as defined in section 14-72, is prohibited except for the following:

(a) *Research or patrol vehicles.* Only authorized permittees of the FWC, DEP officials, and law or code enforcement officers, EMS and firefighters, scientific monitoring conducting bona fide research, or investigative patrols, may operate a motor vehicle on the beach or in sea turtle nesting habitat during the nesting season. No lights may be used on these vehicles during the nesting season unless they are covered by appropriate red-colored filters. These vehicles must travel below the previous night's mean high tide line to avoid dunes, dune vegetation, sea turtle nests and bird nesting areas.

(b) *Mechanical beach raking.* Vehicles operating under permits issued pursuant to section 14-174

(c) *Beach furniture and equipment transport.* Vehicles operating under permits issued pursuant to section 14-173

(d) *Wheelchairs.* A wheelchair, or other conveyance with prior approval from the county, for a person with a disability, which is actually being used by the person with a disability. Handicap access to the beach is encouraged through use of wheelchairs equipped with special beach friendly tires that are available for rent or purchase.

(e) *Maximum tire pressure.* Any vehicle authorized to drive on the beach may not exceed a ground-to-tire pressure of ten PSI as computed in accordance with section 14-174, except for wheelchairs permitted in accordance with section 14-175(d).

(f) *Sea turtle nesting season.* See section 14-78 for additional restrictions during the sea turtle nesting season.

(Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-176. Special events on the beach.

(a) Special events on the beach are temporary, short-term activities, which may include the construction of temporary structures; temporary excavation, operation, transportation, or storage of equipment or materials; or, nighttime lighting that is visible seaward of the CCCL. Generally, activities within this category include but are not limited to: sporting events (e.g. volleyball, personal watercraft races), festivals, competitions, organized parties (e.g. weddings), promotional activities, concerts, film events, balloon releases, and gatherings under tents.

(b) Due to the potential for adverse impacts, certain special event activities may not be compatible with sea turtle nesting areas. In some cases this is due to the type of activity, where permit conditions alone cannot provide adequate protection. In other cases, the density of sea turtle nesting prevents certain activities from being conducted safely.

(c) Special events proposed on or near the beach or dune, or where lighting from the special events will directly or indirectly illuminate sea turtle nesting habitat, require a permit from DEP and the county. The permit may contain special conditions for the protection of the beach, dune, and sea turtles.

(1) Site-specific conditions related to identifying, designating, and protecting existing vegetation and sea turtle nests in accordance with this code may be imposed. These conditions are in addition to the following standard permit conditions for all special events on the beach:

a. During the sea turtle nesting season (May 1 through October 31), special event activities including construction must be confined to daylight hours and may not begin before 8:00 a.m. However, the daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder must be completed before the special event activity may commence.

b. All turtle nests will be marked with wooden stakes, flagging tape, and an FWC sea turtle nest sign. No activities (including the placement of equipment or the storage of materials) are allowed within 30 feet of a marked nest and ten feet from dune vegetation. The permittee must ensure that all personnel are briefed on the types of marking utilized and be able to easily contact the individual responsible for the nest survey to verify any questionable areas.

(2) A violation of these conditions will automatically invalidate the permit. Periodic compliance inspections will be conducted to insure compliance with the permit conditions and this code.

(3) Release of balloons is prohibited, except as permitted by F.S. § 372.995.

(Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-177. Enforcement.

(a) The director is authorized to pursue any one, or a combination of the enforcement mechanisms provided in this Code (for example, section 1-5, or Chapter 2, Article V) for any violation of this article.

(b) The successful replacement of the illegally removed dune vegetation and restoration of the subject area may be considered when determining whether the violator has eliminated or significantly decreased the ability of the dune system to recover or perform those functions for which it is being protected.

(Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-178. Restoration standards for dune vegetation alteration violations.

(a) Upon written agreement between the director and the violator in accord with section 2-2, or if they cannot agree, then, upon action by the court or hearing examiner, a restoration plan may be ordered using the standards in this section. The restoration plan must require replacement of the same species or any species approved under the written agreement or order.

(b) The restoration plan must include the following minimum standards:

(1) Restoration plantings for vegetation other than trees must be nursery grown, containerized, and planted at a minimum density of no less than one and one-half feet on center. The number of replacement plantings will be computed by the square footage of the area destroyed. The replacement stock must be a minimum of a two-inch size container. Higher density plantings may be required at the discretion of the director based upon density and size of the vegetation on the site prior to the violation. If it is not reasonably possible to determine the density or species of the vegetation in the area where the violation occurred, then the density and the species will be deemed to be the same as those located on similar properties. The director has the discretion to allow a deviation from the above specified ratio. When a deviation is requested, the total size must equal or exceed that specified in the above standards.

(2) Dune vegetation alteration violations caused by raking, excavation, or clearing must be restored to natural ground elevation and soil conditions prior to commencement of replanting.

(3) Replacement plantings must have a guaranteed minimum of 80 percent survivability for a period of no less than five years; however, success will be evaluated on an annual basis.

(4) Only temporary above ground irrigation may be installed and must be removed no later than one year from the date of planting. Temporary irrigation must be turned off within 50 feet of a sea turtle nest.

(5) The plan must specify that, within 90 days of restoration completion, a written report, prepared by or on behalf of the violator, must be submitted to the county. This report must include the date of completion, copies of the nursery receipts, a drawing showing the locations of the plantings, and color photographs of the planting areas from fixed reference points.

(6) The restoration plan must include a maintenance provision of no less than five years for the control of invasive exotic vegetation, with annual monitoring and maintenance of the restored area to include the following:

a. Removal of all exotic and nuisance vegetation in the area without disturbing the existing dune vegetation.

b. Replacement of dead vegetation in order to assure at least 90 percent coverage at the end of the five-year period. Replacement vegetation must be nursery grown and of the same species and at least the same size as those originally planted.

c. Submittal of an annual monitoring report to the director for five years following the completion of the restoration describing the conditions of the restored site. The monitoring report must include mortality estimates, causes for mortality (if known), growth, invasive exotic vegetation control measures taken, and any other factors that indicate the functional health of the restored area.

d. The monitoring report must be submitted on or before each anniversary date of the effective date of the restoration plan. Failure to submit the report in a timely manner constitutes a violation of this code.

e. To verify the success of the mitigation efforts and the accuracy of the monitoring reports, the director may periodically inspect the restoration.

(Ord. No. 05-14 , § 4, 8-23-05)

Secs. 14-179—14-200. Reserved.

ARTICLE III. WELLFIELD PROTECTION

DIVISION 1. - GENERALLY

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 14-201. Statutory authority; scope of article.

(a) Pursuant to the authority granted by F.S. ch. 125 and F.S. § 163.3202(2)(c), the standards, rules and regulations set forth in this article have been promulgated and approved by the Board of County Commissioners and apply to all abandoned wells and to certain public utility potable water supply wellfields in unincorporated Lee County.

(b) The regulations set forth in this article apply to all areas surrounding a wellfield and designated as wellfield protection zones on the adopted protection zone map.

(Ord. No. 89-30, § 1(1.02), (4.01), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-202. Purpose and intent of article.

(a) In order to properly protect existing potable water supply wellfields within unincorporated Lee County, the Board of County Commissioners declares that the storage, handling, use or production of hazardous substances, toxic substances or sanitary hazards and the location of abandoned wells in close proximity to public utility potable water supply wells is potentially harmful to the drinking water of the county, and that abandoned wells and certain land uses and activities involving hazardous substances, toxic substances or sanitary hazards are hereby prohibited or regulated within certain defined protection zones around public utility potable water supply wellfields.

(b) The intent of this article is further to safeguard the public health, safety and welfare of the residents of the county by providing criteria for the regulation of activities that may allow the entrance of brackish water into identified protection zones surrounding existing wellfields, and prohibiting or regulating hazardous substances, toxic substances or sanitary hazards within identified protection zones surrounding such wellfields, thereby protecting existing public potable water supply wells from contamination.

(c) This article is intended to supplement the rules and regulations promulgated by the State and Federal government concerning groundwater supplies, wellheads, public drinking water, potable water, monitoring, sanitary hazards and similar public water supply provisions. These regulations include, but are not limited to: Florida Administrative Code Chapters 5E-2, 5E-9, 40E-3, 62-521, 62-522, 62-550, 62-555, 62-610, 62-730, 62-731 and 62-761; Code of Federal Regulations Title 40, Chapter I, Subchapter D - Part 122, Subchapter I- Part 261, and Subchapter J - Part 302; and Florida Statutes Chapter 376.

(d) The purpose of this article is to provide protection to potable water wellfields that are permitted to pump a minimum of 1,000,000 gallons of water per day.

(Ord. No. 89-30, § 1(1.03), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-203. Definitions.

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned well means a well that does not have a properly functioning valve, the use of which has been permanently discontinued, that does not meet current well construction standards, that is discharging water containing greater than 500 milligrams per liter of chlorides into a drinking water aquifer, that is in such a state of disrepair that it cannot be used for its intended purpose without having an adverse impact upon an aquifer which serves as a source of drinking water or which is likely to be such a source in the future, or that does not have proper flow control on or below the land surface (see F.S. § 373.203(1)).

Aquifer means a geologic formation, group of formations, or a part of a formation, containing sufficient saturated permeable material to yield useful quantities of ground water to wells, and springs, or surface water (see Rule 40E-3.201(3), and the Lee County Well Code 62-520.200(2), F.A.C.).

Brackish water means water with total dissolved solids greater than 1,000 parts per million.

Capillarity and *capillary action* mean the action by which a fluid, such as water, is drawn up (or depressed) in small interstices or tubes as a result of surface tension.

Closure means the termination of any regulated or prohibited nonresidential land use or activity covered by this article.

Contaminant means any physical, chemical, biological or radiological substance or matter in the water (see F.S. § 403.852(9)).

Contamination means the presence of any harmful or deleterious substances in the water supply.

Continuous transit means the nonstop movement of a mobile vehicle except for stops required by traffic laws.

DEP means Florida Department of Environmental Protection or successor agency.

Dewater has the same meaning given it in section 10-1.

Division means the Lee County Natural Resources Division (NRD), and any succeeding entity authorized to perform similar functions or duties.

Dry retention means a stormwater storage area with a bottom elevation at least one foot above the control elevation of the area.

EPA means the United States Environmental Protection Agency.

F.A.C. means the Florida Administrative Code.

Groundwater means the water that occurs below the land surface where the pore spaces in the subsurface formations are fully saturated and under atmospheric or greater pressure.

Hazardous substance means a substance that has one or more of the following characteristics: ignitability, corrosivity, reactivity, EP toxicity or toxicity.

Iso-travel time contour means the locus of points from which groundwater takes an equal amount of time to reach a given destination such as a well or wellfield.

Liquid waste means sludge, septic or other liquid waste from wastewater treatment plants, septic tanks, grease traps or sediment traps.

Monitor well (also known as an observation well) means a well used primarily to monitor hydrologic parameters such as water levels or water quality (see F.A.C. Rule 40E-3.021(19)).

Nonresidential land use or activity means any land use or activity regulated by this article which occurs in any building, structure or open area which is not used primarily as a private residence or dwelling. Any land use or activity which produces, stores, uses or handles more than 110 gallons or 1,100 pounds of a regulated substance is presumed to be a nonresidential land use or activity.

Operating permit means authorization to conduct an activity regulated by this article.

Permitted pumping capacity means the amount of water authorized by the South Florida Water Management District to be pumped from a well, measured in gallons per day.

Pollutant means the presence in the outdoor atmosphere or waters of the state of any substances, contaminants, noise, or man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water in quantities or levels that are or may be potentially harmful or injurious to animal or plant life, human health or welfare, or property, including outdoor recreation. (See Rule 62-520.200(13), F.A.C.)

Pollutant travel time means the theoretical time required by pollutants to travel from one point to another.

Pollution means the presence of any substance (organic, inorganic, radiological or biological) or condition (temperature, pH, turbidity) in water which tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

Potable water sources means sources of water that meet county, state or federal drinking water standards and are intended for drinking, culinary and domestic purposes.

Proposed public water supply well means a well not yet constructed but either identified in a water use permit application submitted to the South Florida Water Management District (SFWMD) or identified in an existing water use permit granted by the SFWMD.

Protection zone maps means maps showing the location on the ground of the outer limits of protection zones for present public utility potable water supply wells and wellfields that are permitted to pump a minimum of 1,000,000 gallons of water per day.

Protection zones means zones delineated by iso-travel time contours around wellfields, within which hazardous or toxic substances must be regulated to protect the quality of the groundwater resource. These zones are calculated based on the rate of movement of groundwater in the vicinity of wells, with an allowance for the dispersion of a pollutant entering into and moving with the groundwater.

Public potable water supply wellfield means a tract of land containing a well (or group of wells) that is the subject of a consumptive use permit issued by the South Florida Water Management District; is in use and providing water for public consumption; and, is the subject of an agreement between the county and the public utility operating the well (or group of wells) whereby the utility contributes its pro rata share of the administration and enforcement costs of this article. For brevity, the term "wellfield" refers to a public potable water supply wellfield.

Public utility means a privately owned, municipally owned or county-owned system providing water or wastewater service to the public which has at least 15 service connections or regularly serves an average of at least 25 individuals daily.

Regulated substances means any hazardous or toxic substance regulated under this article as described in section 14-213.

Sanitary hazard means a physical condition that involves or affects any part of a drinking water system or the raw water source, and that creates an imminent or potentially serious risk to the health of any person who consumes water from that system. (See F.A.C Rule 62-550.200(75)).

Solid waste means garbage, rubbish, refuse or other discharged solid or semisolid material resulting from domestic, commercial, industrial, agricultural or governmental land uses or activities.

Toxic substance or *material* means a hazardous waste as defined in 40 CFR 261.3; hazardous substances as defined in 40 CFR 302; a pollutant; a substance that is or is suspected to be carcinogenic, mutagenic, teratogenic or toxic to human beings, or to be acutely toxic as defined in F.A.C. Rule 62-302.200(1); or a substance that poses a serious danger to the public health, safety or welfare.

Travel time zones means the area bounded by iso-travel time contours.

Water table aquifer means an aquifer with a phreatic surface, that is, a free surface where the fluid pressure equals atmospheric pressure or zero gauge pressure, also known as a phreatic or unconfined aquifer. It is the uppermost aquifer and can receive direct recharge from the ground surface.

Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of the excavation is to conduct groundwater from a source bed to the surface, by pumping or natural flow, when groundwater from the excavation is used or intended for use in a public water supply system (see F.A.C. Rule 62-550.200(104)).

Wellfield means a public potable water supply wellfield.

Wellfield protection officer means the person designated and authorized under section 14-242 to supervise the implementation and enforcement of this article.

(Ord. No. 89-30, § 1(ch. 2), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 05-14 , § 4, 8-23-05; Ord. No. 07-35 , § 1, 12-4-07)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 14-204. Penalty for violation of article; additional remedies.

Any person, or any agent or representative thereof, who violates any provision of this article will, upon conviction, be subject to the following penalties:

(1) *Criminal penalties.* As provided in section 1-5

(2) *Civil penalties.* The Board of County Commissioners may institute in any court or before any administrative board of competent jurisdiction action to prevent, restrain, correct or abate any violation of this article or of any order or regulation made in connection with its administration or enforcement, and the court or administrative board will adjudge such relief by way of injunction, or any other remedy allowed by law, or otherwise, to include mandatory injunction, as may be proper under all the facts and circumstances of the case, in order to fully effectuate the regulations adopted under this article and any orders and rulings made pursuant thereto.

(Ord. No. 89-30, § 2, 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-205. Conflicting provisions.

Whenever the requirements or provisions of this article are in conflict with or less restrictive than the requirements or provisions of any other lawfully adopted ordinance or statute, the more restrictive requirements apply.

(Ord. No. 89-30, § 4, 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-206. Effective date of article; retro-active application to existing activities.

The requirements and provisions of this article apply to all existing activities regulated under this article within unincorporated Lee County and relate back to September 1, 1989. Existing activities include all activities that were approved by the county under a valid building permit or occupational license.

(Ord. No. 89-30, § 6, 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-207. Reserved.

Editor's note—

Ord. No. 07-35, § 1, adopted December 4, 2007, repealed § 14-207, which pertained to sunset provision. See also the Code Comparative Table.

Sec. 14-208. Applicability of article.

(a) This article only applies to a particular land use or activity, whether that land use or activity is classified as a residential or commercial use, when:

(1) The aggregate sum of all quantities of any one regulated substance on a given parcel or in a certain building exceeds 110 gallons if the substance is a liquid, or 1,110 pounds if the substance is a solid; or

(2) No single substance exceeds the limits referenced in subsection (a)(1) of this section but the aggregate sum of all regulated substances present on a given parcel or in a given building exceeds 110 gallons if the substances are liquids, or 1,110 pounds if the substances are solids.

(b) Where regulated substances are dissolved in or mixed with nonregulated substances, only the actual quantity of the regulated substance present will be used to determine compliance. Where a regulated substance is a liquid, the total volume of the regulated substance present in a solution or mixture of the substance with other substances will be determined by volume percent composition of the regulated substances.

(c) This article applies to all storage facilities for petroleum products not regulated by F.S. § 376.317 or F.A.C. chapters 62-761 and 62-762.

(d) This article applies to sanitary hazards.

(Ord. No. 89-30, § 1(4.02), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-209. Exemptions from article.

(a) *General exemption.* Certain existing or proposed public and quasipublic land uses and activities may be declared exempt from the provisions of this article by the Board of County Commissioners. This exemption will be granted only upon a finding made by the board in a public meeting that the existing or proposed land use or activity serves an overriding public need and that it would be economically impractical or scientifically impossible for the land use or activity to comply with the requirements of this article or be relocated to an area outside of the protection zones established by this article. As a basis for granting the exemption, the board may impose conditions on the proposed land use or activity that are designed to ensure compliance with the provisions of this article to the greatest extent possible.

(b) *Special exemptions.* The following activities or uses are exempt from the provisions of sections 14-214(a)(2), 14-214(b)(2), 14-214(c)(2) and 14-214(d)(2):

(1) *Application of pesticides.* The application of regulated substances used as pesticides, herbicides, fungicides and rodenticides in recreation, agriculture, pest control and aquatic weed control activities is exempt from the provisions of this article provided that:

a. Application of the substance is in strict conformity with the use requirement set forth in the EPA registry for that substance and as indicated on the containers in which the substances are sold;

b. The application is in strict conformity with the requirements set forth in F.S. chs 482 and 487, and F.A.C. chapters 5E-2 and 5E-9;

c. The application of the pesticides, herbicides, fungicides and rodenticides is flagged in the records of the certified operator supervising the use. The certified operator must provide written notice to the applicators under his supervision indicating that they are working at a site located in protection zone 1, 2, 3, or 4, and particular care is required. Records must be kept of the date and amount of regulated substances applied at each location. These records must be available for inspection at reasonable times by the division; and

d. All nonresidential applicators applying regulated substances must obtain a single operating permit covering all application operations using regulated materials and comply with the requirements set forth in this article.

(2) *Continuous transit.* The transportation of any regulated substance is exempt from the provisions of this article provided that:

a. The transporting motor vehicle is in continuous transit as defined in section 14-203; or

b. The transport of regulated substances through existing permanent pipelines within zones 1, 2 and 3 is in accordance with the applicable regulations. In protection zone 4 transport activity is exempt provided the permitted uses and activities are not changed and the leak detection and monitoring procedures as approved by the division are employed.

(3) *Vehicular and lawn maintenance fuel and lubricant use.* The use in a vehicle or lawn maintenance, mobile construction or mining equipment of any regulated substance solely as fuel in the fuel tank of a vehicle or equipment or as lubricant in that vehicle or equipment will be exempt from the provisions of this article. No operating permit is required.

(4) *Emergency services and public utilities.* Except for the maintenance and refueling of vehicles, existing fire, police, emergency medical services, county emergency management center facilities and public utilities (as defined in section 14-203) are exempt from the provisions of section 14-214(a)(1) and (2) provided they obtain an operating permit pursuant to section 14-244. No operating permit is required in protection zones 3 and 4.

(5) *Retail sales activities.* Retail sales establishments that store and handle regulated substances for resale in their original unopened containers will be exempt from the prohibition in section 14-214(a)(1) and (2) provided that those establishments obtain an operating permit pursuant to section 14-244. No operating permit is required in protection zones 3 and 4.

(6) *Office uses.* Office uses, except for the storage, handling or use of regulated substances as provided for in applicable administrative codes, will be exempt from the provisions of this article. No operating permit is required.

(7) *Construction activities.* The construction, repair or maintenance of a facility or improvement within a protection zone is exempt from the provisions of this article provided that all contractors, subcontractors, laborers, material men and their employees using, handling, storing or producing regulated substances use the applicable best management practices set forth in section 14-217. No operating permit is required.

(c) *Administrative exemption.* Any person affected by this article may petition the division for an administrative exemption from the prohibitions and monitoring requirements. The petition must set forth competent, substantial evidence indicating: (1) special or unusual circumstances exist that support a waiver of the prohibition or monitoring requirements; and, (2) the technology that will be employed to isolate the facility or activity from the potable water supply in the event of a spill. The grant of an administrative exemption may include conditions and safeguards the division deems necessary to protect the wellfield.

(Ord. No. 89-30, § 1(4.05), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-210. Vested rights.

(a) Notwithstanding any provision of this article to the contrary, a proposed or existing land use or activity that obtained county approval prior to September 1, 1989, may develop consistent with the development approval provided an operating permit for the land use or activity is issued and remains viable. For purposes of applying this section, only the following approvals will be considered:

(1) A final development order;

(2) A certificate of occupancy;

(3) A general excavation permit;

(4) A building permit; or

(5) A certificate of completion.

The judicially recognized standards of equitable estoppel will be applied to determine if a development will be allowed to develop consistent with prior development approval.

(b) Mining operations that received development approvals prior to September 1, 1989 will be permitted to continue with the previously approved phased activities so long as the activities are consistent with the approvals granted prior to September 1, 1989, the approval remains viable, and no excavation occurs within 500 feet of a wellhead. Development approvals for mining include zoning approval either as an IPD or as a special exception in the AG-2 zoning district, in addition to any other approvals listed in section 14-211(a).

(c) Operating permits for specific uses or development based upon design and construction specifications approved prior to September 1, 1989 must be consistent with the provisions of this article.

(Ord. No. 89-30, § 1(ch. 9), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-211. Wellfield protection zones defined.

Four types of protection zones have been established using scientific criteria relating to the physical characteristics of the water supply aquifer and the transport gradients caused by either natural forces or induced pumpage of the wellfields (see section 14-216). The transport times associated with the protection zones are designed so as to allow adequate time to carry out mitigating procedures to prevent wellfield contamination in the event of spillage of any regulated substance.

(1) Protection zone 1 consists of all land situated between the well and the water table aquifer six-month travel time zone demarcation.

(2) Protection zone 2 consists of all land situated between the well and the planar geometric union of the largest of the following three travel time zones:

a. Water table aquifer one-year travel time zone demarcation.

b. Lower Tamiami one-year travel time zone demarcation.

c. Sandstone one-year travel time zone demarcation.

(3) Protection zone 3 consists of all land situated between the well and the planar geometric union of the largest of the following three protection zones:

a. Water table one-year travel time zone demarcation and the water table aquifer five-year travel time zone demarcation.

b. Sandstone aquifer one-year travel time zone demarcation and the Sandstone aquifer five-year travel time zone demarcation.

c. Lower Tamiami one-year travel time zone demarcation and the Lower Tamiami five-year travel time zone demarcation.

(4) Protection zone 4 consists of all land situated between the well and the planar geometric unit of the largest of the following three protection zones:

a. Water table five-year travel time zone demarcation and the water table aquifer ten-year travel time zone demarcation.

b. Sandstone five-year travel time zone demarcation and the Sandstone ten-year travel time zone demarcation.

c. Lower Tamiami five-year travel time zone demarcation and the Lower Tamiami ten-year travel time zone demarcation.

(Ord. No. 89-30, § 1(3.01), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-212. Protection zone maps.

(a) *Adoption.* The protection zone maps, contained in appendix N, have been developed by the county and are hereby adopted by reference and made a part of this article. The official protection zone maps are on file at the division office. Reproductions of the maps are available for a fee at the division. The wellfield protection zone maps are based on groundwater modeling performed by RMA GeoLogic Consultants, Inc. and documented in reports titled "Supporting Documentation for the Update of the Lee County Wellfield Protection Zones," dated January 2009 and "Supporting Documentation for the 2011 Update of the Lee County Wellfield Protection Zones," dated October 2011.

(b) *Interpretation of zone designation.* To determine the location of properties and buildings within a particular protection zone delineated on the protection zone maps, the following rules apply:

(1) Properties located wholly within one protection zone, as depicted on the applicable protection zone map, are governed by the restrictions applicable to that zone.

(2) Properties having parts lying within more than one zone, as depicted on the applicable protection zone map, are governed by the restrictions applicable to the protection zone in which that part of the property is located.

(3) Where a travel time contour that delineates the boundary between two protection zones passes through a building, the entire building is deemed to be in the more restrictive zone.

(4) Where a building or portion thereof is overlapped by protection zones of different wells or wellfields, the most restrictive regulations apply.

(5) Where a property or portion thereof is overlapped by protection zones of different wells or wellfields, the most restrictive of the regulations apply.

(6) Where the protection zone boundary intersects an open waterbody, the boundary will be extended to include the entire limits of that waterbody.

(c) *Periodic review.* The protection zone maps will be reviewed by the division at least every three to five years unless changes within a protection zone warrant earlier review of the zone maps. Amendments, additions or deletions to the maps will be approved by the board of county commissioners as amendments to this article. Copies of the maps will be made available to the public and reviewing entities upon request. The basis for amending the maps may include but is not limited to the following:

(1) Changes in the technical knowledge concerning the aquifers of the county.

(2) Changes in the pumping rate of wellfields.

(3) Wellfield reconfiguration.

(4) The addition of new wells to a wellfield.

(5) Approval by the board of county commissioners of additional wellfields.

(Ord. No. 89-30, § 1(3.02), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07; Ord. No. 14-07 , § 2, 3-18-14)

Sec. 14-213. Regulated hazardous or toxic substances and sanitary hazards.

Regulated substances include, but are not limited to, those deleterious substances and contaminants that have one or more of the following characteristics:

(1) Substances, including degradation and interaction products, which because of quality, concentration or physical or chemical characteristics (including ignitability, corrosivity,

reactiveness and toxicity), infectious characteristics, radioactivity, mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence (nondegradability) in nature, or any other characteristic relevant to a particular material, that may cause significant harm to human health or the environment, including surface water and groundwater, plants or animals;

(2) Substances identified as hazardous under 40 CFR part 261, subpart D, 40 CFR 261, Appendix VIII and 40 CFR 302;

(3) Exhibit characteristics of ignitability, corrosivity, reactivity or toxicity as identified in 40 CFR 261.20—261.24;

(4) Are priority toxic pollutants listed in 40 CFR 129 by the EPA;

(5) Contain a degradation product which is toxic, including petroleum-based products;

(6) Are restricted-use pesticides, as that term is used in F.S ch. 487, and listed in F.A.C. chapters 5E-2 and 5E-9;

(7) Contain brackish or saline water that contains total dissolved solids in excess of 1,000 parts per million and chlorides in excess of 500 parts per million;

(8) Are raw or partially treated sewage; or

(9) Sanitary hazards.

(Ord. No. 89-30, § 1(4.03), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-214. Prohibited and regulated activities within protection zones.

(a) *Protection zone 1.*

(1) *Prohibitions.* Except as provided in section 14-209, the following land uses or activities are prohibited in protection zone 1:

a. The use, handling, production or storage of regulated substances associated with land uses or activities regulated by this article in quantities greater than those set forth in section 14-208

b. Wastewater effluent disposal, except for public access reuse of reclaimed water and land application under the conditions set forth and defined in F.A.C. chapter 62-610, part III. Where public access reuse is permitted the chloride content must be no greater than 500 milligrams per liter.

c. Liquid waste disposal.

d. Solid waste disposal.

e. Earth mining within a 500-foot radius of an existing wellhead.

(2) *Regulations.*

a. Except as provided in section 14-209, land uses or activities involving the storage, handling, use or production of regulated substances in quantities greater than those set forth in section 14-208 are prohibited within protection zone 1 unless an operating permit for the prohibited activity, issued on or before September 1, 1989, remains viable.

b. The owners of any sanitary sewer, force main, gravity sewer or lateral must notify the division of any break in the sewer lines within 24 hours of discovery. The purpose of this requirement is to allow the division to monitor repairs to the line and any necessary cleanup activities.

c. Stormwater or surface water discharges within this protection zone must conform to existing South Florida Water Management District and state department of environmental protection rules.

(b) *Protection zone 2.*

(1) *Prohibitions.* Except as provided in section 14-209, the following land uses or activities are prohibited in protection zone 2:

a. The use, handling, production or storage of regulated substances associated with activities regulated by this article in quantities greater than those set forth in section 14-208

b. Wastewater effluent disposal, except public access reuse of reclaimed water and land application under the conditions set forth and defined in F.A.C. chapter 62-610, part III, may be permitted. Where public access reuse is permitted the chloride content may be no greater than 500 milligrams per liter.

c. Liquid waste disposal.

d. Solid waste disposal.

e. Earth mining within a 500-foot radius of an existing wellhead.

(2) *Regulations.*

a. Except as provided in section 14-209, land uses or activities involving the storage, handling, use or production of regulated substances in quantities greater than those set forth in section 14-208 are prohibited within protection zone 2 unless an operating permit for the prohibited activity, issued on or before September 1, 1989, remains viable or, an administrative exemption is granted under section 14-208 to allow issuance of an operating permit under section 14-244

b. Stormwater or surface water discharge within this protection zone must conform to existing South Florida Water Management District and state department of environmental protection rules.

(c) *Protection zone 3.*

(1) *Prohibitions.* Except as provided in this article, the following land uses or activities are prohibited in protection zone 3:

a. The use, handling, production or storage of regulated substances associated with activities regulated by this article in quantities greater than those set forth in section 14-208

b. Wastewater effluent disposal, except that public access reuse of reclaimed water and land application under the conditions set forth in F.A.C. chapter 62-610, part III, may be permitted. Where public access reuse is permitted the chloride content must be no greater than 500 milligrams per liter.

c. Liquid waste disposal.

d. Solid waste disposal.

(2) *Regulations.*

a. Except as provided in section 14-209, all land uses or activities involving the storage, handling, use or production of regulated substances occurring within protection zone 3 must be conducted in accordance with a valid operating permit issued pursuant to section 14-244

b. All operating permits must be renewed annually and will be subject to the conditions set forth in section 14-244

c, Stormwater or surface water discharged within this protection zone must conform to existing South Florida Water Management District and state department of environmental protection rules.

(d) *Protection zone 4.*

(1) *Prohibitions.* Except as provided in section 14-209, all activity involving the storage, use, handling or production of a regulated substance in quantities greater than those set forth in section 14-208 is prohibited in protection zone 4, unless a valid operating permit is obtained in accordance with section 14-244

(2) *Regulations.*

a. Except as provided in section 14-209, land uses or activities involving the storage, handling, production or use of regulated substances in protection zone 4, must be conducted in accordance with a valid operating permit issued pursuant to section 14-244

b. All operating permits must be renewed annually.

c. Stormwater or surface water discharged within this protection zone must conform to existing South Florida Water Management District and state department of environmental protection rules.

(e) *Sanitary hazard zone.* Sanitary hazards are prohibited within a 100-foot radius around an existing or proposed public water supply well.

(Ord. No. 89-30, § 1(4.04), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-215. Abandoned wells.

Abandoned wells on property lying within the ten-year travel time zone of a well regulated by this article will be physically plugged in accordance with the provisions of Lee County Ordinance No. 06-09, section 9.3.4.

(Ord. No. 89-30, § 1(4.06), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-216. Criteria for establishing protection zones.

(a) The protection zone maps have been developed based on steady state groundwater flow and transient contaminant transport to wells or wellfields regulated by this article that considers all, but not exclusively, the following factors:

(1) Mathematical solution considers three-dimensional flow of a homogeneous, incompressible fluid through a nonhomogeneous, anisotropic aquifer.

(2) Confined and unconfined aquifer flow conditions are applied as appropriate in layered aquifers calibrated to the county's hydrogeologic conditions for steady state, regional flow.

(3) Area-specific values of hydrogeologic parameters including both horizontal and vertical hydraulic conductivity are used.

(4) Aquifer-specific values of contaminant transport parameters, including longitudinal and transverse dispersivity coefficients, and effective porosity are used.

(5) Recharge from rainfall is assigned to be zero to establish consecutive calculations of the protection zones.

(6) Conservative contaminants that do not decay and do not absorb to the porous medium are assumed.

(7) Wellfield locations, and well locations within wellfields, are specified.

(8) Wellfield pumping rates are assigned as the greater of the average annual rate permitted the South Florida Water Management District or the maximum historical average annual rate, but not more than the present estimated capacity.

(9) Pumpage is distributed among individual wells in a wellfield by prorating total pumpage based on the present estimated capacity of each well.

(10) Identification of travel time contours is determined by determining distances where contamination would have been six months, one year, five and ten years in the past if theoretical contamination appeared in wells at the present. The travel time zones incorporate the influence of both the wellfield zone of influence due to pumping and the regional groundwater flow gradient.

(b) The protection zones indicated on the protection zone maps are the planar geometric union of the largest of the travel time protection zones determined as follows:

(1) *Water table (surficial) aquifer system.*

a. Water table, six-months: The land situated between an existing public water supply well and the six-month travel time contour.

b. Water table, one-year: The land area situated between the well and the one-year travel time contour.

c. Water table, five-year: The land area situated between the well and the five-year travel time contour.

d. Water table, ten-year: The land area situated between the well and the ten-year travel time contour.

(2) *Lower Tamiami (surficial) aquifer system.*

a. Lower Tamiami, one-year: The land area situated between an existing public water supply well and the one-year travel time contour.

b. Lower Tamiami, five-year: The land area situated between the well and the five-year travel time contour.

c. Lower Tamiami, ten-year: The land area situated between the well and the ten-year travel time contour.

(3) *Sandstone (intermediate) aquifer system.*

a. Sandstone, one-year: The land area situated between an existing public water supply well and the one-year travel time contour.

b. Sandstone, five-year: The land area situated between the well and the five-year travel time contour.

c. Sandstone, ten-year: The land area situated between the well and the ten-year travel time contour.

(4) *Mid-Hawthorne (intermediate) aquifer system.* Mid-Hawthorne, ten-year: The land situated between existing public water supply wells and the ten-year travel time contour.

(5) *Lower Hawthorne (Floridan) aquifer system.* Lower Hawthorne ten-year: The land situated between existing or proposed water supply wells and the ten-year travel time contour.

(c) The aquifers referenced in this article are identical to those listed in the report titled "Supporting Documentation for the Update of the Lee County Wellfield Protection Zones," dated January 2009 and "Supporting Documentation for the 2011 Update of the Lee County Wellfield Protection Zones," dated October 2011 by RMA GeoLogic Consultants, Inc.

(Ord. No. 89-30, 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07; Ord. No. 14-07 , § 2, 3-18-14)

Sec. 14-217. Best management practices for the construction industry.

(a) The general contractor, or, if none, the property owner, will be responsible for ensuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may post particular problems for the handling of any regulated substances. For instance, handling regulated substances in the proximity of water bodies or wetlands may be improper.

(b) If any regulated substances are stored on the construction site during the construction process, they must be stored in a location and manner which will minimize any possible risk of release to the environment. Any storage containers of 55 gallons, or 440 pounds, or more containing regulated substances must have constructed below them an impervious containment system constructed of material of sufficient thickness, density and composition that will prevent the discharge to the land, groundwaters or surface waters of any pollutant which may emanate from the storage tanks. Each containment system must be able to contain 150 percent of the contents of all storage containers above the containment system.

(c) Each contractor will familiarize himself with the manufacturer's safety data sheet supplied with each material containing a regulated substance and will be familiar with procedures required to contain and clean up any releases of the regulated substance. Any tools or equipment necessary to accomplish such containment and cleanup must be available in case of a release.

(d) Upon completion of construction, all unused and waste-regulated substances and containment systems will be removed from the construction site by the responsible contractor and must be disposed of in a proper manner as prescribed by law.

(Ord. No. 89-30, 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-218. Cease to dewater notice.

If, as a result of monitoring, investigation or analysis, the county determines that groundwater resources have been adversely effected by dewatering activity, the county may issue a cease to dewater notice. The notice may be issued to all persons involved in any dewatering activity in Lee County. The existence of a permit from Lee County or other regulatory agency does not prohibit the issuance of this notice.

(Ord. No. 05-14 , § 4, 8-23-05)

Sec. 14-219. Aquifer storage and recovery wells.

The installation of a water supply well is prohibited within 2,640 feet of an existing or permitted aquifer storage and recovery well, unless confinement exists between the production zone of the water well and the storage/production zone of the aquifer storage and recovery well.

(Ord. No. 07-35 , § 1, 12-4-07; Ord. No. 14-07 , § 2, 3-18-14)

Secs. 14-220—14-240. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 14-241. Authority and duties of natural resources division.

(a) The natural resources division will administer and enforce the provisions of this article.

(b) The division will perform the following duties:

(1) The division director will recommend revisions and amendments to this article as necessary.

(2) The division will make continuing studies and periodic reports and recommendations for the improvement of wellfield protection controls and work in cooperation with federal, state and local agencies and groups interested in wellfield protection.

(3) The division will recommend revisions and updates to the list of hazardous and toxic substances incorporated into this article and the wellfield protection zone maps to the Board of County Commissioners.

(4) The division will investigate wellfield protection programs and activities in operation in other areas and make recommendations for the improvement of the regulation, administration and enforcement of wellfield protection.

(5) The division will publicize the importance of adequate wellfield protection, participate in public hearings, discussions, forums and institutes, and arrange programs for the presentation of information by experts in the field of wellfield protection, subject to budget limitations.

(6) The division will establish a permitting system for activities subject to this article.

(7) The division will perform such other duties, functions and responsibilities related to wellfield protection that may be assigned from time to time by the county administrator.

(Ord. No. 89-30, § 1(5.01), (5.02), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-242. Wellfield protection officer.

(a) *Generally.* A wellfield protection officer within the division will be designated to supervise the implementation and enforcement of this article. The wellfield protection officer will designate such inspectors as are necessary to enforce this article and will have all necessary powers and authority of enforcement.

(b) *Duties.* The wellfield protection officer's duties and responsibilities are to:

(1) Enforce the provisions of this article.

(2) Investigate alleged infractions of this article, study and observe conditions, and make recommendations as to the institution of actions necessary for the protection of potable water supply wellfields and as to the prosecution of any violations of this article.

(3) Make appropriate surveys, tests and inspections of property, facilities, equipment and processes operating under the provisions of this article to determine whether the provisions of this article are being complied with, and make recommendations for methods by which wellfield protection may be enhanced.

(4) Maintain, review and supervise all operating records required to be filed by persons operating facilities subject to the provisions of this article.

(5) Establish technical guidelines and criteria for permitting requirements.

(6) Render all possible assistance and technical advice to persons operating facilities and processes, the use of which may endanger wellfields; except that the wellfield protection officer will not design equipment or facilities for any person.

(7) Publish and disseminate information to the public concerning environmental quality and recommend methods for decreasing and eliminating pollution.

(8) Render all possible cooperation and assistance to federal, state and local agencies for the effective protection of potable water wellfields.

(9) Enlist and encourage public support, assistance of civic, technical, scientific and educational organizations and cooperation of industrial and business enterprises and organizations.

(10) Make periodic reports concerning the status of wellfield protection throughout the county.

(11) Perform such other administrative duties related to wellfield protection as may be necessary.

(Ord. No. 89-30, § 1(5.03), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-243. Building permits and occupational licenses.

(a) *Review by division.*

(1) The division will provide a list to all county agencies of potentially prohibited land uses or activities in each protection zone. It will be the duty of each county agency to screen all applications for an occupational license requested by an individual or business located within any protection zone.

(2) Every application for a rezoning, special exception, occupational license, change of occupancy, development order, certificate of occupancy or building permit must indicate whether or not the property, or any portion thereof, lies within a protection zone.

(3) Every application which involves property located wholly or partially within a protection zone will be reviewed by the division. The division will then issue a notice as to whether or not the proposed land use or activity meets the applicable requirements of this article.

(4) No request for a rezoning, special exception, special permit, development order, certificate of occupancy, building permit, change of occupancy or occupational license for any activity regulated by this article will be issued that is contrary to the restrictions and provisions provided in this article. Permits or occupational licenses issued in violation of this section confer no right or privilege on the grantee, and such invalid permits or licenses will not vest rights.

(b) *Records.* Copies of all building permits for principal buildings and all occupational licenses issued for land uses or activities located within the protection zones will be submitted to the division on a quarterly basis.

(Ord. No. 89-30, § 1(6.01), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-244. Operating permit.

(a) *Required information.* All applications for operating permits must contain, at a minimum, the following information:

(1) If the application is for an exemption, a concise statement by the applicant detailing the circumstances upon which the applicant believes it is exempt from this article pursuant to section 14-209

(2) A list of all substances qualifying as either regulated or generic substances which are to be stored, handled, used or produced in conjunction with the land use or activity being permitted, and the quantity to be stored, handled, used or produced.

(3) A detailed description of the activities that involve the storage, handling, use or production of the regulated substances, indicating the unit quantities in which the substances are contained or manipulated.

(4) A description of the containment, the emergency collection devices and containers and emergency plan that will be employed to comply with the restrictions required for protection zones 3 and 4 as set forth in subsection (b) of this section.

(5) A description of the daily monitoring activities that have been or will be instituted to comply with the restrictions for protection zones 3 and 4 as set forth in subsection (b) of this section.

(6) A description of the maintenance that will be provided for the containment facility, monitoring system and emergency equipment required to comply with the restrictions of protection zones 3 and 4 as set forth in subsection (b) of this section.

(7) A description of the groundwater monitoring wells, including the latitude and longitude, that have been or will be installed, and the arrangements made or which will be made for certified quarterly analyses for specified regulated substances.

(8) An agreement to indemnify and hold the county harmless from any and all claims, liabilities, causes of action or damages arising out of the issuance of the permit. The county will provide reasonable notice to the permittee of any such claims.

(b) *Conditions.*

(1) *Authority to impose conditions.* The division may place conditions on any permit so as to ensure compliance with all of the prohibitions, restrictions and requirements set forth in this article. Such conditions may include but are not limited to requiring monitoring wells, periodic groundwater analysis reports and compliance schedules.

(2) *Minimum conditions.* Any operating permit issued by the division will contain the following minimum conditions:

a. *Compliance with article.* The land use or activity must comply with the provisions of this article.

b. *Groundwater monitoring.* Every activity regulated by this article must install one or more groundwater monitoring wells as determined by and in a manner approved by the division, at its own expense. The division will have the right to inspect and sample the monitoring wells. Certified analytical results of the quantity present in each monitoring well of each of the regulated substances listed in the regulated land use or activity's operating permit must be filed quarterly with the division. The presence of any of the regulated substances in a monitoring well will be used to ascertain the source of any accumulation appearing in a potable water well. However, the absence of the regulated substances in a monitoring well will not be used as the basis to exempt any regulated activity from the mandatory actions set forth in section 14-244(c).

c. *Containment of regulated substances.* Leakproof trays under containers, floor curbing or other containment systems to provide secondary liquid containment must be installed. The containment will be of adequate size to handle all spills, leaks, overflows and precipitation until appropriate action can be taken. The specific design and selection of materials must be sufficient to preclude any regulated substance loss to the external environment. Containment systems will be sheltered so that the intrusion of precipitation is effectively prevented, and adequate and appropriate liquid collection methods rather than sheltering will be used only after approval of the design by the division. These requirements will apply to all areas of use, production and handling, to all storage areas, to loading and off-loading areas, and to aboveground and underground storage areas. The containment devices and liquid collection systems will be certified in the operating permit application by a professional engineer registered in the state or professional geologist licensed in the state.

d. *Emergency collection devices.* Vacuum suction devices, absorbent scavenger materials or other devices approved by the division must be present on-site or available within two hours, or one hour in protection zones 1 and 2, by contract with a cleanup company approved by the division. Devices or materials will be available in sufficient magnitude so as to control and collect the total quantity of regulated substances present. To the degree feasible, emergency containers will be present and of such capacity as to hold the total quantity of regulated substances plus absorbent material. The presence of such emergency collection devices will be certified in the operating permit application for existing activities. Such certification for new activities must be provided to the division prior to the presence of regulated substances on the site. Certification will be provided by a professional engineer registered in the state or professional geologist licensed in the state.

e. *Emergency plan.* The emergency plan prepared and filed with the operating permit application must indicate the procedures which will be followed in the event of spillage of a regulated substance so as to control and collect all such spilled material in such a manner as to prevent it from reaching any storm or sanitary drains or the ground.

f. *Inspection.* A responsible person designated by the permittee who stores, handles, uses or produces the regulated substance will check, on every day of operation, for breakage or leakage of any container holding the regulated substances. Electronic sensing devices may be employed as part of the inspection process, if approved by the division, and provided the sensing system is checked daily for malfunctions. The manner of daily inspection will not necessarily require physical inspection of each container provided the location of the containers can be inspected to a degree which reasonably assures the division that breakage or leakage can be detected by the inspection. Monitoring records will be kept and made available to the division at all reasonable times for examination.

g. *Maintenance of containment and emergency equipment.* Procedures will be established for the quarterly in-house inspection and maintenance of containment and emergency equipment. Such procedures must be in writing. A regular checklist and schedule of maintenance will be established and a log will be kept of inspections and maintenance. Such logs and records will be kept available for inspection by the division.

(c) *Issuance; duration; renewal fee.*

(1) Within 30 working days of receipt of an application for an operating permit, the division will inform the applicant whether such application contains sufficient information for a proper determination to be made. If the application is found to be insufficient, then the division will provide the applicant with a written statement, sent by certified mail or hand delivery, requesting the additional information required. The applicant will inform the division within ten working days of the date of the written statement of his intent to either furnish the information or have the application processed as it stands. The division will have 90 working days to review the application from either the date the application is deemed sufficient or the date the applicant declines to furnish additional information requested by the division, whichever is later.

(2) All land uses or activities owned or operated by one person which are located on contiguous parcels of property may be covered under one permit. The term "contiguous," for purposes of this subsection, means abutting parcels and parcels which are separated by a public or private road.

(3) An application which satisfies the requirements of the applicable protection zone and this article will be approved and a permit issued. In addition to denying a permit based on failure to satisfy the requirements of this article, the division may deny a permit based on repeated violations of this article by the person applying for the permit.

(4) An operating permit will remain valid for one year provided the permittee is in compliance with the terms and conditions of the permit.

(5) The permittee will not be required to pay annual renewal fees until September 1, 1989. Beginning September 1, 1989, all current and future permittees are subject to an annual renewal license fee.

(6) A notarized agreement to comply with the provisions of section 14-246 will be submitted, as applicable.

(d) *Transfer.* Any permit may be transferred upon written notice to and approval by the division. The division will assess a permit transfer fee as set out in the appropriate county administrative code. The permit holder will request transfer of the permit upon lease, sublease, assignment, sale or change of ownership of the entity conducting the regulated land use or activity.

(Ord. No. 89-30, § 1(6.02), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-245. Closure permit.

(a) *Required information.* Closure permit applications must provide the following information:

(1) A schedule of events to complete the closure of land use or activity that does or did store, handle, use or produce regulated substances. At minimum, the application must address the following:

a. Disposition of all regulated substances and contaminated containers.

b. Cleanup of the activity and environs to preclude leaching of unacceptable levels of residual regulated substances into the aquifer.

c. Certification by a professional engineer registered in the state or professional geologist licensed in the state that disposal and cleanup have been completed in a technically

acceptable manner. Certification may be waived if the applicant provides evidence to the division that all of the following conditions apply to the subject land use or activity:

1. The entire operation is maintained inside the buildings of the facility.
2. The standard method of removing operating waste is not by septic tank, sewer mains or floor drains.
3. There is no evidence of spills permeating floors or the environs.
4. There are no outstanding or past notices of violation from any regulatory agency concerned with hazardous, industrial or special waste.
5. There is no evidence of past contamination in the public drinking water wells associated with a facility located in protection zone 1 or 2.

The applicant must provide a sworn statement that disposal and cleanup have been completed in a technically acceptable manner.

(2) An appointment for an inspection by the division.

(3) An agreement to indemnify and hold the county harmless from any and all claims, liabilities, causes of action or damages arising out of the issuance of the permit. The county will provide reasonable notice to the permittee of any such claims.

(b) *Conditions.* The division may place conditions on any permit so as to ensure compliance with all of the prohibitions, restrictions and requirements of this article. Such conditions may include but are not limited to monitoring wells, periodic groundwater analysis reports and compliance schedules. A closure permit may include conditions which require reduction of the risk in the interim of contamination of the groundwaters, taking into account cost, likely effectiveness and degree of risk to the groundwater.

(c) *Well reconfiguration.* Well reconfiguration will be evaluated by the division and the affected utility as an alternative to requiring a closure permit during the permit application process.

(d) *Notice to other agencies.* The state department of environmental protection and the county public health unit will be advised in writing of each closure permit application.

(Ord. No. 89-30, § 1(6.03), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-246. Bond.

(a) As a condition of permit issuance, the division may require a surety, in the form of a performance bond, letter of credit or escrow agreement, in an amount deemed appropriate by risk management or the division to ensure that:

(1) The permittee will operate its activities or closure of activities, as applicable, in accordance with the conditions and requirements of this article and permits issued under this article.

(2) The permittee will reimburse the county for any and all expenses and costs the county incurs as a result of the permittee failing to comply with the conditions and requirements of this article.

(b) A bond or letter of credit must be reviewed and approved by the county attorney's office and filed with the clerk of the board of county commissioners prior to issuance of the permit.

(c) The bond or letter of credit required by this section must be kept in full force and effect for the term of the permit plus one year after voluntary cessation of activities permitted under this article or expiration or revocation of the permit. Failure to keep a bond or letter of credit in full force and effect as required is grounds for revocation of the underlying permit or exemption and may result in a fine against the property or violator.

(Ord. No. 89-30, § 1(6.05), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-247. Monitoring of presence of regulated substances.

(a) *Required.* Groundwater monitoring wells must be provided at the expense of the permittee in a manner, number and location approved by the division. Except for existing monitoring wells found by the division to be adequate for this purpose, the required wells will be installed by a county-licensed water well contractor or county-licensed monitoring well specialty contractor. Samples will be taken by a department of health and rehabilitative services approved laboratory performing the analyses. Analytical reports prepared by a department of health and rehabilitative services approved laboratory for each monitoring well will list the quantity of the regulated substances listed in the activity's operating permit and will be filed at least annually. Analytical reports may be required more frequently, as determined by the division, based upon site conditions and operations.

(b) *Enforcement actions.* If one or more of the regulated substances listed in the operating permit appear in a potable water well or in a monitoring well in an amount which exceeds the limits for that substance set out in the operating permit at any time, then the division will require one of the following mandatory actions:

(1) All persons who engage in land uses or activities regulated by this article within the affected protection zone 3 or 4 who store, handle, use or produce the regulated substances must cease to do so within 90 days of written notification from the division. If the responsible activity can be identified, then only that activity will be subject to these mandatory actions. If the owner or operator of any activity can present acceptable technical data to the division that substantiates that the activity is not the source of the regulated substances appearing in the potable water well or in the monitoring well in excessive amounts, that activity will not be subject to these mandatory actions. No new regulated substances may be introduced in the place of the regulated substance removed to comply with cessation; or

(2) The affected wells will be reconfigured by changing the pumping rates or relocating the wells in such a way that the affected activity is no longer within the protection zones.

(Ord. No. 89-30, § 1(6.04), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-248. Alteration or expansion of use.

The division must be notified in writing prior to the expansion, alteration or modification of any land use or activity holding an operating permit. Such expansion, alteration or modification may result from increased square footage of production or storage capacity, or increased quantities of regulated substances, or changes in types of regulated substances, beyond those square footages, quantities and types upon which the permit was issued. The division need not be notified prior to alteration or modification of changes in types of regulated substances used in a laboratory designated as such in the currently valid permit which do not exceed the nonaggregate limits set out in division 1 of this article. If a facility adds new regulated substances which individually are below the nonaggregate substance limits in division 1 of this article, it must notify the division on an annual basis of the types and quantities of such substances added and the location of the use, handling, storage and production of such substances. If the aggregate quantity of such additions exceed the aggregate limit in division 1 of this article, no notification other than the annual notification described in this subsection is required. Any such expansion, alteration or modification must be in strict conformity with this article. Furthermore, except as provided in this article, any existing operating permit must be amended to reflect the introduction of any new regulated substances resulting from the change. However, the introduction of any new regulated substance will not prevent the revocation or revision of any existing operating permit if, in the opinion of the division, such introduction substantially or materially modifies, alters or affects the conditions upon which the existing operating permit was granted or the ability of the land use activity to continue to qualify for an exemption, if applicable, or to continue to satisfy any conditions that have been imposed as part of an exemption, if applicable. The division will notify the permittee in writing within 60 days of receipt of the permittee's notice that the division proposes to revoke or revise the permit, stating the grounds therefor.

(Ord. No. 89-30, § 1(6.07), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-249. Reconstruction of damaged facilities.

(a) Reconstruction of a portion of a structure or building accommodating a land use or activity subject to the provisions of this article must be in strict compliance with this article. This requirement will be imposed whether the damage was caused by fire, vandalism, flood, explosion, hurricane, wind, war or other catastrophe.

(b) Within 90 days of the receipt of written notice from the division, all existing land uses or activities regulated by this article that use, handle, store or produce regulated substances must file an application for an operating permit. If the land use or activity fails to apply for an operating permit within the 90 day time frame, then an application for a closure permit or exemption must be filed within 120 days of the receipt of written notice from the division. The permit application must be prepared and signed by a professional engineer registered in the state or professional geologist licensed in the state. Within 30 days of receipt of notice from the division, the owner or operator must file proof of retention of the engineer or geologist. If application is made for an operating permit, the permit will be issued or denied within 60 days after a complete application is filed. If the application for an operating permit is denied, then the activity must cease within 12 months of the denial and an application for a closure permit must be filed with the division within 120 days of the denial of the operating permit.

(Ord. No. 89-30, § 1(6.08), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-250. Exceptions to permit requirements.

(a) *Eligibility.* Activities with adequate technology to isolate the land use or activity from the potable water supply and protect the wellfield may apply for a special exception from the operating or closure permitting requirements of this article.

(b) *Procedure for granting exception.*

(1) *Application generally.*

a. A special exception application claiming special or unusual circumstances and adequate protection technology may be filed with the division. It must be signed by the applicant and a professional engineer registered in the state or a professional geologist licensed in the state.

b. Applications must contain a concise statement by the applicant detailing the circumstances the applicant feels entitle him to a special exception.

c. The application must be accompanied by the appropriate fee.

(2) *Contents of application.* The application for a special exception must contain but is not limited to the following elements:

a. A description of the situation at the site requiring isolation from the wellfield, including:

1. A list of the regulated substances in use at the site.

2. A clearly legible site plan of the facility drawn at an appropriate scale and detailing all storage, piping dispensing, shipping, etc., facilities; travel time contours as identified on the protection zone maps; and, the limits of sanitary hazard zones.

3. A description of the operations at the facility involving regulated substances that must be isolated from the wellfields.

4. The location of all operations involving regulated substances.

5. A sampling and analysis of the groundwater on the site of the activity seeking a special exception, to determine if any regulated substances are already present that constitute a threat to the water supply.

6. An analysis of the affected well showing whether or not the well is already contaminated by any regulated substances and the extent of such contamination.

7. A hydrogeologist's assessment of the site addressing, at minimum, soil characteristics and groundwater level, groundwater directional flow and quality.

b. The application must include a technical proposal to achieve the required isolation, including:

1. The components to be used and their individual functions.

2. The system tying the components together.

3. A discussion and documentation, such as published technical articles, substantiating the performance and reliability of the components individually and the system as a whole. If the system has not been field-tested, a discussion and laboratory test documentation to substantiate the proposal performance and reliability of the system must be included.

4. Details of the specific plans to install the system at the site.

c. If the proposed system does not have a proven history of successful in-field operation, it may still be proposed using proven components. A test plan for the system as installed must be provided to document that the proposed system works in the field.

d. The application must include a technical proposal for backup detection of regulated substances that may elude the isolation system and escape outside a perimeter established by division. The proposal must include emergency measures to be initiated in case of escape of regulated substances.

e. Site-specific, system performance criteria must be proposed to ascertain the success of the system. This criteria includes, but is not limited to:

1. Performance.

2. Reliability.

3. Level of maintenance.

4. Level of sensitivity to regulated substances.

5. Effect of rain, flood, power failure or other natural disaster.

f. The applicant must provide information on the on-site availability of substance removal technologies sufficient to remediate the introduction of regulated substances into the water table at the site. Where the water is removed from on-site wells during the remedial process, a plan must be proposed for the disposal of the water.

g. A closure plan must be provided if the system does not prove successful in the testing required in this subsection.

h. The application must include any other reasonable information deemed necessary by division due to site-specific circumstances.

(3) *Review of application.* Within 30 working days after receipt of an application for special exception, the division will notify the applicant whether the application contains sufficient information upon which to base a determination. If the application is not sufficient, then the division will provide a written sufficiency statement requesting the additional information the division deems necessary for review. The applicant will have ten working days from the date of the written sufficiency

statement to either notify the division when the information requested will be submitted or request that review proceed on the application as it stands.

(c) *Conditions.*

(1) Any special exception granted by the division is subject to the applicable conditions of this article and any other reasonable and necessary special conditions imposed by the division.

(2) The division will issue an operating permit subject to the standard conditions of this article and any other reasonable and necessary special conditions imposed by the division. Special exceptions are subject to revocation or revision by the division for violation of any condition of the special exception. Prior to revocation, the division will provide written notice of intent to revoke or revise, via certified mail, return receipt requested, or hand delivery. Upon revocation or revision, the activity will immediately be subject to the code enforcement proceedings.

(3) Special exceptions within protection zones 1 and 2 may be granted for existing activities only. No new activity will be permitted in protection zones 1 and 2 after September 1, 1989, if the new activity is regulated by this article.

(Ord. No. 89-30, § 1(7.01)—(7.03), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-251. Revocation or revision of permit or exemption.

(a) *Revocation.* Any permit or exemption issued under the provisions of this article will not become vested in the permittee. The division may revoke any permit issued by it by first issuing a written notice of intent to revoke, sent by certified, mail return receipt requested, or hand delivery, if it finds that:

(1) The permit holder has failed or refused to comply with any of the provisions of this article, including but not limited to permit conditions and bond requirements of section 14-246

(2) The permit holder has submitted false or inaccurate information in the operating permit application;

(3) The permit holder has failed to submit operational reports or other information required by this article;

(4) The permit holder has refused lawful inspection under section 14-252(a)(4); or

(5) The permit is otherwise subject to revocation under this article.

(b) *Revision.* The division may revise any permit pursuant to subsection (a) of this section or by first issuing a written notice of intent to revise, sent by certified mail, return receipt requested, or hand delivery.

(c) *Spills.* Any spill of a regulated substance must be reported by telephone to the division, and to the designated public utility, within one hour of discovery of the spill. Cleanup will commence immediately upon discovery of the spill. A full written report including the steps taken to contain and clean up the spill will be submitted to the division within 15 days of discovery of the spill. Within 30 days of any spill of a regulated substance in protection zone 1, 2 or 3, the division will consider revocation or revision of the permit. Upon such consideration the division may issue a notice of intent to revoke or revise, which will be subject to the provisions of subsection (d) of this section, or elect not to issue such notice. In consideration of whether to revoke or revise the permit, the division may consider the intentional nature or degree of negligence, if any, associated with this spill, and the extent to which containment or cleanup is possible, the nature, number and frequency of previous spills by the permittee and the potential degree of harm to the groundwater and surrounding wells due to such spill.

(d) *Notice.*

(1) For any revocation or revision of an operating permit containing a special or administrative exemption permitting certain land uses or activities, the division will issue a notice of intent to

revoke or revise the permit, which states that the division intends to revoke or revise both the operating permit and accompanying exemption.

(2) The written notice of intent to revoke or revise will contain the following information:

a. The name and address of the permittee, if any, and property owner, if different.

b. A description of the facility which is the subject of the proposed revocation or revision.

c. The location of the spill, if any.

d. A concise explanation and specific reasons for the proposed revocation or revision.

e. A statement that failure to file a petition with the clerk of the Board of County Commissioners within 20 days after the date upon which the permittee receives written notice of the intent to revoke or revise will render the proposed revocation or revision final and in full force and effect.

(3) Failure of permittee to file a petition as set forth in this subsection will render the proposed revocation or revision final and in full force and effect.

Nothing in this section will preclude or be deemed a condition precedent to the division's seeking a temporary or permanent injunction.

(Ord. No. 89-30, § 1(6.06), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-252. Inspections; enforcement generally.

(a) *Inspections.*

(1) The county wellfield protection officer and his designated inspectors are hereby authorized and empowered to make inspections at reasonable hours of all land uses or activities regulated by this article including nonresidential buildings, structures and lands within protection zones in the county, in order to determine if regulations relating to wellfield protection and other applicable county regulations are being followed.

(2) As a condition of every operating permit or special exception, the property owner grants permission for inspection of the premises by an authorized county wellfield protection officer or inspector.

(3) Inspections may be made without notice. Refusal to allow an inspection is sufficient grounds for revocation of the operating permit or special exception issued by the division.

(4) The refusal of a person who has common authority over a building, structure or land to permit an inspection will be deemed sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, surveying or examining the premises.

(5) If a building, structure or land appears to be vacant or abandoned, and the property owner cannot be readily contacted in order to obtain consent for an inspection, the wellfield protection officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection.

(6) The wellfield protection officer or inspector will be provided with official identification and will exhibit this identification when making an inspection.

(7) It will be the duty of all law enforcement officers to assist in making inspections when assistance is requested by the wellfield protection officer or inspector.

(b) *Remedies.* Whenever the wellfield protection officer or an inspector determines that there is a violation of this article, the officer or inspector may elect to follow the procedures established by the county for

bringing a case before the Lee County Code Enforcement Hearing Examiner or County Court. The county may also pursue any legal means available to obtain compliance including injunctive relief as provided in section 14-254. A notice to cease a land use or activity, or a permit or an exemption issued under this article, will not relieve the owner or operator of the obligation to comply with other applicable federal, state, regional or local codes, regulations, rules, ordinances or requirements. Further, the notice, permit or exemption will not relieve the owner or operator of liability for violation of the codes, regulations, rules, ordinances or requirements.

(Ord. No. 89-30, § 1(5.04), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-253. Responsibility for cleanup of regulated substances; liability for damages.

Any person subject to this article is liable for any damage caused by a regulated substance present on or emanating from the person(s property, for all costs of removal or remedial action incurred by the county, and damages for injury to, destruction of or loss of natural resources, including the reasonable costs of assessing such injury, destruction or loss resulting from the release or threatened release of a regulated substance. Removal or remedial action by the county may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, and containment and cleanup or disposal of regulated substances resulting from the spilling, leaking, pumping, poring, emitting or dumping of any regulated substance or material that creates an emergency hazardous situation or is expected to create an emergency hazardous situation.

(Ord. No. 89-30, § 1(5.04), 8-23-89; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-254. Injunctive relief.

If any person who engages in activities regulated by this article stores, handles, uses or produces hazardous or toxic substances regulated under this article, or the regulations promulgated pursuant to this article, without having obtained an operating permit as provided for in this article, or continues to operate in violation of the provisions of this article or the regulations promulgated pursuant to this article, then the county may file an action for injunctive relief in a court of competent jurisdiction.

(Ord. No. 89-30, § 1(5.04), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-255. Appeals.

If the division denies an exemption or the applicant disputes any final administrative determination made by the division pursuant to this article, the applicant may file an appeal of the division's written decision in accordance with the procedures set forth for appeals of administrative decisions in section 34-145(a), and in accordance with any county administrative codes adopted to implement the provisions of chapter 34.

(Ord. No. 89-30, § 1(5.06), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Sec. 14-256. Fees.

(a) *Permit fees.* Prior to the issuance, renewal, modification or transfer of a permit or an exemption the applicant must pay a fee as set forth in the applicable county administrative code. The fee will be used to defray the cost of monitoring compliance with this article.

(b) *Administrative fees; service charge.*

(1) The cost of administering and enforcing this article will be borne by the public utilities owning the public potable water wellfields protected by the provisions of this article. Each utility will be assessed its pro rata share of the cost of administering and enforcing this article.

(2) The county may create municipal service benefit units, as necessary, whereby the county may impose a service charge payable to the county as a pro rata share of the costs of administering and enforcing this article.

(3) The service charge payment to the county for wellfield environmental protection services may be based upon a stated dollar amount per a set amount of gallons per day of the permitted maximum daily withdrawal rate capacity of the utility evidenced by permits as issued by the South Florida Water Management District or any other method deemed equitable by the county.

(4) The service charge payable pursuant to this section must be deposited in a county fund and will be used exclusively by the county and its natural resources division to pay for the costs of the wellfield protection services directed by this article, and no part of these funds may be used for any purpose other than the administering and enforcing of this article.

(Ord. No. 89-30, § 1(8.01), (8.02), 8-23-89; Ord. No. 90-40, § 1, 8-1-90; Ord. No. 90-46, § 2, 9-19-90; Ord. No. 95-01, § 1, 1-4-95; Ord. No. 07-35 , § 1, 12-4-07)

Sec. 14-257. Disclosure of trade secrets.

The division will not disclose any trade secrets of a permittee under this article that are exempted from such disclosure by federal or state laws; provided, however, the burden will be on the permittee to demonstrate entitlement to such nondisclosures. Decisions by the division as to such entitlement may be appealed as set forth in section 14-255.

(Ord. No. 89-30, § 1(5.05), 8-23-89; Ord. No. 95-01, § 1, 1-4-95)

Secs. 14-258—14-290. Reserved.

ARTICLE IV. WETLANDS PROTECTION [6]

Sec. 14-291. Applicability.

The provisions of this article apply to the unincorporated areas of Lee County.

(Ord. No. 96-17, § 3, 9-18-96)

Sec. 14-292. Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

ERP means Environmental Resource Permit.

FDEP means Florida Department of Environmental Protection.

SFWMD means South Florida Water Management District.

Wetlands, consistent with F.S. § 373.019(17), means those areas inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptions, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

(Ord. No. 96-17, § 3, 9-18-96)

Sec. 14-293. Permits required.

(a) An Environmental Resource Permit (ERP) is required prior to any development that will impact wetlands. The ERP will be issued by either the Florida Department of Environmental Protection (FDEP) or South Florida Water Management District (SFWMD) in accordance with F.S. ch. 373 and F.A.C. Ch. 62.

(b) The County will not independently review impacts to wetlands resulting from development.

(c) Prior to receipt of a copy of the appropriate state authorization relating to wetlands, the County may not issue building permits or development orders where development will cause impacts to existing wetlands on the subject property.

(Ord. No. 96-17, § 3, 9-18-96)

Sec. 14-294. Site plan review.

Lee County will incorporate the terms and conditions of all state authorizations relating to wetlands, including ERP's into any development order, building or other local development permit.

(Ord. No. 96-17, § 3, 9-18-96)

Sec. 14-295. Compliance enforcement.

(a) Lee County will enforce the provisions of any state authorization relating to wetlands, including ERP's, issued and incorporated into a local development order or building permit.

(b) The County will prosecute violations of state wetland regulations and ERP applicable conditions or requirements incorporated into local permits through the code enforcement process set forth in Chapter 2

(Ord. No. 96-17, § 3, 9-18-96)

Secs. 14-296—14-370. Reserved.

FOOTNOTE(S):

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Editor's note— Ordinance No. 96-17, § 3, adopted September 18, 1996, repealed §§ 14-291—14-300, 14-331—14-335 and added in lieu thereof §§ 14-291—14-295. Formerly, such sections pertained to similar provisions and derived from Ord. No. 86-31, § 1, 3—15, 10-29-86; Ord. No. 88-33, § 5, 7-20-88; Ord. No. 91-05, § 1, 2, 1-30-91; Ord. No. 93-03, § 1, 1-6-93. (Back)

Cross reference— Transfer of development rights, § 2-141 et seq. (Back)

ARTICLE V. TREE PROTECTION [7]

DIVISION 1. - GENERALLY

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

FOOTNOTE(S):

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Editor's note— Ord. No. 94-14, adopted May 18, 1994, amended and restated in their entirety the tree protection provisions of this chapter, which provisions were formerly derived from Ord. No. 86-34, § 1, 3—11 and 13—20, adopted Nov. 19, 1986; Ord. No. 88-33, § 7, adopted July 20, 1988; Ord. No. 90-41, §§ 4—6, adopted Aug. 15, 1990; and Ord. No. 91-04, §§ 2, 3, adopted Jan. 30, 1991. (Back)

Cross reference— Open space, buffering and landscaping, § 10-411 et seq. (Back)

DIVISION 1. GENERALLY

Sec. 14-371. Short title.

This article shall be known and may be cited as the "Lee County Tree Protection Ordinance."

(Ord. No. 94-14, § 2, 5-18-94)

Sec. 14-372. Findings of fact.

The Board of County Commissioners hereby finds and determines that trees promote the health and general welfare of the citizens of the county, specifically:

(1) Trees transpire considerable amounts of water each day and assist in purifying the air;

(2) Trees precipitate dust and other particulate airborne pollutants from the air;

(3) Trees, through their root systems, stabilize soil and play an important and effective part in countywide soil conservation, erosion control and flood control;

(4) Trees are an invaluable amenity to the county, providing shade and cooling the air and land, and reducing noise levels and glare;

(5) The protection of trees within the county is not only desirable, but essential to the health, safety and welfare of all the citizens, present and future, of the county; and

(6) Some trees are more beneficial than others as necessary contributions to the county's environment and it is not necessary to protect each and every tree in order to attain the publicly beneficial result of a tree protection ordinance.

(Ord. No. 94-14, § 4, 5-18-94)

Sec. 14-373. Intent and purpose of article.

(a) The intent of this article is to provide protection of trees through the preservation, protection and planting of trees in order to aid in the stabilization of soil by the prevention of erosion and sedimentation; reduce stormwater runoff and costs associated therewith and maintain permeable land areas for aquifer recharge and surface water filtration; aid in the removal of carbon dioxide and generation of oxygen in the atmosphere; provide a buffer and screen against noise pollution; promote energy conservation through the creation of shade, reducing heat gain in or on buildings or paved

areas, and reducing the temperature of the microclimate through evapotranspiration; provide protection against severe weather; aid in the control of drainage and restoration of denuded soil subsequent to construction or grading; provide a haven for birds which in turn assist in the control of insects; protect and increase property values; conserve and enhance the county's physical and aesthetic environment; and generally protect and enhance the quality of life and the general welfare of the county.

(b) The purpose of this article is to provide protection of trees from abuse and/or mutilation, and to regulate the removal and planting of trees in the unincorporated areas of the county in order to enhance and protect the environmental quality of the county.

(Ord. No. 94-14, § 3, 5-18-94)

Sec. 14-374. Definitions.

(a) The following words, terms and phrases, and their derivations, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Administrator means the administrative director of the department of community development or his or her designee, who is the person responsible for administering the provisions of this article.

Bona fide agricultural purposes means good faith commercial or domestic agricultural use of the land. In determining whether the proposed agricultural use of land is bona fide, the following factors shall be taken into consideration by the administrator:

(1) Whether the property could qualify as a bona fide agricultural purpose within the meaning of F.S. § 193.461(3)(b);

(2) The relationship of the property to the Lee Plan; and

(3) The zoning of the property. The current zoning of the property shall be agricultural.

Commission means the Board of County Commissioners.

County means Lee County, Florida.

Critical areas for surface water management means the Six Mile Cypress Watershed Basin, as defined in chapter 10, article III, division 9, and the density reduction/groundwater resource land use category, as defined in the county comprehensive plan adopted by Ordinance No. 90-43 and subsequently readopted by Ordinance No. 90-44. A map of the critical areas for surface water management is attached as appendix B to Ordinance No. 91-14, and is incorporated as part of this article by reference.

Diameter at breast height (dbh) means the diameter, in inches, of a tree measured 54 inches above natural grade.

Dripline means an imaginary vertical line running from the outermost branches or portion of the tree crown to the ground.

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 33-1002.

Indigenous vegetation means those plants which are characteristic of the major plant communities of the county, as listed in section 10-701.

Massing of trees means to cluster trees in a random fashion.

Notice of clearing means the permit issued by the administrator after it has been recorded by the clerk's office.

Person means any public or private individual, group, company, partnership, association, society or other combination of human beings whether legal or natural.

Protective barrier means a physical structure not less than three feet in height composed of lumber no less than one inch by one inch in size for shielding protected trees from the movement of equipment or the storage of equipment, material, debris or fill. Equivalent materials may be used to provide a protective barrier if first approved by the administrator.

Removal means the deliberate removal of a tree or causing the effective removal of a tree through damaging, poisoning or other direct or indirect actions resulting in the death of the tree.

Tree means a living, woody, self-supporting plant, ten feet or more in height, having one or more well-defined main stems or trunks, and any one stem or trunk four inches in diameter at breast height, and as listed in appendix E. For the purpose of this article, those palms listed on appendix E are declared to be a tree and are protected by the provisions of this article.

Tree protection map means a drawing or aerial photograph which provides the following information: location of all trees protected under the provisions of this article, plotted by ground truthing or any other accurate scientific techniques; common or scientific name of all trees; and diameter at breast height. Groups of trees in close proximity (five feet spacing or closer) may be designated as a clump of trees, with the predominant species, estimated number and average size listed.

Tree worthy of preservation means any tree listed in the Florida Champion Tree Records as compiled by the state.

Upland means land other than wetlands.

(b) Unless specifically defined in this article, the words or phrases used in this article and not defined in subsection (a) of this section shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

(Ord. No. 94-14, § 5, 5-18-94; Ord. No. 96-17, § 3, 9-18-96; Ord. No. 07-19 , § 3, 5-29-07)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 14-375. Penalty for violation of article.

(a) Any person, organization, society, association or corporation, or any agent or representative thereof, who violates any provision of this article will, upon conviction, be subject to the following penalties:

(1) *Criminal penalties.* Such person shall be punishable as provided in section 1-5

(2) *Civil penalties.* The following are applicable:

a. Injunctive relief to enjoin and restrain any person from violating the provisions of the article;

b. A fine not to exceed $500.00 per violation;

c. Revocation, suspension or amendment of any land development permit granted pursuant to this article;

d. Restoration pursuant to the standards contained in section 14-384; and

e. Any other relief available pursuant to law.

(b) Any equitable, legal or leasehold owner of property who knew, or should have known, that illegal removal of trees was occurring on property in which that individual has any equitable, legal or leasehold interest, and who permitted that activity to occur without notifying the administrator of the person, organization, society, association or corporation, or any agency or representative thereof, of the

improper or illegal removal of the trees, shall be equally subject to any civil or criminal penalty set forth in this article.

(c) In any prosecution under this article for the removal of a tree without a permit, each tree so removed will constitute a separate offense.

(Ord. No. 94-14, § 18, 5-18-94; Ord. No. 99-05, § 5, 6-29-99)

Sec. 14-376. Prosecution of violations.

Prosecution of violations of this article shall be before the court, the county code enforcement board or the hearing examiner.

(Ord. No. 94-14, § 20, 5-18-94)

Sec. 14-377. Exemptions from article.

(a) This article does not apply to the following:

(1) Removal of trees on the following lands as specified in this subsection:

a. This article does not apply to the removal of trees, other than trees worthy of preservation, on lands classified as agricultural land for ad valorem taxation purposes pursuant to F.S. § 193.461(3)(b), except as provided for proposed agricultural activities in Greater Pine Island in section 33-1031. Trees, other than trees worthy of preservation, may be removed from agriculturally zoned lands only after the owner or his agent procures a notice of clearing from the administrator. However, if an application to rezone the subject lands is filed within three years from the date when the most recent notice of clearing was issued, and the rezoning is granted, the applicable minimum open space requirements of chapter 10 may be satisfied in the following manner:

1. A sufficient number of trees listed in appendix E shall be placed, planted and maintained consistent with section 14-384(a)(1)—(4) to the extent that such minimum open space requirements cannot be satisfied by then-existing natural forest.

2. Such reforestation as required in subsection (a)(1)a.1 of this section shall be satisfied by imposing the necessary conditions to any final development order issued at any time within eight years after the land in question is rezoned.

3. If, subsequent to the issuance of the notice of clearing, the owner or agent of the land obtains an agricultural lands classification for ad valorem taxation purposes pursuant to F.S. § 193.461(3)(b), then the restrictions and requirements contained in subsections (a)(1)a.1 and 2 of this section shall not apply. These same lands shall then be regulated pursuant to subsection (a)(1)a. of this section.

b. Land used for bonafide agricultural purposes that meets the criteria of or has been designated as wetlands.

c. If the property is located in the critical areas for surface water management, and is not used for bona fide agricultural purposes, indigenous vegetation shall not be cleared in areas that serve as listed species occupied habitat as defined in chapter 10, article III, division 8. The following shall apply:

1. The administrator shall determine the location of protected species to be preserved based on the criteria set forth in chapter 10, article III, division 8. This review shall not be substituted for surveys required under chapter 10, article III, division 8.

2. The administrator, or the property owner with the administrator's approval, shall develop a management plan based on the criteria set forth in section 10-474. Preparation and review criteria for the plan shall be subject to the provisions of an appropriate administrative code. Up to ten percent of the upland acreage shall be preserved in areas where listed species are present. No more than two separate areas shall be set aside on any given parcel. Any state-mandated upland listed species preserves shall be included within the referenced ten percent preservation area. Bald eagles (Haliaeetus leucocephalus) shall be protected pursuant to article II, division 3, of this chapter.

d. If the property is located in the critical areas for surface water management, indigenous vegetation shall not be cleared within 25 feet of the mean high-water line or ordinary high-water line, whichever is applicable, of any natural waterway listed in appendix F. Indigenous vegetation may be cleared selectively to allow the placement of docks, pipes, pumps and other similar structures pursuant to applicable county ordinances.

(2) The removal of trees on public rights-of-way conducted by or on behalf of a federal, state, county, municipal or other governmental agency in pursuance of its lawful activities or functions in the construction or improvement of public rights-of-way or in the performance of its official duties.

(3) The removal of a protected tree that is dead or which has been destroyed or damaged by natural causes beyond saving or which is a hazard as the result of an act of God and constitutes an immediate peril to life and property.

(4) The removal of trees by duly constituted communication, water, sewer or electrical utility companies or federal, state or county agency, engineer or surveyor, working under a contract with such federal, state or county agency or when such tree removal is done as a governmental function of such agency.

(5) The removal of trees by duly constituted communication, water, sewer or electrical utility companies in or adjacent to a public easement or right-of-way, provided such removal is limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that such removal is conducted so as to avoid any unnecessary damage or removal of trees.

(6) The removal of trees protected by this article, other than a tree worthy of preservation, by a state-licensed land surveyor in the performance of his duties. The removal of trees protected by this article in a manner which requires clearing a swath of greater than three feet in width shall require approval of the administrator prior to such a removal and clearance.

(7) The removal of protected trees on a lot zoned for single-family residential use or being used lawfully as a single-family residence or mobile home where the residence or proposed residence is located on a lot no greater than five acres in area. However, this exemption does not apply on the coastal islands listed in subsection (c) below.

(8) The removal of protected trees, other than a tree worthy of preservation, on the premises of a licensed plant or tree nursery or tree farm where such trees are intended for sale in the ordinary course of the licensee's business.

(b) Any final development order or other final approval issued by the county which was granted after January 27, 1983, but before the effective date of the ordinance from which this article is derived may, at the discretion of the administrator, be exempted from compliance with this article, to the extent that the restrictions imposed by this article conflict with the approvals given in the final development order or other final approval, in which case the final development order or other final approval shall supersede this article as to those areas in conflict.

(c) The exemptions for single-family residential use in subsection (a)(7) above do not apply to land located on the following coastal islands: Gasparilla Island, Cayo Costa Island, North Captiva Island, Captive Island, Buck Key, Greater Pine Island, Lover's Key Group of Islands, Black Island, Big Hickory Island, and Little Hickory Island (Bonita Beach).

(1) The tree permit will be incorporated into the building permit for the site. Review of the tree removal will follow the criteria listed in sections 14-411 and 14-412. For clearing prior to building permit issuance, as a separate tree permit application must be submitted for review and compliance with sections 14-411 and 14-412. No tree permit is required for the annual removal of five trees or less from any single-family residential lot that contains an existing single-family dwelling unit.

(2) As part of the tree permit site inspections, department of community development staff will also review understory or subcanopy plants and protected species for retention or relocation within the site.

(3) For Greater Pine Island only, a tree removal permit will be required only on parcels or lots zoned or used for residential purposes that are two acres in size or greater.

(Ord. No. 94-14, § 7, 5-18-94; Ord. No. 96-17, § 3, 9-18-96; Ord. No. 97-10, § 4, 6-10-97; Ord. No. 98-03, § 3, 1-13-98; Ord. No. 98-28, § 3, 12-8-98; Ord. No. 07-19 , § 3, 5-29-07)

Sec. 14-378. Suspension of article during emergency conditions.

Upon the declaration of a state of emergency pursuant to F.S. ch. 252, the administrator may suspend the enforcement of the requirements of this article for a period of 30 days in order to expedite the removal of damaged and destroyed trees in the interest of public safety, health and general welfare.

(Ord. No. 94-14, § 14, 5-18-94)

Sec. 14-379. Nonliability of county.

Nothing in this article shall be deemed to impose any liability upon the county or upon any of its officers or employees, nor to relieve the owner and/or occupant of any duty to keep trees and shrubs upon private property or under his control in a safe condition.

(Ord. No. 94-14, § 15, 5-18-94)

Sec. 14-380. List of protected trees.

(a) Any tree delineated in appendix E shall henceforth be a protected tree and shall thereby come under the provisions of this article, except those trees exempted pursuant to section 14-378

(b) All other species of trees not named in appendix E may be removed without a permit, but only in such a manner so as not to disturb or destroy surrounding protected trees.

(Ord. No. 94-14, § 8, 5-18-94)

Sec. 14-381. Unlawful injury of trees.

It shall be a violation of this article for any person to remove, injure, disfigure or destroy a tree in preparation for, in connection with, or in anticipation of development of land, except in accordance with the provisions of this article.

(Ord. No. 94-14, § 9, 5-18-94)

Sec. 14-382. Removal of trees.

(a) *Permit required.* Any tree, as defined and protected by this article, may be lawfully removed only after a permit therefor has been secured from the administrator. Failure to comply with the requirements of a tree removal permit shall be a violation of this article.

(b) *Relocation to public property.* Where a tree is to be removed under the provisions of this article, the county may, with the owner's permission, relocate the tree (not being relocated within the property) at the county's expense to county-owned property for replanting, either for permanent utilization at a new location or for future use at other county-owned property. If the county does not elect to relocate any such tree, it may give any city within the county the ability to acquire such tree at the city's expense for relocation within the city's incorporated area for public use. The relocation shall be accomplished within 15 working days of the issuance of a permit, unless it is necessary to root prune the tree to ensure its survival, in which case the relocation shall be accomplished within 30 working days of the issuance of a permit or on another suitable schedule as agreed to by all parties.

(Ord. No. 94-14, § 10, 5-18-94)

Sec. 14-383. Tree protection during development of land.

(a) Prior to the land clearing stage of development, the owner or developer shall clearly mark all protected trees for which a tree removal permit has not been issued and shall erect barriers for the protection of the trees according to the following:

(1) Around an area at or greater than a six-foot radius of all species of mangroves and protected cabbage palms;

(2) Around an area at or greater than the full dripline of all protected native pines;

(3) Around an area at or greater than two-thirds of the dripline of all other protected species.

(b) No person shall attach any sign, notice or other object to any protected tree or fasten any wires, cables, nails or screws to any protected tree in any manner that could prove harmful to the protected tree, except as necessary in conjunction with activities in the public interest.

(c) During the construction stage of development, the owner or developer shall not cause or permit the cleaning of equipment or material within the outside perimeter of the crown (dripline) or on the nearby ground of any tree or group of trees which is to be preserved. Within the outside perimeter of the crown (dripline) of any tree or on nearby ground, the owner or developer shall not cause or permit storage of building material and/or equipment, or disposal of waste material such as paints, oil, solvents, asphalt, concrete, mortar or any other material harmful to the life of the tree.

(d) No person shall permit any unnecessary fire or burning within 30 feet of the dripline of a protected tree.

(e) Any landscaping activities within the barrier area shall be accomplished with hand labor.

(f) Prior to the administrator issuing a certificate of occupancy or compliance for any development, building or structure, all trees designated to be preserved that were destroyed during construction shall be replaced by trees of equivalent diameter at breast height tree caliper and of the same species as specified by the administrator, before occupancy or use, unless approval for their removal has been granted under permit.

(g) The administrator may conduct periodic inspections of the site during land clearance and construction.

(h) If, in the opinion of the administrator, development activities will so severely stress slash pines or any other protected tree such that they are made susceptible to insect attack, preventative spraying of these trees may be required.

(Ord. No. 94-14, § 13, 5-18-94)

Sec. 14-384. Restoration standards.

(a) If a violation of this article has occurred and upon agreement of the administrator and the violator, or, if they cannot agree, then upon conviction by the court, the code enforcement board or the hearing examiner, a restoration plan must be ordered in accordance with the following standards:

(1) The restoration plan must include the following minimum planting standards:

a. The plan must include a planting plan for all protected trees. Replacement stock must be computed on a three for one basis according to the total number of unlawfully removed trees. The phrase "three for one" in this section refers to the requirement of replacing an illegally removed tree with three live trees according to the provisions of this article. Replacement trees must be nursery grown, containerized and no less than six feet in height. It is within the discretion of the administrator to allow a deviation from the ratio specified in this subsection. When such deviation is sought, the total of heights and calipers must equal or exceed that specified in the standards set out in this subsection. An example of this might be one in which trees four feet in height might be planted in a ratio of five replacement trees to one illegally removed tree. Justification for such a deviation must be provided to the administrator.

b. The plan must include a planting plan for understory vegetation. Understory vegetation must be restored to the area from which protected trees were unlawfully removed or mutilated. The plant selection must be based on that characteristic of the Florida Land Use, Cover and Classification System (FLUCCS) Code. Shrubs, ground cover and grasses must be restored as delineated in the Florida Land Use, Cover and Classification System Code. Up to seven species may be utilized with relative proportions characteristic of those in the Florida Land Use, Cover and Classification System Code. The exact number and type of species required must also be based upon the existing indigenous vegetation on adjacent property. Replacement stock must be no less than one-gallon-sized nursery-grown containerized stock planted at no less than three feet on center in the area from which protected trees were unlawfully removed or mutilated. This area must be defined by the dripline of the trees. The number of shrubs must not exceed, but may be less than, 25 shrubs per tree unlawfully removed or mutilated. The understory of the restored site must be protected for a period of no less than ten years, unless its removal is a provision of a development order which has been approved after the restoration of the site.

c. If the unlawful removal or mutilation of trees has caused any change in hydrology or surface water flows, then the hydrology or surface water flows must be restored to pre-violation condition.

(2) Massing of replacement stock will be subject to agreement of the parties or, if appropriate, then by approval of the court, the code enforcement board or the hearing examiner, as long as the minimum number of trees and/or seedlings are provided. Replacement stock, with the exception of palms, shall be Florida No. 1 or better grade. Replacement stock shall have a guaranteed 80 percent survivability for a period of no less than five years. A maintenance provision of no less than five years must be provided in the restoration plan to control invasion of exotic vegetation. Replacement stock may not be located on any property line, underground utility or county easement. The administrator may at his/her discretion allow the replacement stock to be planted off-site where approved development displaces areas to be restored. In these situations, off-site plantings shall be on lands under the control of a public agency. The off-site location is subject to the approval of the administrator.

(3) In the event of impending development on property wherein protected trees were unlawfully removed, the restoration plan shall indicate the location of the replacement stock consistent with any approved plans for subsequent development. For the purposes of this article, impending development shall mean that a developer has made application for a preliminary development order or applied for a building permit.

(4) If identification of the species of trees is impossible for any reason on property wherein protected trees were unlawfully removed, then a presumption is raised that the trees illegally removed were of a similar species and mix as those found on adjacent properties.

(5) A monitoring report shall be submitted to the administrator on an annual basis for five years describing the conditions of the restored site. The monitoring report shall be submitted on or before each anniversary date of the effective date of the restoration plan. Mortality estimates per species planted, estimated causes for mortality, growth of the vegetation and other factors which would indicate the functional health of the restored systems shall be included in the monitoring report. Failure to submit the report in a timely manner shall constitute a violation of this article. When mitigation is required pursuant to this article, monitoring reports are necessary to ensure that the mitigation efforts have been successful. In order to verify the success of the mitigation efforts and the accuracy of the monitoring reports, periodic inspections by county staff are necessary. In order that the county be compensated by the violator for the costs of these periodic inspections of the restored site by county staff, a schedule of inspection fees shall be established by administrative code to be approved by the Board of County Commissioners.

(b) If a violation of section 14-384 occurs, then the restoration provisions contained within section 14-384 shall govern and supersede any other restoration provisions contained within this article.

(Ord. No. 94-14, § 19, 5-18-94; Ord. No. 01-18, § 3, 11-13-01)

Secs. 14-385—14-410. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT

Sec. 14-411. Permit required.

No person, organization, society, association, corporation, or any agent or representative thereof, shall deliberately cut down, destroy, remove, relocate, defoliate through the use of chemicals or other methods, or otherwise damage any tree that is protected under this article and located in the unincorporated areas of the county, without first obtaining a permit as provided in this article.

(Ord. No. 94-14, § 6, 5-18-94)

Sec. 14-412. Issuance of permit.

(a) *Submission of application.* Application for a permit to remove any protected tree defined in this article shall be submitted to the administrator, in writing, on a form provided by the administrator, accompanied by a written statement indicating the reasons for removal.

(b) *Authority of administrator.* The administrator shall have the authority to issue the permit and to inspect all work performed under any permit issued under this article.

(c) *Required information.* All applications to remove any protected tree defined in this article shall be on forms provided by the administrator. Where an application has been submitted to the administrator for the removal of more than five trees, no tree removal permit shall be issued by the administrator until a site plan for the lot or parcel has been reviewed and approved by the administrator, which shall include the following minimum information:

(1) The shape and dimensions of the lot or parcel, together with the existing and proposed locations of the structures and improvements, if any.

(2) A tree location map for the lot or parcel, in a form acceptable to the administrator. For the removal of five trees or less, an on-site examination by the administrator's designee shall be made in lieu of the tree location map requirement.

(3) Any proposed grade changes that might adversely affect or endanger any trees on the lot or parcel, together with specifications reflecting how the trees can be safely maintained.

(4) Any proposed tree replacement plan.

(d) *Criteria for granting.* The administrator shall approve a permit for issuance for the removal of any protected tree if the administrator finds one or more of the following conditions is present:

(1) Trees which pose a safety hazard to pedestrian or vehicular traffic or threaten to cause disruption to public utility services.

(2) Trees which pose a safety hazard to existing buildings or structures.

(3) Trees which prevent reasonable access to a lot or parcel so long as the proposed access point complies with all other county regulations.

(4) Diseased trees which are a hazard to people, buildings or other improvements on a lot or parcel or to other trees.

(5) Trees so weakened by age, storm, fire or other injury as to, in the opinion of the administrator, jeopardize the life and limb of persons or cause a hazard to property.

(6) Trees which prevent the lawful development of a lot or parcel or the physical use thereof.

(7) The administrator may require that a tree protected by this article be relocated on the same lot or parcel in lieu of removal.

(e) *Submission of site plan when building permit not required.* Where a building permit issuance is not required because no structures are to be constructed and no other development of the lot is to occur, any person seeking to remove a tree protected under this article shall first file a site plan with the administrator meeting the requirements of subsection (c) of this section prior to receiving a tree removal permit from the administrator.

(f) *Inspection of site.* The administrator may conduct an on-site inspection to determine if any proposed tree removal conforms to the requirements of this article and what effect, if any, removal of the trees will have upon the natural resources, as identified in the Lee Plan, of the affected area prior to the granting or denying of the application. A permit fee will be required for the removal or relocation of any tree protected under the provisions of this article and shall be paid at the time of issuance of the permit. The fees established will be set in accordance with the county administrative code and paid to the administrator. Such fees are hereby declared to be necessary for the purpose of processing the application and making the necessary inspection for the administration and enforcement of this article.

(g) *Approval or denial.* Based upon the information contained in the application and after investigation of the application, the administrator shall approve or deny the application, and, if approved, the administrator is the party so designated by the Board of County Commissioners to issue the permit for a period not to exceed one year and to collect the permit fee.

(h) *Conditions.* The administrator may attach conditions to the permit relating to the method of identifying, designating and protecting those trees which are not to be removed in accordance with subsection (g) of this section. A violation of these conditions shall automatically invalidate the permit. Special conditions which may be attached to the permit may include a requirement for successful replacement of trees permitted to be removed with trees of the same size, compatible species and same number.

(Ord. No. 94-14, § 11, 5-18-94)

Sec. 14-413. Variances.

Requests for variances from the terms of this article shall be administered and decided in conformance with the requirements for variances which are set forth in chapter 34.

(Ord. No. 94-14, § 12, 5-18-94)

Sec. 14-414. Inspections; notice of violation.

(a) The county may conduct on-site inspections to determine if a violation of this article has occurred.

(b) Whenever it is determined that there is a violation of this article, a notice of violation shall be issued and delivered. A notice shall be sent by certified mail, return receipt requested, or, when mail would not be effective, by hand delivery. The notice shall be delivered to the owner of the property, or to his agent, or to the person doing the work. When mail or hand delivery prove ineffective, the notice may be provided by any other statutorily prescribed method. The notice of violation issued shall:

(1) Be in writing;

(2) Be dated and signed by the authorized county agent issuing the notice;

(3) Specify the violation or violations;

(4) State that the violation shall be corrected within a specified period of time;

(5) State that, if the required corrective action is not taken within the time specified by the notice of violation, the county may use any available means of enforcement to secure compliance.

(Ord. No. 94-14, § 16, 5-18-94)

Sec. 14-415. Stop work orders.

Upon notice from the administrator, work being done contrary to the provisions of this article or in a dangerous or unsafe manner shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, or shall be posted on the property, and shall state the conditions under which work may be resumed. Where an emergency exists, written notice shall not be required to be given by the administrator.

(Ord. No. 94-14, § 17, 5-18-94)

Secs. 14-416—14-450. Reserved.

ARTICLE VI. MANGROVE PROTECTION [8]

Sec. 14-451. Purpose and intent of article.

The purpose of this article is to establish enforcement procedures and restoration standards for violations of the state department of environmental protection mangrove protection rules, to supplement and enhance department of environmental protection enforcement mechanisms. The intent of this article is to discourage the illegal alteration of mangrove trees by improving enforcement of department of environmental protection mangrove protection regulations and to ensure that adequate restoration is provided within the unincorporated areas of the county. It is not the intent of this article to diminish any mangrove protection requirements set forth in section 26-41 et seq. and articles IV and V of this chapter.

(Ord. No. 86-32, § 2, 10-29-86; Ord. No. 93-31, § 2, 10-20-93)

Sec. 14-452. Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

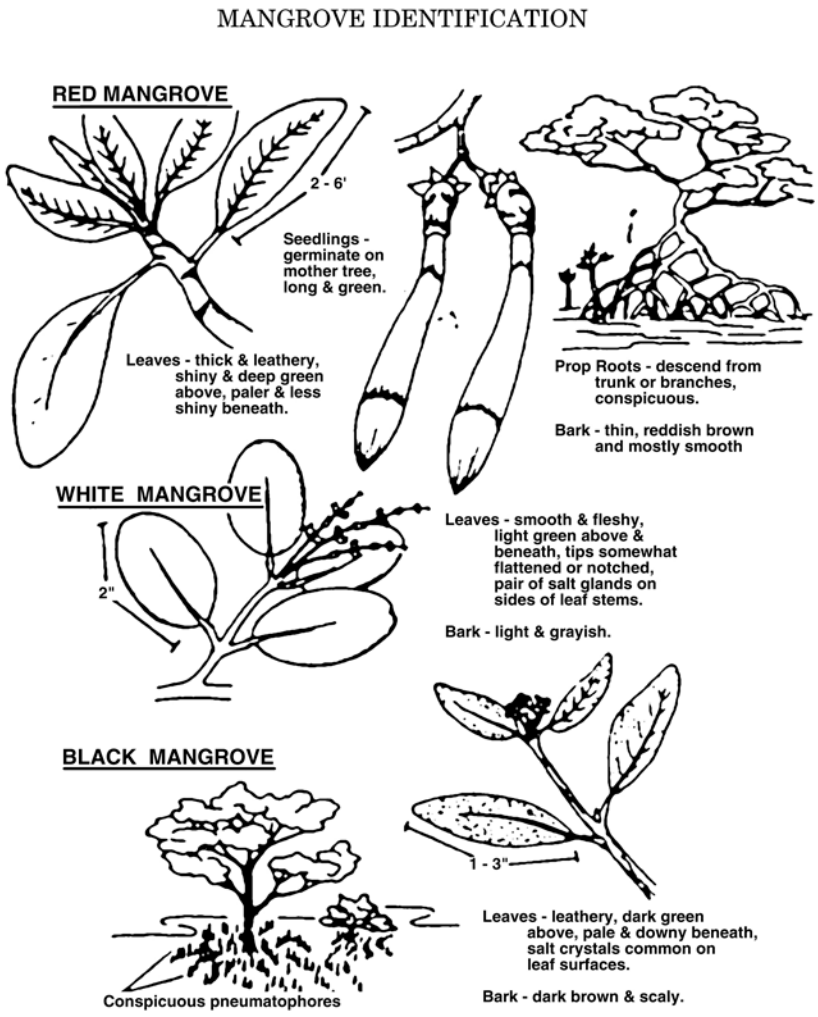
Administrator means the county administrator or his designee, who is the person responsible for administering the provisions of this article.

Development means any improvement to land including but not limited to building construction; road and driveway construction or widening; utility installation; dock and shoreline activities; and the installation of swimming pools, irrigation systems, fences, or other accessory structures.

Invasive exotic vegetation means Australian pine (Casuarina spp.), Brazilian pepper (Schinus terebinthifolius), paper or punk tree (Melaleuca quinquenervia), Earleaf Acacia (Acacis Auriculiformis), and primrose willow (Ludwigia peruviana).

Mangrove shall have the same meaning as provided by the Florida Administrative Code.

Mangrove alteration shall have the same meaning as provided by the Florida Administrative Code.



Mangrove Identification

(b) Unless specifically defined in this article, the words or phrases used in this article and not defined in this section shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

(Ord. No. 86-32, § 3, 10-29-86; Ord. No. 93-31, § 3, 10-20-93)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 14-453. Enforcement of article; penalties.

(a) The administrator is authorized to pursue any one or combination of the following enforcement mechanisms for any violation of this article:

(1) *Stop work order.*

a. Upon notice from the administrator, work being done contrary to the provisions of this article, or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in

writing and shall be given to the owner of the property, his agent, the person doing the work, or shall be posted on the property; and shall state the conditions under which work may be resumed. Where an emergency exists, written notice shall not be required to be given by the administrator.

b. Any mangrove alteration violation of this article which has occurred in conjunction with any land development activity shall require that such activity be halted until the violation has been corrected.

(2) *Citation.* Procedures for issuance of citations shall be in accordance with the county administrative code. Due to the irreversible nature of mangrove alterations, notice prior to issuance of a citation shall not be required for violations of this article pursuant to the county code enforcement board article and administrative code.

(3) *Notice of violation.* Whenever it is determined that there is a violation of this article, a notice of violation shall be issued and delivered. The notice shall be sent by certified mail, return receipt requested, or, when mail would not be effective, by hand delivery. The notice shall be delivered to the owner of the property, his agent, or the person doing the work. When mail or hand delivery proves ineffective, then notice may be provided by any other statutorily prescribed method. The notice of violation issued shall:

a. Be in writing;

b. Be dated and signed by the authorized county agent issuing the notice;

c. Specify the violation;

d. State that the violation shall be corrected within a specified period of time;

e. State the corrective actions and restoration to be completed to abate the violation;

f. State that if the required corrective action is not taken within the time specified by the notice of violation, the county may use any available means of enforcement to secure compliance.

(b) Penalties. Any person who violates any provision of this article shall be subject to the following provisions:

(1) *Criminal penalties.* Such person shall be punishable as provided in section 1-5

(2) *Civil penalties.* The following shall be applicable:

a. Injunctive relief to enjoin and restrain any person from violating the provisions of this article;

b. Prosecution before the county code enforcement board or hearing examiner;

c. Restoration pursuant to the standards contained in section 14-457; and

d. Any other relief available pursuant to law.

(c) Any equitable, legal, or leasehold owner of property who knew, or should have known, that illegal or improper trimming and/or removal of mangroves was occurring on property on which that individual has any equitable, legal, or leasehold interest, and who permitted that activity to occur without notifying the administrator of the person, organization, society, association, corporation, or any agency or representative thereof, shall be equally subject to any civil or criminal penalty set forth in this article. When imposing a sentence, the court, hearing examiner, code enforcement board or any other appropriate body may, in mitigation, consider the successful replacement of mangroves illegally removed, and the restoration of the subject area when deemed by the court, the hearing examiner, the code enforcement board, or any other appropriate body that the action taken by the violator has eliminated or significantly decreased the ability of the mangrove system to recover or perform those functions for which it is being protected.

(d) In any enforcement action under this article, each mangrove, so altered, will constitute a separate violation.

(Ord. No. 93-31, § 5, 10-20-93)

Sec. 14-454. Restoration standards.

(a) Upon agreement of the administrator and the violator, or if they cannot agree, then, upon conviction by the court, hearing examiner, or the code enforcement board, a restoration plan must be ordered pursuant to the standards contained in subsection (b) of this section. Such a restoration plan must set forth replacement of the same species or any species approved by consent of the before-mentioned parties, or, if appropriate, in accordance with the direction of the court, hearing examiner, or the code enforcement board.

(b) The restoration plan must include the following minimum planting standards:

(1) For each mangrove altered in violation of this article, three replacement mangroves must be planted. If the number of altered mangroves cannot be determined, then the required number of replacement stock must be computed according to the total area wherein all mangroves were unlawfully altered. The replacement stock must be container grown mangroves no less than one year old and 24 inches in height. Replacement mangroves must be planted at a minimum density of three feet on center. Higher density plantings may be required at the discretion of the administrator based upon density and diameter of the mangroves on the site prior to the violation. If the density of mangroves cannot be determined where the violation occurred, then an assumption must be made that the density was the same as on adjacent properties. It is within the discretion of the administrator to allow a deviation from the above specified ratio. When such deviation is sought, the total of heights and diameter must equal or exceed that specified in the above standards.

(2) Mangrove alteration violations due to filling, excavation, drainage and/or clearing must be restored to natural ground elevation and soil conditions prior to commencement of replanting.

(3) Replacement stock must not be located on any property line, underground utility, drainage or county easement.

(4) In the event that the species of mangrove cannot be identified on property wherein mangroves were altered in violation of this article, then a presumption shall be made that the mangroves illegally altered were of a similar species and distribution as those found on adjacent properties.

(5) Replacement plantings shall have a minimum of 80 percent survival at the end of five years, however, success will be evaluated on an annual basis.

(6) The restoration plan shall include a maintenance provision of no less than five years for the control of invasive exotic vegetation.

(7) Within 90 days of completion of the restoration, a written report shall be submitted to the county. This report shall include the date of completion, copies of the nursery receipts, a drawing showing the locations of the plantings, and color photographs of the planting areas from fixed reference points.

(c) Annual monitoring and maintenance of the restored area shall include the following:

(1) Removal of all exotic and nuisance vegetation in the area without disturbing the existing wetland vegetation.

(2) Replacement of dead mangroves that were planted in order to assure at least 90 percent coverage at the end of the five-year period. Replacement mangroves shall be nursery grown and of the same species and at least the same height as those originally planted.

(3) Submittal of a monitoring report to the administrator on an annual basis for five years following the completion of the restoration describing the conditions of the mitigated site. The monitoring report shall include mortality estimates, causes for mortality (if known), growth, invasive, exotic

vegetation control measures taken, and any other factors which would indicate the functional health of the planted mangroves. Failure to submit the report in a timely manner shall constitute a violation of this article.

(Ord. No. 93-31, § 6, 10-20-93; Ord. No. 01-18, § 3, 11-13-01)

Sec. 14-455. Permit required.

No person, or any agent or representative thereof, directly or indirectly, shall alter any mangrove tree located in the unincorporated areas of the county, without first obtaining a permit, where applicable, from the state department of environmental protection in accordance with the requirements of chapter 17-321, Florida Administrative Code.

(Ord. No. 86-32, § 4, 10-29-86; Ord. No. 93-31, § 4, 10-20-93)

Sec. 14-456. Conflicting provisions.

Whenever the requirements or provisions of this article are in conflict with the requirements or provisions of any other lawfully adopted ordinance, the most restrictive requirements shall apply.

(Ord. No. 86-32, § 12, 10-29-86)

Sec. 14-457. Repealer; applicability of previous ordinance.

Ordinance Nos. 82-10 and 82-45 of the county, relating to and providing for the protection of all mangroves within the county, adopted by the Board of County Commissioners on March 17, 1982, and December 8, 1982, respectively, are hereby repealed and are declared null and void and of no further effect, except as to:

(1) Any final approval or final development order issued by the county wherein compliance with Ordinance No. 82-45 was mandated, in which case Ordinance No. 82-45 shall control and be in full force and effect as to that development order; and

(2) Any violation which occurs prior to the effective date of Ordinance No. 86-32 (the ordinance from which this article is derived) shall be adjudicated pursuant to Ordinance No. 82-45.

(Ord. No. 86-32, § 1, 10-29-86)

Secs. 14-458—14-470. Reserved.

FOOTNOTE(S):

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Cross reference— Marine facilities and structures, ch. 26. (Back)

ARTICLE VII. CLEAN WATER PROVISIONS

Sec. 14-471. Purpose and intent.

The purpose of this article is to provide regulation with respect to discharges into the Lee County Municipal Separate Storm Sewer System (MS4) and other receiving waters. In order to comply with the requirements of the National Pollution Discharge Elimination System (NPDES) permit, the County must establish regulations that will prohibit illicit discharges into the MS4 and other receiving waters and provide sufficient means to monitor and enforce local discharge regulations.

It is the intent of this article to prohibit any illicit, inappropriate or harmful discharges into the MS4 or waters of Lee County.

(Ord. No. 98-11, § 3, 6-23-98; Ord. No. 03-16, § 4, 6-24-03; Ord. No. 13-10 , § 5, 5-28-13)

Sec. 14-472. Applicability.

This article applies to the unincorporated areas of Lee County.

(Ord. No. 98-11, § 3, 6-23-98)

Sec. 14-473. Prohibition.

Illicit stormwater and non-stormwater discharges into the MS4 or other receiving waters are prohibited. Unless otherwise permitted, there are no discharges allowed to Lee County MS4 except uncontaminated stormwater runoff or one of the exemptions as listed in section 14-474.

(Ord. No. 98-11, § 3, 6-23-98; Ord. No. 03-16, § 4, 6-24-03; Ord. No. 13-10 , § 5, 5-28-13)

Sec. 14-474. Exemptions.

The following discharges into the Lee County MS4 are specifically exempt from compliance with this article, unless identified as a source of pollutants:

(a) Waterline flushing.

(b) Landscape irrigation.

(c) Diverted stream flows.

(d) Rising groundwaters and discharges associated with county declared emergencies.

(e) Uncontaminated groundwater infiltration (as defined in 40 CFR § 35.2005(20)) to separate storm sewers.

(f) Uncontaminated pumped groundwater.

(g) Discharges from potable water sources.

(h) Fountain drains.

(i) Air conditioning condensate.

(j) Irrigation water.

(k) Springs.

(l) Water from crawl space pumps.

(m) Footing drains.

(n) Lawn watering.

(o) Individual residential car washing.

(p) Flows from riparian habitats and wetlands.

(q) Dechlorinated swimming pool discharge.

(r) Street wash waters.

(s) Discharges or flows from emergency fire fighting activities.

(Ord. No. 98-11, § 3, 6-23-98; Ord. No. 13-10 , § 5, 5-28-13)

Sec. 14-475. Definitions.

Administrator means the administrative director of the Division of Natural Resources, or designee, who is responsible for administering the provisions of this article.

Best management practices (BMPs) means methods and practices used to control and manage stormwater runoff that have been determined most appropriate by state and federal agencies such as Florida Department of Environmental Protection and United States Environmental Protection Agency.

Construction site means a site where the land surface has been disturbed to accommodate development or redevelopment, as defined in this section. The act of soil disturbance is considered industrial activity for purposes of this article.

Development means an improvement to land, as that phrase is defined in section 10-1.

Discharge means any material, solid or liquid, that is conveyed, placed or otherwise enters the municipal separate storm sewer system. It includes, without qualification, the discharge of a pollutant.

Illicit discharge or *illicit stormwater discharge* means any discharge not composed entirely of stormwater into the Lee County MS4, including, but not limited to, discharge from a construction site or an industrial site that has the potential to impact the Lee County MS4. Non-stormwater discharges made in accordance with an approved county development order issued consistent with the Lee County MS4 permit, an independent NPDES permit, as a result of fire fighting activities, or otherwise specifically exempted under this article will not be deemed an illicit discharge.

Industrial activity development means those functions associated with an industrial site as defined herein.

Industrial site means a site directly related to manufacturing, processing or raw materials storage. This term includes, but is not limited to, industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or

created by the facility; material handling (including the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product) sites; refuse sites; sites used for the application or disposal of processed wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas for raw materials (including tank farms), and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to stormwater.

In accordance with NPDES standards found in 40 CFR § 122.26, "industrial site" also includes those facilities engaging in the following categories of "industrial" activity:

(a) Facilities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N;

(b) Facilities classified as Standard Industrial Classifications (SIC) 20, 21, 22, 23, 24, 25, 26, 27, 28, 285, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 4221, 4222, 4223, 4224 and 4225;

(c) Facilities classified as SIC 10 through 14 (mineral industry) including active or inactive mining operations (inactive mining operations are mining sites not being actively mined that have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, benefaction or possessing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim) and ore and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge stormwater contaminated by contact with, or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operation;

(d) Hazardous waste treatment storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA;

(e) Landfills, land application sites, and open dumps that receive or have received any industrial wastes including those that are subject to regulation under subtitle D of RCRA;

(f) Steam electric power generating facilities;

(g) Transportation facilities classified as SIC 40, 41, 42, 43, 44, 45, and 5171 that have vehicle maintenance shops or equipment cleaning operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment clearing operations, or which are otherwise identified under § 122.26(b)(14)(i)-(vii) or (ix)-(xi), F.A.C., are associated with industrial activity;

(h) Treatment works treating domestic sewage or any other sewage, sludge or wastewater treatment device or system, used in storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pre-treatment program under 40 CFR part 403. Not included are farm lands, domestic gardens, lands used for sludge management where sludge is beneficially reused (and not physically located in the confines of the facility) or areas that are in compliance with § 405 of the Federal Clean Water Act;

(i) Any construction activity including clearing, grading and excavation activities except, operations resulting in the disturbance of less than one acre of total land area that is not part of a larger common plan of development or sale;

(j) Any construction activity including clearing, grading and excavation activities resulting in disturbance of less than one acre where the property is part of a larger development that obtained approval after October 1, 1992, and was required to obtain an NPDES permit;

(k) Facilities involved in the recycling of materials including metal scrap yards, battery reclaimers, salvage yards, and automobile junk yards, including but not limited to those classified as SIC 5015 and 5093.

MS4 means Lee County Municipal Separate Storm Sewer System.

NPDES means National Pollution Discharge Elimination System. Lee County's NPDES MS4 permit number is FLS000035.

Receiving waters means natural or manmade sloughs, ponds, lakes, streams, creeks, rivers, estuaries, bays, the gulf, or stormwater conveyances (such as swales, ditches, canals or stormwater treatment devices/areas, designed, constructed and operated specifically for stormwater management or conveyance).

Site means the physical real property, with or without structures, where development or other types of activity involving the real property may result in stormwater runoff.

Standard Industrial Code (SIC) means a class of industrial activity as specified in the Standard Industrial Classification Manual, 1987 edition.

Street wash water means any runoff from the washing of streets, culverts or other MS4 facilities operated and maintained by Lee County.

Stormwater discharge means the discharge from any conveyance used for collecting and conveying stormwater.

Stormwater Pollution Prevention Plan (SWP3) means a document as defined in 40 CFR 122.26 prepared by a professional engineer registered in the State of Florida (construction site SWP3s must also be prepared in accordance with DEP Document No. 62-621) outlining the means and methods of managing stormwater onsite using BMPs.

Water quality criteria means minimum water quality standards as defined in the Surface Water Quality Standards of Chapter 62-302, F.A.C.

(Ord. No. 98-11, § 3, 6-23-98; Ord. No. 03-16, § 4, 6-24-03; Ord. No. 09-23 , § 5, 6-23-09; Ord. No. 13-10 , § 5, 5-28-13)

Sec. 14-476. Industrial activity.

(a) *Industrial activity classification.* For purposes of this article all industrial activity falls into one of two major categories:

(1) *Construction related activity.* This includes sites of new development or significant redevelopment falling within the industrial activity categories (i) and (j), as set forth in section 14-475

(2) *On-going industrial activity.* This includes sites that encompass uses or activities that are identified in industrial activity categories (a—h) and (k), as set forth in section 14-475

(b) *Construction site runoff.* Compliance with this subsection applies to all construction associated with an industrial activity category, identified in section 14-475, that is not complete prior to July 1, 2003. Projects under construction on July 1, 2003 or beginning construction thereafter must comply with the requirements set forth in this section.

All development approvals, including development orders and building permits, must address stormwater quality issues, including construction runoff, as follows:

For development of more than one acre.

(1) Submit an SWP3 for construction meeting the criteria set forth in section 14-477, prior to development order approval. If a development order is not required, then the SWP3 must be submitted prior to building (or vegetation removal) permit issuance. At the discretion of the director

of development services, an affidavit or certification from a Florida licensed professional engineer may be submitted, prior to start of construction activity, attesting that the SWP3 for construction has been prepared in accordance with section 14-477 and will be on site and available for review during all phases of construction;

(2) Maintain a copy of the SWP3 on site at all times for review by the county; and

(3) File a notice of intent (NOI) with FDEP, Tallahassee, in accordance with the direction of DEP Document No. 62-621 and with development services at least 48 hours prior to start of construction.

(c) *Industrial site runoff.*

(1) *Applicability.* This subsection applies to existing or ongoing industrial activity, which encompasses industrial activity occurring on a site subsequent to completion of the initial site construction.

(2) *Industrial activity beginning prior to July 1, 1998.*

a. All industrial activity sites, operating or functioning prior to July 1, 1998 with respect to the proposed and approved end use, that are required to hold a NPDES permit, individual or group, in order to meet federal regulations, must provide the county with a copy of the permit, the permit application or the NOI no later than October 1, 2002. If the property owner complies with this subsection by providing the county with a copy of the permit application or NOI, then the property owner must provide the county with a copy of the permit upon receipt from the EPA.

b. No industrial activity that is in compliance with the NPDES requirements as of October 1, 1997 (County MS4 permit issuance date) will be required by Lee County to retrofit its stormwater system, unless changes identified in this article are made to the site or the MS4 is deemed in violation of state water quality standards. If a water quality violation is discovered, the MS4 will be evaluated to determine the most effective method to bring the system into compliance. The compliance effort may require improvements to an existing site.

(3) *Industrial activity beginning after July 1, 1998.* All sites proposing to engage in industrial activity categories, as set forth in section 14-475, that are required to hold a valid NPDES permit for either the discharge of stormwater or regulated industrial activity, other than stormwater discharge, must provide copies of the permit and SWP3 for site operation to the Natural Resources Division for review upon receipt from the EPA or FDEP, as appropriate. If a permit is required for both stormwater discharge and site activity, one permit encompassing both activities is sufficient.

(4) *Site expansion.*

a. Industrial development activity sites proposing to increase the impervious area by more than 2,500 square feet must provide water quality calculations, meeting SFWMD criteria, and a SWP3 for site operation to the county as part of the development permit application.

b. Any industrial activity development proposing to change or expand its existing operation in a manner that will increase the runoff rate or volume from the site must submit a complete copy of the NOI, along with a SWP3 for site operation, to the county as part of the development permit application.

(Ord. No. 98-11, § 3, 6-23-98; Ord. No. 03-16, § 4, 6-24-03)

Sec. 14-477. Stormwater pollution prevention plan (SWP3) criteria.

For purposes of this article, all SWP3s must:

a. Comply with the requirements of 40 CFR 122.26;

b. Use best management practices for sediment and erosion control as outlined in the Florida Stormwater Sedimentation Control Inspector's Manual or a similar quality guidance manual;

c. Be prepared by a Florida licensed professional engineer in accordance with DEP Document No. 62-621; and

d. Remain on site and be available for review during all phases of construction and, if required, during on-going operations activity.

(Ord. No. 98-11, § 3, 6-23-98; Ord. No. 03-16, § 4, 6-24-03; Ord. No. 09-23 , § 5, 6-23-09)

Sec. 14-478. Monitoring.

Lee County Department of Community Development may, at the request of Natural Resources Division, require high risk runoff facilities to provide annual monitoring reports as a condition of development order approval or continued operation. Data collected by the facility to satisfy monitoring requirements for a NPDES or state discharge permit may be used to satisfy this requirement. At minimum the monitoring report must include quantitative data on the following constituents:

(a) Any pollutants limited in an existing NPDES permit for the facility;

(b) Oil and grease;

(c) Chemical oxygen demand (COD);

(d) pH;

(e) Biochemical oxygen demand, five-day (BOD_5);

(f) Total suspended solids (TSS);

(g) Total phosphorus;

(h) Total Kjeldahl nitrogen (TKN);

(i) Nitrate plus nitrite nitrogen; and

(j) Dry information on discharges required under 40 CFR Sections 122.21(g)(7)(iii) and (iv).

(Ord. No. 98-11, § 3, 6-23-98; Ord. No. 03-16, § 4, 6-24-03)

Sec. 14-479. Enforcement.

(a) *Responsibility.* Lee County Natural Resources Division and Lee County Code Enforcement may coordinate the enforcement of this article with the South Florida Water Management District (SFWMD), Environmental Protection Agency (EPA) and Florida Department of Environmental Protection (FDEP). In order to facilitate enforcement, Natural Resources' staff has full authority to act as a code enforcement officer or inspector, as those terms are defined in sections 2-423 and 2-430

(b) *Procedure.* Any violation of this article may result in prosecution by any of the methods or procedures set forth below, or by any combination of these procedures. The choice of procedure rests within the reasonable discretion of the administrator, based upon the nature of the violation, the number of previous violations, and the magnitude of the violation and its threat to the public health, safety and welfare.

(1) *Hearing examiner.* Any violation of this article may be prosecuted in accordance with the provisions found in chapter 2, article VII.

(2) *Stop work order.* The administrator has the authority to issue a stop work order to ameliorate, minimize or prevent irreparable harm under any of the following circumstances if:

a. The work being done is not in compliance with the provisions of this article;

b. Discharges from the site do not meet the minimum surface water quality standards set forth in FAC Rule 62-302; or

c. The site specific permit discharge criteria are not being followed.

The notice to stop work must be in writing, state the reasons for the stop work order, and set forth the specific conditions under which work may resume. The notice is effective upon delivery. Notice is deemed received/delivered if hand delivered to the owner of the property, the owner's designated agent or person/entity doing work on the property. In the event hand delivery is not possible, the notice will be deemed delivered if posted on the property in a visible and conspicuous place for no less than 24 hours.

(3) *Citation.* Any violation of this article may be prosecuted in accordance with the citation provisions found in chapter 2, article VII.

(4) *Referral to appropriate state or federal agency.* The county may coordinate enforcement of this article with SFWMD, EPA and FDEP in accordance with applicable county, state and federal regulations. Pursuit of a remedy allowed under county regulations does not prevent the state or federal agency from pursuing additional action against a violator.

(5) *Other remedies.* The county may exercise its discretion to pursue alternative courses of action, such as injunctions or other civil remedies, when deemed appropriate by the director of public works.

(c) *Appeal.*

(1) Actions taken in accordance with chapter 2, article IV may be appealed in accordance with the procedure set forth in that article.

(2) Appeal of an administrative shut down decision may be obtained by filing a Petition for Writ of Certiorari with the circuit court.

(Ord. No. 98-11, § 3, 6-23-98; Ord. No. 03-16, § 4, 6-24-03; Ord. No. 09-23 , § 5, 6-23-09; Ord. No. 13-10 , § 5, 5-28-13)

Chapters 15—21 RESERVED

Chapter 22 HISTORIC PRESERVATION [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

ARTICLE III. - DESIGNATION OF HISTORIC DISTRICTS AND RESOURCES

ARTICLE IV. - MAINTENANCE AND REPAIR OF PREMISES

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 6; zoning, ch. 34. (Back)

ARTICLE I. IN GENERAL

Sec. 22-1. Purpose of chapter.

(a) The purpose of this chapter is to identify, evaluate, preserve and protect historical and archaeological sites and districts, and to promote the cultural, health, moral, economic, educational, aesthetic and general welfare of the public by:

(1) Creating a historic preservation board with the power and duty to review historic sites, areas, structures and buildings for possible designation as historic resources.

(2) Empowering the historic preservation board to determine the historical significance of a designated historic resource.

(3) Protecting designated historic resources by requiring the issuance of certificates of appropriateness and certificates to dig before allowing alterations to those resources.

(4) Encouraging historic preservation by creating programs of technical assistance and financial incentives for preservation practices.

(5) Stabilizing and improving property values through the revitalization of older residential and commercial neighborhoods.

(6) Enhancing the county's attraction to visitors and the ensuing positive impact on the economy as a result of historic preservation activities.

(7) Creating and promoting cultural and educational programs aimed at fostering a better understanding of the community's heritage.

(8) Promoting the sensitive use of historic and archaeological sites, resources and districts for the education, pleasure and welfare of the people of the county.

(b) The further purpose of this chapter is to obtain Certified Local Government status pursuant to the Procedures for Approved State and Local Government Historic Preservation Programs, 36 CFR 67 (1987) and the National Historic Preservation Act of 1966, as amended, 16 USC 470.

(Ord. No. 88-62, § 3, 12-21-88)

Sec. 22-2. Applicability of chapter.

(a) This chapter shall govern and be applicable to all property located in the unincorporated area of the county. The municipalities of Fort Myers, Sanibel and Cape Coral are excluded from the provisions of this chapter except where such municipalities may undertake activities outside of their corporate limits.

(b) Nothing contained in this chapter shall be deemed to supersede or conflict with applicable building and zoning codes except as specifically provided in this chapter.

(Ord. No. 88-62, § 4, 12-21-88)

Sec. 22-3. Definitions.

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Archaeological site means an individual historic resource recognized for its prehistoric or historic artifacts and features.

Archaeologist means a person who is qualified under the professional standards of the Florida Archaeological Council or the Society of Professional Archaeologists to conduct archaeological surveys, assessments or excavations, or is recognized as qualified to perform those tasks by the county.

Area of archaeological sensitivity means an area identified in the survey entitled "An Archaeological Site Inventory and Zone Management Plan For Lee County, Florida" (Piper Archaeological Research, Inc., 1987), as known or being likely to yield information on the history and prehistory of the county based on prehistoric settlement patterns and existing topographical features. Areas of archaeological sensitivity are divided into the following categories:

(1) Sensitivity Level 1: Those areas containing known archaeological sites that are considered to be significant or potentially significant historic resources. These areas include sites listed on the National Register of Historic Places and those considered eligible or potentially eligible for listing on the National Register of Historic Places or local historic resource designation.

(2) Sensitivity Level 2: Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.

Building means any structure, either temporary or permanent, having a roof intended to be impervious to weather, and used or built for the shelter or enclosure of persons, animals or property of any kind.

Building official means the officer charged with the administration and enforcement of the county construction code as set out in chapter 6, article II.

Certificate of appropriateness means a written authorization by the historic preservation board or county staff to the owners of a designated property or any building, structure (including docks and signs) or site within a designated historic district, allowing a proposed alteration, relocation, or the demolition of a building, structure or site. Certificates of appropriateness are divided into the following two classes:

(1) Regular certificate of appropriateness means a certificate of appropriateness issued by the county staff allowing activities that require the issuance of a building permit but which are classified as ordinary maintenance and repair under the provisions of this chapter and the criteria listed in the U.S. Secretary of the Interior's Standard for Rehabilitation, 36 CFR 67.

(2) Special certificate of appropriateness means a certificate of appropriateness issued directly by the historic preservation board and required for proposed work that will result in the alteration, demolition, relocation, reconstruction, new construction or excavation of a designated historic resource, based upon the criteria listed in the U.S. Secretary of the Interior's Standard for Rehabilitation, 36 CFR 67.

Certificate to dig means a certificate issued by the county staff or the historic preservation board, authorizing certain clearing, digging, archaeological investigation or archaeological development projects that may involve the exploration of established or suspected archaeological sites in areas of archaeological sensitivity level 1 or 2.

Certified local government means a designated local government meeting the requirements of the National Historic Preservation Act of 1966, as amended, 16 USC 470, which extends some aspects of the federal and state responsibilities for historic preservation to qualified local governments. Under the program, local governments are certified to review and make recommendations to the Florida National Register Review Board concerning nominations to the National Register of Historic Places of properties located within the confines of their local jurisdictions.

Contributing property means any building, structure or site which contributes to the overall historic significance of a designated historic district and was present during the period of historic significance and possesses historic integrity reflecting the character of that time or is capable of yielding important information about the historically significant period or independently meets the criteria for designation as a historic resource.

Demolition means the complete removal of a building or structure, or portions thereof, from a site.

Demolition by neglect means the willful abandonment of a building or structure by the owner resulting in such a state of deterioration that its self-destruction is inevitable or where demolition of the building or structure to remove a health and safety hazard is a likely result.

Designation certificate means a certificate issued by the historic preservation board declaring a building, structure, site or district to be a historic resource.

Designation report means a written document indicating the basis for the findings of the historic preservation board concerning the proposed designation of a historic resource pursuant to this chapter.

Exterior means all outside surfaces of a building or structure visible from a public right-of-way or the street easement of the building or structure.

Historic district means a geographically definable area designated pursuant to this chapter possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also be comprised of individual elements separated geographically but linked by association or history. To qualify as a historic district, an area may contain both contributing and noncontributing properties.

Historic preservation board or *board* means a board of citizens appointed by the Board of County Commissioners to administer the provisions of this chapter.

Historic resource means any prehistoric or historic district, site, building, structure, object or other real or personal property of historical, architectural or archaeological value. Historic resources may include but

are not limited to monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government or culture of the county, the state or the United States.

Historic resource database means the compilation of data gathered on historical and archaeological sites in the county, based on the findings of the surveys entitled "Historical and Architectural Survey, Lee County" (1986) and "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" (1987), and any subsequent historic or archaeological survey.

National Register of Historic Places means a federal listing maintained by the U.S. Department of the Interior of buildings, sites, structures and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966 as amended, 16 USC 470, as such act may be amended, renumbered or replaced, and its implementing regulation, 36 CFR 60, "National Register of Historic Places," as such regulations may be amended, renumbered or replaced.

Noncontributing property means any building, structure or site which does not contribute to the overall historic significance of a designated historic district due to alterations, disturbances or other changes and therefore no longer possesses historic integrity, or was not present during the period of historic significance or is incapable of yielding important information about that period.

Ordinary maintenance and repairs means work done to prevent deterioration, decay or damage to a building or structure, or any part thereof, by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage.

Owner means those individuals, partnerships, corporations or public agencies holding fee simple title to real property. The term "owner" does not include individuals, partnerships, corporations or public agencies holding easements or less than a fee simple interest (including leaseholds) in real property.

Staff means the county staff persons designated by the county administrator to serve as staff for the historic preservation board and to administer the provisions of this chapter in cooperation with the building official and the zoning director.

Structure means that which is built or constructed. The term "structure" shall be construed as if followed by the words "or part thereof."

Undue economic hardship means an onerous and excessive financial burden that would be placed upon a property owner by the failure to issue a special certificate of appropriateness for demolition, thereby amounting to the taking of the owner's property without just compensation.

Zoning director means the director of the zoning and development review division, or his successor or designee as the person responsible for administering the provisions of chapter 34.

(Ord. No. 88-62, § 5, 12-21-88; Ord. No. 90-35, § 1, 6-20-90; Ord. No. 90-54, § 2, 10-17-90; Ord. No. 09-23 , § 6, 6-23-09)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 22-4. Penalty for violation of chapter.

(a) Any person, or any agent or representative thereof, who violates any provision of this chapter shall, upon conviction, be subject to the following penalties:

(1) *Criminal penalties.* Such person shall be punished as provided in section 1-5

(2) *Civil penalties.* The following shall be applicable:

a. Injunctive relief to enjoin and restrain any person from violating the provisions of this chapter; and

b. Revocation, suspension or amendment of any permit granted pursuant to this chapter.

In addition to all other criminal and civil penalties contained in this section, any person applying for a permit after commencing or completing construction of a structure in violation of this chapter shall pay twice the amount of the building permit fee as established by the county administrative codes.

(b) For purposes of this chapter, each day that a violation continues to exist will be considered a separate violation of this chapter, to which both civil and criminal penalties may apply.

(Ord. No. 88-62, § 13, 12-21-88)

Secs. 22-5—22-40. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

DIVISION 2. - HISTORIC PRESERVATION BOARD

DIVISION 3. - CERTIFICATE OF APPROPRIATENESS

DIVISION 1. GENERALLY

Sec. 22-41. Stop work orders.

Any work conducted contrary to the provisions of this chapter shall be immediately stopped upon notice from the building official or his designee that the work does not conform to the terms of this chapter. Notice shall be in writing and shall be given to the property owner or his agent, or to the person doing the work. If none of these persons are immediately available on the construction site to receive the required notice, it shall be posted on the property. The notice shall state all conditions under which work may be resumed. In emergencies, the building official shall not be required to furnish written notice of the stop work order.

(Ord. No. 88-62, § 12, 12-21-88)

Sec. 22-42. Appeals.

(a) Any owner of a building, structure or site affected by the operation of this chapter may appeal a decision of the historic preservation board by filing a written notice of appeal within 15 days of the date the written decision of the historic preservation board was rendered. The notice of appeal must be filed with the Department of Community Development and a copy provided to the historic preservation board staff.

(b) Appeals shall otherwise be pursued using the procedure set forth in section 34-145(a), pertaining to appeals from administrative matters, and in accordance with Administrative Code section 2-6.

(c) Except as may be required by F.S. § 163.3215, and then only pursuant to that statute, a third party shall not have standing to appeal a decision rendered under the provisions of this chapter.

(Ord. No. 88-62, § 10, 12-21-88; Ord. No. 90-54, § 3, 10-17-90; Ord. No. 11-08 , § 7, 8-9-11)

Secs. 22-43—22-70. Reserved.

DIVISION 2. HISTORIC PRESERVATION BOARD [2]

Sec. 22-71. Establishment; general authority.

There is hereby created a historic preservation board as an agency of the county government in and for the county. The historic preservation board is hereby vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological and architectural resources in the county, as prescribed by this chapter, under the direct jurisdiction and control of the Board of County Commissioners.

(Ord. No. 88-62, § 6A, 12-21-88)

Sec. 22-72. Membership; compensation of members; removal of members.

(a) The historic preservation board shall consist of seven members appointed by the Board of County Commissioners. Each member of the historic preservation board shall hold office only so long as he is a resident of the county. Appointments shall be made on the basis of a potential member's civic pride, involvement in community issues, integrity, experience and interest in the field of historic preservation. One member of the historic preservation board shall be an architect registered to practice in the state. The Board of County Commissioners shall endeavor to appoint one member of the historic preservation board from each of the following categories:

(1) History or archaeology.

(2) Real estate land development or finance.

(3) Law or urban planning.

(4) Engineering, architecture, building construction or landscape architecture.

The two remaining positions shall be filled by citizens at large. All members of the historic preservation board must comply with the financial disclosure laws of the state.

(b) Members shall serve overlapping terms of three years. Initially, two members shall be appointed to one-year terms, two members shall be appointed to two-year terms, and three members shall be appointed to full three-year terms. After the initial appointments, all appointments shall be made for three years. A member of the historic preservation board shall be eligible for reappointment. Members of the historic preservation board shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their official duties, as shall be determined and

approved by the Board of County Commissioners. Prior to the expiration of his term, a member of the historic preservation board may be removed from office only by a three-fifths vote of the entire membership of the Board of County Commissioners. If, however, a member of the historic preservation board fails to attend three consecutive meetings, or four meetings in any one calendar year, the chairman shall certify such fact to the Board of County Commissioners. Upon such certification, that member shall be deemed to have been removed from the historic preservation board and the Board of County Commissioners shall fill the vacancy by appointment.

(Ord. No. 88-62, § 6B, 12-21-88)

Sec. 22-73. Organization; meetings.

The members of the historic preservation board will elect a chairman and a vice-chairman for a one-year term each. The chairman will preside at all meetings and have the right to vote. The vice-chairman will preside in the absence of the chairman. The chairman and vice-chairman may be reelected for an additional one-year term each, but may not serve for more than two consecutive years. The county will provide adequate staff to allow the historic preservation board to perform its duties. Staff will consist of at least one historic preservation planner, and one clerical person responsible for recording and transcribing the minutes of all meetings of the historic preservation board.

All meetings of the historic preservation board must be open to the public. A record of the minutes and resolutions of the historic preservation board will be maintained and made available for inspection by the public. The historic preservation board will meet at least once per month, at a date and time to be decided by the historic preservation board, unless there is no business pending before the historic preservation board. Regardless of the lack of pending business, the historic preservation board must meet at least four times during any calendar year.

(Ord. No. 88-62, § 6C, 12-21-88; Ord. No. 09-23 , § 6, 6-23-09; Ord. No. 13-01 , § 5, 2-12-13)

Sec. 22-74. Powers and duties.

The historic preservation board shall have the following powers and duties:

(1) To propose rules and procedures to implement the provisions of this chapter to the Board of County Commissioners.

(2) To maintain and update the findings of the historical and archaeological surveys and validate those findings.

(3) To evaluate the significance and eligibility of historic resources for designation pursuant to this chapter.

(4) To designate eligible historic resources pursuant to this chapter.

(5) To nominate historic resources to the National Register of Historic Places.

(6) To approve, deny or approve with conditions applications for special certificates of appropriateness and certificates to dig applicable to historic resources designated pursuant to this chapter.

(7) To issue designation certificates, place historical markers and administer other programs aimed at the proper recognition of designated historic resources.

(8) To advise the Board of County Commissioners on all matters related to historic preservation policy, including use, administration and maintenance of county-owned designated sites and districts.

(9) To recommend zoning and building code amendments to the Board of County Commissioners to assist in the preservation of designated historic resources or districts.

(10) To review and make recommendations to the Board of County Commissioners on proposed amendments to the comprehensive plan or land development regulations that may affect designated historic resources and districts or buildings, structures, districts or sites eligible for designation.

(11) To propose and recommend to the Board of County Commissioners financial and technical incentive programs to further the objectives of historic preservation.

(12) To increase the awareness of historic preservation and its community benefits by promoting public education programs.

(13) To record and maintain records of the actions and decisions of the historic preservation board.

(14) To apply for, in the name of the county only, grant assistance from state, federal or private sources for the purpose of furthering the objectives of historic preservation.

(15) Upon designation as a certified local government, to review and make recommendations concerning National Register of Historic Places nomination proposals to the Florida Review Board.

(16) To perform any other function or duty assigned to it by the Board of County Commissioners.

(Ord. No. 88-62, § 6D, 12-21-88)

Sec. 22-75. Rules and regulations.

The Board of County Commissioners shall develop and propose such rules and regulations as are reasonably necessary and appropriate for the proper administration and enforcement of the provisions of this chapter. Such rules and regulations shall conform to the provisions of this chapter and shall govern and control the procedures, hearings and actions of the historic preservation board. No such rules and regulations shall become effective until the proposed rules and regulations, and any amendments or modifications thereto, have been approved by the Board of County Commissioners as a county administrative code policy.

(Ord. No. 88-62, § 6E, 12-21-88)

Secs. 22-76—22-100. Reserved.

FOOTNOTE(S):

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Cross reference— Administration, ch. 2. (Back)

DIVISION 3. CERTIFICATE OF APPROPRIATENESS

Sec. 22-101. Required.

No building, moving or demolition permit shall be issued for a designated historic resource, or a building, structure or site which is part of a designated historic or archaeological district, until a certificate of appropriateness has been issued. Except for applications requesting certificates of appropriateness for noncontributing properties, the criteria for issuance of a certificate of appropriateness (regular or special) shall be the U.S. Secretary of the Interior's Standards for Rehabilitation, 36 CFR 67 (1983), as such standards may be amended, renumbered or replaced, which are hereby adopted by reference as though set forth fully in this article. Applications for certificates of appropriateness for noncontributing properties shall be reviewed using the specific criteria set out in the resolution designating the historic district where the property is located.

(Ord. No. 88-62, § 8, 12-21-88; Ord. No. 90-35, § 3, 6-20-90)

Sec. 22-102. Regular certificate of appropriateness.

(a) A regular certificate of appropriateness shall be required for work requiring a building permit and classified as ordinary maintenance and repair by this chapter, or for any work that will result, to the satisfaction of the county staff, in the close resemblance in appearance of the building, architectural feature or landscape feature to its appearance when it was built or was likely to have been built, or to its appearance as it presently exists so long as the present appearance is appropriate to the style and materials.

(b) The historic preservation board staff will, within five working days from the date a complete application has been filed, approve, deny or approve with conditions an application for a regular certificate of appropriateness presented by the owner of a designated historic resource or a property within a designated historic district. The findings of the staff will be mailed to the applicant within two working days of the staff decision, accompanied by a statement explaining the decision. The applicant will have an opportunity to appeal the staff decision by applying for a special certificate of appropriateness within 30 calendar days of the date the decision is issued.

(Ord. No. 88-62, § 8A, 12-21-88; Ord. No. 90-35, § 3, 6-20-90; Ord. No. 13-10 , § 6, 5-28-13)

Sec. 22-103. Special certificate of appropriateness.

(a) *Required.* A special certificate of appropriateness shall be issued by the historic preservation board prior to initiation of any work involving alteration, demolition, relocation, reconstruction, excavation or new construction which will result in a change to the original appearance of a designated historic resource or a contributing property within a designated historic district. A special certificate of appropriateness is also required prior to any new construction, reconstruction or alteration of a noncontributing property within a designated historic district. A special certificate of appropriateness

may also be issued to reverse or modify a staff decision regarding an application for a regular certificate of appropriateness or a conditional certificate to dig.

(b) *Application.* An applicant for a special certificate of appropriateness shall submit an application to the historic preservation board accompanied by full plans and specifications, a site plan and, in the case of sites involving buildings or structures, samples of materials as deemed appropriate by the historic preservation board to fully describe the proposed appearance, color, texture, materials or design of the building or structure and any outbuilding, wall, courtyard, fence, landscape feature, paving, signage or exterior lighting. The applicant shall provide adequate information to enable the historic preservation board to visualize the effect of the proposed action on the historic resource and on adjacent buildings and streetscapes within a historic district.

(c) *Public hearing.* The historic preservation board shall hold a public hearing upon an application for a special certificate of appropriateness affecting designated historic resources or districts. Notice of the public hearing shall be given to the property owners by certified mail, return receipt requested, and to other interested parties by an advertisement in a newspaper of general circulation at least five calendar days but no sooner than 20 calendar days prior to the date of hearing.

(d) *Action of historic preservation board.* The historic preservation board will meet and act upon an application for a special certificate of appropriateness on or within 70 calendar days from the date the application and materials adequately describing the proposed action are received. The historic preservation board will approve, deny or approve the special certificate of appropriateness with conditions, subject to the acceptance of the conditions by the applicant, or suspend action on the application for a period not to exceed 35 calendar days in order to seek technical advice from outside sources or to meet further with the applicant to revise or modify the application. Failure of the historic preservation board to act upon an application on or within 70 calendar days (if no additional information is required) or 105 calendar days (if additional information is required by the historic preservation board) from the date the application was received will result in the immediate issuance of the special certificate of appropriateness applied for, without further action by the historic preservation board. This section does not preclude an applicant from requesting, and the historic preservation board from approving, continuances beyond the time frames contained in this section. However, if an applicant obtains continuances from the historic preservation board beyond the time frames specified in this section, then the applicant will be precluded from seeking an automatic approval by the historic preservation board on the grounds that the historic preservation board did not act within the specified time frames.

(e) *Notice of decision.* All decisions of the historic preservation board shall be in writing and shall include findings of fact. Evidence of approval of the application shall be by the special certificate of appropriateness issued by the historic preservation board or the boards's designated staff representative. Notice of a decision shall be given to the applicant and to the building official, the zoning director and any other appropriate public agency, as determined by the historic preservation board. When an application is denied, the notice of the historic preservation board shall provide an adequate written explanation of its decision to deny the application. The historic preservation board shall keep a record of its actions under this chapter.

(Ord. No. 88-62, § 8B, 12-21-88; Ord. No. 90-35, § 3, 6-20-90; Ord. No. 14-13 , § 3, 6-17-14)

Sec. 22-104. Demolition.

(a) Demolition of a designated historic resource or a contributing property within a designated historic district may only occur pursuant to an order of a governmental body or board or an order of a court of competent jurisdiction and pursuant to approval of an application by the owner for a special certificate of appropriateness for demolition.

(b) Governmental agencies having the authority to demolish unsafe structures shall receive notice of the designation of historic resources and districts pursuant to article III of this chapter. The historic

preservation board shall be deemed an interested party and shall be entitled to receive notice of any public hearings conducted by such agencies regarding demolition of any designated historic resource or contributing property to a designated historic district. The historic preservation board may make recommendations and suggestions to the governmental agency and the owner relative to the feasibility of and the public interest in preserving the designated resource.

(c) No permit for voluntary demolition of a designated historic resource or contributing site within a historic district shall be issued to the owner thereof until an application for a special certificate of appropriateness has been submitted to the historic preservation board and approved pursuant to the procedures in this article. The historic preservation board shall approve, deny or approve with conditions the application for a special certificate of appropriateness for demolition. Refusal by the historic preservation board to grant a special certificate of appropriateness for demolition shall be evidenced by a written order detailing the public interest which is sought to be preserved. The historic preservation board may grant a special certificate of appropriateness for demolition which may provide for a delayed effective date of six months to allow the historic preservation board to seek possible alternatives to demolition. During the demolition delay period the historic preservation board may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purpose of this chapter. Such steps may include but shall not be limited to consultation with civic groups, public agencies and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving the building or other feature.

(d) The historic preservation board shall consider the following criteria in evaluating applications for certificates of appropriateness for demolition of designated historic resources or contributing properties within a designated historic district:

(1) Is the building or structure of such interest or quality that it would reasonably meet national, state or local criteria for additional designation as a historic or architectural landmark?

(2) Is the building or structure of such design, craftsmanship or material that it could be reproduced only with great difficulty or expense?

(3) Is the building or structure one of the last remaining examples of its kind in the neighborhood, the county or the region?

(4) Does the building or structure contribute significantly to the historic character of a designated historic district?

(5) Would retention of the building or structure promote the general welfare of the county by providing an opportunity for the study of local history or prehistory, architecture and design or by developing an understanding of the importance and value of a particular culture and heritage?

(6) Are there definite plans for reuse of the property if the proposed demolition is carried out, and what will be the effect of those plans on the character of the surrounding area?

(7) Has demolition of the designated building or structure been ordered by the appropriate public agency due to unsafe conditions?

(e) Unless demolition has been ordered by a court of competent jurisdiction or another governmental body, a special certificate of appropriateness for demolition of a designated building or structure shall not be issued until there are definite plans for reuse of the property and a building permit or development order for the new construction has been applied for.

(f) If an undue economic hardship is claimed by the property owner as a result of the denial of a special certificate of appropriateness for demolition, the historic preservation board shall have the power to vary or modify adherence to its original decision no later than 35 calendar days from the date the original decision is issued. Any variance or modification of a prior order shall be based upon sufficient evidence submitted by the owner and a subsequent finding by the historic preservation board that retention of the building or structure would deny the owner of all economically viable use of the

property, thus creating an undue economic hardship. The owner may present the following evidence as grounds for such a finding:

(1) For all property, the owner may present:

a. The amount paid for the property, the date of purchase and the party from whom purchased;

b. The assessed value of the land and improvements thereon according to the two most recent property tax assessments;

c. The amount of real estate taxes for the previous two years;

d. The annual debt service, if any for the previous two years;

e. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property;

f. Any listings of the property for sale or lease, the price asked and offers received, if any; and

g. Any profitable adaptive uses for the property which have been considered by the owner.

(2) In addition to the items set forth in subsection (f)(1) of this section, the owner may present, for income-producing property:

a. The annual gross income from the property for the previous two years;

b. Itemized operating and maintenance expenses for the previous two years; and

c. The annual cash flow, if any, for the previous two years.

(Ord. No. 88-62, § 8C, 12-21-88; Ord. No. 90-35, § 3, 6-20-90)

Sec. 22-105. Moving permits.

The historic preservation board shall consider the following criteria for applications for special certificates of appropriateness for the moving of all historic resources and contributing properties located within a designated historic district:

(1) The historic character and aesthetic interest the building or structure contributes to its present setting.

(2) The reasons for the proposed move.

(3) The proposed new setting and the general environment of the proposed new setting.

(4) Whether the building or structure can be moved without significant damage to its physical integrity.

(5) Whether the proposed relocation site is compatible with the historical and architectural character of the building or structure.

(6) When applicable, the effect of the move on the distinctive historical and visual character of a designated historic district.

(Ord. No. 88-62, § 8D, 12-21-88)

Sec. 22-106. Archaeological sites and districts.

(a) *Designation.* The survey entitled "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" (Piper Archaeological Research, Inc., 1987) will be used as the initial database when considering the designation of areas of archaeological sensitivity level 1.

(b) *Certificate of appropriateness.* A certificate of appropriateness is required prior to the issuance of a development approval for activity within an archaeological site or district designated pursuant to this chapter. Additionally, a certificate of appropriateness is required for new, replacement or enlargement of existing septic tanks, drainfields or other accessory structures associated with septic tank installation, replacement or enlargement. An application for a certificate of appropriateness must be accompanied by full plans and specifications indicating areas of work that might affect the surface and subsurface of the archaeological site or sites.

(1) The requirements outlined in article III of this chapter apply to all applications and the issuance of all certificates of appropriateness for archaeological sites and districts designated pursuant to this chapter.

(2) In reviewing the application for a special certificate of appropriateness for a designated archaeological site, the historic preservation board may also require any or all of the following:

a. Scientific excavation and evaluation of the site by an archaeologist at the owner's expense.

b. An archaeological survey, conducted by an archaeologist, containing an analysis of the impact of the proposed activity on the archaeological site.

c. Proposal for mitigation measures.

d. Protection or preservation of all or part of the designated archaeological site for green space, in exchange for incentives as provided in article III, division 2, of this chapter.

(3) To knowingly disturb human burial remains is a third degree felony in the state, pursuant to F.S. ch. 872, pertaining to offenses concerning dead bodies and graves. The law includes prehistoric as well as historic period interments, and aboriginal burial mounds or cemeteries as well as historic period cemeteries. Procedures for dealing with the accidental discovery of unmarked human burials are outlined in F.S. ch. 872. If unmarked human burials are suspected or known in an area under consideration for any certificate of appropriateness, the area must be surveyed by a professional archaeologist to locate the remains. Procedures for dealing with human remains must be carried out according to F.S. ch. 872. Any located human interments should be preserved in place if at all possible. If it is necessary to excavate or otherwise move the remains, every effort must be made to identify and contact persons who may have a direct kinship, tribal, community or ethnic relationship with the deceased in order to arrange for their appropriate reinternment or disposition.

(c) *Certificate to dig.* The survey entitled "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" will be used to identify areas of archaeological sensitivity levels 1 and 2.

(1) A certificate to dig is required prior to or in conjunction with the issuance of a final development order for activity within any area of archaeological sensitivity levels 1 and 2 that may involve new construction, filling, digging, removal of trees or any other activity that may alter or reveal an interred archaeological site. If submerged or wetland areas, such as ponds, sloughs or swamps, will be damaged by development or by dredge and fill activities, these areas must also be assessed for their potential to contain significant archaeological sites.

(2) The purpose of a certificate to dig is to allow sufficient time to conduct any necessary investigations, including the location, evaluation and protection of significant archaeological sites in areas suspected of having such archaeological sites.

(3) The staff of the historic preservation board must, within 15 calendar days of receipt of a complete application for a certificate to dig, approve the application for a certificate to dig, or approve the certificate to dig subject to specified conditions, including but not limited to a delay not to exceed 60 days to allow any necessary site excavation or additional archaeological assessment prior to commencement of the proposed construction activity. Staff's decision must be based on the application and any other guidelines the historic preservation board may establish. If the approved certificate to dig requires archaeological excavation, the certificate must specify a period of time

during which excavation may occur, not to exceed 60 days unless the owner agrees to an extension. The owner must have an archaeologist conduct excavations as necessary during this period. The certificate to dig and any staff findings must be mailed to the applicant by certified mail, return receipt requested, within seven calendar days of its review and approval.

(4) The applicant has the opportunity to appeal any conditions attached to a certificate to dig by applying for a special certificate of appropriateness within 30 calendar days of the date the conditional certificate to dig is issued. The historic preservation board must convene no later than 50 calendar days after the date a completed application for a special certificate of appropriateness is filed with the staff. Approved certificates to dig must contain an effective date not to exceed 60 calendar days, at which time the proposed activity may begin, unless the archaeological excavation uncovers evidence of such significance that it warrants designation of the archaeological site as a historic resource pursuant to article III of this chapter.

(5) All work performed pursuant to the issuance of a certificate to dig must conform to the requirements of such certificate. It is the duty of the appropriate county agencies and the staff of the historic preservation board to inspect work for compliance with such certificate. In the event of noncompliance the appropriate county staff has the power to issue a stop work order and all work must cease.

(Ord. No. 88-62, § 8E, 12-21-88; Ord. No. 90-35, § 4, 6-20-90; Ord. No. 09-23 , § 6, 6-23-09)

Secs. 22-107—22-140. Reserved.

ARTICLE III. DESIGNATION OF HISTORIC DISTRICTS AND RESOURCES

DIVISION 1. - GENERALLY

DIVISION 2. - INCENTIVES

DIVISION 3. - PROCEDURE

DIVISION 1. GENERALLY

Secs. 22-141—22-170. Reserved.

Secs. 22-141—22-170. Reserved.

DIVISION 2. INCENTIVES

Sec. 22-171. Financial assistance.

Sec. 22-172. Nomination to National Register of Historic Places.

Sec. 22-173. Relief from building regulations.

Sec. 22-174. Relief from zoning regulations.

Sec. 22-175. Variances from floodplain management regulations.

Secs. 22-176—22-200. Reserved.

Sec. 22-171. Financial assistance.

All properties designated as historic resources or as a contributing property to a designated historic district shall be eligible for any financial assistance set aside for historic preservation projects by the county, the state or the federal government, provided they meet any additional requirements of those financial assistance programs. The historic preservation board and its staff shall investigate funding sources and make recommendations to the Board of County Commissioners to establish a program providing for transfer of development rights, easements and other local financial assistance programs whenever possible.

(Ord. No. 88-62, § 11A, 12-21-88)

Sec. 22-172. Nomination to National Register of Historic Places.

The historic preservation board shall encourage and assist in the nomination of eligible income-producing properties to the National Register of Historic Places in order to make available to those property owners the investment tax credits for certified rehabilitations pursuant to the Tax Reform Act of 1986 and any other programs offered through the National Register of Historic Places.

(Ord. No. 88-62, § 11B, 12-21-88)

Sec. 22-173. Relief from building regulations.

Designated historic resources and contributing properties to a designated historic district may be eligible for administrative variances or other forms of relief from applicable building and zoning codes as follows: Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building or structure may be made without conformance to the technical requirements of the Standard Building Code when the proposed work has been approved by a regular or special certificate of appropriateness and also by the building official, pursuant to the authority granted to the building official by other ordinances or statutes, provided that:

(1) The restored building will be no more hazardous based on considerations of life, fire, sanitation and safety than it was in its original condition.

(2) Plans and specifications are sealed by a Florida registered architect or engineer, if required by the building official.

(3) The building official has required the minimum necessary corrections to be made before use and occupancy which will be in the public interest of health, safety and welfare.

(Ord. No. 88-62, § 11C, 12-21-88)

Cross reference— Buildings and building regulations, ch. 6.

Sec. 22-174. Relief from zoning regulations.

The department of community development director may, by written administrative decision, approve any relief request for designated historic resources or contributing properties to a designated historic district, for matters involving setbacks, lot width, depth, area requirements, land development regulations, height limitations, open space requirements, parking requirements, signs, docks, and other similar relief not related to a change in use of the property in question.

(1) Before granting relief, the director must find that:

a. The relief will be in harmony with the general appearance and character of the community.

b. The relief will not be injurious to the area involved or otherwise detrimental to the public health, safety or welfare.

c. The proposed work is designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent properties while affording the owner a reasonable use of his land.

(2) In granting any relief, the director may prescribe appropriate conditions necessary to protect and further the interest of the area and abutting properties, including but not limited to:

a. Landscape materials, walls and fences as required buffering.

b. Modifications of the orientation of any openings.

c. Modifications of site arrangements.

The owner of a building, structure or site affected by the operation of this chapter and the decision of the director may appeal that decision in accord with section 34-145.

(3) The procedure for granting parking relief in the Matlacha historic district must be in accordance with the administrative code duly adopted by the Board of County Commissioners. The parking relief procedure will include, but will not be limited to:

a. Providing notice by certified mail to property owners within 500* feet, by posted notice and by advertisement in a local paper of general circulation.

b. Input from two three-person delegations made up of property owners, residents or registered voters of Matlacha.

c. Input from the district commissioners, following staff review of submitted applications for parking relief.

d. Availability of third party appeal of the decision to grant parking relief by aggrieved persons.

(4) The provisions of section 22-174(3) remain in full force and effect as to any request for parking relief, unless and until an annual sunset review and subsequent determination by a majority of the historic preservation board, prior to March first of each year, indicates that those provisions providing for parking relief in the Matlacha historic district are no longer required. In the event of such a determination, the historic preservation board may make a recommendation to the Board of County Commissioners so that appropriate action regarding the parking provisions may be taken.

(Ord. No. 88-62, § 11D, 12-21-88; Ord. No. 90-35, § 6, 6-20-90; Ord. No. 90-54, § 4, 10-17-90; Ord. No. 92-34, § 2, 7-15-92; Ord. No. 94-06, § 2, 2-16-94; Ord. No. 01-03, § 3, 2-27-01; Ord. No. 09-23 , § 6, 6-23-09)

*NOTE: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet.

Cross reference— Zoning, ch. 34.

Sec. 22-175. Variances from floodplain management regulations.

Variances from the floodplain management regulations may be requested pursuant to the terms of chapter 6, article IV.

(Ord. No. 88-62, § 11E, 12-21-88)

Secs. 22-176—22-200. Reserved.

DIVISION 3. PROCEDURE

Sec. 22-201. Initiation of process.

The designation process under this chapter may be initiated by a written petition from the property owner, by a majority vote of the historic preservation board, or at the request of the Board of County Commissioners. The historic resource database shall be used to identify buildings, structures and sites potentially eligible for historic designation.

(1) *Designation proposed by owner.* When designation is requested by the owner, a written petition for designation shall be filed, accompanied by sufficient information to warrant further investigation of the properly and to aid in the preparation of a designation report. The historic preservation board shall, based on the request and information presented, either direct staff to begin or assist in preparation of a designation report, accept and direct the filing of a designation report prepared by the owner, reject a report submitted for filing, or deny the designation petition. Upon the filing of a designation report, the historic preservation board may direct staff to commence the designation and notice process.

(2) *Designation proposed by historic preservation board or Board of County Commissioners.* Upon the recommendation of staff, a request by a member of the historic preservation board or a request by the Board of County Commissioners, the historic preservation board may direct staff to prepare or assist in preparation of a designation report. Upon completion of the designation report, the historic preservation board may, by majority vote, initiate the designation process by a motion directing staff to file the designation report and begin the notification process.

(Ord. No. 88-62, § 7A, 12-21-88)

Sec. 22-202. Designation report.

Prior to the designation of any historic resource or historic district pursuant to this chapter, a designation report shall be filed with the historic preservation board. The designation report shall contain the following information:

(1) For individual historic or archaeological buildings, structures or sites:

a. A physical description of the building, structure or site and its character-defining features, accompanied by photographs.

b. A statement of the historical, cultural, architectural, archaeological or other significance of the building, structure or site as defined by the criteria for designation established by this chapter.

c. A description of the existing condition of the building, structure or site, including any potential threats or other circumstances that may affect the integrity of the building, structure or site.

d. A statement of rehabilitative or adaptive use proposals.

e. A location map, showing relevant zoning and land use information.

f. Staff recommendations concerning the eligibility of the building, structure or site for designation pursuant to this chapter, and a listing of those features of the building's structure or site which require specific historic preservation treatments.

(2) For historic or archaeological districts:

a. A physical description of the district, accompanied by photographs of buildings, structures or sites within the district indicating examples of contributing and noncontributing properties within the district; also, a list of all contributing properties outside the proposed boundaries of the district.

b. A description of typical architectural styles, character-defining features and types of buildings, structures or sites within the district.

c. An identification of all buildings, structures and sites within the district and the proposed classification of each as contributing, contributing with modifications, or noncontributing, with an explanation of the criteria utilized for the proposed classification.

d. A statement of the historical, cultural, architectural, archaeological or other significance of the district as defined by the criteria for designation established by this chapter.

e. A statement of recommended boundaries for the district and a justification for those boundaries, along with a map showing the recommended boundaries.

f. A statement of incentives requested, if any, and the specific guidelines which should be used in authorizing any alteration, demolition, relocation, excavation or new construction within the boundaries of the district.

(Ord. No. 88-62, § 7B, 12-21-88)

Sec. 22-203. Required notices; action by historic preservation board.

The historic preservation board will hold timely public hearings on every petition for designation made pursuant to this chapter. References in this chapter to calendar days will include Saturdays, Sundays and legal holidays. References in this chapter to working days exclude Saturdays, Sundays and legal holidays.

(1) *Notice to owner.* The historic preservation board shall notify the property owners of its intent to consider a proposed designation at least 20 calendar days prior to the date of the public hearing. Notice shall be sent by certified mail, return receipt requested, to the record owners of the property as reflected by the current ad valorem tax roll. Prior to the hearing, the county staff shall furnish the owners with copies of the designation report and this chapter. County staff shall make a reasonable effort to contact the owners after mailing the notice of intent to designate, answer the owner's questions and address areas of concern prior to the public hearing.

(2) *Notification of public hearing.* For each proposed designation pursuant to this chapter, the historic preservation board will hold a public hearing no sooner than 20 calendar days and no later than 70 calendar days from the date a designation report has been filed with the historic preservation board and notice of the intent to designate sent to the owners. Notice of the public hearing will be

published in a newspaper of general circulation at least five calendar days but no more than 20 calendar days prior to the date of the public hearing.

(3) *Decision deadlines.* Within 14 calendar days after the date of the public hearing, the historic preservation board shall render, by written resolution, its decision approving, denying, or approving with conditions a proposed designation pursuant to this chapter. The rendering of a decision by the historic preservation board shall constitute final administrative action. The historic preservation board shall notify the following parties of its actions and shall attach a copy of the resolution:

a. The owner of the affected property.

b. The building official.

c. The zoning director.

d. The county clerk.

e. The planning division.

f. The department of transportation and engineering.

g. The county property appraiser.

h. Any other county, municipal, state or federal agency, including agencies with demolition powers, that may be affected by the decision of the historic preservation board.

(4) *Recording of designation.* All resolutions designating historic resources shall be recorded in the public records of the county within 25 calendar days of the date the historic preservation board renders its decision, unless an appeal of that decision has been filed within the time limits established by this chapter.

(5) *Suspension of activities.* Upon the filing of a designation report, no permits may be issued authorizing building, demolition, relocation or excavation on the subject property until final administrative action occurs or the expiration of 75 calendar days from the date the designation report is filed with the historic preservation board, whichever occurs first, unless an appeal of the decision of the historic preservation board is filed. If an appeal is filed as provided in this chapter, the suspension of activities will continue in effect for an additional 35 calendar days from the date the historic preservation board renders its decision or until the rendering of a decision on the appeal, whichever occurs first. The property owner may waive the suspension of activities deadlines set out in this section. Waivers must be in the form of a notarized statement to the historic preservation board for inclusion in the board's files. The historic preservation board will notify all affected government agencies of the suspension of activities upon the filing of a designation report. The suspension of activities expires after 60 days if no public hearing is held.

(Ord. No. 88-62, § 7C, 12-21-88; Ord. No. 90-35, § 2, 6-20-90; Ord. No. 99-05, § 6, 6-29-99; Ord. No. 13-10 , § 6, 5-28-13)

Sec. 22-204. Criteria for designation.

(a) The historic preservation board shall have the authority to designate historic resources based upon their significance in the county's history, architecture, archaeology or culture, or for their integrity of location, design, setting, materials, workmanship or associations, and because they:

(1) Are associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric or architectural history that have contributed to the pattern of history in the community, the county, southwestern Florida, the state or the nation;

(2) Are associated with the lives of persons significant in our past;

(3) Embody the distinctive characteristics of a type, period, style or method of construction or are the work of a master; or possess high artistic value or represent a distinguishable entity whose components may lack individual distinction;

(4) Have yielded or are likely to yield information on history or prehistory; or

(5) Are listed or have been determined eligible for listing in the National Register of Historic Places.

(b) A historic resource shall be deemed to have historical or cultural significance if it is:

(1) Associated with the life or activities of a person of importance in local, state or national history;

(2) The site of a historic event with a significant effect upon the county, state or nation;

(3) Associated in a significant way with a major historic event;

(4) Exemplary of the historical, political, cultural, economic or social trends of the community in history; or

(5) Associated in a significant way with a past or continuing institution which has contributed substantially to the life of the community.

(c) A historic resource shall be deemed to have architectural or aesthetic significance if it fulfills one or more of the following criteria:

(1) Portrays the environment in an era of history characterized by one or more distinctive architectural styles;

(2) Embodies the characteristics of an architectural style, period or method of construction;

(3) Is a historic or outstanding work of a prominent architect, designer or landscape architect; or

(4) Contains elements of design, detail, material or craftsmanship which are of outstanding quality or which represented, in its time, a significant innovation, adaptation or response to the South Florida environment.

(d) A historic resource shall be deemed to have archaeological significance if it meets one or more of the following criteria:

(1) There is an important historical event or person associated with the site;

(2) The quality of the site or the data recoverable from the site is significant enough that it would provide unique or representative information on prehistoric or historical events;

(3) The site was the locus of discrete types of activities such as habitation, religious, burial, fortification, etc.;

(4) The site was the location of historic or prehistoric activities during a particular period of time; or

(5) The site maintains a sufficient degree of environmental integrity to provide useful archaeological data. Such integrity shall be defined as follows:

a. The site is intact and has had little or no subsurface disturbance; or

b. The site is slightly to moderately disturbed, but the remains have considerable potential for providing useful information.

(e) Properties not generally considered eligible for designation include cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, buildings or sites primarily commemorative in nature, reconstructed historic buildings, and properties that have achieved significance less than 50 years prior to the date the property is proposed for designation. However, such properties will qualify if they are integral parts of districts that do meet the criteria described in this section or if they fall within one or more of the following categories:

(1) A religious property deriving primary significance from architectural or artistic distinction of historical importance.

(2) A building or structure removed from its location but which is primarily significant for architectural value, or is the surviving structure most importantly associated with a historic event or person.

(3) A birthplace or grave of a historical figure of outstanding importance if there is no other appropriate site or building directly associated with his productive life.

(4) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events.

(5) A property primarily commemorative in nature if design, age, tradition or symbolic value have invested it with its own historical significance.

(6) A building, structure, site or district achieving significance less than 50 years from the date it is proposed for designation if it is of exceptional historical importance.

(Ord. No. 88-62, § 7D, 12-21-88)

Sec. 22-205. Removal of designation or change in status.

The removal of a historic resources designation or the change in a designation from contributing to non-contributing property (or the reverse) in a designated district may be initiated in one of three ways: (a) by written petition of the property owner; (b) by majority vote of the historic preservation board; or, (c) at the request of the Board of County Commissioners.

(1) *Removal of designation or change in status initiated by owner.* The owner must file a written petition for removal of designation or change in status. The petition must state with specificity the reason for the request and include sufficient information to support investigation of the property in response to the request. The complete petition or subsequently requested report will be presented to the historic preservation board for action. At that time the historic preservation board may:

(a) accept a removal of designation petition and direct it to public hearing;

(b) direct that a removal of designation report be prepared by either the staff or the applicant for consideration by the board;

(c) reject a report submitted and state the specific reasons for the rejection; or,

(d) deny the removal of designation petition and state the reasons for denial.

Notice must be provided in accord with section 22-207 prior to action under this section.

(2) *Removal of designation or change in status initiated by historic preservation board or Board of County Commissioners.* The historic preservation board has the authority to direct staff to prepare a removal of designation or change in status report based upon a recommendation of County staff, a request from the historic preservation board or direction by the Board of County Commissioners. Once completed, the requested report will be considered by the historic preservation board at a duly noticed meeting.

(Ord. No. 09-23 , § 6, 6-23-09)

Sec. 22-206. Removal of designation or change in status report.

Action by the historic preservation board to accept a removal of a historic resource designation or the change in status from contributing to non-contributing property (or the reverse) must be based upon a report prepared in accord with this section. The report must be in writing and provide specific and detailed

information as to why the historic designation applicable to the property should be removed or changed from contributing to non-contributing (or the reverse).

Removal of a historic resource designation or the change in status from contributing to non-contributing property (or the reverse) is appropriate only if the subject property no longer meets the criteria set forth in section 22-204 for the applicable designation.

(Ord. No. 09-23 , § 6, 6-23-09)

Sec. 22-207. Notice; action by board; recording.

(a) *Notice to owner.* A notice to the property owner must be filed in accord with section 22-203(1).

(b) *Notice of public hearing.* The county will provide written notice regarding the public hearing in accord with section 22-203(2).

(c) *Decision deadlines.* After review of the report, the historic preservation board must take action in accord with section 22-203(3).

(d) *Recording.* The board's written decision must be recorded as set forth in section 22-203(4).

(Ord. No. 09-23 , § 6, 6-23-09)

Secs. 22-208—22-240. Reserved.

ARTICLE IV. MAINTENANCE AND REPAIR OF PREMISES

Sec. 22-241. Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent or discourage the ordinary maintenance and repair of the exterior elements of any historic resource or any property within a designated historic district when such maintenance and repair do not involve a change of design, appearance (other than color) or material, and do not require a building permit.

(Ord. No. 88-62, § 9A, 12-21-88)

Sec. 22-242. Correction of deficiencies generally.

When the historic preservation board determines that the exterior of a designated historic resource, or a contributing property within a designated historic district, is endangered by lack of ordinary maintenance and repair, or that other improvements in visual proximity of a designated historic resource or historic district are endangered by lack of ordinary maintenance, or are in danger of deterioration to such an extent that it detracts from the desirable character of the designated historic resource or historic district, the historic preservation board may request appropriate officials or agencies of the county government to require

correction of such deficiencies under the authority and procedures of applicable ordinances, laws and regulations.

(Ord. No. 88-62, § 9B, 12-21-88)

Sec. 22-243. Unsafe structures.

If the building official determines that any designated historic resource or contributing property is unsafe pursuant to the provisions of the applicable county ordinances, the building official will immediately notify the historic preservation board by submitting copies of such findings. Where appropriate and in accordance with applicable county ordinances, the historic preservation board shall encourage repair of the building or structure rather than demolition. The building official will, in these instances, take into consideration any comments and recommendations made by the historic preservation board. The historic preservation board may also endeavor to negotiate with the owner and interested parties, provided such actions do not interfere with procedures established in the applicable ordinances.

(Ord. No. 88-62, § 9C, 12-21-88)

Sec. 22-244. Emergency work.

For the purpose of remedying an emergency condition determined to be imminently dangerous to life, health or property, nothing contained in this chapter will prevent the temporary construction, reconstruction, demolition or other repairs to a historic structure, building or site or a contributing or noncontributing property, structural improvement, landscape feature or archaeological site within a designated historic district. Such temporary construction, reconstruction or demolition must take place pursuant to permission granted by the building official, and only such work as is reasonably necessary to correct the emergency conditions may be carried out. The owner of a building or structure damaged by fire or natural calamity will be permitted to immediately stabilize the building or structure and to later rehabilitate it under the procedures required by this chapter. The owner may request a special meeting of the historic preservation board to consider an application for a certificate of appropriateness to provide for permanent repairs.

(Ord. No. 88-62, § 9D, 12-21-88)

Sec. 22-245. Demolition by neglect.

If the staff of the historic preservation board or the building official inform the historic preservation board that a designated historic resource or contributing property within a historic district is being demolished by neglect, as defined pursuant to this chapter, the historic preservation board shall notify the owners of record by certified mail of its preliminary findings and intent to hold a public hearing no later than 35 calendar days from the date the notice was sent to determine evidence of neglect. The owner shall have until the time of the public hearing to make necessary repairs to rectify the evidence of neglect as identified in the certified notice. Upon failure by the owner to abate the structural, health or safety hazards identified in the initial notice within 35 calendar days, the historic preservation board shall hold a public hearing to consider recommending to the building official that the owner be issued a citation for code violation. The owner shall have the right to rebut the preliminary findings of the historic preservation board at the public hearing. If the historic preservation board finds that the building or structure is being demolished by neglect pursuant to this chapter, the historic preservation board may recommend to the building official that the owner be issued a citation for code violations and that penalties be instituted pursuant to this chapter.

(Ord. No. 88-62, § 9E, 12-21-88; Ord. No. 90-35, § 5, 6-20-90)

Chapters 23—25 RESERVED

Chapter 26 MARINE FACILITIES, STRUCTURES AND EQUIPMENT [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - DOCK AND SHORELINE STRUCTURES

ARTICLE III. - MARINE SANITATION

FOOTNOTE(S):

--- (**1**) ---

Cross reference— Coastal construction code, § 6-331 et seq.; marina design, § 10-257; manatee protection, § 14-151 et seq.; mangrove protection, § 14-451 et seq.; zoning regulations pertaining to marine facilities, § 34-1861 et seq. (Back)

ARTICLE I. IN GENERAL

Secs. 26-1—26-40. Reserved.

Secs. 26-1—26-40. Reserved.

ARTICLE II. DOCK AND SHORELINE STRUCTURES [2]

DIVISION 1. - GENERALLY

DIVISION 2. - LOCATION AND DESIGN

FOOTNOTE(S):

--- (**2**) ---

Editor's note— Ordinance No. 96-17, § 4, adopted September 18, 1996, amended 26-41—26-47, 26-71—26-73, 26-88—26-95 by substituting in lieu thereof §§ 26-41—26-48; 26-71—26-78 and repealing §§ 26-88—36-95. Formerly, such sections pertained to seawalls, bulkheads, docks and similar structures; mangrove alteration and design and derived from Ord. No. 85-25, § 1—5, 6, 8, 8-7-85; Ord. No. 88-33, § 2, 7-20-88; Ord. No. 88-56, § 2—4, 11-16-88; Ord. No. 89-37, § 2—4, 9-20-89; Ord. No. 93-32, § 1, 4—9, 10-20-93. (Back)

DIVISION 1. GENERALLY

Sec. 26-41. Definitions.

The following words, terms and phrases, when used in this article, will have the following meanings unless the context clearly indicates a different meaning:

Access walkway means the portion of a structure that allows access to a docking facility or terminal platform.

Areas of special concern (ASC) means those areas as identified and described in the Manatee Protection Plan.

Boat means a vehicle or vessel designed for operation as a watercraft propelled by sail or one or more electric or internal combustion engines. For the purposes of the Manatee Protection Plan, non-mechanically powered canoes and kayaks are not covered by this definition. See also *Vessel* or *Watercraft.*

Boat facility means a public or private structure or operation where boats are moored or launched, including commercial, recreational and residential marinas, and boatramps.

Boathouse means a roofed structure constructed over or adjacent to water to provide a covered mooring or storage place for watercraft.

Boatramp means a structure, man-made or altered natural feature, or an inclined and stabilized surface extending into the water from the shore, which facilitates the launching and landing of boats into a waterbody or from which trailered watercraft can be launched and retrieved.

Director means the director of the department of community development, or his successor or designee, except when otherwise stated.

Ditch means a manmade trench or canal that was built for a non-navigational purpose. (See Federal Register 33 CFR 329.24 for definition of navigable waterways.)

Docking facility means a water-oriented structure designed primarily for the launching, retrieval, storage or mooring of watercraft.

Egress and *ingress* means, for the purposes of the Manatee Protection Plan, a continuous pathway of deep water that vessels would most likely travel between a facility and a marked channel.

Exterior property line means the side lot line or riparian property line separating two or more lots or parcels under common ownership from the adjoining lots or parcels under separate ownership.

Finger pier means a dock landing that branches from an access walkway or terminal platform to form a watercraft slip and provide direct access to watercraft moored in the slip.

Hazard to navigation means a watercraft or structure erected, under construction or moored that obstructs the navigation of watercraft proceeding along a navigable channel or obstructs reasonable riparian access to adjacent properties.

Invasive exotic vegetation means Australian pine (*Casuarina spp.*), Brazilian pepper (*Schinus terebinthifolius*), paper or punk tree (*Melaleuca quinquenervia*), beach naupaka (*Scaevola frutescens* or *Scaevola taccada*) and earleaf acacia (*Acacia auriculiformis*).

Lawfully has the same meaning as set forth in section 34-2.

Linear shoreline means the mean high water line in tidally influenced areas and the ordinary high water line along waterways that are not tidally influenced. This definition does not apply to shorelines artificially created after October 24, 1989 through dredge and fill activities (such as boat basins or canals). Shorelines artificially created before October 24, 1989 must have been permitted in accordance with the regulations in effect at that time. Shoreline along man-made ditches (such as mosquito control, flood control ditches, etc.) will not qualify as linear shoreline, regardless of the date of construction unless verifiable documentation of regular navigational use prior to July 1, 2004 exists. For purposes of Manatee Protection Plan, linear shoreline will be calculated using survey quality aerial photographs or by accurate field survey. The calculation of linear shoreline for purposes of Ch. 26 is based upon shoreline owned or legally controlled by the property owner.

Littoral zone means the shallow-water region of a waterbody where sunlight penetrates to the bottom.

Manatee Protection Plan means the Lee County Manatee Protection Plan, dated June 17, 2004, approved by the Board of County Commissioners on June 29, 2004, as it may be amended from time to time.

Mangrove means any specimen of the species black mangrove (Avicennia germinans), white mangrove (Laguncularia racemosa), or red mangrove (Rhizophora mangle).

Marginal dock means a dock that runs parallel and adjacent to the shoreline. This term includes docks with a maximum access walkway length of 25 feet to a dock running parallel to the shoreline and adjacent to wetland vegetation.

Marina has the meaning provided in section 34-2.

Mean high water means the average height of the high waters over a 19-year period. For shorter periods of observation, "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

Mean high-water line means the intersection of the tidal plane of mean high water with the shore.

Mean low water means the average height of the low waters over a 19-year period. For shorter periods of observation, "mean low water" means the average height of the low waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

Mean low-water line means the intersection of the tidal plane of mean low water with the shore.

MFSE means the marine facilities siting element of Lee County's Manatee Protection Plan.

Mooring area means the portion of a docking facility used for the mooring of watercraft.

Multi-slip docking facility has the meaning provided in section 34-2.

Navigable channel means the area within a natural waterbody that has a minimum of three feet of water depth at mean low water.

Open water means, for the purposes of the Manatee Protection Plan, wide water bodies or water adjacent to passes. Charlotte Harbor is defined as the southern limit of the Charlotte Aquatic Preserve line north to the Lee County line, and Pine Island Sound is defined as the northern limit of the Pine Island Sound

Aquatic Preserve line at the north end of the Sound, south to Redfish Pass. Gulf Passes, for the purposes of the Manatee Protection Plan, include Matanzas Pass, Captiva Pass, Redfish Pass, Boca Grande, Big Hickory Pass, Big Carlos Pass, Blind Pass, Hurricane Pass and New Pass.

Public service marina means a marina that generally leases wet storage to the general public on a first come, first serve basis, and also offers services such as the provision of supplies, sewage pump-out, repair of boats and wet or dry storage.

Retaining wall means a vertical bulkhead constructed landward of the mean high water line and wetland vegetation.

Single-family dock means a fixed or floating structure, including moorings, used for berthing buoyant vessels, that is an accessory use to an existing or proposed single-family residence, with no more than two boat slips per residence when located in a natural waterbody. Notwithstanding, a shared single-family dock approved in accordance with this code may contain up to four boat slips.

Slip or *watercraft-slip* means a space designed for the mooring or storage of a single watercraft, regardless of size, which includes wet or dry slips, anchorage, beached or blocked, hoist, parked on trailers, open or covered racks, seawall or the number of parking spaces for boatramps. Piers authorized only for fishing or observation are not considered wet slips.

Structure refers to any water-oriented facility and includes, without limitation, any dock, boardwalk, floating dock, fishing pier, wharf, observation deck, deck, platform, boathouse, mooring piling, riprap, revetment, seawall, bulkhead, retaining wall, jetty, groin, geotextile tube, boat lift, davit or boatramp, or any other obstacle, obstruction or protrusion used primarily for the landing, launching or storage of watercraft, erosion control and shoreline stabilization, or for water-oriented activities.

Submerged aquatic vegetation (SAV) means fresh, saline (seagrass) or brackish submerged vegetation that may be used by manatees for food.

Terminal platform means the part of a docking facility connected to and generally wider than the access walkway that is used both for securing and loading a vessel.

Vessel means a motor-propelled or artificially propelled vehicle and every other description of boat, watercraft, barge and airboat (other than a seaplane), used or capable of use as a means of transportation on the water, including jet skis. See Boat or Watercraft.

Warm water refuge means known areas of warm water discharge, deep water or natural springs where manatees aggregate in the wintertime for thermoregulation. Known or recognized warm water refuges are listed in the Manatee Protection Plan.

Waterbody means all artificial and natural bodies of water, as those terms are defined in section 34-2, and all adjacent wetlands, as defined in section 14-292.

Watercraft means any vehicle designed for transporting persons or property on, in or through water. See *Boat* or *Vessel*.

Work means and includes, but is not limited to, all dredging or disposal of dredge material, excavation, filling, construction, erection or installation, or any addition to or modification of a structure on a waterway.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 26-42. Violations and penalties.

(a) Any person doing work in violation of this article or any approval or permit issued in accordance with this article is subject to prosecution through the county code enforcement process, described in chapter 2, article VII. Any affected party, including the county, may seek a civil injunction to enjoin work

on a structure conducted in violation of this article, in addition to or in lieu of initiating or pursuing code enforcement action.

(b) Each day work continues on any structure without the appropriate permits constitutes a separate offense.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-43. Applicability of article.

The terms and provisions of this article apply to the unincorporated area of Lee County.

(Ord. No. 96-17, § 4, 9-18-96)

Sec. 26-44. Compliance with applicable regulations.

Permits issued in accordance with this chapter or development orders for work in the unincorporated area of the county do not eliminate the need to obtain all applicable state and federal agency permits. Except when issued in conjunction with a transfer of a watercraft slip, County approval does not constitute a property right.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-45. Permits required.

(a) A permit is required prior to starting any work addressed by this article.

(b) Permit applications must be submitted in writing on an appropriate form to the Department of Community Development, and contain the following:

(1) The names, addresses, and telephone numbers of the property owners;

(2) The name, address and telephone number of the property owner's agent, if applicable

(3) Written authorization from the property owner to the agent, if applicable;

(4) The property street address;

(5) The property STRAP number;

(6) A site plan, showing the following:

a. The proposed location of the work relative to riparian property lines; and

b. Dimensions and side setbacks of all proposed structures or work.

(7) Copies of all necessary state and federal agency permits, unless a submerged lands lease is required from the state department of environmental protection, in which case county approval is required first; and

(8) A fee, as established in the applicable county administrative code.

(c) Work relating to industrial, commercial or multi-family projects may require a development order in accordance with Chapter 10 and construction drawings sealed by a professional engineer (P.E.) or registered architect. All development order applications will be reviewed for compliance with this article.

(d) The director has the discretion to require:

(1) Construction drawings sealed by an appropriately qualified professional engineer, or registered architect;

(2) A boundary or record survey, including labeled delineation of riparian lines, sealed by a professional surveyor and mapper (PSM) identifying the property boundary or riparian extensions into the waterbody in relation to construction or work The survey submitted to meet this criteria must be certified to Lee County; and

(3) A post-construction as-built survey, sealed by a PSM and certified to the county, prior to issuance of a certificate of completion for any permit under this section.

(e) The director may conduct on-site inspections to determine if the proposed work or structure meets the required minimum standards.

(f) A permit is required to repair or replace an existing structure. The director has the discretionary authority to exempt minor repairs.

(g) The director can authorize minor design alteration necessary to comply with the Americans with Disabilities Act.

(h) Permit approvals granted under this section will be based upon the information submitted by the applicant. An approval under this section does not constitute a legal opinion regarding the riparian rights boundaries of the subject property or adjacent property; and, may not be used to substantiate a claim of right to encroach into another property owner's riparian rights area.

(i) Issuance of a permit for new construction, reconfiguration or the repair of an existing structure that changes the configuration in a manner not consistent with the terms and conditions of the Manatee Protection Plan is prohibited.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 98-11, § 4, 6-23-98; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-46. Variances.

(a) Variances from the requirements of this article may be requested in accordance with section 34-145(b). The hearing examiner may grant a variance from the provisions of this article only upon finding the following criteria have been met:

(1) The granting of a variance will not threaten or create an undue burden upon the health, safety and welfare of abutting property owners or the general public;

(2) The requested variance is necessary to relieve an unreasonable burden placed upon the applicant by applying the regulations in question to his property;

(3) The variance requested is consistent with the Lee Plan and the Manatee Protection Plan.

(b) Requests for variances involving historic resources, as defined in Chapter 22, may be obtained in accordance with sections 22-173 and 22-174

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-47. Exemption from setback requirement.

Any structure permitted under this article will not be subject to the 25-foot setback requirements from a bay, canal or other waterbody set out in chapter 34.

(Ord. No. 96-17, § 4, 9-18-96)

Sec. 26-48. Nonconforming structures.

A nonconforming structure may be repaired, replaced or altered if the size, dimensions and location of the structure is and will remain in compliance with existing regulations, including the Manatee Protection Plan and section 26-75(b)(4) (regarding seawalls). Nonconforming structures may be altered, if in the opinion of the director, the proposed work will not cause an increase in the nonconformity.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Secs. 26-49—26-70. Reserved.

DIVISION 2. LOCATION AND DESIGN

Sec. 26-71. Docking facilities and boat ramps.

Docking facilities will be permitted in accordance with the following regulations:

(a) *Number of slips.*

(1) No more than one private single-family watercraft mooring dock with two slips is permitted in natural waterbodies.

(2) A shared property line dock can be permitted for up to four slips with a joint use agreement in compliance with section 26-71(g).

(3) Handrails may be required to prohibit the mooring of watercraft in any area not designated as a watercraft slip. Handrails must be permanently maintained.

(b) *Length of docks.* No private single-family dock, including mooring area, may be permitted or constructed in a natural or artificial waterbody to exceed any of the following lengths as measured from the mean high water line seaward:

(1) 200 feet;

(2) 25 percent of the navigable channel width. In artificial waterbodies, the navigable channel is measured from mean high waterline to mean high waterline. Watercraft mooring areas that are waterward of the dock will be deemed 10 feet in width; or

(3) Up to 300 feet, if the director, in his sole discretion, finds that:

a. The proposed dock has been approved by all applicable state and federal agencies;

b. The increased length will not result in a hazard to navigation;

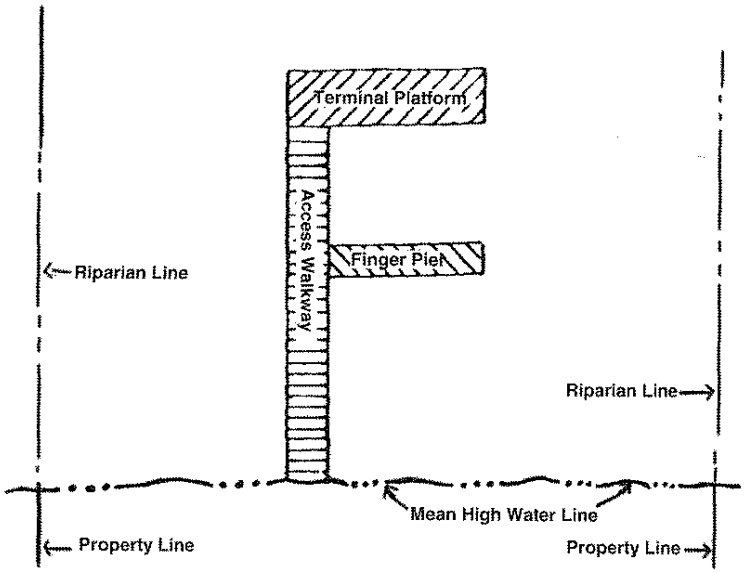
c. The proposed dock is compatible with docks or other structures and uses on adjoining lots; and

d. The increase in length will lessen the dock's impacts on seagrass beds or other marine resources.

(c) *Maximum dimensions.*

(1) Docking facilities in natural waterbodies must comply with the following maximum dimensional requirements:

Figure 26-1
Private Single-Family Structure
Plan View



Private Single-Family Structure	
Access walkway	4 feet wide
Terminal platform	160 square feet

Finger piers	3 feet wide

The application of these regulations is illustrated in Figure 26-1, Private Single-Family Structure Plan View.

(2) The director has the discretion to permit a dock of greater dimensions than allowed by this subsection if:

a. The primary access to the property is by watercraft;

b. No reasonable alternative access exists; and

c. The increase in the dock dimensions is the minimum necessary to meet the needs of the property owner.

(3) Single-family residential boat ramps cannot exceed 15 feet in width.

(d) *Setbacks.*

(1) All multi-slip and marina docking facilities, except boat davits, in or adjacent to natural waterbodies must be set back a minimum of 25 feet from all adjoining side lot lines.

(2) All private single-family docking facilities in natural waterbodies must be set back from all adjoining side lot and side riparian lines as follows:

a. Marginal docks—No less than 10 feet.

b. All other docks—No less than 25 feet.

c. Boat lifts and mooring pilings—No less than 10 feet.

(3) Side setback requirements can be reduced if:

a. Adjoining property owners execute a written agreement in recordable form, agreeing to a setback less than that required or to a zero setback; and

b. Placement of the dock in accordance with the setback agreement will not result in greater environmental impacts than compliance with the regulations set forth in this subsection.

(4) The director, in his discretion, may permit administrative deviations from the setbacks required by this subsection if the facility is located as close to the required setback as possible and:

a. The width of the subject parcel is not wide enough to permit construction of a single-family docking facility, perpendicular to the shoreline at the midpoint of the shoreline property line, without a deviation; or

b. Construction of the structure outside the setback area will not cause or will minimize damage to wetland vegetation or other environmental resources or will not cause greater damage than will occur if the deviation is not granted.

The director's decision under this subsection can be appealed through the procedure set forth in section 34-145(a) or the applicant may seek a variance in accordance with section 26-46.

(5) All boat ramps must setback ten feet from all adjoining side lot and side riparian lines.

(e) *Location.*

(1) Docking structures in natural or artificial waterbodies that create a hazard to navigation are prohibited.

(2) Boat ramp located in a manner that will result in a change in the mean high water line are prohibited.

(3) Docks located at the end of a canal may require a survey sealed by a PSM depicting the riparian area. The dock must be designed to allow for adequate ingress/egress and mooring within the subject property's riparian area.

(f) *Minimum water depths.*

(1) *Single-family docking facilities.* There must be a minimum depth of three feet mean low water for all watercraft slips on private single-family docking facilities in natural waterbodies.

(2) *Water depths adjacent to and within a multi-slip docking facility or a marina.* Except when a reduced water depth for a public service marina has been approved by variance, there must be a minimum depth of one foot clearance between the deepest draft of a vessel (with the engine in the down position) and an unvegetated bottom or the top of submerged aquatic vegetation (e.g. seagrasses) at mean low water, with a minimum water depth of at least four feet within mooring areas, turning basins, and ingress and egress pathways. The hearing examiner may grant a variance to the minimum water depth for a pubic service marina in accordance with section 34-145(b), only upon finding the request is consistent with the provisions of Manatee Protection Plan.

(g) *Interest in land to support residential dock/facility approval.* In order to obtain a permit for a residential dock and related facilities, the property owner/applicant must have a recorded right to access the water meeting the following criteria:

(1) A deed describing the residential lot with at least one boundary being the waterway along which the dock facility is proposed. The lot described must be a buildable lot with sufficient square footage to meet county requirements except as provided in section 34-1173(a)(2)d; OR

(2) A recorded easement granting access to the waterbody for purposes of constructing and using a dock/facility meeting the following criteria.

a. The easement must be over land contiguous to the residential lot such that an extension of the side lot lines will allow access to the water beyond the rear lot line;

b. The easement must be for the benefit of a residential lot that is a buildable lot under county regulations; and

c. The easement must be necessary to gain access to the waterbody over and through waterway buffer and maintenance areas required for development approval under chapter 10

(h) *Joint use agreements.* Adjacent property owners seeking approval for a shared docking facility must submit a draft joint use agreement to Environmental Sciences. The agreement must be approved by the County Attorney's office prior to permit issuance, and must:

(1) Identify each party by name, including mailing address. The parties must be the owners of the property abutting each other that will benefit from the dock facility.

(2) Identify the physical location of the subject parcels, including STRAP numbers, a legal description and accompanying sketch.

(3) Identify the specific location of the docking facilities including: the name of the waterbody, the dimensions of the facilities, and the dimensions of the land that will be used in conjunction with the facilities.

(4) Provide, as an attachment to the agreement, a detailed sketch of the facility identifying the various docking facilities, subject property boundaries and the upland area intended to be encumbered by the normal use of these facilities. This sketch must be consistent with the statements made to comply with section 26-71(h)(3).

(5) Specifically identify those areas that will be the subject of access easements to provide access (ingress/egress) to the docking facilities from each of the benefitted parcels. Depending on the facilities and parties involved, these easements may be reciprocal in nature. The easements must be specifically granted to each party named in the agreement and must run with the land (i.e. be part of the title to the primary residential parcel) in perpetuity. Grant of dock easement rights to parcels that do not abut the docking facility parcel is prohibited.

(6) Provide, as an attachment, a sketch prepared by a registered PSM, based on the legal description and identifying the access easements granted.

(7) Indicate who will be responsible for the cost of construction and maintaining the facilities. This can be accomplished by inclusion of cost sharing provisions.

(8) Indicate that the parties understand and agree to abide by all applicable Federal, State and local regulations pertaining to the construction, maintenance and use of the facilities.

(9) Be submitted as a draft to Environmental Sciences for review by staff and the County Attorney's Office prior to recording.

(10) Be recorded in the public records at the applicant's cost. In order to satisfy the minimum recording requirements imposed by the Florida Statutes, there must be two witnesses to each party's signature and each party must acknowledge the agreement before a notary public. Additional requirements can be found in F.S. § 695.26. A copy of the recorded agreement or a document identifying the recording information must be submitted to the County prior to permit issuance.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 99-05, § 7, 6-29-99; Ord. No. 09-23 , § 7, 6-23-09; Ord. No. 11-01 , § 1, 3-8-11)

Sec. 26-72. Dock boxes.

Dock boxes on private single family docking facilities may not exceed three feet in height and 100 cubic feet in size. Dock boxes do not require building or marine facility permits.

(Ord. No. 96-17, § 4, 9-18-96)

Sec. 26-73. Fishing piers, observation decks or kayak/canoe structures.

Fishing piers, observation decks or kayak/canoe structures may be permitted in areas where water depth is insufficient for watercraft mooring. Kayak/canoe structures are for use with non-motorized watercraft. Fishing piers, observation decks and kayak/canoe structures must meet the following criteria.

(1) *Design.* The design and construction must:

a. Prohibit watercraft mooring;

b. Provide access walkways and terminal platforms at five feet above mean high water; except that the terminal end of a kayak/canoe structure used for launching kayaks/canoes may be constructed lower than five feet above mean high water;

c. Provide fixed handrails, including intermediate rails, installed around the perimeter of the structure, except for the terminal end of a kayak/canoe structure;

d. Include a "no boat mooring" sign placed facing the water on the terminal platform of the structure; and

e. Be set back from all adjoining side lot and riparian lines no less than 25 feet on natural water bodies. In manmade waterbodies, no setback is required.

(2) *Dimensions.* The design and construction must:

a. Provide access walkways that do not exceed a total of four feet in width in natural water bodies.

b. Not extend waterward more than 200 feet from the mean high waterline.

c. Not exceed 260 square feet for the terminal platform for fishing piers or observation decks;

d. Not exceed 160 square feet for the terminal platform for kayak/canoe structures; and

e. Not extend waterward more than 25 percent of the navigable channel width.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-74. Boathouses.

The following regulations apply to all boathouses associated with private single-family residential uses, except where specifically superseded by other provisions of this article:

(a) *Location.*

(1) Boathouses must be constructed adjacent to or over a waterway. Any boathouse constructed over land must be located, in its entirety, within 25 feet of the mean high water line.

(2) Boathouses over submerged bottoms containing areas of dense seagrasses or shellfish beds are prohibited.

(3) Boathouses, boat lifts and davits designed with mooring inside the structure may not extend beyond 25 percent of the width of a navigable channel.

(b) *Setbacks.* The minimum setbacks for boathouses measured from side lot lines and riparian lot lines to the nearest point of the structural beam of the boathouse roof are as follows:

Natural waterbodies—25 feet.

Artificial waterbodies—10 feet.

When a boathouse is constructed on or adjacent to two or more adjoining lots under common ownership and control, the setbacks will be measured from the exterior property lines.

(c) *Design criteria.*

(1) *Maximum area.* A boathouse may not encompass more than 500 square feet of roofed area.

(2) *Height.* The maximum height of a boathouse is 20 feet above mean high water, as measured from mean high water to the highest point of the boathouse.

(3) *Permitted uses.*

a. Use of a boathouse for living or fueling facilities is prohibited.

b. Up to 25 percent of the total roofed area of a boathouse can be used for storage of items that relate directly to the use and maintenance of watercraft. Items that do not relate directly to the use and maintenance of watercraft may not be stored in a boathouse.

(4) *Decking.* Access walkways not exceeding four feet in width are permitted in the area under the roof of a boathouse located over water. Additional decking in the area under the roof of a boathouse is prohibited.

(5) *Enclosure.*

a. Boathouses located over a waterbody or adjacent to a natural waterbody must be open-sided. Safety rails 42 inches high or less are permitted.

b. Boathouses located adjacent to an artificial waterbody must meet the following requirements:

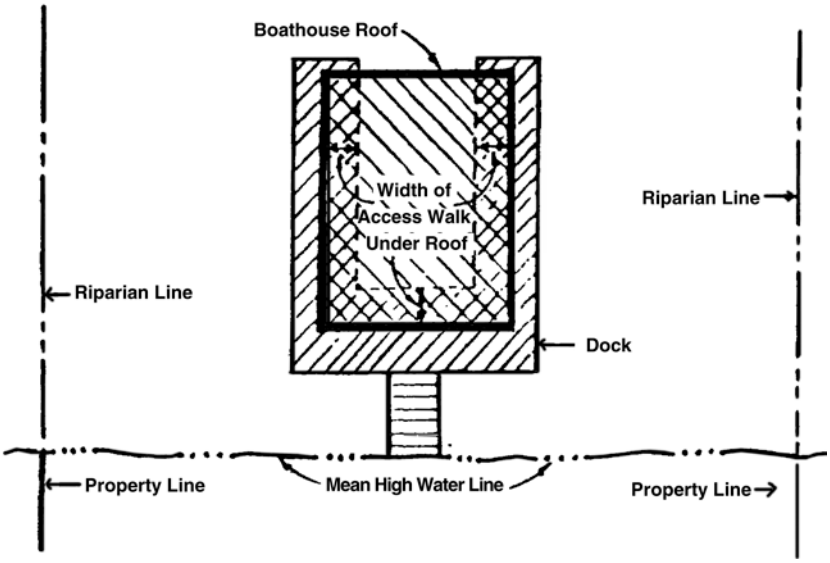
1. The boathouse must be open-sided if the proposed side setback is between ten and 25 feet.

2. The boathouse may be open-sided or enclosed with wood lattice, chainlink fencing or other fencing materials if the side setback is 25 feet or more.

(6) *Wind load standards.* All boathouses must comply with the building code wind load standards as adopted in chapter 6

The application of the regulations is illustrated in Figure 26-2, Boathouse Plan Review.

FIGURE 26-2
BOATHOUSE PLAN REVIEW



(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-75. Seawalls, retaining walls and riprap revetment.

(a) *Seawalls on artificial waterbodies and retaining walls.*

(1) Seawalls may be permitted in an artificial canal with a minimum of 50 percent of the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls. A new or replacement seawall must be installed in line with the existing seawall alignment or adjoining seawalls and placed no greater than one foot waterward of an existing seawall. Until the backfill area is stabilized, silt fence or sod must be placed immediately landward of the seawall cap to minimize erosion into the water.

(2) Riprap rock or other similar approved material must be placed waterward along 50 percent of the linear length of a new or replacement seawall. This riprap is not required where it would interfere with designated watercraft tie-up areas. The rock must be placed a minimum of three feet in height above the bottom, waterward of the seawall, or up to the mean high water line. The rock must be a minimum average size of 12 inches in diameter.

(b) *Seawalls on natural waterbodies.*

(1) The Lee Plan through Objective 105.1 and Policy 105.1.3 regulates hardened structures along the natural shoreline.

(2) New or expanded seawalls are not allowed along natural waterbodies, including the Gulf of Mexico.

(3) Other hardened structures, including but not limited to geotextile tubes, groin, fencing and other similar structures, may be permitted along natural waterbodies, except along the Gulf of Mexico.

(4) Lawfully existing seawalls along natural waterbodies may be maintained or repaired and may be replaced with the same type structure, built to the same dimensions and in the same location as the previously existing structure.

(c) *Retaining walls.* Retaining walls must be setback a minimum of five feet from the mean high water line or landward of any wetland vegetation.

(d) *Riprap revetment.*

(1) Riprap must be located and placed so as not to damage or interfere with the growth of wetland vegetation.

(2) Material used for riprap should be sized properly for intended use, be a minimum average of 12 inches in diameter, and installed on top of filter fabric or equivalent material to prevent erosion of subgrade. Riprap must be clean and free of debris deemed harmful to the environment and public safety.

(3) Mangroves or other approved wetland vegetation must be planted three feet on center in compliance with section 26-77(b)(2) for added shoreline stabilization and ecological benefit within the riprap. Other wetland mitigation techniques may be considered in lieu of vegetation planting. No vegetation planting is required for riprap revetments constructed in artificial upland canals with a minimum of 50 percent of the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-76. Dredging; new and maintenance.

(a) All dredging limits must be clearly defined.

(b) Methods to control turbidity and dispose of dredging spoil must be indicated.

(c) Dredging that is permitted for commercial or multi-family projects must provide a bathymetric grid/survey of post dredging depth at no less than ten-foot intervals and be prepared, signed and sealed by a PSM or professional engineer prior to final inspection.

(d) Beach renourishment projects will not require a Lee County dredging permit.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-77. Turbidity; protection of vegetation.

(a) *Turbidity.* All structures must be placed so as to provide the least possible impact to aquatic or wetland vegetation. During work that will generate turbidity, turbidity screens must be installed and properly maintained until turbidity levels are reduced to normal (ambient) levels.

(b) *Protection of vegetation.*

(1) *Permit conditions.* Conditions for the protection of shoreline vegetation can be placed on permits issued in accordance with this article. The conditions can include: the method of designating and

protecting mangroves to remain after construction; and replacement planting for mangroves removed due to construction.

(2) *Mangrove replacement and plantings.*

a. For each mangrove removed due to construction, three mangroves must be replanted at an alternate location on the subject property. If planting on the subject property is not appropriate, alternative forms of mitigation, such as payment into a mitigation bank, may be allowed.

b. Mangrove plantings must be container grown, no less than one year old, eight inches in height and have a guaranteed 80 percent survivability rate for at least a five-year period. Mangrove plantings must be planted three feet on center. Mangrove replanting is required if the 80 percent survivability rate is not attained.

(3) *Mangrove removal.*

a. Mangrove removal in conjunction with construction of riprap revetments, seawalls, or retaining walls along natural waterbodies is prohibited.

b. Mangrove removal necessary for access walkway construction is limited to the minimum extent necessary to gain access to the dock facility. To the greatest extent possible, the access must be located to:

1. Use existing natural openings;

2. Use areas infested with invasive exotic vegetation;

3. Avoid larger mangroves; and

4. Provide a maximum width of four feet and a maximum height of eight feet above the level of the walkway base.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-78. Marina design and location.

Marina locations must be consistent with Lee Plan Objective 128.5 and all of its implementing policies, including the Manatee Protection Plan and Lee County Administrative Code 13-21. Marinas must be designed and constructed in a manner consistent with Lee Plan Objective 128.6 and all of its implementing policies.

(Ord. No. 96-17, § 4, 9-18-96; Ord. No. 07-24 , § 4, 8-14-07; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-79. Facility siting criteria.

The general screening process in the Manatee Protection Plan will be used to identify desirable locations for new marine facilities, as well as to evaluate the redesign and expansion of existing sites. The results of the screening process will also result in a determination of the maximum number of slips that may be approved at a requested location. The screening criteria are set forth in the Manatee Protection Plan and Lee County Administrative Code Section 13-21.

(Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-80. Transfer of (watercraft) slip credits (TSC).

(a) *Transfer of slips.* The Manatee Protection Plan provides for the transfer of (watercraft) slips when certain requirements are satisfied.

(b) *Director responsible.* The director of the division of natural resources, or his designee, will be responsible for approving the number of slips that may be recognized or transferred. The director, or his designee, will also be responsible for approving all transfers.

(c) *Appeal of director's decision.* Appeals from the decision of the director may be appealed to the Lee County Hearing Examiner in accord with the procedures set forth in chapter 34 for appeals of administrative decisions. The hearing examiner may grant the appeal only upon a finding that the applicable criteria in the Manatee Protection Plan have been met.

(d) *Credits from shorelines with legally existing docks.* The Manatee Protection Plan contains provisions that may give credit for the removal of legally existing docks.

(e) *Procedural rules for creating transfer (watercraft) slip credit under the Lee County Manatee Protection Plan.* Lee County Administrative Code Section 13-21 has been adopted to supplement and implement the transfer of (watercraft) slips pursuant to the provisions of the Manatee Protection Plan.

(Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-81. Beach/Dune Walkovers.

Walkovers must be constructed in a manner that minimizes disturbance to the dune and beach system and existing vegetation. Vegetation impacted during construction must be replaced with similar native vegetation suitable for beach and dune stabilization in compliance with section 14-178(b). The construction of dune walkovers may not occur during the marine turtle nesting season, May 1 through October 31.

(1) *Florida Department of Environmental Protection.*

a. Prior to issuance of a county permit, the applicant must provide a copy of the FDEP permit approval for the walkover.

b. The conditions and requirements set forth in this section are in addition to and supplement the FDEP permit guidelines.

(2) *General Design.*

a. The walkover must be constructed and located in existing natural openings, if available. The walkover must extend to the seaward edge of the existing line of vegetation and the terminal end must be perpendicular to the shoreline to prevent possible sea turtle entrapment.

b. Decks, platforms or lights are not permitted on beach/dune walkovers.

(3) *Design criteria for single-family developments.*

a. The maximum width of the walkover structure is four feet. Railings are limited to a handrail with no more than two center guard rails.

b. The posts for the walkover structure must be a maximum of four-inches in diameter and may not be encased in concrete.

(4) *Design criteria for multifamily/commercial developments.*

a. The maximum width of the walkover is six-feet. If more than one walkover is permitted, they must be spaced a minimum 100 feet apart.

b. The pilings for the walkover must be a maximum of six-inches in diameter.

(Ord. No. 09-23 , § 7, 6-23-09)

Secs. 26-82—26-110. Reserved.

ARTICLE III. MARINE SANITATION

Sec. 26-111. Purpose of article.

The purpose of this article is to protect the water quality and the health of the citizens of the county from pollution resulting from sewage and other waste or discharges from marine-related activities.

(Ord. No. 85-21, § 1, 7-10-85; Ord. No. 88-52, § 2, 10-19-88)

Sec. 26-112. Definitions.

The following words, terms and phrases, when used in this article, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved discharge device means a device that is listed by the United States Coast Guard as an approved marine sanitation device.

Boat includes every description of vessel, watercraft or other artificial contrivance used, or capable of use as a means of transportation, as a mode of habitation or as a place of business or professional or social association on waters of the county, including but not limited to:

(1) Foreign and domestic watercraft engaged in commerce;

(2) Passenger or other cargo-carrying watercraft;

(3) Privately owned recreational watercraft;

(4) Airboats and seaplanes; and

(5) Houseboats or other floating homes.

Department means the county health department.

Live-aboard means use of a boat as a living unit for temporary or permanent human habitation; or any boat or vessel represented as a place of business, a professional or other commercial enterprise, or a legal residence. To be a legal live-aboard for purposes of this article, a boat must contain sleeping facilities, kitchen facilities and an approved discharge device. A commercial fishing boat is expressly excluded from the term "live-aboard" in accordance with F.S. ch. 327, as amended or replaced.

Marina. For purposes of this article only:

(1) Class I marina means any place allowing for the mooring of boats for nonlive-aboard purposes.

(2) Class II marina means any place allowing for the mooring of boats for live-aboard purposes.

Moor means to secure a vessel with lines.

(Ord. No. 85-21, § 2, 7-10-85; Ord. No. 09-23 , § 7, 6-23-09)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 26-113. Penalty for violation of article; injunctive relief.

Persons convicted of violating the provisions of this article will be subject to punishment as provided in section 1-5. Each day that a violation is committed or permitted to continue constitutes a separate offense and will be punishable under this section. In addition to such penalties, the Board of County Commissioners or any affected party may bring injunctive action to enjoin violations of this article.

(Ord. No. 85-21, § 6, 7-10-85; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-114. Applicability of article.

This article applies to waters of the unincorporated areas of the county and will be operative to the extent that it is not in conflict with F.S. ch. 327 or any other state or federal regulation.

(Ord. No. 85-21, §§ 7, 8, 7-10-85; Ord. No. 09-23 , § 7, 6-23-09)

Sec. 26-115. Discharge of waste material prohibited.

It is unlawful for any person to discharge or permit or control or command to discharge any raw sewage, garbage, trash or other waste material into the waters of the county.

(Ord. No. 85-21, § 5, 7-10-85)

Sec. 26-116. Marina sanitation facilities.

(a) Marinas that provide mooring of boats for live-aboard purposes with installed onboard sewer systems not designed and approved for overboard discharge must have:

  (1) Public restrooms with facilities for sewage disposal and bathing.

  (2) A county approved sewage disposal system to accommodate pump out by all live-aboard vessels.

(b) Overboard disposal of refuse is prohibited.

(c) All garbage must be collected at least once a week and transported in covered vehicles or covered containers. Burning of refuse in the marina is prohibited.

(Ord. No. 85-21, § 4, 7-10-85; Ord. No. 09-23 , § 7, 6-23-09)

Cross reference— Zoning regulations pertaining to marine facilities, § 34-1861 et seq.

Chapters 27—29 RESERVED

Chapter 30 SIGNS [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

ARTICLE III. - MEASUREMENT; CONSTRUCTION AND MAINTENANCE STANDARDS

ARTICLE IV. - RESTRICTIONS BASED ON LOCATION

ARTICLE V. - CAPTIVA ISLAND

ARTICLE VI. - RESERVED

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 6; zoning, ch. 34. (Back)

ARTICLE I. IN GENERAL

Sec. 30-1. Purpose and intent of chapter.

(a) *Generally.* The purpose and intent of this chapter is to:

(1) Facilitate the implementation of goals, objectives and policies set forth in the county 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 county.

(3) Encourage signs which help to visually organize the activities of the county, 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 county 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 county 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 his neighbor.

(e) *Use.* With the stated purpose in mind, it is the intention of this chapter to authorize the use of signs in commercial and 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 commercial and 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.

(Ord. No. 85-26, § 1, 8-21-85)

Sec. 30-2. Definitions and rules of construction.

(a) In case of any difference of meaning or implication between the text of this chapter and any other law or regulation, this chapter controls.

(b) The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Abandoned sign means a sign which no longer correctly directs or exhorts any person or advertises a bona fide business, lessor, owner, product or activity conducted or available on the premises indicated on the sign.

Advertising message means that copy on a sign describing commodities, products or services being offered to the public.

Animated sign means a sign composed of moving parts or lights or lighting devices that change color, flash, alternate illumination, show motion, movement or otherwise change the appearance of the sign. Animated signs do not include electronic changing message centers or revolving signs as defined in this section.

Announcement sign means a temporary sign announcing a project to be under construction or an intended use of the premises.

Area of sign. Refer to section 30-91, pertaining to measurement of sign area.

Awning means a roof-like cover, made of cloth, canvas or other similar material, that projects from the wall of a building for the purpose of shielding a doorway or window from the elements. See also *Canopy* and *Marquee*.

Awning sign means a sign placed or installed on the hanging border or other area of an awning. See section 30-6(1)a.

Banner means any sign, other than an official flag, made of cloth, paper or fabric of any kind and suspended by one or more strings or ropes, which is used to attract attention, whether or not imprinted with words or characters. See *Pennant*.

Beacon light means any light with one or more beams, capable of being directed in any direction, or capable of being revolved automatically, or having any part thereof capable of being revolved automatically; or a fixed or flashing high-intensity light.

Bench sign means signs which are attached to benches that are placed on or along public rights-of-way and are off-site advertising signs.

Billboard means outdoor advertising signs erected or maintained upon which advertising messages may be displayed and which advertise firms and organizations that, along with their goods, products or services, are not located on the same premises as the sign, and whose surface is sold, rented, owned or leased for the display of advertising material.

Building face or wall. See *Facade*.

Building official means the administrative director of the division of community development, or his designated representative.

Bulletin board means a sign which identifies an institution or organization on the premises on which it is located and which contains the names of individuals connected with it and general announcements of events or activities occurring at the institution or similar messages. It shall not be interpreted to include movie theaters or other similar commercial activities.

Bus shelter sign means signs that are attached or placed within approved bus shelters located on or along public rights-of-way. Bus shelter signs are off-site advertising signs.

Business affiliation sign means signs displayed upon the premises denoting professional and trade associations with which the occupant is affiliated, including each credit card accepted by the occupant.

Business information sign means signs providing information to customers such as the business hours and telephone number, and "open" or "closed," "shirts and shoes required," "no soliciting" or "no loitering" signs.

Canopy means a permanent roof-like shelter open on four sides, to protect an area from the elements, such as over gasoline pumps.

Canopy sign means any permanent sign attached to or constructed in or on a canopy.

Changeable copy sign (manual) means a sign on which copy is changed manually in the field, i.e., reader boards with changeable letters or changeable pictorial panels.

Changing sign (automatic). See *Electronic changing message center*.

Commercial advertising sign means any structure, poster board, bulletin board, neon sign, screen, surface or wall with characters, letters or illustrations affixed thereto, thereon or thereunder, by any method or means whatsoever, where the matter displayed would be used for the purpose of publicly advertising the legal or exact firm or organization name or the name of the business carried on therein or thereat, or for advertising any service or product actually and actively being offered for sale therein or thereon.

Construction sign means a sign erected at a building site that displays the name of the project and identifies the owner, architect, engineer, general contractor, financial institutions and other firms involved with the design or construction of the project.

Copy (permanent and temporary) means the wording on a sign surface, either in permanent or removable letter form.

Copy area means the entire area within a single continuous perimeter composed of squares or rectangles which enclose the extreme limits of the advertising message, announcement or decoration on a facade or wall sign.

County means the unincorporated areas within Lee County.

Development sign means a sign designed and intended to advertise and promote the sale or rental or lease of lots or homes in any residential development, and also in commercial areas for sale or rental or lease of units in the development.

Directional sign means any sign which serves solely to designate the location of or direction to any place or area.

Directory sign means any sign which gives the name, address or occupation of persons or businesses located on the premises.

Double-faced sign means a single plane with items of information identical on both sides and mounted as a single structure.

Double-tier billboard means two billboards that are stacked one above the other so that one is higher than the other and both are visible in the same direction.

Electronic changing message center means a sign, such as an electronically or electrically controlled public service time, temperature and date sign, message center or reader board, where different copy changes of a public service or commercial nature are shown on the same lampbank.

Emitting sign means any sign designed to emit visible smoke, vapor, particles or odor, or which produce noise or sounds capable of being heard, even though the sounds produced are not understandable sounds.

Erect means to build, construct, attach, hang, place, suspend or affix, and shall include the painting of wall signs.

Facade means the face of a building most nearly parallel with the right-of-way line under consideration. Facade includes the area of the building between principal front building corners from the ground to the roofline.

Face of sign means the entire area of a sign on which copy could be placed.

Figure-structured sign means a sign sculptured, inflated or otherwise constructed in the caricature or shape of an animal (including human beings) or vegetable, whether fictional or real, which is used to attract or draw attention to a business or commercial establishment.

Flash means an entry or exit mode in an electronic changing message center with any single frame that repeats two or more times consecutively without change.

Flashing sign means a sign or any part thereof that contains an intermittent or flashing light source, or that includes the illusion of intermittent or flashing light by means of animation or an externally mounted

intermittent light source. Automatic changing signs, such as a public service time, temperature and date signs or electronically controlled message centers, are classed as changing signs, not flashing signs.

Frontage means the distance measured along a public street right-of-way or a private street easement between the points of intersection of the side lot lines with the right-of-way or easement line.

Government sign means any sign erected and maintained pursuant to and in discharge of any governmental function, or required by law, ordinance or other governmental regulation.

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and described in section 33-1002.

Ground or ground-mounted sign means any sign or other street graphic which is mounted on or supported by uprights or braces in or upon the ground, with such uprights or braces being in close proximity and directly attached in or upon the ground and independent of support of any building, fence or a wall of an accessory building or structure.

Hearing board means that board appointed by the Board of County Commissioners to hear matters pertaining to this chapter.

Height of sign. See section 30-92, pertaining to measurement of sign height.

Identification sign means any sign where the matter displayed is used only to indicate the name, address, number of building or character of the primary land use.

Illuminated sign means any sign which is illuminated by artificial light, either from an interior or exterior source, including outline, reflective or phosphorescent light, whether or not the source of light is directly affixed as part of the sign.

Individual letter sign means any sign made of self-contained letters that are mounted on the face of a building.

Instructional sign means a sign located entirely on the property to which it pertains and which is intended to provide direction to pedestrians or vehicular traffic or to control parking on private property. Examples include "entrance" signs, "exit" signs, "one-way" signs, "pedestrian walk" signs, " disabled parking" signs, etc.

Interstate highway interchange area sign means on-site signage visible from interstate highways providing travelers with identification of the following services: fuel, food, lodging, camping and repair.

Licensed contractor means a person holding a valid contractor's license class A or B issued to him by the county construction board.

Maintain means to preserve from decline, keep in an existing state or retain in possession or control.

Marquee means any board or other permanent roof-like structure which projects from a wall of a building, usually above an entrance. See *Awning* and *Canopy*.

Marquee sign means a sign mounted, painted or attached to a marquee.

Motion picture sign means a sign capable of displaying moving pictures or images in conjunction with an outdoor advertising structure, accessory sign or advertising statuary visible from any public street or sidewalk.

Multiple-occupancy complex means a parcel of property under one ownership or singular control, or developed as a unified or coordinated project, with a building or buildings housing more than one occupant conducting a business operation of any kind.

Neon sign means any sign formed by luminous or gaseous tubes in any configuration.

Off-site sign means any sign relating in its subject matter to commodities, products, accommodations, services or activities on premises other than the premises on which the sign is located.

On-site sign means any sign relating in its subject matter to the commodities, products, accommodations, services or activities on the premises on which it is located.

Pennant means any flag-like piece of cloth, plastic or paper attached to any staff, cord, building or other structure at only one or two edges, with the remainder hanging loosely.

Plane means any surface capable of carrying items of information, such as a rectangle, square, triangle, circle or sphere; or any area enclosed by an imaginary line describing a rectangle, square, triangle or circle, which includes freestanding letters, numbers or symbols.

Polyester film window graphics means graphic presentations applied to windows and created by applying combinations of dyed, metalized, translucent and near-opaque polyester films in overlapping layers, resulting in a reflective poster-like display in daylight and a back-lit display at night, when normal interior room lighting is on. Polyester film window graphics may include lettering, logos, picture images, decorative borders and back-up films.

Portable sign means any mobile or portable sign or sign structure that is not permanently attached to the ground or to any other structure. This definition includes trailer signs, A-frame signs, sandwich signs, beacon lights, balloon signs, and vehicles whose primary purpose is advertising.

Posted property sign means signs used to indicate "no trespassing," "beware of dog," "no dumping" and other similar warnings.

Premises means any property owned, leased or controlled by the person actively engaged in business and so connected with the business as to form a contiguous component or integral part of it; or owned, leased or controlled by a person for living accommodations.

Professional nameplate means an identification sign bearing only the name, address and the occupation of the occupant.

Projecting sign means any sign which is affixed to any building wall or structure and extends more than 12 inches horizontally from the plane of the building wall.

Promotional sign means a sign posted by civic clubs or other nonprofit organizations to advertise a special event such as a bazaar, dance, art show, craft show, etc.

Public body means any government or governmental agency of the United States, the state or the county.

Real estate sign means any structure, device, display board, screen, surface or wall, with characters, letters or illustrations placed thereto, thereon or thereunder, by any method or means whatsoever, where the matter displayed shall be used solely for the purpose of offering for sale or lease, or for rent, the exact property upon which the sign is placed.

Replacing means rebuilding, enlarging or any change in size or structure other than repainting and repair to electrical apparatus or repairing parts thereof for maintenance purposes.

Residential nameplate means an identification sign bearing only property numbers, street addresses, mailbox numbers, estate names or names of the occupants of the premises.

Revolving sign means any sign so erected or constructed as to periodically display different copy changes through the revolving of face panels, provided that the changes shall occur not more than four times in any 60-second period of time.

Roof sign means any sign or other street graphic erected or constructed and maintained on the roof covering above the eaves of a building. Signs placed flat against the steep slope portion of a mansard roof will not be considered roof signs.

Sandwich sign means a sandwich sign, "A" sign or other types of portable signs, single- or double-faced, which are portable and readily movable from place to place.

Seawall sign means any sign with characters, letters, figures, designs or outlines painted on the face of the bulkhead or seawall.

Semipublic body includes churches and civic and other organizations operating in the county as nonprofit organizations serving a public purpose or service.

Shopping center. See *Multiple-occupancy complex*.

Sign means any object, device, display or structure, or part thereof, consisting of letters (foreign or domestic), numbers, symbols, pictures, illustrations, announcements, cutouts, insignia, trademarks or demonstrations, including all trim and borders, designed to advertise, inform or identify, or to attract the attention of persons not on the premises on which the device or display is located, and visible from any public way.

Sign structure means any structure which supports, has supported or is capable of supporting a sign, including a decorative cover.

Snipe sign means a sign of any material, including paper, cardboard, wood and metal, when tacked, nailed or attached in any way to trees, telephone poles or other objects where such sign may or may not apply to the premises. This definition includes cardboard signs on sticks.

Statutory graphic means graphics required by a law of the county, the state or the United States government.

Swinging sign means a sign, installed on an arm or spar, that is not, in addition, permanently fastened to an adjacent wall or upright pole.

Twinkle means an entry or exit mode in an electronic changing message center with a frame that has stationary text, and where lamps or pixels appear to twinkle on and off randomly.

Under-canopy or under-marquee sign means a sign suspended below the ceiling of a canopy or marquee.

Vision triangle means a triangular-shaped portion of land established at street intersections or street and driveway intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Wall-mounted sign means any sign mounted on and approximately parallel to the face of the building wall and projecting not more than 12 inches from the plane of the wall. Signs on the outside of a window are considered wall-mounted signs.

Window sign means a sign mounted inside of a window for display to the public passersby outside the window.

Zoom means an entry or exit mode in an electronic changing message center with a frame that starts by bringing the text on from the center in an explosion type mode.

(Ord. No. 85-26, § 2, 8-21-85; Ord. No. 88-12, §§ 2, 3, 3-22-88; Ord. No. 90-27, § 2, 5-16-90; Ord. No. 97-10, § 5, 6-10-97; Ord. No. 98-03, § 4, 1-13-98; Ord. No. 98-28, § 4, 12-8-98; Ord. No. 99-05, § 8, 6-29-99; Ord. No. 01-03, § 4, 2-27-01; Ord. No. 01-18, § 4, 11-13-01; Ord. No. 07-19 , § 4, 5-29-07; Ord. No. 09-23 , § 8, 6-23-09)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 30-3. Violation of chapter; penalty.

(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 section 1-5

(b) In addition to the criminal penalties and enforcement procedures provided in subsection (a) of this section, the violation of any of the regulations, restrictions and limitations promulgated under the provisions of this chapter 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 Board of County Commissioners, by any citizen of the county 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.

(Ord. No. 85-26, § 10, 8-21-85)

Sec. 30-4. Applicability of chapter.

(a) *Generally.* Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the county, or cause such work to be done, without first obtaining a sign permit for each such sign from the building official as required by this chapter.

(b) *Exceptions.*

(1) This chapter does not apply to signs erected by the federal, state or county government or to the placement of 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 department of transportation. The temporary sign may not exceed eight square feet in area.

(2) The following operations are not considered as creating a sign insofar as requiring the issuance of a sign permit, but such signs must be in conformance with all other building, sign, structural and electrical codes and regulations of the county:

a. *Change of copy.* Changing of the advertising copy of a message on an existing approved changeable copy sign, whether electrical, illuminated, electronic changing message center or nonilluminated message, which are specifically designed for the use of replaceable copy. A change of copy for a billboard shall not require a permit.

b. *Maintenance:* Painting, repainting, cleaning or other normal maintenance and a repair of a sign not involving change of copy, structural or electrical changes. Replacement of the plastic face of a sign or polyester film window graphics are not exempt from this chapter.

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

(3) This chapter does not apply to

a. Holiday and community banners located on light poles;

b. Community identifications signs located within the right-of-way when approved by the Lee County Department of Transportation;

c. Tourist Oriented Directional Signs (TODS) as regulated by AC 11-18; or

d. Specific Services Sign Programs regulated by AC 11-16.

(Ord. No. 85-26, § 3, 8-21-85; Ord. No. 88-12, §§ 4—6, 3-22-88; Ord. No. 90-27, § 3, 5-16-90; Ord. No. 98-03, § 4, 1-13-98; Ord. No. 99-05, § 8, 6-29-99; Ord. No. 07-24 , § 5, 8-14-07; Ord. No. 09-23 , § 8, 6-23-09)

Sec. 30-5. Prohibited signs.

The only commercial advertising signs permitted in the county, are those expressly authorized by the provisions of this chapter. The following types of signs are prohibited, but this enumeration does not limit the general prohibition set forth in this subsection:

(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 chapter, or does not meet the requirements of applicable county, 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 streets or in any street right-of-way in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape or color, the sign may interfere with or obstruct the view of any authorized traffic sign, signal or device; or which 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 as defined in this chapter.

(5) Animated signs as defined in this chapter, except where allowed by sections 30-6 or 30-151(7).

(6) Emitting signs as defined in this chapter, except where allowed by sections 30-6 or 30-151(7).

(7) Balloons, including all inflatable air signs or other temporary signs that are inflated with air, helium or other gaseous elements, except where allowed by sections 30-6 or 30-151(7).

(8) Banners, pennants or other flying paraphernalia, except an official federal, state or county flag, and one symbolic flag not to exceed 15 square feet in area for each institution or business, or except where allowed by sections 30-6 or 30-151(7).

(9) Bench signs, except as permitted in section 30-182

(10) Billboards, except as permitted in section 30-183

(11) Bus shelter signs, except as permitted in section 30-182

(12) Changing sign (automatic): off-site and on-site in residential areas only.

(13) Figure-structured signs as defined in this chapter, except where allowed by sections 30-6 or 30-151(7).

(14) Motion picture signs.

(15) Parking of advertising vehicles.

(16) Portable signs, except as permitted in sections 30-6 or 30-151(1)b.

(17) Projecting signs as defined in this chapter.

(18) Roof signs as defined in this chapter.

(19) Signs with any lighting or control mechanism which causes radio or television or other communication interference.

(20) 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.

(21) Signs, except "posted property" signs, which are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(22) 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 street or public street, except as may otherwise expressly be authorized by this chapter.

(23) Snipe signs as defined in this chapter.

(24) Unshielded illuminated devices that produce glare or are a hazard or a nuisance to motorists or occupants of adjacent properties.

(25) 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.

(Ord. No. 85-26, § 3, 8-21-85; Ord. No. 88-12, §§ 4—6, 3-22-88; Ord. No. 90-27, § 3, 5-16-90; Ord. No. 97-10, § 5, 6-10-97; Ord. No. 98-28, § 4, 12-8-98; Ord. No. 99-05, § 8, 6-29-99; Ord. No. 01-18, § 4, 11-13-01)

Sec. 30-6. Permitted signs.

Permitted signs are classified into three categories: signs not requiring a permit, signs requiring a sign location permit only, and signs requiring a sign construction permit.

(1) *Signs not requiring permit.*

a. *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 county 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, provided that any sign emblem, insignia or other such similar item must comply with other provisions of this chapter.

b. *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.

c. *Business information signs.* Business information signs, provided that such signs are posted on the entrance doors or within a window.

d. *Flags or insignias of governmental or nonprofit organizations.* Flags or insignias of a governmental, religious, charitable or fraternal organization, except when displayed in connection with a commercial promotion.

e. *Garage sale signs.* Garage sale signs, provided they are erected not more than 24 hours prior to the sale and are removed within 72 hours of the time they were erected.

f. *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 service or safety which are erected by or on the order of a public officer in the performance of his public duty.

g. *Christmas and Hanukkah decorations.* Signs of a primarily decorative nature, clearly incidental and customary and commonly associated with the Christmas and Hanukkah holidays, may be displayed no more than 45 calendar days prior to and 15 calendar days after the nationally recognized holiday.

Christmas and Hanukkah decorations may be of any type (not otherwise prohibited by section 30-5), provided:

1. The decorations contain no advertising (other than the name of the business); and

2. 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 chapter 34, section 34-3131

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

i. *Interior signs.* Signs located within the interior of any building or stadium, 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. This does not, however, exempt such signs from the structural, electrical or material specifications as set out in this Land Development Code and the Standard Building Code.

j. *Legal notices.* Legal notices and official instruments.

k. *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.

l. *Residential nameplates* not exceeding 2.25 square feet in area.

m. *Political signs.* Political or campaign signs, provided they do not exceed four square feet in area. For larger signs, refer to section 30-151(4).

n. *Posted property signs.* Posted property signs, not to exceed one and one-half square feet in area per sign and not exceeding four in number per lot, except that special permission may be obtained from the building official for additional signs under proven special circumstances. Such signs must not be illuminated, and they must not project over any public right-of-way.

o. *Professional nameplates.* Professional nameplates not exceeding two square feet in area.

p. *Promotional signs.* Promotional signs, not exceeding four square feet in area, provided that such signs are posted only during such drive or no more than 45 days before the event and are removed no more than ten days after an event. See subsection (2) of this section.

q. *Public information signs.* Any sign used for public information or direction erected either by or at the direction of a public body.

r. *Real estate, open house and model signs.* Real estate, open house and model signs, subject to section 30-151(6).

s. *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.

t. *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, provided that no such symbol, plaque or identification emblem may exceed four square feet in area.

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

v. *Waterway signs.* Directional signs along inland waterways.

w. *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 laws or regulations of agencies thereof, business information signs, and business affiliation signs

are excluded from the computation of the sign area limitations and restrictions specified in section 30-153(1).

(2) *Signs requiring sign location permit only.* The following types of signs are allowed upon application for and issuance of a sign location permit (see section 30-54(b)), provided they are nonilluminated signs or the illumination is from a previously approved source, the sign does not come under the requirements specified in subsection (3) of this section for construction permits, and all other provisions of this chapter are met:

a. Announcement signs, see section 30-151(1).

b. Bench signs, see section 30-182

c. Bus shelter signs, see section 30-182

d. Construction signs, see section 30-151(2).

e. Development signs, see section 30-151(3).

f. Directory signs (on-site only), see section 30-152(4).

g. Identification signs, see sections 30-152 and 30-153

h. Promotional signs, see section 30-151(5).

i. Wall-mounted signs, see section 30-153(3)d.

(3) *Signs requiring sign construction permit.* No sign that meets or exceeds one or more of the following criteria may be erected prior to issuance of a sign construction permit in accordance with section 30-54(c):

a. Any sign, including balloons, exceeding ten feet in height.

b. Any sign exceeding 32 square feet in area.

c. Any illuminated or electrically operated sign, including portable signs, if the source of the illumination or electricity has not been previously approved.

d. Any sign, other than a painted sign, attached to a wall or marquee.

e. Any billboard.

(Ord. No. 85-26, § 3, 8-21-85; Ord. No. 88-12, §§ 4—6, 3-22-88; Ord. No. 90-27, § 3, 5-16-90; Ord. No. 98-28, § 4, 12-8-98; Ord. No. 01-03, § 4, 2-27-01; Ord. No. 01-18, § 4, 11-13-01)

Sec. 30-7. Parking of advertising vehicles.

(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, which has attached thereto or located thereon any sign or 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 section 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 street or right-of-way for advertising or commercial purposes shall be deemed to be prohibited by this section.

(Ord. No. 85-26, § 3, 8-21-85; Ord. No. 88-12, §§ 4—6, 3-22-88; Ord. No. 90-27, § 3, 5-16-90)

Sec. 30-8. Removal of unlawful or dangerous signs.

All signs and sign structures which are or have been erected or maintained unlawfully will be considered illegal and subject to the following removal procedures:

(1) *Banners, promotional signs, sidewalk or sandwich signs, snipe signs and special event signs.*

a. The Board of County Commissioners 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 hereby authorized summarily to remove such signs when unlawfully erected and maintained, subject to the provisions contained in subsection (2) of this section.

b. After summary removal of a sign pursuant to 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 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 County. If the sign is removed from public property no notice is required. The County will dispose of all unclaimed signs after the expiration of the 30-day period.

(2) *Other unlawful signs.* Signs which are or have been erected or maintained unlawfully but do not fall under the provisions set forth in subsection (1) of this section shall be subject to the following procedures:

a. The building official shall prepare a notice which shall describe the sign and specify the violation involved, and which shall state 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 section.

b. All notices mailed by the building official shall be sent by certified mail, return receipt requested. Any time periods provided in this section shall be deemed to commence on the date of the receipt of the certified mail.

c. 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 the occupant of the property are known, or with reasonable care should be known, the notice shall be mailed to or delivered to the owner of the sign and the occupant of the property.

d. Failing determination of the sign owner or user or owner of the property on which the sign is located, the notice may be affixed in a conspicuous place to the sign or to the business premises with which the sign is associated. The building official shall require new sign permits 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 county's copy of the permit application.

e. Any person having an interest in the sign or the property may appeal the determination of the administrator ordering removal or compliance by filing a written notice of appeal with the county within 15 days after the date of receiving the notice.

f. 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 (4) of this section.

(3) *Emergency work.* When it is determined by the building official that a sign would cause an imminent danger to the public safety, and contact cannot be made with a sign owner or building owner, no written notice shall have to be served. In this emergency situation, the building official may correct the danger, with all costs being assessed against the property owner.

(4) *Assessment of costs.*

a. As soon after the offending condition is corrected or removed by the building official and the expense thereof can be finally 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 of such persons, informing the person of the sums due the county.

b. If such sums are not paid within 45 days, the Board of County Commissioners shall, by resolution, levy a special assessment lien in the amount of all sums due the county, 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.

c. Liens shall be recorded in the official records of the county and shall remain in full force and effect until finally paid. The Board of County Commissioners shall furnish releases of the subject lien upon proper satisfaction having been made. The lien may be enforced in the manner provided by the general law of the state for the enforcement of liens or the foreclosure of mortgages.

(Ord. No. 85-26, § 9, 8-21-85; Ord. No. 13-10 , § 7, 5-28-13)

Secs. 30-9—30-50. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 30-51. Compliance with chapter.

No sign or sign structure shall hereafter be erected, constructed, reconstructed, altered or relocated except in conformity with the provisions of this chapter.

(1) No person shall erect on any premises owned or controlled by him any sign which does not comply with the provisions of this chapter.

(2) No person shall maintain or permit to be maintained on any premises owned or controlled by him any sign which is in a dangerous or defective condition. Any such sign shall be removed or

repaired by the owner of the sign or the owner of the premises, or as otherwise provided for in this chapter.

(Ord. No. 85-26, § 7, 8-21-85; Ord. No. 88-33, § 3, 7-20-88)

Sec. 30-52. Powers and duties of building official.

(a) *Generally.* The county building official is hereby authorized and directed to administer and enforce the regulations and procedures set forth in this chapter. The building official is further empowered to delegate the duties and powers granted to and imposed upon him under this chapter.

(b) *Specific powers and duties.*

(1) *Issuance or denial of permits and certificates.*

a. It shall be the duty of the building official, upon receipt of a completed application for a sign permit, to examine such plans and specifications and other data and, if the proposed structure is in compliance with the requirements of this section and all other applicable provisions of this chapter, to issue to the applicant a written permit evidencing the applicant's compliance therewith. Issuance of the permit shall in no way prevent the building official from later declaring the sign to be illegal if, upon further review of the information submitted with the application or of newly acquired information, the sign is found not to comply with the requirements of this chapter.

b. No sign permit or certificate of compliance shall be issued by the building official except in compliance with this chapter and any other applicable ordinances and laws, decisions of the zoning board, board of adjustments, construction board or Board of County Commissioners, or court decisions.

(2) *Revocation of permits and certificates.* The building official may revoke a sign permit or certificate of compliance in those cases where an administrative determination has been duly made that false statements or misrepresentations existed as to material facts in the application or plans upon which the permit of approval was based.

(3) *Suspension of permits and certificates.* The building official may suspend a sign permit or certificate of compliance where an administrative determination has been duly made that an error or omission on the part of either the permit applicant or a government agency existed in the issuance of the permit or certificate. A new permit or certificate shall be issued in place of the incorrect permit or certificate after correction of the error or omission.

(4) *Cease and desist orders.* The building official shall have the authority to issue cease and desist orders in the form of written official notices given to any person.

(5) *Complaints.*

a. Complaints on any violations of this chapter shall be filed with the building official.

b. Upon inspection, where it is found that any sign or sign structure is in violation of this chapter, the building official should take the appropriate action as set forth in section 30-8

(Ord. No. 85-26, § 7, 8-21-85; Ord. No. 88-33, § 3, 7-20-88)

Sec. 30-53. Variances.

Except as prohibited by sections 30-153(5)e. and 30-183(11) requests for variances from the terms of this chapter will be administered and decided in conformance with the requirements for variances set forth in chapter 34.

(Ord. No. 85-26, § 7, 8-21-85; Ord. No. 88-33, § 3, 7-20-88; Ord. No. 97-10, § 5, 6-10-97; Ord. No. 00-14, § 4, 6-27-00)

Sec. 30-54. Permits; inspection.

(a) *Sign permit required; modifications.*

(1) Except as otherwise provided for in this chapter, it is unlawful for any person to erect, construct, replace, enlarge, move or convert any sign in the county, or cause such work to be done, without first obtaining a sign permit for each sign from the building official.

(2) Any sign which has been removed from its supports for the purpose of reconditioning must obtain a reconditioning permit prior to reinstallation.

(3) When a sign permit has been issued, it is unlawful to change, modify, alter or otherwise deviate from the terms or conditions of the permit without prior approval of the building official. A written record of such approval will be entered upon the original permit application and maintained in the files of the building official. All such approvals must be consistent with the terms of this chapter.

(b) *Application for sign permit.* In order to obtain a permit to erect, alter or relocate any sign under the provisions of this chapter, an applicant therefor must submit to the building official a sign permit application, which must include:

(1) A completed application form containing but not limited to:

a. The name, address and telephone number of the applicant.

b. The name, address and telephone number of the person constructing the sign, as well as the name, address and telephone number of the owner of the sign.

c. For off-site signs only, the name, address, telephone number and signature of the fee owner of the property granting permission for the construction, operation, maintenance or displaying of the sign or sign structure, including:

1. Proof of ownership of the property upon which the sign is to be erected; and

2. If the applicant is not the fee owner of the property, then a copy of the executed lease or agreement between the fee owner of the property and the applicant, specifically authorizing the erection of an off-site sign on the subject parcel; or

3. A signed statement from the fee owner of the subject property granting permission for the erection of an off-site sign and recognizing that a lien may be filed against the subject property if the sign is required to be removed for violation of this chapter.

d. For off-site bench signs, in addition to the requirements of subsection (b)(1)c of this section, a statement signed by the county engineer approving the location.

e. Information as to the type of sign to be erected, e.g., ground-mounted, projecting, wall sign, illuminated or nonilluminated, temporary or permanent.

f. The approximate value of the sign to be installed, including the installation cost.

(2) A site location plan including the following:

a. Location by street number and legal description (tract, block and lot) of the building, structure or lot to which or upon which the sign is to be installed or affixed.

b. A fully dimensioned plot plan, to scale, indicating the location of the sign relative to property lines, rights-of-way, streets, easements, sidewalks and other buildings or structures on the premises, as well as the location, size and type of any other existing signs whose construction requires a sign permit, when such signs are on the same premises.

(3) *Bond or other security for certain type signs.* The board of county commissioners will adopt a bond or other security schedule for certain type signs requiring a bond or other security as specified in this chapter. Such signs include but are not limited to:

a. Political signs.

b. Certain temporary signs. If the signs are not removed within the specified time period, the signs will be removed by the county and the bond will be forfeited.

(4) *Application fee.* Applications for a permit to erect, construct, alter or extend a sign or sign structure must be accompanied by a fee in the amount to be established by the Board of County Commissioners in a schedule of fees.

(5) Such other information as the building official may require which is necessary to secure full compliance with this chapter, the Southern Building Code and any other applicable ordinance.

(c) *Construction permit.* The following requirements will apply for any sign requiring a construction permit as specified in section 30-6(3):

(1) All information required for site location permits.

(2) Construction plans showing the following:

a. A drawing to scale showing the design of the sign, including dimensions, sign size, method of attachment and source of illumination, and showing the relationship to any building or structure to which it is or is proposed to be installed or affixed, or to which it relates.

b. Plans indicating the scope and structural detail of the work to be done, including details of all connections, supports and footings and materials to be used.

c. A copy of stress sheets and calculations indicating that the sign is properly designed for dead load and wind pressure in any direction, if required by the building official.

d. A listing of all materials to be utilized in the construction of the sign, or, in the alternative, a statement that all materials are in compliance with the Southern Standard Building Code.

(3) In addition to the submittal documents required in subsections (c)(1) and (2) of this section, the following documents, as applicable:

a. An application, and required information for such application, for an electric permit for all electric signs, if the sign is to be illuminated. All electrical work must be UL-approved or installed by a licensed electrician.

b. Certification by a registered engineer. Plans for the following signs must be signed and certified by a Florida registered engineer, who must submit sufficient data to enable the building official to determine whether the sign complies with this chapter:

1. Off-site signs or ground signs over 40 square feet in area, or over 20 feet in height.

2. All signs with unusual structural features.

c. *Sign contractor's license.* Certain types of signs are required to be installed or erected only by a licensed contractor. No person may perform any work or service in connection with the erection, construction, enlargement, alteration, repair, moving, improvement, maintenance, conversion or manufacture of any such sign in the county unless such person must first have obtained a contractor's license class A or B from the building official and paid the license fees provided by the county, or must be represented by a duly licensed agent or subcontractor. All persons engaged in the business of installing or maintaining signs involving, in whole or part, the erection, alteration, relocation or maintenance of a sign or other sign work in or over or immediately adjacent to a public right-of-way or public property so that a portion of the public right-of-way or public property is used or encroached upon by the sign installer must agree to hold harmless and indemnify the county and its officers,

agents and employees from any and all claims of negligence resulting from the erection, alteration, relocation or maintenance of a sign or other sign work insofar as this chapter has not specifically directed the placement of a sign.

(d) *Expiration of sign permit.* A sign permit will expire and become null and void six months from the date of issuance, except that it may be extended for good cause by the building official.

(e) *Inspections.* All signs for which a permit is required by this chapter are subject to inspection by the building official. Failure to obtain a final satisfactory inspection within the permit period or any renewal will render the permit invalid, and the applicant will be required to reapply for a permit or remove the sign or sign structure.

(f) *Identification number.* All signs and sign structures required to have a permit must display the permit number on the sign or sign structure in a manner clearly visible from the street right-of-way. The absence of the permit number will be prima facie evidence that the sign or advertising structure is being operated in violation of this chapter.

(Ord. No. 85-26, § 7, 8-21-85; Ord. No. 88-33, § 3, 7-20-88; Ord. No. 01-18, § 4, 11-13-01)

Sec. 30-55. Nonconforming signs.

(a) *Status.* 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.

(1) A nonconforming sign may not be enlarged or altered in a way which increases its nonconformity.

(2) Nothing in this section 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 the provisions of this chapter regarding safety, maintenance and repair of signs. Any repair or refurbishing of a 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. It shall be the responsibility of the permittee to provide the division of community development with adequate proof of the cost of such work in the form of an itemized statement of the direct repair cost, whenever such information is requested by the division.

(3) 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 upon full compliance with this chapter.

(4) A replacement billboard structure may be rebuilt in its present location provided that the structure is in compliance with the following conditions:

a. Pursuant to the application for replacement, two legal nonconforming billboard structures shall be removed in exchange for the right to reconstruct one replacement billboard structure.

b. One of the structures which is to be removed must be located on the same site as the replacement billboard structure. If only one structure is located on the site of the replacement sign, another nonconforming billboard structure must be removed from another location within the unincorporated area of the county.

c. The replacement billboard structure must meet all current county height, size and setback requirements.

d. The land use category in which the replacement sign is to be erected must be the less restrictive of the two land use categories where the two removed nonconforming billboard structures were located. If the land use category is the same for both nonconforming billboard structures, the replacement structure may be located at either site. For purposes of

this section, the following hierarchy of land use categories should be used to determine the least restrictive land use categories, with the most appropriate categories listed in descending order:

1. Intensive development, industrial development, tradeport and interchange areas;
2. Central urban and urban community;
3. Suburban and outlying suburban;
4. Rural, outer islands and density reduction/groundwater resources; and
5. Environmentally critical areas (resource protection area and transitional zones).

e. Upon approval of the application for replacement and completion of the conditions specified in this subsection, the replacement billboard structure shall be deemed in conformance with this chapter.

f. No replacement billboard structure may be located in the locations designated in section 30-183(1)b.

(b) *Loss of legal nonconformity.*

(1) A legal nonconforming sign shall become an illegal sign which must comply with this chapter if:

a. More than 50 percent of the sign is removed or unassembled for a period of more than six months.

b. 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 change in copy of a sign listed as a prohibited sign by this chapter is presumed to be an alteration which increases nonconformity; such a copy change on a prohibited sign is prohibited. 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. All signs for which a change of copy is permitted shall be made to conform with the requirements of this chapter by April 1, 1993, or any such sign shall lose its legal nonconforming status and shall be removed.

c. Repair or refurbishing exceeds 25 percent of the value of the sign in its preexisting state.

d. The sign is replaced, except as provided in subsection (a)(4) of this section.

(2) When a sign face remains blank, which is defined as void of advertising matter, for a period of 12 months it loses its nonconforming status and must be treated as a sign which must comply with all the requirements of this chapter. 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) A nonconforming sign that has lost its legal nonconforming status shall be immediately brought into compliance with this chapter, or the sign shall be removed.

(4) The existence of an illegal sign or a legal nonconforming sign does not constitute a hardship warranting the issuance of a variance from the provisions of this chapter.

(Ord. No. 85-26, § 8, 8-21-85; Ord. No. 88-12, § 16, 3-22-88; Ord. No. 91-09, §§ 4, 5, 3-20-91; Ord. No. 05-14 , § 5, 8-23-05)

Cross reference— Zoning nonconformities, § 34-3201 et seq.

Sec. 30-56. Planning community regulations.

Applications and permit approvals for signs and sign structures associated with projects located in the following planning communities must also comply with the regulations set forth in Chapter 33 pertaining to the specific planning community.

(a) Estero Planning Community.

(b) Greater Pine Island.

(c) Page Park.

(d) Caloosahatchee Shores.

(e) Lehigh Acres.

(f) North Fort Myers.

(g) Matlacha.

(h) Upper Captiva.

(i) North Olga.

(Ord. No. 05-29 , § 2, 12-13-05; Ord. No. 07-19 , § 4, 5-29-07; Ord. No. 11-08 , § 8, 8-9-11; Ord. No. 12-01 , § 3, 1-10-12; Ord. No. 12-14 , § 2, 6-12-12; Ord. No. 14-13 , § 4, 6-17-14; Ord. No. 14-20 , § 2, 10-21-14)

Secs. 30-57—30-90. Reserved.

ARTICLE III. MEASUREMENT; CONSTRUCTION AND MAINTENANCE STANDARDS

Sec. 30-91. Measurement of sign area.

(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) Where 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.

(d) When window or wall signs include the use of polyester film window graphics, only the lettering and logo portions of the display will be calculated in determining sign area.

(Ord. No. 85-26, § 6, 8-21-85; Ord. No. 98-03, § 4, 1-13-98)

Sec. 30-92. Measurement of sign height.

(a) The height of a sign shall be considered to be the vertical distance measured from the adjacent street grade or upper surface of the nearest street curb, whichever is higher.

(b) On elevated streets such as interchange overpasses, height shall be measured from the street grade of the adjacent street providing access to the property.

(Ord. No. 85-26, § 6, 8-21-85)

Sec. 30-93. Location.

(a) *Visibility triangle.* No sign shall be erected which would impair visibility at a street intersection or driveway entrance. Within the area formed by the right-of-way lines of intersecting streets or streets 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 street as measured at the centerline thereof.

(b) *Clearance from high-voltage power lines.* Signs shall be located in such a way that they maintain a clearance of ten feet to all overhead electrical conductors and a three-foot clearance on all secondary voltage service drops.

(Ord. No. 85-26, § 6, 8-21-85)

Sec. 30-94. Construction standards; landscaping.

(a) *Generally.* All signs must comply with the appropriate detailed provisions of the Southern Standard Building Code relating to design, structural members and connections. Illuminated signs must also comply with provisions of the National Electrical Code, and all electrical work must be Underwriters' Laboratories approved or be certified by an electrician licensed by the county. Signs must also comply with the additional standards set forth in this section.

(b) *Erection by licensed contractor.* No sign may be erected, other than a painted wall sign or polyester film window graphics, except by a licensed contractor, 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 over 40 square feet in area or over 20 feet in height. Wind load calculations shall be submitted with the engineer's submittal.

(2) The building official may request wind load calculations for signs less than 40 square feet in area prior to issuing a permit.

(3) A wall must be designed for and have sufficient strength to support any sign which is attached thereto.

(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. Such structures or poles shall be fabricated from American Standard, ASA, steel or of an equivalent.

(2) All wood permitted to be used, whether for new permanent signs, for replacement of existing permanent signs, or for any part thereof, 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 county building department.

(e) *Electric signs.*

(1) All electric signs, including portable signs, must be certified by the sign contractor that the sign meets the standards established by the National Electrical Code as adopted in section 6-191. All electric signs must be erected and installed by a licensed sign contractor. The electrical connection to a power source must be performed by a licensed electrical contractor.

(2) Artificial light used to illuminate any sign from outside the boundaries of the sign must be screened in a manner that prevents the light source from being visible from any abutting right-of-way or adjacent property.

(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 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 shall not be permitted.

(i) *Landscaping.*

(1) Approved landscaping shall be functional and decorative. It should be designed for minimal maintenance and capable of withstanding vandalism. It may be of many materials, including flowers, shrubs, trees, rockwork, brickwork or other constructional elements in an attractive combination and appropriate to the specific location. 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.

(j) *Polyester film window graphics.* Use of polyester film window graphics is subject to review and approval of the department director. Applicants must submit drawings prepared by the sign fabricator to the director prior to fabrication of the graphics. The drawings must include full dimensions, letter style and type, face (color and thickness), and placement of the graphics on the window. The director will review the proposed graphics for compatibility with the surrounding neighborhood and compliance with the intent of this chapter. The directors decision is discretionary.

(Ord. No. 85-26, § 6, 8-21-85; Ord. No. 98-03, § 4, 1-13-98; Ord. No. 98-28, § 4, 12-8-98)

Sec. 30-95. Sign identification and marking.

(a) Unless specifically exempted from permit requirements of this chapter, no sign shall hereafter be erected, displayed, rebuilt, repaired, painted or otherwise maintained until and unless the county 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 street or roadway.

(b) In addition to the requirements of subsection (a) of this section, all off-site signs hereafter erected or remodeled shall bear, in a permanent position thereon, 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.

(Ord. No. 85-26, § 6, 8-21-85)

Sec. 30-96. Maintenance.

(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.

(Ord. No. 85-26, § 6, 8-21-85)

Secs. 30-97—30-130. Reserved.

ARTICLE IV. RESTRICTIONS BASED ON LOCATION

DIVISION 1. - GENERALLY

DIVISION 2. - ON-SITE SIGNS

DIVISION 3. - OFF-SITE SIGNS

DIVISION 1. GENERALLY

Secs. 30-131—30-150. Reserved.

Secs. 30-131—30-150. Reserved.

DIVISION 2. ON-SITE SIGNS

Sec. 30-151. Temporary signs.

Sec. 30-152. Permanent signs in residential areas.

Sec. 30-153. Permanent signs in commercial and industrial areas.

Sec. 30-154. Interstate highway interchange area signs.

Secs. 30-155—30-180. Reserved.

Sec. 30-151. Temporary signs.

The following types of temporary signs that are in compliance with the regulations set forth in their indicated sections will not be required to obtain sign location permits:

- residential construction signs, subsection (2)c. of this section;
- political or campaign signs, subsection (4) of this section; and
- real estate signs, subsection (6) of this section.

The following types of temporary signs are permitted in all zoning districts subject to the following regulations.

(1) *Announcement signs.*

a. A temporary sign announcing a project to be under construction or an intended use of the premises within 60 days of erection of the sign may be permitted in accordance with the following:

1. One ground-mounted sign is allowed per street frontage per project.

2. Sign area may not exceed 32 square feet, and signs (including the support structure) may not exceed ten feet in height above the crown of any abutting street.

3. A sign announcing a project to be under construction or an intended use of the premises in the immediate future may include only the project name, the nature of development (e.g., professional office, villas, townhouses, condominium, etc.), the name of the owner or agent, and one telephone number.

Such sign may be posted for a 180-day period, at the end of which time continued use of the sign will be subject to approval by the building official. Such sign must be removed upon issuance of a building permit for the project. The provisions of this subsection notwithstanding, signs announcing the development of a recorded subdivision may be posted for a 12-month period from the date of recording the subdivision plat.

b. Temporary announcement signs for a new business, or a business in a new location with no permanent signs, may be permitted up to 32 square feet in sign area (or for a portable sign up to 40 square feet), or the maximum permitted sign area for any one ground-mounted permanent sign, whichever is lesser, for a period of not more than 60 days or until installation of permanent signs, whichever occurs first. The temporary sign (including the support structure) may not exceed ten feet in height. No temporary announcement sign may be permitted if the sign would exceed either the number or size of permanent signs otherwise permitted by this chapter for the occupant or location.

(2) *Construction signs.*

a. One construction sign shall be permitted per construction project on each street frontage. The sign shall be erected no more than five days prior to any construction of the project, shall be confined to the site of construction, and shall be removed prior to issuance of a certificate of occupancy.

b. Construction signs 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.

c. Maximum size limitations for construction signs shall be as follows:

1. For all one- and two-family residences, one nonilluminated ground-mounted sign not exceeding 12 square feet in sign area and six feet in height, including supports, may be erected.

2. For all multiple-family residences and nonresidential developments, one nonilluminated wall or ground-mounted sign not exceeding 32 square feet in sign area and ten feet in height, including supports, may be erected on each street frontage.

Size of signs may be increased to 64 square feet provided a construction permit is issued.

d. All construction signs shall be set back a minimum of 15 feet from any property line or street right-of-way or easement line, whichever is greater.

(3) *Development signs.*

a. A development sign may be permitted in any residential development wherein more than 20 percent of the lots, homes or living units remain unsold, subject to the following regulations:

1. One nonilluminated development sign not exceeding 24 square feet in sign area may be permitted for each street entrance into the subject subdivision or development.

2. The sign shall be located within the confines of the property being developed.

3. Permits for such signs shall be issued for one year and may be renewed annually until 20 percent or less of the total lots, homes or living units remain unsold.

b. One nonilluminated development sign per street frontage may be permitted in any commercially or industrially zoned district to promote the sale or rental or lease of units within the development. The maximum size shall be 32 square feet and the maximum height shall be ten feet.

(4) *Political or campaign signs.* Temporary political or campaign signs on behalf of candidates for public office or measures on election ballots may be permitted in any zoning district, provided that such signs are subject to the following regulations:

a. No person or organization shall post a political or campaign sign on property owned by others until such person or organization places on file with the building official a location list, which shall be updated by submission of amended lists, indicating the placement of all temporary political or campaign signs in the county, and bond or other security deposit acceptable to the county is posted to ensure the proper maintenance and removal of the signs in accordance with section 30-54(b)(3).

b. Political or campaign signs may be erected not earlier than 60 days prior to the election and shall be removed within ten days following the election.

c. In areas zoned agriculture, commercial or industrial, signs shall not exceed 32 square feet in area or six feet in height.

d. The provisions of subsections (4)a, b and c of this section notwithstanding, nothing in this section shall be construed as prohibiting a property owner from placing temporary political or campaign signs on his property provided they do not exceed four square feet in sign area per sign.

(5) *Promotional signs.* Except as provided in section 30-6(1)p., no person, civic club or other non-profit organization may post any sign on property owned by others for special events or promotions until such person, civic club or non-profit organization obtains a permit from the building official and a bond or other security deposit acceptable to the county is posted to ensure the proper maintenance or removal of the sign in accordance with section 30-54(b)(3), and the following regulations:

a. Promotional signs may be erected within 45 days prior to a proposed event and must be removed within ten days after the event.

b. Promotional signs (including the support structure) may not exceed 40 square feet in area and ten feet in height.

(6) *Real estate signs.*

a. *Temporary "for sale," "for rent" or "for lease" signs.*

1. Temporary real estate signs shall be permitted on properties where the owner is actively attempting to sell, rent or lease such property, either personally or through an agent, as follows:

i. For one- and two-family residences or residential lots, one nonilluminated on-site wall or ground-mounted sign, not exceeding four square feet in sign area and four feet in height, may be erected on each street frontage.

ii. For all multiple-family structures and nonresidential buildings or vacant lots, one on-site nonilluminated wall or ground-mounted sign, not exceeding 32 square feet in area or ten feet in height, shall be permitted on each street frontage.

iii. Any property ten acres or more in size, regardless of the limitations set forth in subsections (6)a.1.i and ii of this section, shall be permitted nonilluminated real estate signs as follows: One sign may be erected for every 330 linear feet, or major fraction thereof, of frontage on any one street. Signs shall not exceed 32 square feet in area or ten feet in height.

2. Signs are to be located a minimum of 15 feet from the right-of-way line and a minimum of 15 feet from the side lines, except where the building is in a commercial area the sign may extend to the sidewalk line. No signs may be fastened to trees.

3. "Sold" signs shall be allowed on real estate signs in three-inch by 16-inch strips, removable within 30 days after consummation of sale.

b. *"Open house" or "open for inspection" signs.* One company ground-mounted "open house" sign per street frontage shall be allowed per single-family dwelling or per multifamily building. Sign area shall not exceed three square feet, and the sign shall be placed upon the property to be sold or leased. The sign shall be displayed only when the premises are actually available for inspection by a prospective buyer or tenant.

c. *"Model" signs.*

1. One temporary ground-mounted "model" or "model open" sign per residential building containing a model unit which is not for sale but which represents a particular unit design of similar units that are for sale shall be permitted, provided that:

i. The sign area shall not exceed 24 square feet;

ii. Sign copy may include only the word "model," the name of the builder and his agent, the number of bedrooms and baths, and one telephone number.

2. The sign permitted by this subsection (6)c. shall be in lieu of the real estate sign permitted under subsection (6)a.1 of this section.

3. One "parking in rear" or "model parking" sign per model shall be permitted.

d. *"Model row" signs.*

1. Two ground-mounted "model row" signs indicating a group of three or more proximate model single-family dwelling units shall be permitted per group provided that:

i. A sign location permit is issued;

ii. The sign area shall not exceed 12 square feet; and

iii. Sign copy may include only the name of the developer of the model row, the model row name, and the hours of business.

2. Additionally, each model row which contains six or more models shall be entitled to place two signs along any major road within the county leading to the model row. Each sign shall be no larger than three square feet and the copy shall be limited to the words "model row." The signs may be placed within the right-of-way with the permission of the county engineer, and shall be located within 1,000 feet of the entrance to the model row, and may remain in place as long as the property is used as a model row.

e. *Illuminated signs.* Any real estate sign which is illuminated shall require a construction permit.

(7) *Special occasion signs.*

a. Temporary on-site signs may be issued for special occasions such as holidays (other than Christmas and Hanukkah, which are addressed in section 30-6), car, boat or craft shows, carnivals, parking lot sales, annual and semiannual promotions or other similar events, provided:

1. A special occasion sign permit is issued by the building official;

2. The special occasion sign permit is issued for a period of time not to exceed 30 contiguous days;

3. Special occasion signs defined as animated, balloon, emitting, figure structured, or motion picture signs, must be approved by the director of community development. The Director's decision is discretionary and is not subject to appeal; and

4. No business may be permitted more than four special occasion permits in any calendar year;

b. Signs must be located on-site only and in such a manner as to not create any traffic or pedestrian hazard;

c. Signs animated, inflated or illuminated by electricity must comply with all electrical and safety codes; and

d. Signs must be constructed and secured in accordance with all applicable standards.

(Ord. No. 85-26, § 4, 8-21-85; Ord. No. 88-12, §§ 7—11, 3-22-88; Ord. No. 89-38, § 1, 9-20-89; Ord. No. 90-27, § 4, 5-16-90; Ord. No. 91-09, § 2, 3-20-91; Ord. No. 98-28, § 4, 12-8-98; Ord. No. 99-05, § 8, 6-29-99; Ord. No. 02-20, § 4, 6-25-02; Ord. No. 13-10 , § 7, 5-28-13)

Sec. 30-152. Permanent signs in residential areas.

Permanent signs in residential areas are subject to the following:

(1) *Definition.* For purposes of this section, the term "subdivision" shall be interpreted to include mobile home and recreational vehicle developments, condominiums and multiple-family buildings containing five or more dwelling units.

(2) *Residential development identification signs.*

a. *Entrance signs.* Permanent wall or ground-mounted signs for identification purposes only (the name of the subdivision or residential development and, where applicable, the name of recreational facilities internal to the subdivision or development) may be permitted at each main entrance into such subdivision or development, subject to the following regulations:

1. Subdivision or residential development entrances which contain a boulevard entrance, i.e., a median strip separating the entrance and exit lanes, may be permitted:

    i. A single ground-mounted sign located in the median strip of the entrance, provided that it is set back a minimum of 15 feet from the right-of-way of the public access road and a minimum of five feet from the edge of the pavement of the entrance and exit lanes; or

    ii. Two single-faced signs equal in size and located on each side of the entranceway.

2. Subdivision or residential development entrances which are not boulevards may be permitted:

    i. One double-faced sign facing perpendicular to the public road; or

    ii. Two single-faced signs equal in size and located on each side of the entranceway.

b. *Additional identification signs.* One additional permanent wall or ground-mounted sign for identification purposes only, and giving only the name of the subdivision or residential development, may be permitted along each boundary line of the development which exceeds 2,000 feet in length.

c. *Internal subdivision signs.* Permanent wall or ground-mounted signs for identification purposes may be permitted at one main entrance into each internal subdivision or development, subject to the following:

1. Subdivision entrances which contain a boulevard entrance, i.e., a median strip separating the entrance and exit lanes, would be permitted:

    i. A single ground-mounted sign located in the median strip of the entrance, provided that it is set back a minimum of 15 feet from the right-of-way of the public access road and a minimum of five feet from the edge of the pavement of the entrance and exit lanes; or

    ii. Two single-faced signs equal in size and located on each side of the entranceway.

2. Subdivision entrances which are not boulevards may be permitted:

    i. One double-faced sign facing perpendicular to the public road; or

    ii. Two single-faced signs equal in size and located on each side of the entranceway.

d. *Limitations.*

1. The subdivision shall have a homeowners' association or similar entity which will be responsible for maintenance of the sign.

2. The face of each permitted main entrance identification sign shall not exceed 32 square feet, except that, in developments of more than 25 units, the face may be up to 105 square feet in area. The sign shall be not more than ten feet in height.

3. The face of each permitted internal identification sign shall not exceed 32 square feet in area, and the sign shall not be more than eight feet in height.

4. Except when permitted in the entrance median strip, the sign shall be located on private or commonly owned property and shall be set back a minimum of 15 feet from the edge of the public right-of-way and at least 15 feet from the edge of the entranceway pavement, if a private street.

5. The sign may be illuminated with a steady light so shielded as to not allow the light to interfere with vehicular traffic.

6. The sign may incorporate or be incorporated into accessory entrance structural features such as a project wall or landscaping.

(3) *Schools (non-commercial), places of worship, day care centers, parks, recreational facilities and libraries.* A school (non-commercial), place of worship, day care center, park, recreational facility (public), library or any other similar use permitted by right or by special exception in accordance with the county zoning regulations set out in chapter 34 shall be permitted one ground-mounted or wall-mounted identification sign and one directory sign, subject to the following limitations:

a. Maximum sign area shall be 32 square feet per sign face.

b. Signs shall be located at least 15 feet from any property line.

c. No sign shall exceed six feet in height.

(4) *On-site directional signs.*

a. *Permitted signs.* Permanent wall or ground-mounted signs, for directional purposes only, may be permitted within any residential development which consists of several distinctly separate subdivisions, clusters or other subunits of development.

b. *Location.* On-site directional signs may be permitted within any such residential development along any interior collector street at intersections with other interior streets.

c. *Limitations.*

1. The development shall have a homeowners' association or similar entity which will be responsible for maintenance of the sign.

2. The face of each permitted directional sign shall not exceed ten square feet in area.

3. Maximum permitted height shall be six feet.

4. Signs shall be set back a minimum of 15 feet from the edge of the street right-of-way or easement.

5. The signs may be illuminated.

(Ord. No. 85-26, § 4, 8-21-85; Ord. No. 88-12, §§ 7—11, 3-22-88; Ord. No. 89-38, § 1, 9-20-89; Ord. No. 90-27, § 4, 5-16-90; Ord. No. 91-09, § 2, 3-20-91; Ord. No. 01-18, § 4, 11-13-01; Ord. No. 13-10 , § 7, 5-28-13)

Sec. 30-153. Permanent signs in commercial and industrial areas.

In order to provide fair, equal and adequate exposure to the public, and to prevent a single property owner from visually dominating neighboring properties with signs, all nonresidential uses are limited to a total permissible sign area in accordance with the provisions of this section. Signs for buildings and developments subject to a unified sign plan must be designed and constructed in accordance with the approved unified sign plan.

(1) *Calculation of total permissible area.* Except as specifically provided in section 30-6(1)w, total permitted sign area for any nonresidential use shall be calculated at the ratio of 20 square feet of sign area for every ten linear feet, or major fraction thereof, of frontage on a street which affords vehicle access to the property, subject to the following limitations:

a. *Single frontage.*

1. For uses with 50 feet or less frontage, maximum permitted sign area shall be 100 square feet.

2. For uses with over 50 feet but less than 100 feet of frontage, maximum permitted sign area shall be 150 square feet.

3. For uses with from 100 to 330 feet of frontage, maximum permitted sign area shall be 300 square feet.

4. For uses with over 330 feet of frontage, maximum permitted sign area shall be 400 square feet.

b. *Multiple frontage.*

1. *Corner lots.* Uses located on corner lots may utilize up to the maximum sign area allowed for each frontage providing vehicle access. No transfers of allowable area may be made from one frontage to another. See subsection (2)a of this section for exceptions.

2. *Parallel street frontage.* Uses with frontage on two streets which do not form a corner lot shall be allowed sign area credit for the second street as follows:

i. *Both streets collector or better.* When both streets serve as collectors or better and public access is available from both streets, each street frontage shall be computed as provided in subsection (1)a of this section. However, no transfers of allowable area may be made from one frontage to the other. (Example: a use located on a through lot between old and new U.S. 41.)

ii. *One street collector or better and one street local.* When a use fronts on two streets, one of which is classified as a local street, the following limitations shall apply:

(a) If the property across the local street is residential or institutional, or if the primary use on either side of the local street within that block is residential, the sign area allowance on the local street shall be limited to 25 square feet, regardless of frontage. (Example: property front has primary access to U.S. 41 but also borders a local street behind the property.)

(b) If the property across the local street is commercial or industrial, and the street provides vehicular access to the subject property, sign area allowance shall be the same as provided in subsection (1)a of this section. No transfer of allowable area may be made from one street to the other. (Example: a business establishment located in a commercial or industrial area.)

iii. *Both streets local.* When a use borders on two local streets, full sign area credit shall be allowed for the street that provides the primary vehicle access. The second street shall be limited to a sign area of 25 square feet. No transfers of allowable sign area shall be made from one street to the other. (Example: a permitted establishment in a primarily residential area.)

iv. *Frontage roads.* Where a business fronts upon a collector or better street but is separated by a frontage road, the allowable sign area shall be treated as though the frontage road was not there.

(2) *Nonresidential subdivisions and multiple-occupancy complexes with more than five establishments.*

a. *Identification sign.* A nonresidential subdivision or a multiple-occupancy complex of more than five establishments shall be permitted one ground-mounted identification sign along any street which provides access to the property as follows:

1. One square foot of sign area per face shall be permitted for every one linear foot of frontage, provided that:

i. No sign shall exceed 200 square feet in area per sign face.

ii. Only one identification sign shall be permitted along any street frontage of less than 330 linear feet. A second identification sign may be permitted if the frontage along any one street exceeds 330 linear feet, provided that the total combined sign area of both signs does not exceed 300 square feet.

iii. On corner lots, the developer may either place one identification sign on both streets providing access as stipulated in subsections (2)a.1.i and ii of this section, or he may place one sign in the corner with a total sign area based upon the total frontage of both streets provided the maximum sign area shall not exceed 300 square feet per face.

iv. Where a nonresidential subdivision has more than one entrance from the same street, one additional identification sign not exceeding 16 square feet in area, not illuminated, and displaying the name of the development only may be permitted at each additional entrance.

2. The maximum height of any identification sign shall be 24 feet.

3. Except as provided in subsection (2)a.1.iv of this section, the identification sign may be illuminated with a steady light, but the sign shall not be animated.

4. Identification signs shall be set back a minimum of 15 feet from any street right-of-way or easement, and ten feet from any other property line. In no case shall an identification sign be permitted between a collector or arterial street and a frontage road.

b. *Directory signs.* Nonresidential subdivisions and multiple-occupancy complexes of more than five establishments shall be permitted to place a directory sign on the same structure as the project identification sign, subject to the following limitations:

1. Each directory sign must be of the same background and lettering and color scheme.

2. Theaters may advertise on permitted identification signs provided the theater's copy area does not exceed 25 percent of the total permissible sign area.

3. The maximum size of sign area for all directory and ground identification signs shall not exceed the size and height limitations as written in subsection (2)a of this section. 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 of this section.

c. *Individual occupants within multiple-occupancy complex.* Individual offices, institutions, business or industrial establishments located within a multiple-occupancy complex shall not be permitted individual ground-mounted identification signs, but may display wall-mounted, marquee or under-canopy signs as follows:

1. *Wall signs.*

i. Wall signs are permitted on any wall facing a collector or arterial street or parking lot provided that the total sign area of the wall sign and any attached marquee or canopy sign does not exceed ten percent of the wall area.

ii. Where the wall abuts residentially zoned property or a delivery vehicle accessway, wall signs shall be limited to a maximum size of 24 square feet in area.

2. *Marquee signs.* Marquee signs are permitted only on marquees or canopies otherwise lawfully permitted or in existence. Marquee signs shall not extend horizontally beyond the edges of the canopy or marquee to which they are attached or from which they are suspended.

3. *Under-canopy signs.* Signs attached to the underside of a canopy shall have a copy area no greater than four square feet, with a maximum letter height of six inches, subject

to a minimum clearance height of eight feet from the sidewalk, and shall be mounted as nearly as possible at a right angle to the building face, and must be rigidly attached.

4. *Sign content.* No sign permitted by this subsection (2)c shall 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.

d. *Interior directional signs.* Directional signs interior to a multiple-occupancy complex of five or more establishments or to a nonresidential subdivision may be permitted subject to the following:

1. Interior directional signs shall not exceed ten feet in height and 32 square feet in total sign area;

2. Individual tenant panels not exceeding four square feet in area may be affixed to the interior directional sign structure provided that the total sign area does not exceed 32 square feet;

3. Signs shall be located in a manner which will not adversely obstruct safe visibility between moving vehicles or vehicles and pedestrians;

4. Signs shall not be visible from outside the complex premises.

(3) *Individual office, institution, business or industrial establishments, and multiple-occupancy complexes with five or less establishments.* The following regulations shall apply for any office, institution, business or industrial establishment which is not located within a multiple-occupancy complex and to all multiple-occupancy complexes containing five or less establishments:

a. Every individual office, business or industrial establishment, and a multiple-occupancy complex of five or less establishments, shall be allowed one ground-mounted sign.

1. If the establishment has 50 feet or less frontage on a public right-of-way, the maximum sign area shall be 32 square feet, and the sign shall be located no closer than five feet to any side property line.

2. If the establishment has over 50 feet and up to 100 feet of frontage on a public right-of-way, the maximum permitted sign area shall be 64 square feet, provided that no ground-mounted sign shall be closer than five feet to any side property line.

3. If the establishment has over 100 feet and up to 300 feet of frontage on a public right-of-way, the maximum permitted sign area shall be 72 square feet, and the sign shall be set back a minimum of ten feet from any side property line.

4. Establishments having over 300 feet of frontage on a public right-of-way shall be permitted up to 96 square feet of sign area, and the sign shall be set back a minimum of ten feet from any side property line.

5. Establishments having frontage on more than one public right-of-way may be allowed one additional ground-mounted sign on the secondary frontage of not more than 24 square feet in area.

6. On corner lots, the occupant may be allowed one single ground-mounted sign rather than two separate ground-mounted signs (one per street frontage) provided the total sign area of the ground-mounted sign does not exceed 1½ times the maximum size permitted on any one street frontage.

7. In multiple-occupancy complexes of five or less occupants, ground sign area not identifying the complex should be divided equally among the occupants.

b. Maximum height of a ground-mounted identification sign shall be 20 feet.

c. Identification signs may be illuminated, but shall not be animated.

d. Wall-mounted, marquee or canopy signs may be displayed provided the total sign area of such signs plus any permitted ground-mounted identification sign does not exceed the total permitted sign area for the property based upon the calculations set forth in subsection (1) of this section, provided that not more than ten percent of any wall area may be used for signage.

e. Identification signs shall be set back a minimum of 15 feet from any right-of-way or easement. In no case shall an identification sign be permitted between a collector or arterial street and a frontage road.

(4) *Hospitals or other emergency medical facilities.* Hospitals or other emergency medical facilities shall be allowed the same size identification sign as permitted for individual establishments not located within a multiple-occupancy complex (see subsection (3) of this section). In addition, one additional illuminated ground or wall sign, not to exceed 16 square feet in area, to identify emergency entrances, shall be permitted.

(5) *Electronic changing message centers.* Electronic message centers are permitted along I-75 and arterial streets, subject to the following limitations:

a. *Location.*

1. Electronic changing message centers are permitted in any zoning district, provided the area to be used is shown on the county comprehensive plan as intensive development, industrial development, interchange areas or tradeport, or

2. In Lehigh Acres, in areas designated "Lehigh commercial" on the Lehigh Acres Lee Plan Overlay Zone Map adopted May 27, 1998 and that are also shown on the county comprehensive plan as central urban provided that:

i. only one electronic changing message center sign may be permitted;

ii. the sign is constructed on a parcel of land having a minimum of 100 feet of frontage on both Homestead Road and Alabama Road;

iii. the sign must be located within 30 feet of the intersection of the two road rights-of-way;

iv. the sign serves the tenants of a multiple-occupancy complex of ten or more businesses;

v. the sign provides public service messages at least 12 minutes of each hour;

vi. the sign is part of a ground-mounted monument style sign;

vii. the maximum sign area of the electronic changing message center portion of a sign does not exceed 40 percent of the total sign area allowed for ground-mounted signs, or 34 square feet, whichever is less;

viii. incandescent bulbs may not exceed ten watts and the sign must be equipped with an automatic day/night dimmer switch set so that night time brightness does not exceed 75 percent of the daytime brightness; and

ix. landscaping, in accordance with a county-approved landscape plan is installed prior to energizing the sign. The landscaping must contain, at a minimum, 700 square feet of landscaping area around the sign comprised of at least:

(1) 100 small shrubs or ground cover plants; and

(2) 10 large shrubs; and

(3) Six trees or large palms at least ten feet in height.

3. In the North Fort Myers Planning Community on property located at the intersection of S.R. 45 (U.S. 41) and S.R. 45A (Business 41) having a minimum of 600± feet of road frontage along S.R. 45 and 820 feet of road frontage along S.R. 45A, provided that:

   i. The property is zoned commercial planned development;

   ii. Only one electronic changing message center is permitted on the property;

   iii. The message changing center sign face is integrated into the bottom of an existing sign located in the southern corner of the property and facing U.S. 41

   iv. The electronic changing message center face is not larger than 118.5 square feet (three feet wide by 39.5 feet long); and

   v. Landscaping, as approved by the county, is placed around the base of the sign and continuously maintained.

4. Along U.S. 41 between the intersection of Gladiolus Drive/Ben C. Pratt Six Mile Cypress Parkway and the intersection of Alico Road.

b. *Operation.* Each consecutive copy change must remain fixed for a minimum of two seconds. Flash, twinkle and zoom modes, as defined in section 30-2, are prohibited.

c. *Sign area and limitations.* The sign area and its placement must be in accordance with the standards set forth in this section.

d. *Street classifications.* Arterial streets are shown on the existing functional classification map, adopted on March 20, 1991.

e. *Variances and deviations.* No variances or deviations from subsections a. through d. may be granted.

(Ord. No. 85-26, § 4, 8-21-85; Ord. No. 88-12, §§ 7—11, 3-22-88; Ord. No. 89-38, § 1, 9-20-89; Ord. No. 90-27, § 4, 5-16-90; Ord. No. 91-09, § 2, 3-20-91; Ord. No. 93-36, § 2, 11-17-93; Ord. No. 95-03, § 2, 1-18-95; Ord. No. 97-10, § 5, 6-10-97; Ord. No. 99-22, § 2, 12-14-99; Ord. No. 00-14, § 4, 6-27-00; Ord. No. 05-14 , § 5, 8-23-05; Ord. No. 09-05 , § 1, 2-25-09; Ord. No. 13-10 , § 7, 5-28-13)

Sec. 30-154. Interstate highway interchange area signs.

On-site identification signs may be approved by the building official in accordance with the regulations set forth in this subsection.

(1) *Purpose.* It is the purpose of this subsection to provide on-site signage visible from the interstate highway for auto- and traveler-oriented commercial establishments located within interstate highway interchange areas.

(2) *Prohibited signs.* Interstate highway interchange area signs are prohibited in the eastern quadrants of the Alico Road and the Corkscrew Road intersections with I-75.

(3) *Permitted signs.* Only interstate highway interchange area signs as defined in this chapter may be permitted under the terms of this subsection.

(4) *Location.* Except at the Daniels Road intersection, signs must be located within one-fourth mile of the midpoint of the interstate intersection. Signs at the Daniels Road intersection must be located within one-half mile of the midpoint of the intersection.

(5) *Application for approval.* Application for an interstate highway interchange area sign must follow the procedures set forth in section 30-6(3) and article III of this chapter. Additional application requirements include the following:

a. *Airport approval.* 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. *Letter of consent.* A notarized letter from the property owner consenting to the application, where the applicant is not the property owner.

(6) *Spacing, dimension and height regulations.*

a. Only one interstate highway interchange area identification 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 permitted area will be as follows:

1. If the sign is 50 feet or less in height, the maximum area permitted is 400 square feet.

2. If the sign is more than 50 feet and less than 75 feet in height, the maximum area permitted is 500 square feet.

3. If the sign is more than 75 feet and up to 100 feet in height, the maximum area permitted is 750 square feet.

4. In the western quadrants of the Alico Road and Corkscrew Road Intersections with I-75, interstate highway interchange area signs may not exceed 50 feet in height. The maximum area permitted is 400 square feet per sign. Property owners who erect an interstate highway interchange area sign in the western quadrants of the Alico Road and Corkscrew Road intersections 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 chapter.

c. No sign may exceed 100 feet in height. For the purpose of this subsection only, sign height will be measured from the average interstate grade, excepting overpasses, to the top of the sign frame.

d. The bottom of the sign must be a minimum of 30 feet above grade.

e. There must be a 15-foot setback from street rights-of-way or street easements.

(7) *Exclusion from other sign calculations.* The interstate highway interchange area sign will not be included in calculating sign area or number of signs permitted by other regulations contained within this chapter.

(Ord. No. 95-03, § 3, 1-18-95; Ord. No. 99-05, § 8, 6-29-99)

Secs. 30-155—30-180. Reserved.

DIVISION 3. OFF-SITE SIGNS

Sec. 30-181. Off-site directional signs.

(a) *Residential developments.*

(1) *Location; size.* Off-site, nonilluminating directional signs for subdivisions or residential projects shall be permitted along arterial and collector streets within 500 feet of the nearest intersection involving a turning movement to locate the development, subject to the following:

a. For a development proposing a single sign to serve the traveling public from two directions, the sign shall not be closer than 50 feet from the intersection and shall not exceed 64 feet in area.

b. For a development proposing two signs, one on each side of the intersection, the sign shall be a minimum of 100 feet from the intersection and shall not exceed 32 square feet in area.

(2) *Number of signs; separation.* No subdivision or residential development shall be permitted more than two off-site directional signs, and no off-site directional sign shall be located closer than 100 feet to any other off-site directional sign.

(3) *Setback.* Off-site directional signs shall be set back a minimum of 15 feet from any street right-of-way.

(4) *Height.* No off-site directional sign shall exceed a height of eight feet.

(5) *Copy area.* Off-site directional sign copy message shall be limited to the name of the development and directions to the development entrance. No advertising shall be permitted.

(b) *Semipublic bodies.* Off-site directional signs for semipublic bodies will be allowed subject to approval of the director or his designee, provided that:

(1) *Number of signs.* No semipublic body shall be allowed more than two off-site directional signs. Signs serving two or more semipublic bodies and located at the same intersection shall use the same support structure as necessary.

(2) *Location.* Signs shall be located along arterial and collector streets at the nearest intersection involving a turning movement to locate the organization.

(3) *Height.* No off-site directional sign shall exceed a height of eight feet.

(4) *Size; content.* Sign area shall be limited to four square feet, and signs shall contain only the name and logo of the semipublic body and a pointing arrow indicating the turn toward the organization.

(5) *Design generally.* Off-site directional signs shall be of a construction and design approved by the director.

(6) *Location in right-of-way.* Off-site directional signs may be allowed in the right-of-way with approval of the county engineer, based upon local and state highway safety standards, and shall be subject to future removal by the county.

(Ord. No. 85-26, § 5, 8-21-85; Ord. No. 88-12, §§ 12—15, 3-22-88; Ord. No. 89-29, §§ 2, 3, 7-19-89; Ord. No. 91-09, § 3, 3-20-91)

Sec. 30-182. Bench and bus shelter signs.

Bus benches with signs and bus shelter signs may only be provided by the county.

(Ord. No. 85-26, § 5, 8-21-85; Ord. No. 88-12, §§ 12—15, 3-22-88; Ord. No. 89-29, §§ 2, 3, 7-19-89; Ord. No. 91-09, § 3, 3-20-91; Ord. No. 01-18, § 4, 11-13-01)

Sec. 30-183. Billboards.

Billboards are permitted along I-75; and Alico Road, west of I-75; and Metro Parkway, from Daniels Parkway to US 41; and any arterial street within the county subject to the following limitations:

(1) *Location.*

a. Except as otherwise provided in this section, billboards are permitted in any zoning district provided the area is shown on the county comprehensive plan as intensive development, industrial development, interchange areas or tradeport. Arterial streets must be designated on the existing functional classification map, as in effect on March 20, 1991.

b. No billboard will be permitted along:

1. Ben C. Pratt/Six Mile Cypress Parkway.

2. Summerlin Road.

3. McGregor Boulevard.

4. Daniels Parkway/Cypress Lake Drive corridor from McGregor Boulevard to SR 82, which includes Cypress Lake Drive, Daniels Parkway, the proposed Daniels Parkway extension, Fuel Farm Road, portions of Chamberlin Parkway and any other roads which are not stated in this subsection but are located within such corridor.

5. Colonial Boulevard east of I-75.

6. Alico Road east of I-75.

7. Koreshan Boulevard.

8. Corkscrew Road.

9. Treeline Avenue Corridor from Daniels Parkway to Bonita Beach Road. This prohibition includes Ben Hill Griffin Boulevard and any other roads which are not stated in this subsection but are located within this corridor. This prohibition specifically contemplates the future renaming of Treeline Avenue.

10. Pine Ridge Road.

11. South Pointe Boulevard.

(2) *Separation*. Minimum distance separation will be as follows:

a. Within industrial/business and intensive business areas, 2,000 feet from any other billboard on the same side of the street.

b. Within interchange areas, 1,320 feet from any other billboard on the same side of the street.

c. Within tradeport areas, 2,000 feet from any other billboard on the same side of the street.

No billboard may be located closer than 100 feet to any intersection with another arterial road.

(3) *Size.* No billboard may be less than 72 square feet in area per face or more than 400 square feet in size. Embellishments may not extend more than four feet from the top edge or more than two feet from any one side edge. On Alico Road, west of I-75, billboards may not exceed 380 square feet in size.

(4) *Height.* Billboards may not exceed a height of 20 feet when placed at the sign setback line set forth in subsection (5) of this section, except that, for every two feet the sign is placed back from the required setback line, the height of the sign may be increased by one foot, to a maximum height of 30 feet.

(5) *Setbacks.* All billboards must be set back a minimum of ten feet from any property line and any building as measured between the closest point of the sign to the property line or building.

(6) *Roof signs.* Billboards are prohibited on any roof portion of any building.

(7) *Copy area.* The billboard advertisement shall cover the entire copy area of the billboard.

(8) *Maximum number of signs per structure.* Each billboard structure shall be limited to a single sign, which may be single or double-faced, but side-by-side or vertically stacked (double-tier) signs shall be prohibited.

(9) *Illumination.* Billboards may be illuminated provided that, if external lighting such as floodlights, thin-line or gooseneck reflectors are used, the light source shall be directed on the face of the sign and shall be effectively shielded so as to prevent beams or rays of light from being directed into any portion of the street right-of-way.

(10) *Revolving signs.* Billboards may be a revolving sign as defined in this chapter, but shall not consist of animation or flashing devices.

(11) *Variances and Deviations.* No variances or deviations from subsections (1) or (6) through (10) may be granted.

(12) *Landscaping for billboards on Alico Road, west of I-75.*

a. Landscaping in accordance with a county-approved landscape plan must be installed prior to final inspection as follows:

1. If the site is undeveloped, the following landscaping is required around the pole:

i. Eight randomly placed, staggered height native trees or Sabal palms, eight to 20 feet in height, and

ii. Ten large native shrubs (minimum four feet in height, ten gallon container).

2. If the site is developed, the following landscaping is required:

i. The equivalent amount of trees and shrubs as required in subsection 1. above must be placed on-site between the building and the road. This billboard related landscaping is in addition to any other required landscaping for the site; or

ii. If the site is developed, the applicant has the option to provide a one-time payment of $2,000.00 to the County for roadway landscaping on Alico Road in lieu of landscaping on-site as otherwise required in subsection 2.i. above.

b. The director of the department of community development may administratively allow deviations from the landscaping requirements of this section when, in the opinion of the director, the proposed alternative number and type of plantings provides an equivalent degree of landscaping as otherwise required by this section.

c. The billboard owner must maintain the required landscaping in a healthy and vigorous condition at all times. Tree and palm staking must be removed within 12 months after installation. All landscapes must be kept free of refuse, debris, disease, pests, and weeds. Ongoing maintenance to prohibit the establishment of prohibited invasive exotic species is required.

(Ord. No. 85-26, § 5, 8-21-85; Ord. No. 88-12, §§ 12—15, 3-22-88; Ord. No. 89-29, §§ 2, 3, 7-19-89; Ord. No. 91-09, § 3, 3-20-91; Ord. No. 95-03, § 3, 1-18-95; Ord. No. 00-14, § 4, 6-27-00; Ord. No. 00-21, § 1, 10-10-00; Ord. No. 05-14 , § 5, 8-23-05; Ord. No. 12-18 , § 1, 8-28-12)

Secs. 30-184—30-220. Reserved.

ARTICLE V. CAPTIVA ISLAND

DIVISION 1. - GENERALLY

DIVISION 2. - GENERAL RESTRICTIONS

[DIVISION 3. - RESERVED]

DIVISION 4. - RESERVED

DIVISION 1. GENERALLY

Secs. 30-221—30-226. Reserved.

Editor's note—

Ord. No. 12-19, § 1, adopted Sept. 11, 2012, repealed §§ 30-221—30-226, which pertained to signs on Captiva Island and derived from Ord. No. 71-2, §§ I, IV, V and VIII, adopted Feb. 24, 1971.

Sec. 30-227. Construction standards.

In addition to the provisions of this article, all signs erected on lands included on Captiva Island shall be erected so as to conform with the applicable provisions of the Southern Standard Building Code.

(Ord. No. 71-2, § I, 2-24-71)

Sec. 30-228. Consent of property owner required; posting signs on trees or utility poles.

(a) It shall be unlawful for any person to post any bills, handbills, notices or advertisements or to brand, write, mark or paint any sign, letters or characters upon a building, wall, fence or other property of another person on lands located upon Captiva Island without first obtaining the consent of the owner of such property or his duly authorized agent.

(b) It shall be unlawful for any person to post bills, notices or advertisements or to brand, write, mark or paint any sign, letters or characters upon or on any tree or telephone, telegraph or power pole located on Captiva Island.

(c) The provisions of this section to the contrary notwithstanding, nothing contained in this section shall be construed to prohibit the distribution of literature in the locations described in this section by an agency of the government of the United States, the state or the county, or by any quasipublic body as defined in this article, or to prohibit the erection of signs which comply with this article.

(Ord. No. 71-2, § III, 2-24-71)

Secs. 30-229—30-280. Reserved.

DIVISION 2. GENERAL RESTRICTIONS [2]

Sec. 30-281. Permitted signs.

Lighted signs, roof signs, ground signs, marquee signs, projecting signs and wall signs shall be permitted when erected on lands of Captiva Island zoned under the IL category, the C-1, C-1A and C-2 categories or the RM-2 category, subject to the following restrictions:

(1) No such signs shall be erected any closer than 30 feet to the boundary line dividing such district from a district in which they are prohibited.

(2) Roof signs, wall signs, marquee signs, projecting signs and ground signs shall each be limited to a maximum size of 100 square feet. In addition, no such sign shall be erected with any dimension of height, width or depth exceeding ten feet.

(3) No part of any roof sign shall extend more than 35 feet above ground level.

(4) Wall signs, ground signs, marquee signs and projecting signs may be lighted by methods not prohibited by this article; provided, however, any lighted sign located within 100 feet of any residential zoning district shall be shielded in such a manner that no direct rays of light are cast into any residential premises.

(5) The total height of ground signs from ground level to the top of the sign shall not exceed 35 feet.

(Ord. No. 71-2, § I, 2-24-71)

Sec. 30-282. Number of signs.

No business establishment located upon Captiva Island shall erect more than one commercial advertising sign.

(Ord. No. 71-2, § I, 2-24-71)

Sec. 30-283. Commercial signs prohibited in certain districts.

No commercial advertising signs whatsoever, whether on- or off-premises, shall be permitted in any RS-1, RS-2 or TFC-2 district; except that, where a platted subdivision in which lots are actively being sold by the developers or owners of the subdivision contains no land zoned other than RS-1, RS-2 or TFC-2, the owners or subdividers may select one lot of the subdivision upon which to erect one roof sign, wall sign or ground sign to advertise for the sale of the subdivision lots in conformity with the regulation of such signs set forth in this division.

(Ord. No. 71-2, § I, 2-24-71)

Sec. 30-284. Off-premises signs.

By adopting this article, the Board of County Commissioners intends to encourage the practice of using directional signs or programs by public or quasipublic bodies in lieu of private commercial advertising signs or private directional signs to direct customers from main roads on Captiva Island to commercial establishments located off of or not visible from main roads. Therefore, no off-premises commercial advertising signs or directional signs of any type shall be erected on Captiva Island other than by public or quasipublic bodies. Further, no signs shall be erected at the site of information offices or sales offices located on main roads which advertise the sale of goods or services at another location away from the site of the information offices or sales offices.

(Ord. No. 71-2, § I, 2-24-71; Ord. No. 74-5, § 1, 1-30-74)

FOOTNOTE(S):

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Editor's note— Ord. No. 12-19, § 1, adopted Sept. 11, 2012, repealed Div. 2 and renumbered Div. 3 as Div. 2 as set out herein. The former Div. 2, §§ 30-251—30-254, pertained to nonconforming signs and derived from Ord. No. 71-2, § IV, adopted Feb. 24, 1971. (Back)

[DIVISION 3. RESERVED]

Secs. 30-285—30-310. Reserved.

Secs. 30-285—30-310. Reserved.

DIVISION 4. RESERVED [3]

Secs. 30-311—30-399. Reserved.

Secs. 30-311—30-399. Reserved.

FOOTNOTE(S):

--- (**3**) ---

Editor's note— Ord. No. 12-19, § 1, adopted Sept. 11, 2012, repealed Div. 4, §§ 30-311—30-313, which pertained to multiple-unit dwellings and tourist accommodations and derived from Ord. No. 71-2, § II, adopted Feb. 24, 1971. (Back)

ARTICLE VI. RESERVED [4]

Secs. 30-400—30-406. Reserved.

Secs. 30-400—30-406. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 12-21, § 1, adopted Sept. 11, 2012, repealed Art. VI, §§ 30-400—30-406, which pertained to the Estero Sign Overlay District and derived from Ord. No. 03-16, § 5, adopted June 24, 2003. See the Code Comparative Table for further information. (Back)

Chapter 31 RESERVED

Chapter 32 COMPACT COMMUNITIES

ARTICLE I. INTRODUCTION TO COMPACT COMMUNITIES

Sec. 32-101. Purpose of chapter.

This chapter provides development regulations that will create compact walkable neighborhoods and mixed-use centers. Design goals and principles include:

(1) A compact physical form with identifiable centers and edges, with opportunities for shopping and workplaces near residential neighborhoods.

(2) A highly interconnected street network, to disperse traffic and provide convenient routes for pedestrians and bicyclists.

(3) High-quality public spaces, with building façades having windows and doors facing tree-lined streets, plazas, squares, or parks.

(4) Diversity not homogeneity, with a variety of building types, street types, open spaces, and land uses providing for people of all ages and every form of mobility.

(5) Resiliency and sustainability, allowing adaptation over time to changing economic conditions and broader transportation options.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-102. Form-based codes for compact communities.

Conventional zoning separates land uses and requires off-street parking on every site. As a result, development is spread thinly across the landscape, essentially requiring automobiles for every trip. As an alternative, this chapter will create compact walkable neighborhoods and mixed-use centers using form-based code techniques, whose major components are described in article II.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-103. Applicability. [1]

The regulations in this chapter can be applied using different procedures, some requiring rezoning and others through administrative approvals:

(1) ***Administrative approval in Southeast Lee County.*** Article IV describes how this chapter can be used by landowners to obtain administrative approval for limited residential and mixed-use development in Southeast Lee County.

(2) ***Planned development rezoning.*** Article V describes how this chapter can be used by a landowner to rezone land for a compact community.

(3) ***Optional regulating plans.*** Article VI contains regulating plans that can be used on certain land in the Lee Plan's future urban areas at the landowners' discretion.

(4) ***County-initiated rezoning.*** Article VII describes how County-initiated rezoning can authorize compact communities without further rezoning by landowners.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-104. Inconsistencies among chapters.

If any provision of this chapter is inconsistent with another chapter of this Code, this chapter will prevail, notwithstanding the express language of sections 1-2(7), 10-4, and 34-5(c). In all cases, development must comply with all provisions of the Lee Plan.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-105. Definitions.

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions of many other words, terms and phrases that are used in this chapter can be found in section 34-2.

Arcade means a series of piers topped by arches that support a permanent roof over a sidewalk.

Balcony means an open portion of an upper floor extending beyond a building's exterior wall that is not supported from below by vertical columns or piers.

Bicycle lane means a separate lane within a street right-of-way that is designated by signing and pavement markings for the preferential or exclusive use of bicyclists.

Civic buildings contain public or civic uses of special significance to residents, employees, or visitors. Civic buildings are used primarily for the following purposes: community services, day care, education, government, places of worship, or social services. See section 32-261.

Civic spaces are commonly owned open spaces that are strategically placed to serve a specialized community function. Active civic spaces may be configured as a green, square, plaza, park, playground,

community garden, or farm plot. Passive civic spaces protect natural areas worthy of preservation. See section 32-261.

Colonnade is similar to an arcade but supported by vertical columns without arches.

Credit. See *TDR credit.*

Development right means the right of an owner of the fee interest in land to change the use of that land in accordance with existing zoning.

Director means the Director of the Department of Community Development or designee.

Driveway means a type of access point which provides vehicle access from a street, alley, or lane to a single parcel of land containing two or fewer dwelling units in a single structure and from which vehicles may legally enter or leave the street in a forward or backward motion.

Easement, agricultural means a right or interest in real property that is appropriate to retaining the land as open space but which explicitly allows continued agricultural uses. Agricultural easements are sometimes known as agricultural conservation easements. See section 32-307.

Easement, conservation means a right or interest in real property that is appropriate to retaining the land as open space and which restricts or forbids agricultural uses. See section 32-307.

Floor area means the total area of each story of a building, or portion thereof, within the surrounding exterior walls of the building or structure.

Florida Greenbook means the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, published by Florida DOT.

Frontage percentage means the percentage of the width of a lot that is required to be occupied by the building's primary façade. See section 32-243.

Liner building means a building or portion of a building constructed in front of a parking garage, cinema, supermarket etc., to conceal large expanses of blank wall area and to face the street space with a façade that has ample doors and windows opening onto the sidewalk.

Live-work building means an attached or detached building that can accommodate permitted residential uses, commercial uses, or a combination of the two within individually occupied live-work units. All permitted uses may occupy any story of a live-work building.

Live-work unit means an individually occupied portion of an attached or detached building that can accommodate permitted residential uses, commercial uses, or a combination of the two within that unit.

Maximum extent practicable means that no feasible or practical alternative exists and all possible efforts to comply with the regulation or minimize potential adverse impacts have been undertaken. Economic considerations may be taken into account but cannot be the overriding factor in determining "maximum extent practicable."

Mixed-use center means a concentration of non-residential and higher density residential land uses that typically form the center of neighborhoods, transit-oriented communities, and larger urban areas.

Planting strip means a grassed strip of land with a row of street trees that is located between a sidewalk and a travel or parking lane. In urban areas, planting strips are often replaced by street trees planted in tree pits, wells, or vaults that are recessed into a sidewalk that extends to the curb.

Porte cochere means a roofed porch or portico-like structure extending from the side entrance of a residential building over an adjacent driveway to shelter those getting in or out of vehicles. A porte cochere has no front or rear wall and differs from a carport in that it is not used to store parked vehicles.

Receiving area. See *TDR receiving area.*

Regulating plan means a particular type of site plan that identifies transect zones, and that may also identify lot types and street types, in order to define the character of future development.

REGULATING PLAN, CONCEPTUAL. Conceptual regulating plans identify the intended variety and location of transect zones and a preferred street/block structure including suggested street types.

REGULATING PLAN, DETAILED. Detailed regulating plans identify the final assignment of transect zones and the exact street/block structure, including specific street types and lot types as described in this chapter.

Sending area. See *TDR sending area.*

Sever means the permanent removal or separation of development rights from the bundle of rights possessed by the fee owner of real property.

Shared lane means a lane within a street right-of-way that is shared by bicyclists and motor vehicles.

Southeast Lee County means the land designated as Planning Community #18 on Lee Plan Map 16, much of which is in the density reduction/groundwater resource land use category. To carry out Lee Plan Policy 32.2.2, the term *Southeast Lee County* as used in this chapter also includes all land in the Mixed-Use Community south of S.R. 82 at Daniels Parkway (as shown on Lee Plan Map 17).

Stoop means a staircase on the façade of a building that leads either to a small unwalled entrance platform or directly to the main entry door.

TDR credits are evidence that development rights have been severed from land in TDR sending areas for potential transfer to other land. See article III of chapter 32.

TDR receiving area means land where TDR credits can be used to add development rights that have been severed from a TDR sending area. See article III of chapter 32.

TDR sending area means land where TDR credits can be obtained in exchange for severing development rights. See article III of chapter 32.

Transect zone means a distinct category of physical form and character ranging in intensity from the most urban to the least urban. This chapter designates five transect zones: Core, Center, General, Edge, and Civic. See article II, division 1.

TRANSECT ZONE, CENTER. The Center transect zone is intensely occupied, with mostly attached buildings creating a "Main Street" character within walking distance of primarily residential neighborhoods.

TRANSECT ZONE, CIVIC. The Civic transect zone identifies land that is reserved for civic and community uses at key locations within neighborhoods.

TRANSECT ZONE, CORE. The Core transect zone is the most intensely occupied zone comprised of taller attached buildings that create a continuous street façade.

TRANSECT ZONE, EDGE. The Edge transect zone provides sites for detached homes and accessory apartments that are similar in scale to older suburban neighborhoods.

TRANSECT ZONE, GENERAL. The General transect zone is primarily residential but includes a broader mix of uses and a wide variety of lot types. Buildings may be attached or detached and are typically closer to the street.

Urban agriculture means food production and sale that is compatible with nearby residential uses. Urban agriculture includes cultivation of plants in community gardens, market gardens, vineyards, and groves. Urban agriculture also includes husbandry of animals such as bees, goats, rabbits, sheep, chickens (but not roosters), and other small animals with similar impacts on nearby properties including noise, odors, and safety hazards.

(Ord. No. 10-25 , § 3, 6-8-10)

Secs. 32-106—32-200. Reserved.

FOOTNOTE(S):

--- (**1**) ---

Note: [The provisions of § 32-103(1) are effective June 24, 2011.] (Back)

ARTICLE II. FORM-BASED CODE COMPONENTS AND GENERAL REQUIREMENTS

DIVISION 1. - TRANSECT ZONES

DIVISION 2. - STREET TYPES AND PARKING

DIVISION 3. - LOT TYPES

DIVISION 4. - CIVIC BUILDINGS AND CIVIC SPACES

DIVISION 5. - REGULATING PLANS

DIVISION 6. - STORMWATER MANAGMENT

DIVISION 1. TRANSECT ZONES

Sec. 32-201. Purpose of article.

This article begins by describing the three main components used throughout this chapter to ensure that development activity will create compact walkable neighborhoods and mixed-used centers. Although these components are assigned to land through different processes as described in later articles of this chapter, the basic components remain the same:

(1) ***Transect zones,*** which are essentially sub-zones that describe the varying intensities and basic characteristics of compact neighborhoods and centers.

(2) ***Street types,*** which govern the character and physical dimensions of streets and alleys in a manner consistent with the transect zone and adjoining lot types.

(3) ***Lot types,*** which govern the placement and intensity of buildings and the allowable uses on individual lots, consistent with the transect zone and adjoining street types.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-202. Transect zones described.

(a) An urban-to-rural transect can be used to describe the varying intensities and characteristics of neighborhoods. For use in this chapter, the urban-to-rural transect is divided into the following transect zones:

(1) ***Core.*** The Core transect zone is the most intensely occupied zone comprised of taller attached buildings that create a continuous street façade.

(2) ***Center.*** The Center transect zone is intensely occupied, with mostly attached buildings creating a "Main Street" character within walking distance of primarily residential neighborhoods.

(3) ***General.*** The General transect zone is primarily residential but includes a broader mix of uses and a wide variety of lot types. Buildings may be attached or detached and are typically closer to the street.

(4) ***Edge.*** The Edge transect zone provides sites for detached homes and accessory apartments that are similar in scale to older suburban neighborhoods.

(5) ***Civic.*** The Civic transect zone identifies land that is reserved for civic and community uses at key locations within neighborhoods.

(b) These same five transect zones are illustrated conceptually in figure 32-202, which shows their relative scale and character.

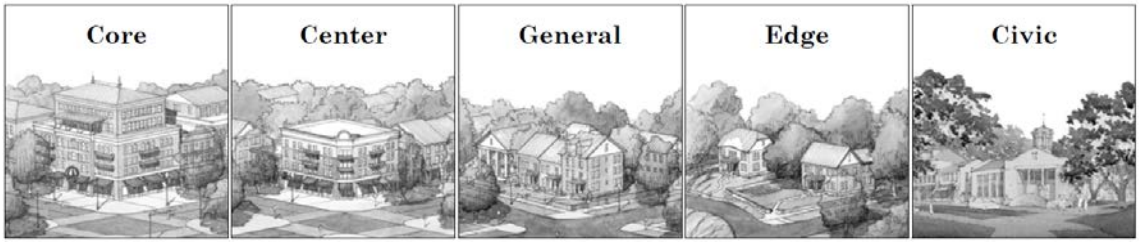


Figure 32-202

(c) The first step in using this chapter is the assignment of transect zones to developable tracts on a regulating plan. The regulating plan may be incorporated directly into this chapter (see articles IV, VI, and VII) or adopted by County resolution as the result of a planned development rezoning (see article V).

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-203. Assignment of transect zones.

(a) A regulating plan must clearly identify the assignment of transect zones to all developable land (see division 5 of this article). The use of multiple transect zones will produce desirable variations within each site including a mix of land uses and street and lot types. Careful assignment of transect zones can ensure compatibility with surrounding neighborhoods and uses of land.

(b) The following guidelines explain key principles for the assignment of transect zones to compact communities:

(1) Each neighborhood or mixed-use center should vary in character internally and include multiple transect zones. Some may be more intense and have a higher percentage of Core or Center transect zones while others may have a higher percentage of General or Edge transect zones.

(2) Core and Center transect zones should be located in occasional nodes along or near major streets. General and Edge transect zones should adjoin neighborhoods of similar intensity or natural areas.

(3) Transect zones of similar intensities are generally placed on opposite sides of streets. Greater shifts in intensity generally occur along rear alleys or lanes.

(4) Where new development will abut an existing or approved neighborhood, the new development should establish similar or compatible transect conditions.

(5) Active civic spaces (see division 4) must be assigned to at least five percent of the total acreage of each compact community except where a comparable amount of civic space within a one-quarter-mile walking distance already exists or is committed. This five percent minimum is in addition to planting strips within street rights-of-way and open space provided on lots with private buildings.

(Ord. No. 10-25 , § 3, 6-8-10)

Secs. 32-204—32-220. Reserved.

DIVISION 2. STREET TYPES AND PARKING

Sec. 32-221. Street types allowable in each transect zone.

(a) ***Streets in compact communities.*** Streets in compact communities promote walkability and pedestrian comfort. Vehicular mobility is a secondary function on these streets. This division authorizes specific types of streets, alleys, and lanes for compact communities. These streets also provide on-street parking; the alleys and lanes provide access to off-street parking and service areas.

(b) ***Street type assignment.*** When seeking approval of development regulated by this chapter, street types must be assigned by the applicant in accordance with the standards in this division. When seeking approval using planned development rezoning (see article V), proposed street types must also be shown on the regulating plan.

(c) ***Street types in transect zones.*** Table 32-221 identifies which specific street types are allowed within corresponding transect zones, as indicated by the letter "X." These streets must comply with the street cross-sections in section 32-226, as adjusted in accordance with the streetscape standards in section 32-227. These standards will supersede any conflicting standards in this Code for development regulated by this chapter.

TABLE 32-221

		Transect Zones				
Street Type	**(movement type)**	***Core***	***Center***	***General***	***Edge***	***Civic***
Boulevard	(speed/slow)	X	X	X		
Avenue	(slow)	X	X	X		X
Street A	(free)	X	X	X		X
Street B	(slow)			X	X	X
Street C	(slow)	X	X	X		X
Street D	(free)	X	X	X	X	X
Street E	(slow)	X	X	X		X
Street F	(slow)			X	X	X
Drive	(slow)			X	X	X
Road	(free)				X	X
Rear Alley	(slow)	X	X	X		
Rear Lane	(yield)			X	X	

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-222. Design of street network.

Compact communities permitted under this chapter must provide a highly interconnected network of streets and must accommodate existing or anticipated public transit.

(1) Individual street types are classified in section 32-221 by movement type. Movement type describes the expected driver experience, as follows:

a. ***Yield:*** Drivers must proceed slowly and with extreme care and must yield in order to pass a parked car or approaching vehicle (the functional equivalent of traffic calming). Design speed is 20 mph or less. Bicycles are accommodated in shared lanes.

b. ***Slow:*** Drivers can proceed carefully with an occasional stop to allow a pedestrian to cross or another car to park. The character of the street should make drivers uncomfortable exceeding design speed due to presence of parked cars, enclosure, tight turn radii, and other design elements. Design speed is 20—25 mph. Bicycles are accommodated in shared lanes.

c. ***Free:*** Drivers can expect to travel generally without delay at the design speed; street design supports safe pedestrian movement at the higher design speed. This movement type is appropriate for thoroughfares designed to traverse longer distances or connect to higher intensity locations. Design speed is 25—30 mph. Bicycles are accommodated in shared lanes or bicycle lanes.

d. ***Speed:*** Drivers can expect travel similar to conventional street design, but with continued emphasis on pedestrian safety and comfort. Design speed is 30—35 mph. Bicycles are accommodated in bicycle lanes.

(2) Street networks should be designed to protect historic resources, wetlands, and other indigenous native vegetation. The interconnected network of streets should extend into adjoining areas except where the general planning goal of integration with surrounding uses is inappropriate for a particular parcel. Street stubs must be provided to adjoining developable land to accommodate future street connectivity.

(3) Streets, alleys, and lanes must be dedicated or conveyed for public use on a plat or within a right-of-way easement. Nothing herein may be construed as creating an obligation upon any governing body to perform any act of construction or maintenance within such dedicated areas except when the obligation is voluntarily assumed by the County in accordance with Lee County regulations. Entrance gates that restrict public access and closed or gated streets are prohibited.

(4) Bicycle lanes may be added to the Boulevard and Road street types if designed and located in accordance with the Traditional Neighborhood Development chapter of the Florida Greenbook.

(5) All street types may use the shared-lane marking (sharrow, as described in the Florida Greenbook) to accommodate bicyclists in shared lanes. This is the preferred method for accommodating bicyclists in compact communities because the extra lane width created by bicycle lanes increases automobile travel speeds.

(Ord. No. 10-25 , § 3, 6-8-10; Ord. No. 13-05 , § 1, 2-26-13)

Sec. 32-223. Design of streets other than alleys and lanes.

(a) Streets do not have to form a rectangular grid; they may be curved or bent but must connect to other streets. Intersections with designated arterials and collectors must have centerline offsets of at least 150 feet; this requirement does not apply to intersections that are limited to alleys, lanes, or local streets. Minimum sight distances at intersections must comply with standards in the Florida Greenbook.

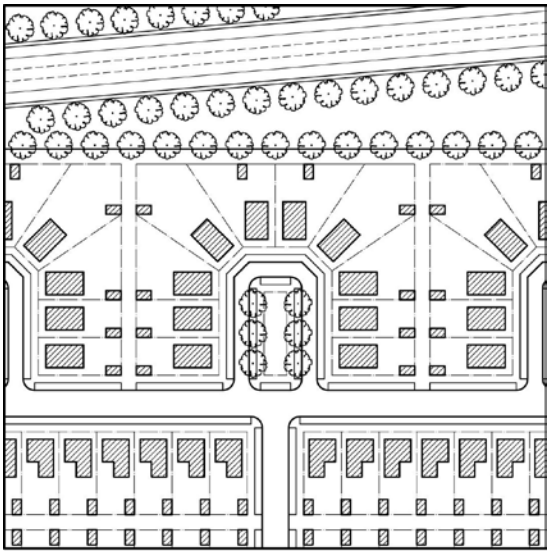


Figure 32-223

(b) In the General and Edge transect zones, street type B is preferred on blocks where attached or multifamily housing is dominant; street type F is preferred on blocks where detached housing is dominant. Other street types that are allowed in those transect zones must be justified by special circumstances or used only occasionally to create a hierarchy of local streets.

(c) Dead-end streets are prohibited except where physical conditions such as highways, creeks, or natural areas preclude a connection. Each dead end must be detailed as a close (a small green area surrounded by a common driveway serving adjoining lots) and should provide pedestrian connectivity to the maximum extent practicable. See example in figure 32-223.

(d) Sidewalks and rows of street trees must be provided on both sides of all streets; street trees may be omitted where arcades or colonnades meet the standards in section 32-243(g) or where a street adjoins a natural area being preserved. See also section 32-227 regarding street trees.

(e) In compact communities, street rights-of-way are the preferred location for "wet" utility lines such as water and wastewater.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-224. Design of alleys and lanes.

In the interior of blocks and along rear lot lines, alleys and lanes are the only street types permitted.

(1) A continuous network of rear and side alleys or lanes must serve as the primary means of vehicular ingress to individual lots in the Core, Center, and General transect zones. Rear lanes are required in the Edge transect zone for all lots narrower than 60 feet (see special requirements in section 32-243(o) where vehicular ingress is from the street).

(2) Alley or lane entrances should generally align to provide ease of ingress for service vehicles. Internal deflections or variations in the alley/lane network are encouraged to prevent excessive or monotonous views of the rear of structures resulting from long stretches of alleys or lanes.

(3) Bends in alleys and lanes must allow room for solid waste collection trucks to turn.

(4) Alleys or lanes are the preferred location for "dry" utility lines such as electricity, telephone, and cable television. Where alleys or lanes are not provided (see section 32-243(o)), a minimum ten-foot-wide utility easement must be provided along the front lot line to accommodate these utilities.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-225. Design of blocks.

The street pattern breaks compact communities into blocks. Alleys and lanes are contained within most blocks to provide access to service areas and to route utilities lines. Except as otherwise provided, block perimeters may not exceed 1,600 linear feet as measured along the inner edges of each surrounding street right-of-way. Blocks may be broken by a Civic Space Lot provided that lot is at least 50 feet wide and will provide perpetual pedestrian access between the blocks and to lots that front the Civic Space Lot. Smaller blocks are encouraged to promote walkability.

(1) Block perimeters may exceed 1,600 linear feet, up to a maximum of 2,000 linear feet, if one or more of the following conditions apply:

a. The block is assigned to the Core transect zone;

b. The long side of a rectangular block faces an arterial street, or is located adjacent to the Caloosahatchee River or any other natural water body; or

c. The block contains valuable wetlands or other indigenous native vegetation that should not be crossed by a street.

(2) Single block faces wider than 500 feet must include a publicly dedicated sidewalk, passage, or trail at least eight feet in width that connects to another street.

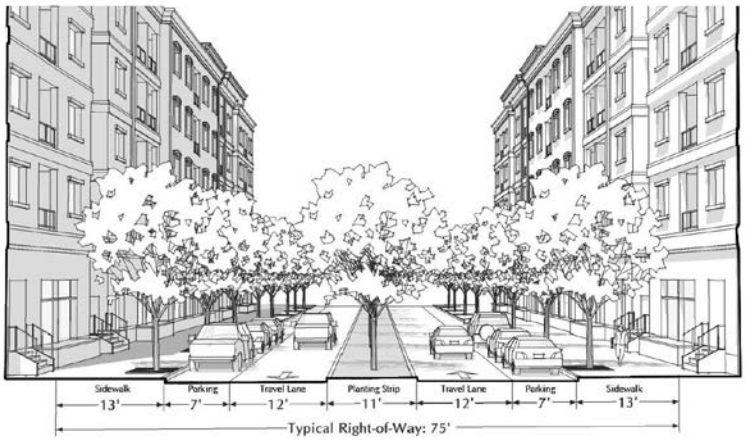
(Ord. No. 10-25 , § 3, 6-8-10; Ord. No. 13-05 , § 1, 2-26-13)

Sec. 32-226. Cross-sections of streets, alleys, and lanes.

The specific design of each street, alley, and lane must follow the cross-sections illustrated in figures 32-226(a)—(d) for each type, as adjusted for the transect zone it passes through in accordance with section 32-227. The lane widths shown include the width of horizontal extensions of curbs such as gutter pans. Details not specified in these cross-sections should be designed in accordance with the Traditional Neighborhood Development chapter of the Florida Greenbook (Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, published by Florida DOT).

Avenue

Core	Center	General	Edge	Civic
●	●	●		●



Street A

Core	Center	General	Edge	Civic
●	●	●		●

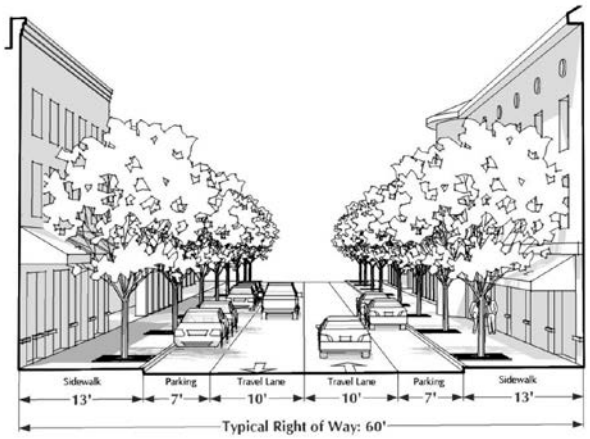
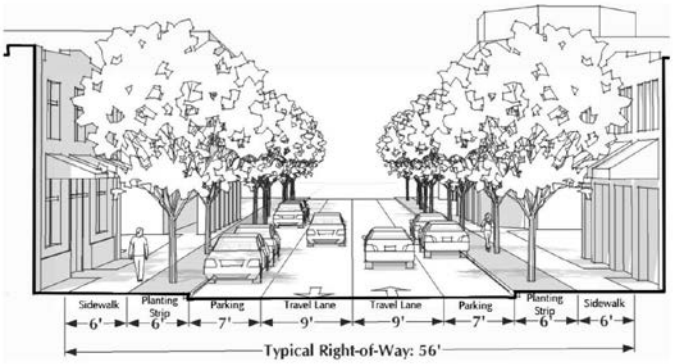


Figure 32-226(a)

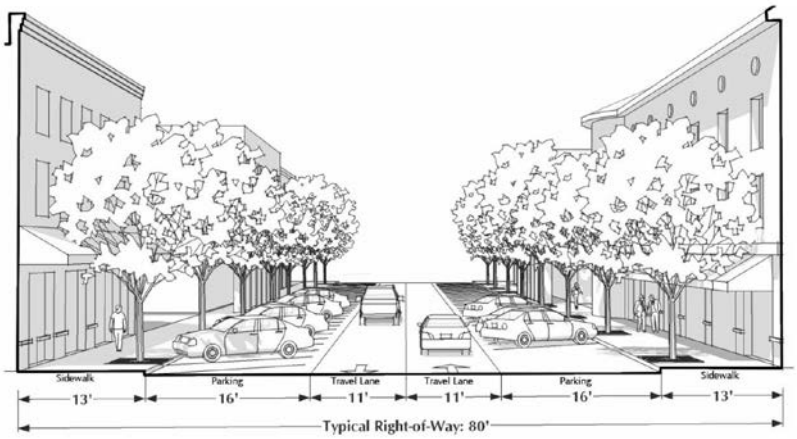
Street B

Core	Center	General	Edge	Civic
	●	●	●	●



Street C
(angle parking)

Core	Center	General	Edge	Civic
●	●	●		●



Street D
(one way)

Core	Center	General	Edge	Civic
●	●	●		●

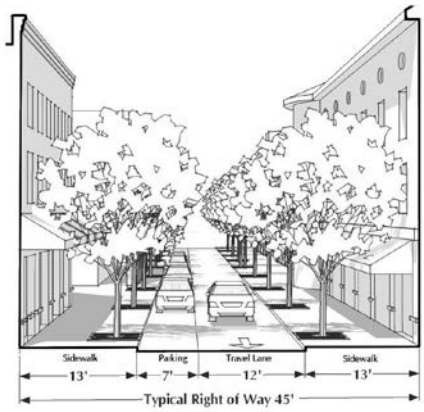
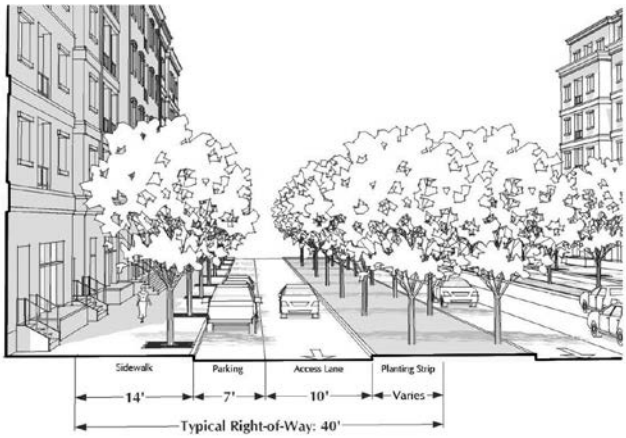


Figure 32-226(b)

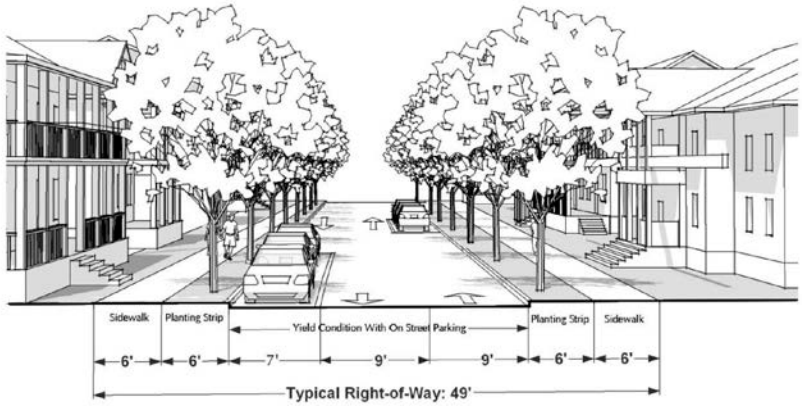
Street E
(access street)

Core	Center	General	Edge	Civic
●	●	●		●



Street F

Core
Center ●
General ●
Edge ●
Civic ●



Drive

Core
Center ●
General ●
Edge ●
Civic ●

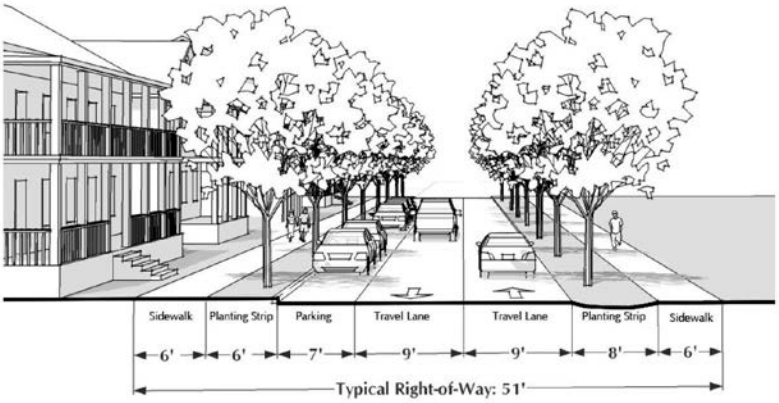
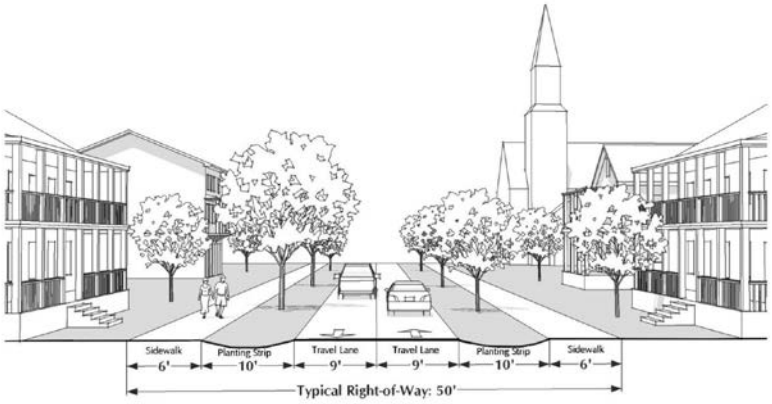


Figure 32-226(c)

Road

Core
Center
General
Edge ●
Civic ●



Rear Alley

Core	Center	General	Edge	Civic
●	●	●		

Rear Lane

Core	Center	General	Edge	Civic
		●	●	

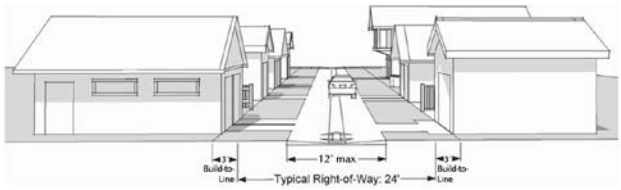


Figure 32-226(d)

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-227. Streetscape standards.

The standards in table 32-227 apply to all street types as they pass through the indicated transect zone. Streets in Civic transect zones should be consistent continuations of streets in adjoining transect zones.

TABLE 32-227

	Transect Zones			
Streetscape Standards	***Core***	***Center***	***General***	***Edge***
Street edge:				

Type	raised curb	raised curb	raised curb	raised curb or open swale
Corner radius[1]	10′ to 15′	10′ to 15′	10′ to 20′	10′ to 25′
Corner radius[2]	5′ max.	5′ max.	5′ max.	5′ max.
Street trees:				
Type	tree wells	tree wells	tree wells or planting strip	planting strip
Width	4′ to 8′ wells	4′ to 8′ wells	4′ min.wells; 6′ to 12 ′ strips	8′ min. strips
Tree spacing	regular or clustered	regular or clustered	regular	regular
Tree diversity	single species per block	single species per block	single species per block	alternating species allowed
Sidewalk:				
Type	sidewalks required	sidewalks required	sidewalks required	sidewalks required
Width	12′ min.; 16′ min. w/wells	12′ min.; 16′ min. w/wells	6′ min.; 10′ min. w/wells	5′ min.
Rear alley/lane:	alley is required	alley is required	alley or lane is required	lane is desirable

[1] *These radius standards apply to:*

- *swales (measured to edge of pavement)*;
- *raised curbs if both on-street parallel parking and curb bulbs (curb extension) are provided (measured to vertical face of curb); and*
- *raised curbs if on-street parallel parking is not provided (measured to vertical face of curb).*

The standards for curbs bulbs may be adjusted by the Development Review Director based on a technical analysis using AutoTurn or turning templates.

[2] *This radius standard applies to raised curbs if on-street parallel parking is provided without curb extensions (measured to vertical face of curb).*

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-228. Off-street parking.

(1) *Minimum required off-street parking.* Off-street parking will be provided in accordance with sections 34-2011 et seq. The single-use development parking standard (see section 34-2020) will be multiplied by the factors in table 32-228 to produce the minimum off-street parking requirements for this chapter. Off-street parking may be provided on the lot it serves or on a lot that is within 1,320 feet of the primary entrance of the building it serves. Off-street parking may not be the principal use of a lot except in a parking structure on a Lined Building Lot.

TABLE 32-228

	Transect Zones				
	Core	***Center***	***General***	***Edge***	***Civic***
Residential uses (34-2020(a))	0.40	0.50	0.60	0.80	n/a
Non-residential uses (34-2020(b))	0.50	0.55	0.60	n/a	n/a

(2) ***Shared parking.*** Developers should arrange off-street and on-street parking near areas of high parking demand in a manner that encourages visitors to park once and walk between destinations.

(3) ***Location of off-street parking.*** To the maximum extent practicable, off-street parking spaces must be located within buildings or behind buildings so that buildings can screen parking areas from sidewalks and streets. Parking may not be located in the street setback in front of a building. Parking lots in side yards may be permitted provided the buildings they serve can meet the lot width and frontage percentage requirements of table 32-243 and provided these parking lots are set back a minimum of 20 feet from lot lines adjoining streets (other than alleys and lanes) and are shielded from view with low walls.

(4) ***Access to off-street parking.***

a. In the Core transect zone, parking may be provided in parking structures embedded in buildings that may comprise an entire block, with parking accessed directly from a street. Other parking in the Core transect zone, and all parking in the Center and General transect zones, must have its primary source of access from rear alleys or lanes. In the Edge transect zone, rear lanes are the most desirable source of access to off-street parking (see special requirements in section 32-

243(o) where vehicular ingress is from the street). Parking along alleys or lanes may be 90-degree, angle, or parallel.

b. Alleys may be incorporated into parking lots as if they were standard parking access aisles. Access to all properties adjacent to the alley must be maintained.

c. Cross-access is required between adjoining rear parking lots on any combination of these lot types: Pedestal Building Lots, Lined Building Lots, and Mixed-Use Building Lots.

(5) ***Parking structures.*** Parking structures are permitted only on Pedestal Building, Lined Building, Mixed-Use Building, Apartment Building, and Courtyard Building Lots.

a. The liner building requirements in division 3 apply to all parking structures and to any story of a principal structure used to park vehicles.

b. Parking structures may contain up to five levels of parking above grade. Parking structures may contain other uses above and below the parking levels, provided the entire building does not exceed the height allowed by Table 32-243

(Ord. No. 10-25 , § 3, 6-8-10; Ord. No. 12-20 , § 2, 9-11-12; Ord. No. 13-05 , § 1, 2-26-13)

Secs. 32-229—32-240. Reserved.

DIVISION 3. LOT TYPES

Sec. 32-241. Lot types allowable in each transect zone.

(a) ***Lots in compact communities.*** This division authorizes specific types of lots that are suitable for compact communities.

(b) ***Lot type assignment.*** When seeking approval of development regulated by this chapter, lot types must be assigned by the applicant in accordance with the standards in this division. When seeking approval using planned development rezoning (see article V), proposed lot types must also be shown on the proposed regulating plan.

(c) ***Lot types in transect zones.*** Table 32-241 identifies which specific lot types are allowed within corresponding transect zones, as indicated by the letter "X." All lots and buildings placed on them must comply with all standards in this division. These standards, when used in development regulated by this chapter, will supersede any conflicting standards in this Code.

TABLE 32-241

	Transect Zones

Lot Type	***Core***	***Center***	***General***	***Edge***	***Civic***
Pedestal Building Lot (PB)	X	X			
Lined Building Lot (LB)	X	X			
Mixed-Use Building Lot (MU)	X	X	X		
Apartment Building Lot (AB)	X	X	X		
Courtyard Building Lot (CO)	X	X	X		
Live-Work Building Lot (LW)		X	X		
Rowhouse Lot (RH)		X	X		
Apartment House Lot (AH)			X		
Duplex Lot (DU)			X	X	
Cottage House Lot (CH)			X	X	
Sideyard House Lot (SH)			X	X	
House Lot (H)			X	X	
Civic Building Lot (CB)	X	X	X	X	X
Civic Space Lot (CS)	X	X	X	X	X
Stormwater Lot (SL)					X

(d) ***Lot types described.*** The 15 lot types are described here. Except as noted, parking spaces are provided on-street, to the rear of the lot, or as otherwise provided in division 2.

(1) PEDESTAL BUILDING LOT: A lot located and designed to accommodate the tallest permissible building whose primary façade must be stepped back to reduce its apparent bulk when viewed from the sidewalk.

(2) LINED BUILDING LOT: A lot located and designed to accommodate a large-footprint building such as a parking garage, cinema, supermarket, etc., which is surrounded by a liner building that conceals large expanses of blank walls and faces the street with ample windows and doors opening onto the sidewalk.

(3) MIXED-USE BUILDING LOT: A lot located and designed to accommodate a multi-story building with multiple dwellings in upper stories and various commercial uses in any stories.

(4) APARTMENT BUILDING LOT: A lot located and designed to accommodate multiple dwellings above or beside each other in a building that occupies most of its lot width and is placed close to the sidewalk.

(5) COURTYARD BUILDING LOT: A lot located and designed to accommodate multiple dwellings arranged around and fronting on a central garden or courtyard that may be partially or wholly open to the street.

(6) LIVE-WORK BUILDING LOT. A lot located and designed to accommodate an attached or detached building with residential uses and/or commercial uses within individually occupied live-work units, all of which may occupy any story of the building.

(7) ROWHOUSE LOT: A lot located and designed to accommodate a building with common walls on both side lot lines and a private garden to the rear.

(8) APARTMENT HOUSE LOT: A lot located and designed to accommodate a detached building that resembles a large house but which contains multiple dwellings above and beside each other.

(9) DUPLEX LOT: A lot located and designed to accommodate a detached building with small side yards and a large front yard and containing two dwellings.

(10) COTTAGE HOUSE LOT: A lot located and designed to accommodate a small detached building with small side and front yards.

(11) SIDEYARD HOUSE LOT: A lot located and designed to accommodate a detached building that abuts one side lot line, with the primary yard to the other side.

(12) HOUSE LOT: A lot located and designed to accommodate a detached building with small side yards and a large front yard; on-site parking may be provided to the side as provided in section 32-243

(13) CIVIC BUILDING LOT: A lot located and designed to accommodate a building containing public or civic uses such as community services, day care, education, government, places of worship, or social services (see division 4).

(14) CIVIC SPACE LOT: A lot located and designed to accommodate a civic space, which depending on its transect zone may be a green, square, plaza, neighborhood park, playground, community garden, farm plot, or natural area worthy of preservation.

(15) STORMWATER LOT: A lot whose primary purpose is to accommodate stormwater detention areas.

(e) ***Lot types along streets.*** Lot types should be selected so that buildings of compatible scale and arrangement will face each other across streets. Strongly contrasting lot types may be placed back-to-back, allowing alleys or lanes to serve as transitions. The "Drive" street type is designed for situations with buildings on one side and land that will remain undeveloped on the other.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-242. Placement of buildings on lots.

Lot types and proper building placement for each lot type are illustrated in figures 32-242(a)—(g). Some of the property development regulations from table 32-243 are shown on these figures; refer to table 32-243 for complete details. Character examples are provided for each lot type for illustrative purposes only; the dimensions in table 32-243 control for regulatory purposes.

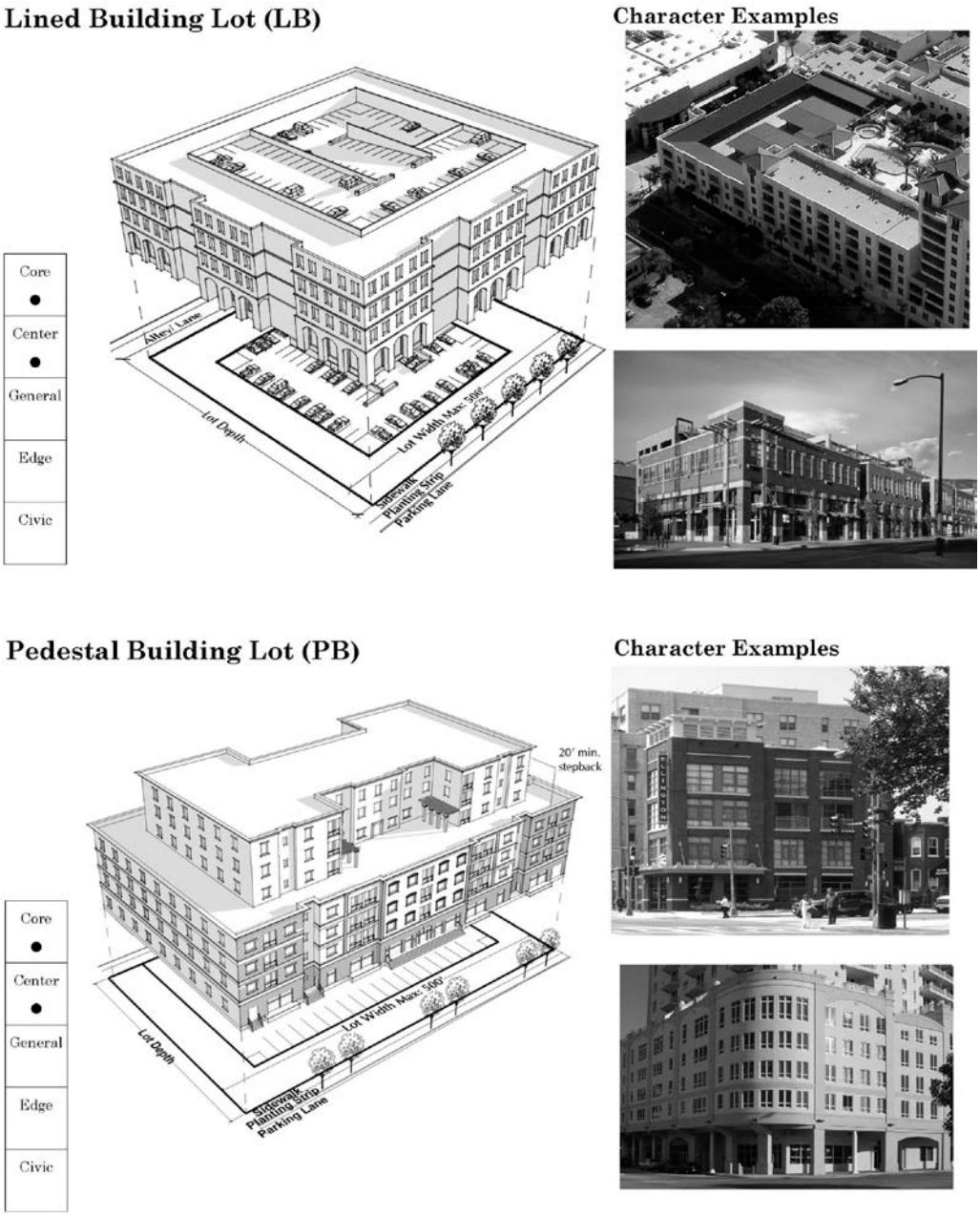
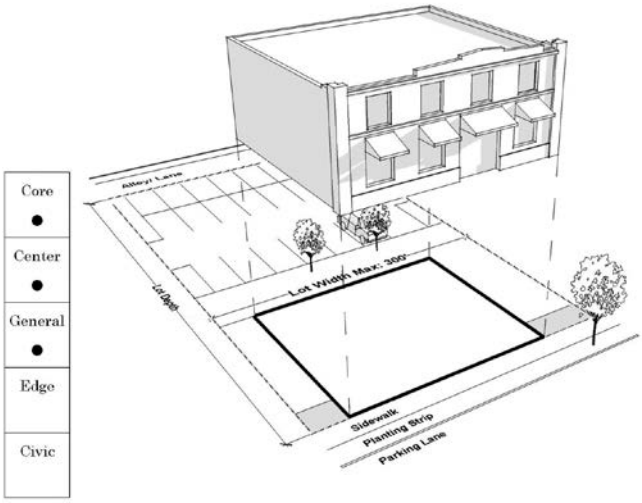


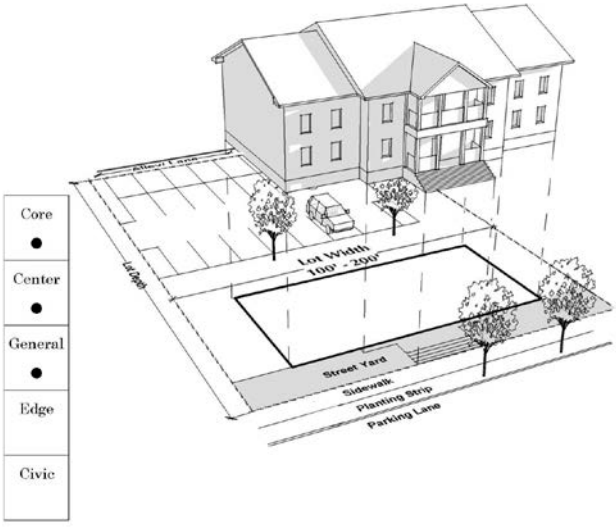
Figure 32-242(a)

Mixed-Use Building Lot (MU)



Character Examples

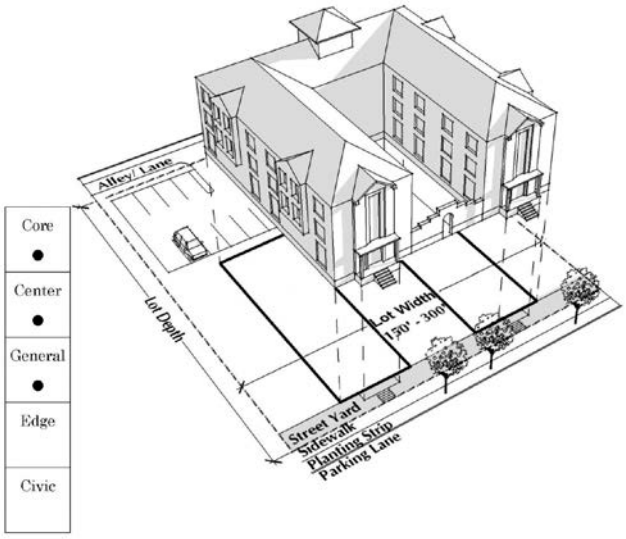
Apartment Building Lot (AB)



Character Examples

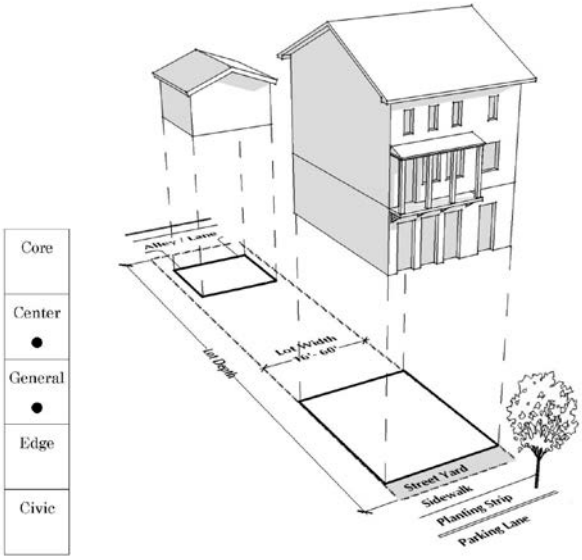
Figure 32-242(b)

Courtyard Building Lot (CO)



Character Examples

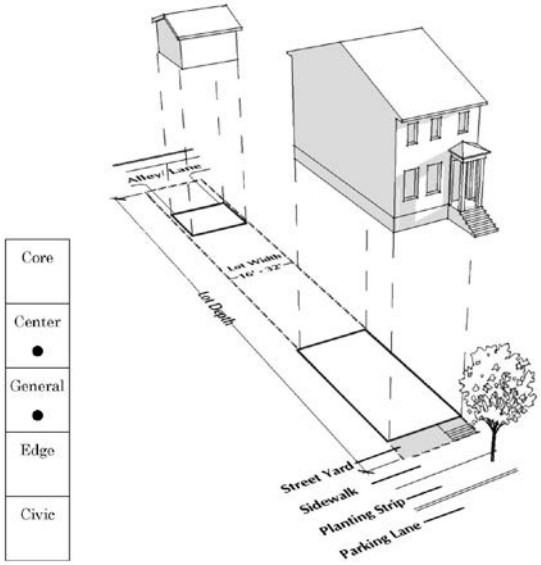
Live-Work Building Lot (LW)



Character Examples

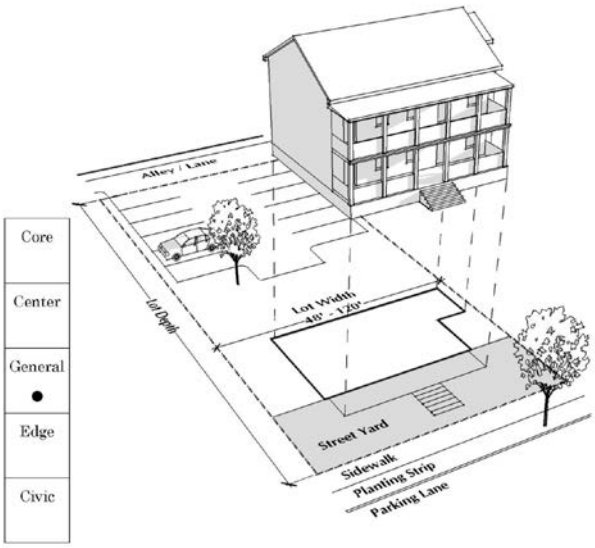
Figure 32-242(c)

Rowhouse Building Lot (RH)



Character Examples

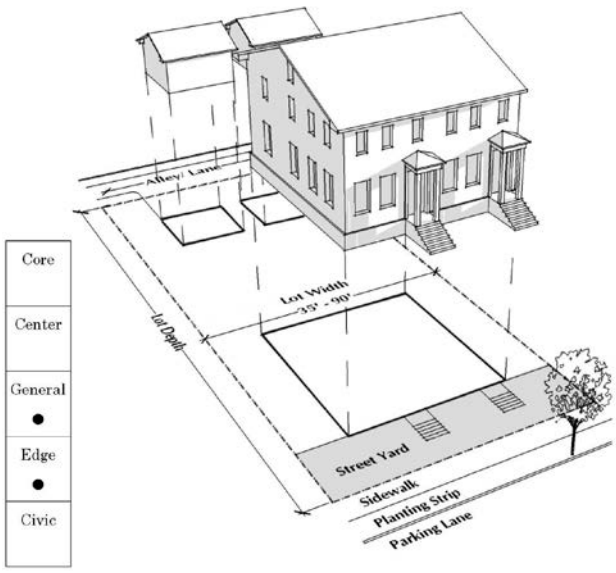
Apartment House Lot (AH)



Character Examples

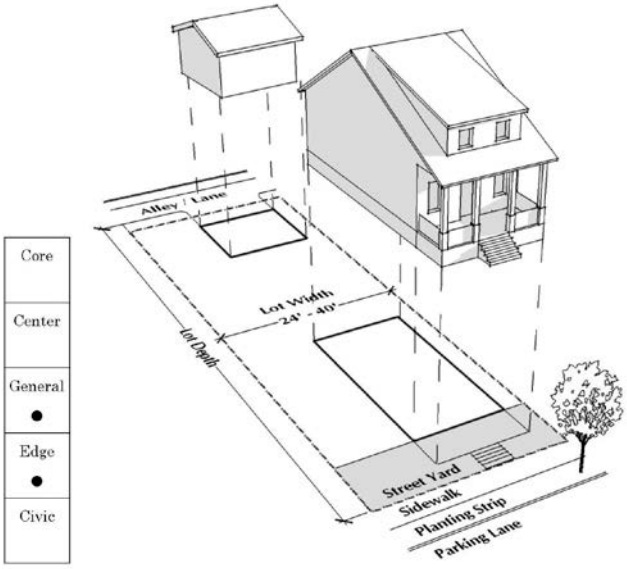
Figure 32-242(d)

Duplex Lot (DU)



Character Examples

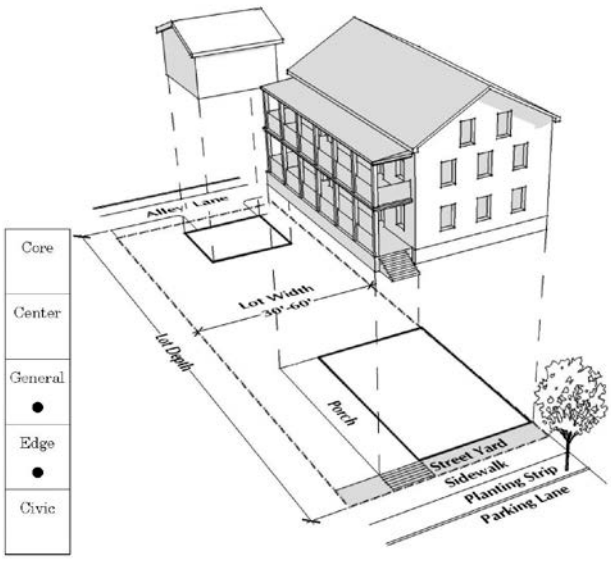
Cottage House Lot (CH)



Character Examples

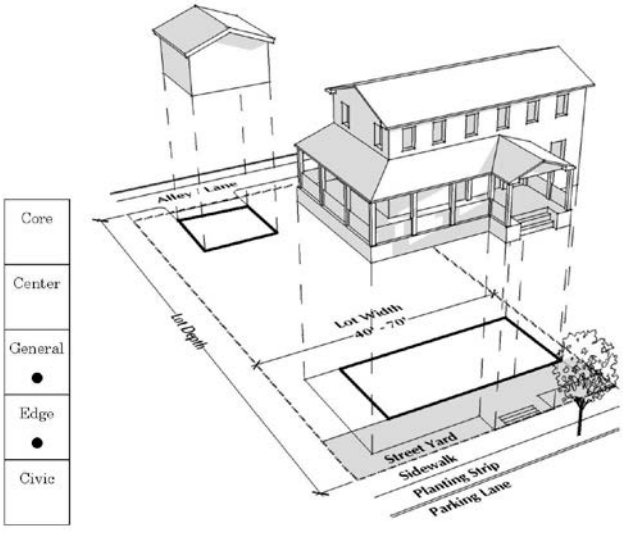
Figure 32-242(e)

Sideyard House Lot (SH)



Character Examples

House Lot (H)



Character Examples

Figure 32-242(f)

Figure 32-242(g)

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-243. Property development regulations.

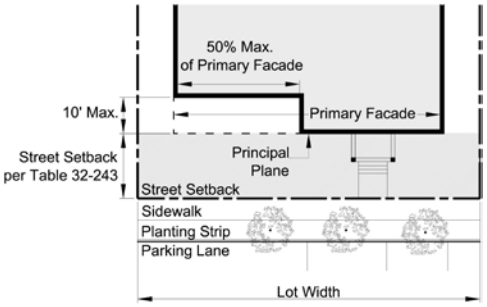


Figure 32-243(a)

(a) ***Dimensions for each lot type.*** Table 32-243 provides property development regulations that apply to each designated lot type. These requirements supersede contradictory requirements in this Code including the property development regulations for individual zoning districts in chapter 34

(b) ***Primary entrances.*** The primary entrance of every building must directly face a street or a civic space, except on Courtyard Building Lots where primary entrances may face a central garden or courtyard or on Sideyard House Lots where primary entrances may face a side yard.

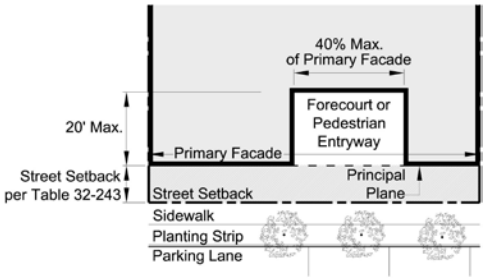


Figure 32-243(b)

(c) ***Frontage percentages.*** Frontage percentage is the percentage of the width of a lot that is required to be occupied by the building's primary façade. Table 32-243 provides minimum and maximum frontage percentages for each lot type.

(1) Up to 50 percent of the width of the primary façade may be counted as meeting the frontage percentage requirement even though it may be set back up to ten feet further from the street than the primary façade's principal plane. See example in figure 32-243(a).

(2) The location of the primary façade's principal plane is not changed by façade extensions such as bay windows, awnings, porches, balconies, stoops, colonnades, or arcades, or by upper stories that are closer to or further from the street.

(3) The width of a porte cochere may be counted as part of the primary façade.

(d) ***Forecourts.*** For Pedestal Building, Lined Building, Mixed-Use Building, and Courtyard Building Lots only, a portion of the building's primary façade may be set back up to 20 feet further from the street than the primary façade's principal plane if this space is constructed as a forecourt or pedestrian entryway that is open to the sidewalk. This recessed portion may be up to 40 percent of the total width of the primary façade and may not be used by vehicles. See example in figure 32-243(b). On Courtyard Building Lots, this forecourt may extend beyond 20 feet into the central garden or courtyard

TABLE 32-243 — PROPERTY DEVELOPMENT REGULATIONS FOR EACH LOT TYPE

					Lot Type	Lot Area (min/max in sf)	Lot Width (min/max)	Frontage Percentage (min/max)	Lot Coverage by all bldgs (max)	Setbacks							Height[4] (min/max in stories; max in feet)					Accessory Apartments[5] (max bldg footprint in sf)
										Street (min/max)				Side Yard (min)	Rear Yard[1,2] (min)	Water Body[3] (min)	Core	Center[9]	General	Civic	Edge	
										Core	Center	General	Edge									
					Pedestal Building Lot	no min/no max	no min/500	90%/100%	100%	0/10	0/10	not permitted	not permitted	0	0	25	2/85[6]	2/85[6]	not permitted	not permitted	not permitted	not permitted
					Lined Building Lot	no min/no max	no min/500	90%/100%	100%	0/10	0/10	not permitted	not permitted	0	0	25	2/6; 65′	2/4; 65′	not permitted	not permitted	not permitted	not permitted
					Mixed-Use Buil	no min/no	no min	90%/100%	100%	0/10	0/10	0/10	not permitted	0	3	25	2/5; 65′	2/4; 65′	2/3; 45′	not permitted	not permitted	not permitted

					ding Lot	max	/ 300																
					Apartment Building Lot	10,000 / no max	100/200	80% / 100%	100%	0/10	0/10	5/10	not permitted	0	10	25	2/4; 55′	2/4; 55′	2/3; 45′	not permitted	not permitted	not permitted
					Courtyard Building Lot[7]	20,000 / no max	150/300	50% / 90%	70%	0/10	0/10	5/10	not permitted	5	10	25	2/3 ½; 55′	2/3 ½; 55′	2/2 ½; 45′	not permitted	not permitted	not permitted
					Live-Work Building Lot	1,800/ 7,200	16/60	60% / 100%	80%	not permitted	0/12	5/12	not permitted	0	20	25	not permitted	2/3; 45′	2/2 ½; 45′	not permitted	not permitted	625
					Rowhouse Lot	1,800/ 3,840	16/32	90% / 100%	80%	not permitted	0/12	5/12	not permitted	0	20	25	not permitted	2/3; 45′	2/2 ½; 45′	not permitted	not permitted	625
					Apartment	4,800/	48/1	70% / 90%	80%	not per	not per	10/25	not per	5	15	25	not per	not per	1/3; 45′	not per	not per	not per

					House Lot	18,000	20			mitted	mitted		mitted				mitted	mitted		mitted	mitted	mitted
					Duplex Lot	5,000 10,800	35/90	60%/90%	80%	not permitted	not permitted	10/20	15/no max	5	15	25	not permitted	not permitted	1/3; 45’	not permitted	1/2½; 45’	not permitted
					Cottage House Lot	2,400/4,800	24/40	70%/90%	60%	not permitted	not permitted	5/20	10/no max	3	15	25	not permitted	not permitted	1/2; 35’	not permitted	1/2; 35’	not permitted
					Side yard House Lot	3,000/7,200	30/60	60%/90%	50%	not permitted	not permitted	5/10	10/15	0/10[8]	15	25	not permitted	not permitted	1/3; 45’	not permitted	1/2½; 45’	800
					House Lot	4,000/8,400	40/70	60%/80%	50%	not permitted	not permitted	10/20	15/no max	5	15	25	not permitted	not permitted	1/3; 45’	not permitted	1/2½; 45’	800
					Civic Building Lot	no min/no max	no min/no	no min/no max	no min/no max	no min/no max	no min/no max	no min/no max	no min/no max	0	0	15	1/4; 65’	1/4; 65’	1/4; 55’	1/4; 65’	1/4; 55’	1250

							max													
					Civic Space Lot	no min/ no max	no min/ no max	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	not permitted
					Stormwater Lot	no min/ no max	no min/ no max	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	not permitted
Core	**Center**	**General**	**Edge**	**Civic**	[1] *Minimum rear yards apply to lots with alleys or lanes and to lots with neither alleys nor lanes; rear yards do not apply to through lots or to double-frontage lots.* [2] *Minimum rear yards in this column apply to principal buildings and structures. When alleys or lanes are provided, garages and accessory dwelling units must be built with one wall placed 3' from the property line which is adjacent to the alley or lane.* [3] *Gulf of Mexico — 50'; all other water bodies — as shown.* [4] *Buildings must comply with both maximum heights, as measured in stories and feet. For heights measured in feet, see section 34-2171 et seq. for details and exceptions. Mezzanines that exceed the percentage of floor area for a mezzanine defined in the Florida Building Code are counted as a story for the purpose of measuring height. Space within a roofline that is entirely non-habitable is not counted as a story.* [5] *See requirements for accessory apartments in sections 4-243 and 34-1777.* [6] *On pedestal buildings, one or more step-backs of at least 14 feet must occur above the second floor level. Said step-backs shall consist of at least 70% of a pedestal building's primary facade being built at least 14 feet further from all streets than the story below. In addition to these heights, buildings on Pedestal Building Lots and Liner*																			

					Building Lots are allowed up to four (4) additional stories provided the square footage of each additional story is less than 70% of the largest lower story.. [7] *On Courtyard Building Lots, the longer dimension of the central garden or courtyard must be at least 30 feet long if oriented east-west or 40 feet if oriented north-south. If the longer dimension is less than 35 feet; architectural projections such as porches and balconies may only extend into the courtyard from one side. Maximum lot coverage is measured immediately above the courtyard level.* [8] *One sideyard must be 10' min; the opposite side yard may be 0' if the adjacent lot is a Sideyard House Lot or if the adjacent lot provides a maintenance easement, otherwise the side yard must be 3' min.* [9] *Maximum height exception: For properties located in the Center Transect and having direct frontage on the Caloosahatchee River, the maximum height on any allowable building lot is 12 stories and 120 feet.*

(e) ***Front porches.*** Front porches may extend up to ten feet into required street setbacks provided they are at least eight feet deep. Railings and partial walls on porches that extend into the required street setback may be no higher than 42 inches above the porch floor. Porches must remain set back at least the following distances from a public right-of-way:

(1) In the Core transect zone, zero feet.

(2) In the Center transect zone, zero feet.

(3) In the General transect zone, two feet.

(4) In the Edge transect zone, five feet.

(f) ***Stoops.*** Stoops may extend into required street setbacks in the Core, Center, and General transect zones provided the stoop platform is no higher than 42 inches above the sidewalk. Railings and partial walls on stoops may be no higher than 42 inches above the stoop platform.

(g) ***Shading of sidewalks.*** Each building on a Mixed-Use or Live-Work Building Lot, and each building on a Pedestal Building or Lined Building Lot with non-residential uses on the ground story, is required to have awnings, balconies, colonnades, or arcades facing all streets. When providing a required awning, balcony, colonnade, or arcade, or one that extends over a street right-of-way, the following design requirements apply:

(1) Awnings over ground-story doors or windows must have a depth of at least five feet and a clear height of at least eight feet above the sidewalk. Awnings must extend over at least 25 percent of the width of each primary façade. Back-lit, high-gloss, or plasticized fabrics are prohibited.

(2) Second-story balconies must have a depth of at least six feet and a clear height below that leaves at least ten feet above the sidewalk. These balconies must extend over at least 25 percent of the width of each primary façade. These balconies may have roofs, but must be open toward the street.

(3) Colonnades and arcades must have a clear width from support columns to the building's primary façade of at least eight feet and a clear height above the sidewalk of at least ten feet. Support columns can be spaced no farther apart than they are tall and must be placed to allow at least

two feet and up to three feet from their outer face to the curb. Colonnades or arcades must extend over at least 75 percent of the width of each primary façade.

(4) These features may extend into street setbacks and over public sidewalks provided they maintain two feet of horizontal clearance from a parking lane or travel lane. When colonnades and arcades extend over sidewalks, the landowner will have sole responsibility for repairing damage that may result from infrastructure maintenance or improvements. The landowner may be required to enter into a right-of-way agreement with the maintenance authority.

(h) ***Windows on primary façades.*** Primary façades on Pedestal Building, Lined Building, and Mixed-Use Building Lots must have between 25 percent and 75 percent of the primary façade of each story in windows and doors with transparent glass. Transparent glass must transmit at least 50 percent of visible daylight, whether the glass is tinted or coated. In addition, retail stores must comply with the following:

(1) The ground story's primary façade must have transparent storefront windows covering no less than 75 percent of its principal plane in order to provide clear views of merchandise in stores and to provide natural surveillance of exterior street spaces.

(2) Storefronts must remain unshuttered at night to provide views of display spaces. Store-fronts should remain lit from within until 10:00 p.m. to provide security to pedestrians.

(3) Doors allowing public access to streets must be provided at intervals no greater than 75 feet to maximize street activity, to provide pedestrians with frequent opportunities to enter buildings, and to minimize expanses of inactive wall.

(i) ***Liner buildings.*** The character of some uses of land, such as theaters and parking structures, may preclude their buildings from complying with the door and window requirements for primary façades. These buildings may be constructed only on Pedestal Building, Lined Building, Mixed-Use Building, Apartment Building, and Courtyard Building Lots in a manner that will separate them from adjacent streets (but not alleys) by liner buildings:

(1) Liner buildings must be at least two stories in height and no less than 20 feet in depth;

(2) Liner buildings may be detached from or attached to the buildings they conceal;

(3) Liner buildings may be used for any purpose allowed on the lot except parking; and

(4) Liner buildings must comply with the primary façade transparency requirements in section 32-243(h).

(j) ***Wide buildings.*** Table 32-243 allows Pedestal Building and Lined Building Lots to be up to 500 feet wide and Mixed-Use Building Lots to be up to 300 feet wide. When one of these lot types is placed directly across a street from significantly narrower lots, the principal façade of buildings on these lots must be varied with a change of architectural expression that reflects the widths of the narrower lots.

(1) These changes in expression may be a vertical element running from sidewalk to roof, a change in style, color, texture, or window type, or a break in façade plane or roof line.

(2) These changes may be subtle or significant, but must soften the visual effect of very wide buildings directly across the street from narrower buildings.

(k) ***Story heights.*** The ground story of commercial and mixed-use buildings must be between 12 and 18 feet tall. The ground story of residential and live-work buildings must be between ten and 14 feet tall. Each story above the ground story in commercial and residential buildings must be between eight and 12 feet tall. Upper stories taller than 12 feet will count as two stories. Story heights are measured from the floor to the bottom of the lowest structural member that supports the story above.

(l) ***Retail floor elevation.*** In areas prone to flooding, interior floor space must be elevated above adopted base flood elevations or floodproofed. Retail space should be placed at sidewalk level; if this level is

below the base flood elevation, the floor space must be protected from flood damage by floodproofing in accordance with section 6-472(2).

(m) ***Residential floor elevation.*** Residential buildings must have the floor of their first habitable story elevated at least two and one-half feet above the adjacent sidewalk. If this floor is more than five feet above the adjacent sidewalk, the space below counts as the ground (first) story for purposes of measuring building height.

(n) ***Accessory apartments.*** Each Live-Work Building, Rowhouse, Sideyard House, House, and Civic Building Lot is permitted one accessory apartment in addition to its principal building. Accessory apartments are regulated in accordance with section 34-1177 and the dimensions in table 32-243, except as follows:

(1) The maximum floor area and minimum lot size requirements in section 34-1177 do not apply.

(2) Accessory apartments must maintain the same side yards as required for the principal building.

(o) ***Limitations on front and side driveways.*** A continuous network of rear and side alleys or lanes must serve as the primary means of vehicular ingress to individual lots in the Core, Center, and General transect zones. Rear lanes are required in the Edge transect zone for all lots narrower than 60 feet. Where rear lanes are not provided, a front or side driveway is permitted to House Lots only, with the following restrictions:

(1) Detached garages must always be located in the rear of the lot. All walls of attached garages must be at least 20 feet behind the principal plane of the house's primary façade.

(2) Garage doors should face the side or the rear of the lot rather than the front. Where space does not permit a side- or rear-facing garage door, front-facing garage doors may be provided, but each door may not exceed ten feet in width.

(3) Driveways may not exceed ten feet in width except at the garage entrance.

(Ord. No. 10-25 , § 3, 6-8-10; Ord. No. 13-05 , § 1, 2-26-13)

Sec. 32-244. Permitted uses.

(a) ***Permitted uses.*** Table 32-244 identifies permitted uses for each lot type. There are two types of column headings in table 32-244

(1) Some columns identify specific uses or use categories described or defined in chapter 34. The letter "P" in a row below means "permitted" as provided in section 34-621. A blank cell indicates that a use is not allowed for the respective lot type, unless the use is specifically allowed by another column in table 32-244

(2) Other columns identify entire zoning districts described in chapter 34. The letter "S" in a row below indicates that a particular lot type has the same rights to all uses in that zoning district as provided in section 34-621. A blank cell indicates that those uses are not allowed for the respective lot type, unless the use is specifically allowed by another column in table 32-244

(b) ***Accessory uses.*** Accessory uses and structures not listed in table 32-244 are regulated in the same manner as chapter 34 provides for each permitted use.

TABLE 32-244 — USE REGULATIONS FOR EACH LOT TYPE

	Lot Type	***ALL USES ALL***	***Accessory apartmen***	***Duplex or two***	***ALL USES ALL***	***Attached dwe***	***Live-w***	***ALL USES ALL***	***ALL USES ALL***	***Hotel/motel***	***ALL USES ALL***	***Urban agric***	***Excavation for***

						OWED IN RS-1 ZONING	***t*** (see 34-1177	***-family attached dwelling***	***OWED IN RM-2 ZONING***	***lling unit***	***ork unit***	***OWED IN CN-3 ZONING***	***OWED IN CC ZONING***		***OWED IN CF-2 & CF-3 ZONING***	***ulture***	***water retention only***
					Pedestal Building Lot				S	P	P		P*	P	P		
					Lined Building Lot				S	P	P		P*	P	P		
					Mixed-Use Building Lot*				S*	P*	P		P*	P	P		
					Apartment Building Lot				S	P							
					Courtyard				S	P							

					Building Lot												
					Live-Work Building Lot		P		S	P	P	P			P		
					Rowhouse Lot		P		S	P							
					Apartment House Lot				S	P							
					Duplex Lot	S		P									
					Cottage House Lot	S											
					Sideyard House Lot	S	P										

					House Lot	S	P									
					Civic Building Lot		P								P	
					Civic Space Lot										P**	P
					Stormwater Lot											P
Core	**Center**	**General**	**Edge**	**Civic**	*NOTE S:*	P = *Permitted use (see 34-621*	BLANK = *Use not permitted*	S = *Same permitted and limited uses as allowable for any parcel in the zoning district listed at the top of the column (see section 32-244*								
						*Residential uses in Mixed-Use Building Lots may not be placed in the ground (first) story.		**Civic Space Lots are not building sites; see division 4 for allowable uses on Civic Space Lots								

(Ord. No. 10-25 , § 3, 6-8-10)

Secs. 32-245—32-260. Reserved.

DIVISION 4. CIVIC BUILDINGS AND CIVIC SPACES

Sec. 32-261. Civic buildings.

Sec. 32-261. Civic buildings.

Civic buildings contain public or civic uses of special significance to residents, employees, or visitors.

(1) Civic buildings are used primarily for the following civic uses: community services, day care, education, government, places of worship, or social services. Civic buildings do not include residential uses or retail space (except as an accessory use). Civic uses may also be located on other lot types as permitted by table 32-244

(2) Civic Building Lots may be assigned in any transect zone. Civic Building Lots are usually sited adjoining or surrounded by civic spaces or they provide a visual landmark due to placement at one end of a street (see Civic Building Lot diagrams in section 32-242).

(3) In order to provide greater flexibility in building types and to allow more distinctive architectural expression, Civic Building Lots do not have mandatory frontage percentages or street setbacks. Civic buildings must be designed to physically reflect their community prominence.

(4) Compact communities that are 30 acres or larger must contain at least 0.5 acres devoted to Civic Building Lots. One Civic Building Lot must be at least 10,000 square feet and a certificate of occupancy must be obtained for a civic building on the lot within three years after the first building in the compact community obtains a certificate of occupancy.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-262. Civic spaces.

(a) ***Civic spaces generally.*** Civic spaces are commonly owned open spaces that are strategically placed to serve a specialized community function. Active civic spaces may be configured as a green, square, plaza, park, playground, community garden, or farm plot. Passive civic spaces protect natural areas worthy of preservation as described in this Code.

(b) ***Types of civic spaces.*** Each Civic Space Lot must contain one of the following types of civic spaces, allowable in various transect zones as indicated by the letter "X" in table 32-262

(1) *Active civic spaces:*

a. GREEN: Open space consisting of lawn and informally arranged trees and shrubs, typically furnished with paths, benches, and open shelters. Greens are spatially defined by abutting streets.

b. SQUARE: Formal open space available for recreational and civic uses and spatially defined by abutting streets and building frontages. Landscaping in a square consists of lawn, trees, and shrubs planted in formal patterns and it is typically furnished with paths, benches, and open shelters.

c. PLAZA: Formal open space available for civic and commercial uses and spatially defined by building frontages. Landscaping in a plaza consists primarily of pavement; trees and shrubs are optional.

d. NEIGHBORHOOD PARK: Natural landscape consisting of open and wooded areas, typically furnished with paths, benches, and open shelters. Neighborhood parks are often irregularly shaped but may be linear in order to parallel creeks, canals, or other corridors.

e. PLAYGROUND: Fenced open space, typically interspersed within residential areas, that is designed and equipped for the recreation of children. Playgrounds may be freestanding or located within parks, greens, or school sites.

f. COMMUNITY GARDEN: Grouping of garden plots available to nearby residents for small-scale cultivation.

g. FARM PLOT: Plot dedicated primarily to food production for local consumption and managed so as to avoid adverse impacts to nearby residential neighborhoods.

(2) *Passive civic spaces:*

a. PRESERVE: Protected natural area with special physical characteristics.

TABLE 32-262

			Transect Zones				
Civic Space Types	***Must Front On At Least:***	***Typical Lot Size***	***Core***	***Center***	***General***	***Edge***	***Civic***
Active civic spaces:							
Green	2 streets	0.5 to 5 acres		X	X	X	X
Square	3 streets	0.5 to 2 acres	X	X	X		X
Plaza	1 street	0.1 to 2 acres	X	X	X		X
Neighborhood park	1 street	0.5 to no max.			X	X	X
Playground	0 streets	0.1 to 1 acre	X	X	X	X	X
Community garden	0 streets	0.1 to 1 acre			X	X	X
Farm plot	0 streets	1.0 to no max.					X
Passive civic spaces:							
Preserve	0 streets	no min./no max.					X

(c) ***Civic Space Lots in Civic transect zones.*** Civic spaces in Civic transect zones may serve as buffers to provide a separation from adjoining land uses or they may be designed for active uses as greens, squares, plazas, neighborhood parks, playgrounds, community gardens, or farm plots. They may also be preserved natural areas where only passive recreational uses are permitted.

(1) Natural areas to be protected, including archaeological features, mature trees, creeks, wetlands, and indigenous native vegetation, should be designated as a Civic Space Lot. These areas are important public amenities whose edges should be easily accessible, for instance bordered by trails, neighborhood parks, streets, or commercial uses such as restaurants.

(2) Land in Civic transect zones may also be designated as Civic Building Lots or Stormwater Lots.

(d) ***Civic Space Lots in all other transect zones.*** Civic Space Lots may also be assigned in the Core, Center, General, and Edge transect zones as provided in table 32-262

(e) ***Civic space standards.*** Civic Space Lots must be designed, landscaped, and furnished to be consistent with the character of each civic space type.

(1) Street frontage requirements for various civic space types are provided in table 32-262

(2) Squares and plazas must be located so that building walls facing the square or plaza will have at least 25 percent of their primary façade, including at least 40 percent of the ground story's primary façade, in transparent windows.

(3) Typical arrangements of each type of civic space are illustrated in figure 32-262

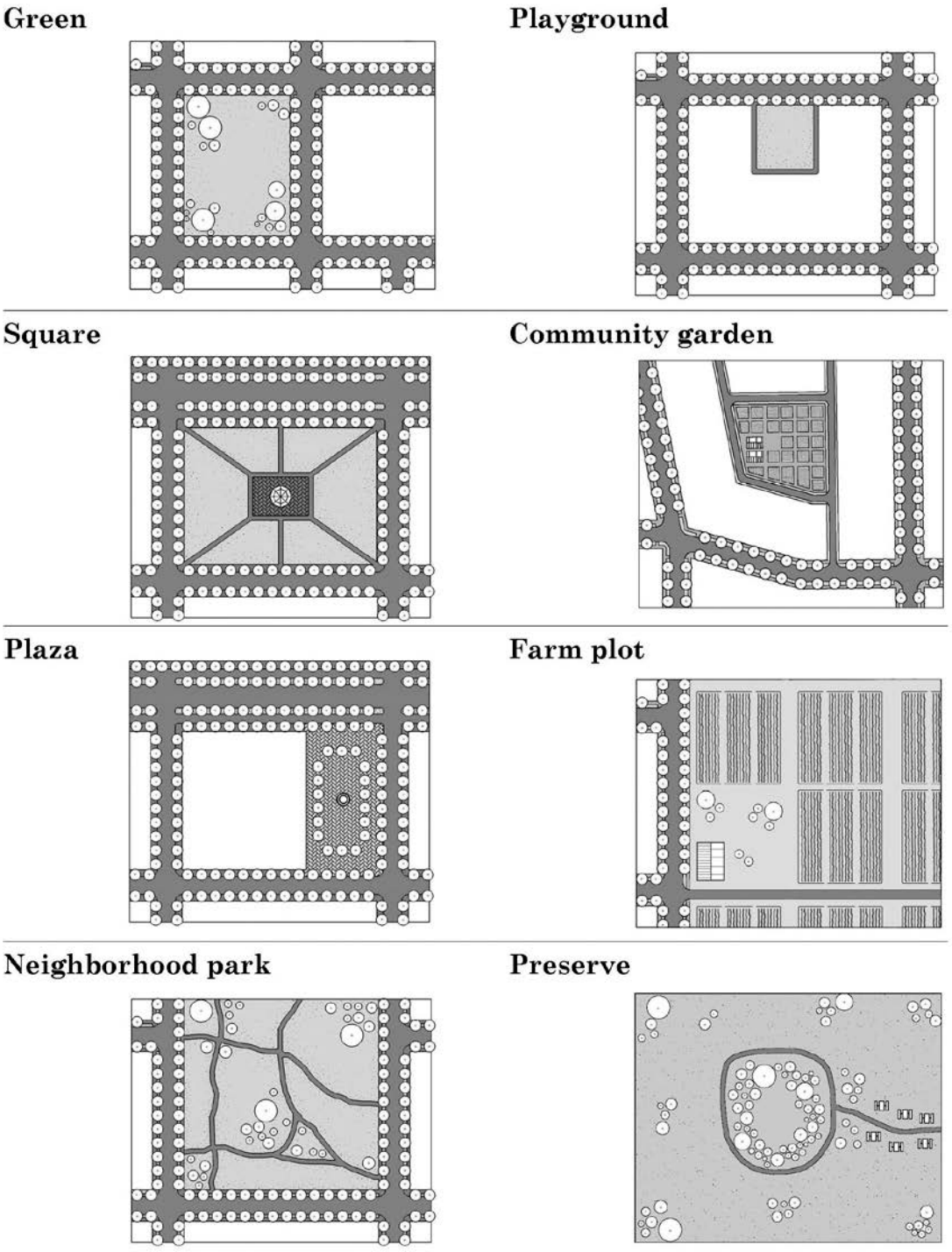


Figure 32-262

(Ord. No. 10-25 , § 3, 6-8-10)

Secs. 32-263—32-270. Reserved.

DIVISION 5. REGULATING PLANS

Sec. 32-271. Types of regulating plans.

A regulating plan is a site plan that describes the varying character of land within a future neighborhood, community, mixed-use center, or fragment thereof. Compact development is regulated under this chapter using two types of regulating plans:

(1) ***Conceptual regulating plans.*** Conceptual regulating plans identify the intended variety and location of transect zones and a preferred street/block structure including suggested street types.

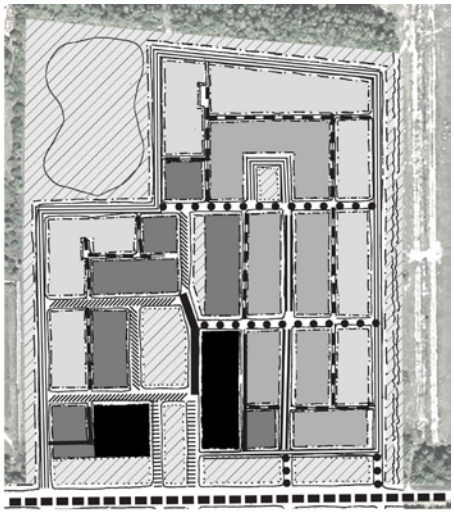
(2) ***Detailed regulating plans.*** Detailed regulating plans identify the final assignment of transect zones and the exact street/block structure, along with specific street types and lot types as described in this chapter.

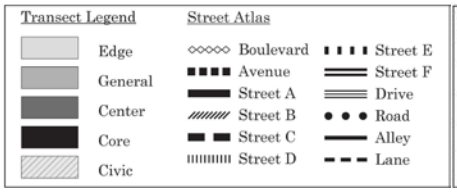
(Ord. No. 10-25 , § 3, 6-8-10)

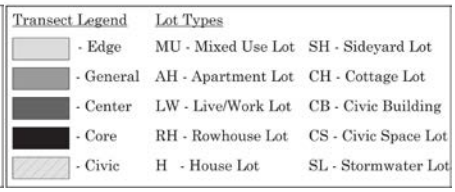
Sec. 32-272. Sample regulating plans.

Samples of conceptual and detailed regulating plans are provided in figure 32-272 to compare both types and show the level of detail provided on each.

Figure 32-272(a), sample conceptual regulating plan







(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-273. Purpose of regulating plans.

(a) Conceptual regulating plans are used in articles IV, VI, and VII of this chapter; they define in general terms the desired nature of future development on parcels of land that may qualify for administrative approval under this chapter. Conceptual regulating plans prepared by Lee County have been incorporated into article IV; additional conceptual regulating plans may be incorporated through amendments to this Code.

(b) Detailed regulating plans define with precision the nature of allowable development of land. Detailed regulating plans are prepared by landowners in accordance with articles IV, V, and VI and submitted to Lee County through the approval processes described in those articles.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-274. Requirements for detailed regulating plans.

Submittals to obtain approval of a detailed regulating plan must meet the following criteria:

(1) The plan must depict immediately adjoining roads, canals, and other rights-of-way.

(2) The plan must show the assignment of a transect zone to all land (including proposed streets) within the development site. All land must be assigned one of the five transect zones described in division 1; no land may be assigned two or more transect zones.

(3) The plan must show the location of all proposed streets within the development site and must indicate the specific type of each street. Streets types must be allowed within the transect zones through which they pass and must comply with the specified right-of-way standards and other requirements in division 2.

(4) The plan must show proposed lot lines and lot types for all land to be subdivided into lots. Lot types must be allowed within the transect zones where the lots are located and must be able to meet the development standards for each lot type and other requirements in division 3, in addition to the following standards:

a. *Minimum diversity of lot types within transect zones:*

1. Edge: At least two different lot types are required within the Edge transect zone, with no one type representing more than 75 percent of the lots.

2. General and Center: At least four different lot types are required within each of these transect zones, with no one type representing more than 60 percent of the lots.

3. The minimum diversity requirements of section 32-274(4)a. are not applicable to regulating plans for the North Fort Myers Town Center.

b. *Minimum residential density within transect zones:*

1. General: At least four dwelling units per acre within all General transect zones.

2. Center: At least eight dwelling units per acre within all Center transect zones.

3. Core: At least ten dwelling units per acre within all Core transect zones.

4. For these density calculations, the aggregate area of each type of transect zone includes the internal street network and also includes all lots even if planned for commercial uses.

(5) The level of detail and graphic format of the plan should be similar to the sample detailed regulating plan in figure 32-272(b) and should be produced at a scale and sheet size that allows all elements of the plan to be clearly legible. All related submittals must be provided at the same scale to facilitate review. The proposed location of all utilities must be shown on development order plans (see article II, division 2 for preferred utility locations). The regulating plan must also be provided in a digital format acceptable to county staff.

(Ord. No. 10-25 , § 3, 6-8-10; Ord. No. 13-05 , § 1, 2-26-13)

Secs. 32-275—32-280. Reserved.

DIVISION 6. STORMWATER MANAGMENT

Sec. 32-281. Stormwater management.

In compact development, best practices for stormwater management may differ from conventional suburban practices. Compact development creates fewer pollutants by reducing expansive lawns and parking lots. Because less land is available for stormwater treatment, excess stormwater may be infiltrated or detained in subsurface basins, and oils and greases can be removed with skimmers. This division encourages the use of a variety of best management practices to meet stormwater management standards in compact communities. The use of these practices and their functional equivalents are presumed to comply with the stormwater management standards contained in chapter 10; in the event of conflict, the provisions of this section prevail. Stormwater systems are subject to permitting approval of the South Florida Water Management District.

(1) Innovative and urban stormwater management designs and techniques may be considered for addressing stormwater treatment requirements, including but not limited to porous pavement, treatment inlet boxes with skimmers or traps, subsurface basins for infiltration or detention, prefabricated multi-chamber water quality devices, green roofs, stormwater treatment mitigation, etc. All stormwater management designs and techniques must be certified by a Florida professional engineer or other appropriate professional registered under Chapters 471 or 481 F.S. competent in the fields of hydrology, drainage, and flood control. Submittals must include a proposed maintenance schedule for each technique, identifying the timing of inspections and maintenance activities such as removing debris from inlet boxes, replacing filters, pumping out accumulated sediment, mechanical sweeping, etc.

(2) To minimize the amount of site fill and the associated impacts of fill on existing native vegetation and trees, historical wet season water table levels may be controlled at lower elevations subject to the physical limitations of the receiving drainage system and compliance with criteria of the South Florida Water Management District.

(3) Stormwater attenuation requirements may be waived for sites located near receiving waters so that post-development conditions will not cause an adverse increase in flood stages off site. This consideration is granted provided the site provides stormwater treatment for 150 percent of the site and adequate downstream capacity exists for the proposed discharge rate.

(Ord. No. 10-25 , § 3, 6-8-10)

Secs. 32-282—32-300. Reserved.

ARTICLE III. TRANSFER OF DEVELOPMENT RIGHTS [2]

Sec. 32-301. Background.

In 1986 Lee County established a transfer of development rights (TDR) program that is described in sections 2-141 through 2-148 of this Code. That program rewards landowners for protecting wetlands throughout unincorporated Lee County by transferring development rights into designated future urban areas. This article authorizes a second TDR program that allows the transfer of development rights from uplands as well as wetlands and creates additional TDR receiving areas. Except where specifically

authorized by this Code, TDR credits created pursuant to this chapter may not be combined with TDR units created pursuant to chapter 2.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-302. Purpose of article.

The purposes of this article are to:

(1) Recognize there is land in Lee County that warrants protection in its current agricultural use or natural conditions.

(2) Offer an incentive-based alternative to development of land warranting protection or restoration by allowing its development rights to be transferred to other areas that are suitable for compact development.

(3) Provide fair and predictable standards for creating, transferring, and redeeming transferable development rights while restricting the development potential of land from which development rights have been severed.

(4) Direct future growth to areas nearer to public services and facilities in order to achieve consistency with the goals, objectives, and policies of the comprehensive plan.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-303. Land not eligible for creation of TDR credits.

(a) TDR credits may not be derived from land with the following characteristics:

(1) Land owned by a governmental agency;

(2) Land encumbered by a conservation easement or similar restriction that precludes residential development;

(3) Land encumbered by an existing development approval (e.g. DRI development order) that converts residential density rights to commercial, industrial, or other land uses;

(4) Land designated on Lee Plan Map 14 as a Future Limerock Mining area; or

(5) Land designated on Lee Plan Map 17 as an Existing Acreage Subdivision.

(b) Land that is cleared of native vegetation after July 1, 2010, will not qualify for a period of 25 years for TDR credits that this article allows for land encumbered by a conservation easement. However, such land is not disqualified for TDR credits allowable for land encumbered by an agricultural easement.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-304. General TDR credit characteristics.

(a) TDR credits are created when a landowner holding fee title to property within a designated TDR sending area executes an agricultural or conservation easement that encumbers the land consistent with this article.

(b) TDR credits may be redeemed for additional development rights in TDR receiving areas, subject to section 32-309

(c) The creation and redemption of TDR credits will take place solely on a voluntary basis between consenting parties. Landowners are not required to create or convey TDR credits. However, TDR

credits must be created, conveyed, or redeemed in accord with this code to be recognized by Lee County.

(d) Fractional TDR credits of no less than a 0.1 increment may be created in accordance with the formulas in this article. Fractional TDR credits may not be redeemed unless aggregated to form a whole TDR credit.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-305. TDR credit sending area ratios.

(a) ***Size of sending area.*** The minimum size of TDR sending areas is determined by the location of the sending area and the number of TDR credits a landowner seeks to create.

(b) ***Southeast Lee County sending areas.*** In Southeast Lee County, the following TDR credit ratios are established:

(1) *Wetlands:* One TDR credit may be created for each 20 wetland acres encumbered by a conservation easement that meets the requirements of section 32-307(c).

(2) *Uplands:* TDR credits may be created using upland property as follows:

a. One TDR credit may be created for each ten upland acres encumbered by an agricultural easement that meets the requirements of section 32-307(b). In addition to this credit, if Lee County adopts restoration standards for farmland, compliance with those standards will qualify farmland for one TDR credit for each five acres of farmland that is restored to natural conditions and encumbered by a conservation easement that meets the requirements of section 32-307(c).

b. In lieu of the credits in subsection (b)(2)a, one TDR credit may be created for each 5 upland acres with indigenous native vegetation encumbered by a conservation easement that meets the requirements of section 32-307(c). Indigenous native vegetation is defined in section 10-1

(3) For each TDR credit allowed by the base rates set forth in section 32-305(1) and (2), one extra TDR credit may be created if the sending area land is designated as Tier 1, Tier 2, Tier 3, or the southerly two miles of Tiers 5, 6, and 7, in the Priority Restoration Strategy (Lee Plan Map 1, Page 4).

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-306. Creation of TDR credits.

(a) ***Determination of potential TDR credits.*** A landowner seeking to create TDR credits may request a provisional determination from Lee County to provide guidance on the potential number of credits that may be created based on preliminary information submitted by the landowner.

(1) The following documents must be submitted to the community development department if a landowner wishes to obtain this provisional determination:

a. A cover letter identifying the landowner's name, mailing address, and contact information and briefly explaining what the landowner seeks to accomplish.

b. A sketch of the subject property clearly indicating the areas to be encumbered by easements that will establish the basis for TDR credits.

c. A proposed easement draft or an outline of easement terms that states the protections and restrictions the landowner intends to place on the property to obtain TDR credits.

d. If the property contains land that is designated or might be determined to be wetlands pursuant to the comprehensive plan, the package must include a wetland determination issued by an appropriate state agency, an administrative interpretation of wetland boundaries under Lee Plan Chapter XIII, or an application for an administrative interpretation of the wetland boundaries under Lee Plan Chapter XIII.

e. If the property contains uplands with indigenous native vegetation, the package must include an aerial map/photograph outlining this area.

(2) The Director will issue a written provisional determination as to whether the proposed easement restrictions appear sufficient and confirming the potential number of TDR credits that could be issued. This determination is preliminary and not subject to appeal.

(b) ***Formal creation of TDR credits.*** To create TDR credits, a landowner must use the following procedures.

(1) The following documents must be submitted to the community development department with payment of an application fee:

a. A cover letter identifying the landowner's name, mailing address, and contact information and briefly explaining what the landowner seeks to accomplish.

b. A copy of the provisional determination issued by the Planning Director; or, if no provisional determination was requested and the proposed easement property contains wetlands and/or indigenous native vegetation, the information requested in section 32-306(a)(1)d. and e. must be submitted.

c. An opinion of title or certificate of title meeting the requirements of Lee County Administrative Code 13-19.

d. A draft easement that provides the protections and restrictions on the proposed easement property consistent with section 32-307

e. A baseline documentation report that establishes the current condition of the proposed easement property. The baseline documentation report must include, at a minimum:

1. A title page stating that the document is a baseline documentation report and the date the report was completed along with any revision dates.

2. A general location map.

3. A legal description and sketch that comply with section 34-202(a). If separate parcels are to be encumbered by easements, a legal description and sketch will be required for each parcel.

4. Documentation (such as maps, written summaries, and photographs with a photo-point map) of existing conditions that relate to the easement restrictions and the rights to be retained by the landowner. This must include the location and condition of pre-existing manmade improvements and other data that may affect the exercise of rights proposed for retention by the landowner on the land to be encumbered by the easement. Lee County may require the landowner to submit a location survey, prepared by a licensed surveyor, depicting the boundaries of the proposed easement area along with any manmade improvements located within the proposed easement area.

5. For conservation easements only, documentation (such as maps, written summaries, and photographs with a photo-point map) of the conservation values that will be protected by the conservation easement.

6. The qualifications and experience of the report's authors. Lee County requires that authors must have training and experience in ecology.

7. At least two sworn affidavits, one signed by the landowner and another signed by the preparer of the submittal, attesting to the accuracy of the information contained in the baseline documentation report.

f. A maintenance plan committing to the removal and control of invasive exotic plants from the proposed easement area. For purposes of this subsection, invasive exotic plants are those plants described in section 10-420

1. The plan must indicate how invasive exotic plants will be removed and any phasing that is proposed.

2. The plan must also indicate how the land will be kept free of refuse, debris, and pests; and how the land will be maintained in perpetuity against the reestablishment of invasive exotic plants.

(2) The Director will determine whether the application package is complete, accurate, and in compliance with all requirements. Draft easements will be reviewed by the County Attorney's Office after the package is deemed in compliance. Once the draft easements are in a form acceptable to the County Attorney's Office, they must be executed by the landowner and returned to the County for acceptance and recording in the Lee County public records.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-307. Easements required.

(a) In order to establish entitlement to TDR credits, the landowner must grant an easement interest over the property consistent with this section. The easement must be one of the types identified below. All easements recorded to establish TDR credits must meet the following criteria:

(1) The easement must create a perpetual interest for the benefit of the public that runs with the land. The primary purpose of the easement must be to maintain the property in its open, scenic, natural, wooded or rural state.

(2) The grantee of the easement must be an entity acceptable to Lee County. This does not preclude Lee County from agreeing to be the named beneficiary/grantee.

(3) The landowner must provide for the maintenance of the easement area in perpetuity by an entity acceptable to Lee County. This provision does not preclude the landowner from providing the perpetual maintenance or contracting with another party to do so.

(b) ***Agricultural easements.*** The purpose of an agricultural easement is to keep the land available for active farming by the landowner or lessee of the landowner. Agricultural easements established in accord with this section are not intended to preclude use of the land in a manner consistent with its agricultural zoning except as specifically restricted in the easement. An agricultural easement must meet the following requirements:

(1) The agricultural easement must create an encumbrance on the land that will serve to maintain the property predominately in its wooded, open, agricultural, or natural condition.

(2) The easement must indicate that all non-agricultural development rights have been severed by the landowner for transfer to other land in exchange for TDR credits and that residential, commercial, and industrial development is prohibited within the easement area, except as explicitly allowed in this section or affirmatively stated in the easement document.

(3) The easement grantee must be a governmental body or agency or a qualified charitable corporation or trust whose purposes include protecting agricultural, natural, scenic, or open space values of real property. The easement must be specifically accepted by the grantee.

(4) The easement grantee must be acceptable to Lee County. Lee County may accept the easement in the event no other suitable entity is willing to accept the easement.

a. Proposed grantees must explicitly agree in advance to accept and comply with the easement's obligations in perpetuity. If the easement is granted to co-grantees, the easement must specifically delineate the entity responsible for compliance with the easement obligations in perpetuity.

b. Lee County must be granted the right and authority, but not the obligation, to enforce or carry out the terms of the easement, unless Lee County agrees to be the sole grantee.

(5) The agricultural easement must specifically delineate activities that may occur within the easement area, including but not limited to:

a. Any incidental retained residential uses for farm labor housing or homesteads for farm owners and operators and their families;

b. Construction or modification of structures necessary for agricultural operations; and

c. Future ditching, diking, and excavation to support agricultural or restoration activities on the site.

(c) ***Conservation easements.*** A conservation easement must meet the requirements for agricultural easements found in section 32-307(b)(2), (b)(3), and (b)(4) plus the following additional requirements:

(1) The conservation easement must comply with F.S. § 704.06 and create an encumbrance on the land that will serve to maintain the property predominately in its wooded, open, rural, or natural condition.

(2) The conservation easement, at a minimum, must prohibit or limit all of the following activities:

a. Constructing or placing buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.

b. Dumping or placing soil or other material as landfill and dumping or placing trash, waste, or unsightly or offensive materials.

c. Removal or destruction of trees, shrubs, or other vegetation, except for exotic plants as described in chapter 10 or as may be needed to maintain or restore land to natural conditions.

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface, except as may be needed to restore land to its natural condition.

e. Surface use except for purposes that permit the land to remain predominantly in its natural condition.

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

g. Acts or uses detrimental to the preservation of the integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

(3) The conservation easement must prohibit dwelling units, housing units, living units, hotels/motels, and bed-and-breakfast establishments as defined in chapter 34 but may permit incidental uses such as caretakers' quarters, hunting camps, or primitive camping.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-308. Transfer of TDR credits.

Once created, TDR credits are transferable and may be retained by the landowner or conveyed to any other party by sale, trade, donation, or bequest.

(1) The monetary value of a TDR credit will be determined solely by the market at the time of transfer.

(2) Private or public entities may act as brokers by acquiring, holding, reconveying, redeeming, or retiring TDR credits.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-309. Redemption of TDR credits.

(a) ***Eligible receiving areas.*** TDR credits may be redeemed only in designated TDR receiving areas:

(1) *Southeast Lee County.* TDR credits are eligible for use in Southeast Lee County only in those areas designated on Map 17 as "Mixed-Use Communities" and "Rural Golf Course Communities."

(2) *Mixed use overlay.* TDR credits may be redeemed in the Lee Plan's Mixed Use Overlay (see Objectives 4.2 and 4.3 and related policies) to the extent allowed by this Code.

(3) *Lehigh Acres.* TDR credits may be redeemed in the Lee Plan's Specialized Mixed Use Nodes (see Objective 32.2 and related policies) to the extent allowed by this Code.

(4) *Bonus density.* TDR credits may be redeemed to qualify land for bonus densities as provided in Lee Plan Table 1(a). For this purpose, each TDR credit will be considered equal to one TDR unit as provided in article IV of chapter 2

(5) *Incorporated municipalities.* TDR credits may be redeemed in incorporated municipalities where suitable interlocal agreements specify the terms of potential transfers. Interlocal agreements could also provide for reciprocity with municipalities that have a substantially equivalent TDR program.

(b) ***Redemptions in Southeast Lee County receiving areas.*** Development approvals in Southeast Lee County, including the redemption of TDR credits, are governed by chapter 32, articles IV and V.

(c) ***Redemptions in other receiving areas.*** The redemption of TDR credits in receiving areas other than Southeast Lee County area must follow the redemption procedures established for those receiving areas. If specifically allowed by those procedures, TDR credits created pursuant to this chapter may be combined with TDR units created pursuant to chapter 2

(Ord. No. 10-25 , § 3, 6-8-10; Ord. No. 11-01 , § 3, 3-8-11)

Sec. 32-310. Record-keeping.

(a) The Director will maintain a register of all TDR credits created pursuant to this article. On a quarterly basis, the Director will update this register to reflect all known transfers and redemptions of TDR credits.

(b) TDR credits may only be redeemed by the title holder recognized by the County as identified in the TDR register. Transfer of TDR credits from one owner to another on the TDR register can be accomplished by submission of an affidavit from the previous TDR credit holder identifying the new owner with specificity and requesting the TDR register to be adjusted accordingly.

(Ord. No. 10-25 , § 3, 6-8-10)

Secs. 32-311—32-400. Reserved.

FOOTNOTE(S):

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Note: [The entirety of Chapter 32, Article III, is effective June 24, 2011.] (Back)

ARTICLE IV. COMPACT COMMUNITIES THROUGH ADMINISTRATIVE APPROVALS IN SOUTEAST LEE COUNTY [3]

Sec. 32-401. Purpose of article.

This article provides an administrative approval process that may be used by owners of Southeast Lee County land designated as "Mixed-Use Community" on Lee Plan Map 17 (Southeast DR/GR Residential Overlay). This process provides incentives for rural landowners to concentrate development rights in a compact community while protecting agricultural or natural lands. This administrative process eliminates the need for rezoning, provides standards for the development of compact communities, and carries out Lee Plan Objective 33.3 and subsequent policies.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-402. General approval procedures.

(a) ***Rezoning not required.*** Rezoning is not required to develop a Mixed-Use Community on land zoned AG-1, AG-2, or AG-3 if the land is so designated by Map 17 of the Lee Plan and if the proposed development complies with all regulations in this Code, including articles I, II, and IV of this chapter.

(1) Compliance of an application and its supporting documentation will be confirmed by issuance of a local development order using the process described in chapter 10, with the modifications described in this article. The Development Services Director may authorize administrative deviations in accordance with section 10-104 during this process.

(2) Supplemental development order application requirements are described in this article and others may be established by the Director. A pre-application meeting with County reviewers is mandatory. An additional application fee will be established to cover review costs for these

complex applications; this fee may not exceed the fee for a planned development rezoning application. The normal timeframe for review of development orders will be extended as needed to allow thorough yet timely review of all applications submitted in accordance with this article.

(b) ***Conceptual regulating plans.*** Conceptual regulating plans identify the intended variety and location of transect zones and a preferred street/block structure, as described in division 5 of article II. Conceptual regulating plans are provided in section 32-405 for each potential Mixed-Use Community identified on Lee Plan Map 17. Each conceptual regulating plan complies with the standards in article II.

(c) ***Detailed regulating plans.*** Applicants for approval of a Mixed-Use Community under this article are required to submit a detailed regulating plan.

(1) The detailed regulating plan may match the conceptual regulating plan precisely, or it may vary from the conceptual regulating plan within the following parameters subject to the Director's finding that the variations still comply with the Lee Plan and with the design goals and principles set forth in this chapter:

a. Modifications may change the transect zone assignments provided the fundamental diversity of transect zones is not eliminated and the net effect of the reassignment does not increase the intensity where it adjoins other developed areas. However, Core transect zones may be replaced by Center transect zones.

b. Modifications may change block sizes and shapes provided the blocks continue to meet all standards in article II, except where a larger block may be required to comply with Florida Department of Transportation limitations on access to state roads.

c. Block-size changes may also be made if essential for compliance with regulatory actions of the South Florida Water Management District.

(2) The detailed regulating plan must meet the specific requirements of section 32-274 and all other requirements of article II of the chapter.

(d) ***Other development alternatives.*** A development proposal that does not comply with this article, other than administrative deviations in accordance with section 10-104 or variances in accordance with section 34-145(b), may seek approval through the planned development rezoning process described in article V prior to obtaining a development order. Development proposals that comply with chapter 34 rather than this chapter may also seek approval through any of the processes allowed by chapter 34

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-403. Applications for Mixed-Use Communities.

(a) In addition to application requirements for a development order under chapter 10, an application for a Mixed-Use Community must include plans and supporting documentation that demonstrate compliance with this chapter including these specific requirements:

(1) ***Regulating plan.*** A detailed regulating plan must be submitted for the developable portion of the property as described in section 32-402

(2) ***Internal density concentrations.*** The proposed concentration of development rights onto the developable portion of the property must be documented by submitting a draft of a agricultural or conservation easement that would apply to the portion of the property from which development rights would be moved.

a. ***Ratios.*** The minimum amount of privately owned land that will be subject to this easement will be determined using Lee Plan density levels for Southeast Lee County, modified as follows:

1. *Wetlands:* One dwelling unit in a Mixed-Use Community is enabled by the inclusion of each 20 acres of wetlands encumbered by a conservation easement that meets the requirements of section 32-307(c).
2. *Uplands:* One dwelling unit in a Mixed-Use Community is also enabled by the inclusion of:
    i. Any ten acres of uplands that are encumbered by an agricultural easement that meets the requirements of section 32-307(b). In addition, if Lee County adopts restoration standards for farmland, compliance with those standards will qualify farmland for one additional dwelling unit for each 5 acres of farmland that is restored to natural conditions and encumbered by a conservation easement that meets the requirements of section 32-307(c).
    ii. In lieu of subsection (a)(2)a.2.i, each 5 acres of uplands with indigenous native vegetation that are encumbered by a conservation easement that meets the requirements of section 32-307(c). Indigenous native vegetation is defined in section 10-1
3. Land that is ineligible for TDR credits as provided in section 32-303 is also ineligible for internal density concentrations.
4. If hotel/motel units are contemplated, the equivalent number of dwelling units will be determined in accordance with section 34-1802(4).
5. No additional easement acreage is required for any civic buildings that are placed on the developable portion of the property, nor is any required for up to 75 square feet of floor area of commercial floor area for each by-right dwelling unit.
6. These density and intensity limitations do not apply to any portion of a Mixed-Use Community that is designated as Central Urban and shown as Specialized Mixed Use Node in Lee Plan Policy 32.2.2. The provisions of this article may be used to regulate development throughout such a Mixed-Use Community but these density and intensity limitations apply only to those portions designated by the Lee Plan as DR/GR and wetlands.

b. ***Baseline documentation.*** A baseline documentation report must be submitted that meets the standards in section 32-306

c. ***Easements.*** The County Attorney's Office will review all draft easements during the development order application process for compliance with this chapter.
1. Easements must meet the same standards as easements for TDR credits in section 32-307
2. Once the easements are in a form and content acceptable to the County Attorney's Office, they must be executed by the landowner and returned to the County for acceptance and recording in the Lee County public records.

(3) ***Maintenance plan.*** A maintenance plan committing to the removal and control of invasive exotic plants from the land that will be subject to the agricultural or conservation easement. For purposes of this subsection, invasive exotic plants are those plants described in section 10-420

a. The plan must indicate how any invasive exotic plants will be removed.

b. The plan must also indicate how the land will be kept free of refuse, debris, and pests and how the land will be maintained in perpetuity against the reestablishment of invasive exotic plants.

(b) ***Transfer of development rights.*** If a proposed Mixed-Use Community will contain dwelling units or commercial floor area beyond the amount allowed by subsection (a), development rights must be acquired from other properties using the following standards:

(1) TDR credits are required for the number of additional dwelling units proposed for development. Each TDR credit is redeemable for one additional dwelling unit.

(2) TDR credits are also required for commercial floor area that exceeds 75 square feet for each by-right dwelling unit in the entire Mixed-Use Community. Each TDR credit that is redeemed for an additional dwelling unit also allows 150 additional square feet of commercial floor area. TDR credits that are not redeemed for an additional dwelling unit may be redeemed for 600 square feet of additional commercial floor area.

(3) TDR credits are redeemed at the time of platting of residential and non-residential lots. The Director will maintain a running account of assumed allocations of dwelling units and commercial floor area to individual lots and will make appropriate adjustments if actual construction consumes less than the assumed allocations.

(4) Only TDR credits created pursuant to article III of this chapter may be redeemed in a Mixed-Use Community in Southeast Lee County. TDR units created pursuant to chapter 2 may not be redeemed anywhere in Southeast Lee County.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-404. Record copy of regulating plan.

As plats are obtained for subdivided lots within a Mixed-Use Community, the master developer must submit a modified regulating plan that precisely locates each lot and clearly designates its lot type in accordance with division 3 of article II. After confirming its accuracy, the Director will authorize the use of this modified regulating plan as the record copy (controlling document) that governs the issuance of building permits and the uses that may be approved on the platted lots.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-405. Conceptual regulating plans.

Figure 32-405(a)—(e) provides conceptual regulating plans for each potential Mixed-Use Community identified on Lee Plan Map 17.

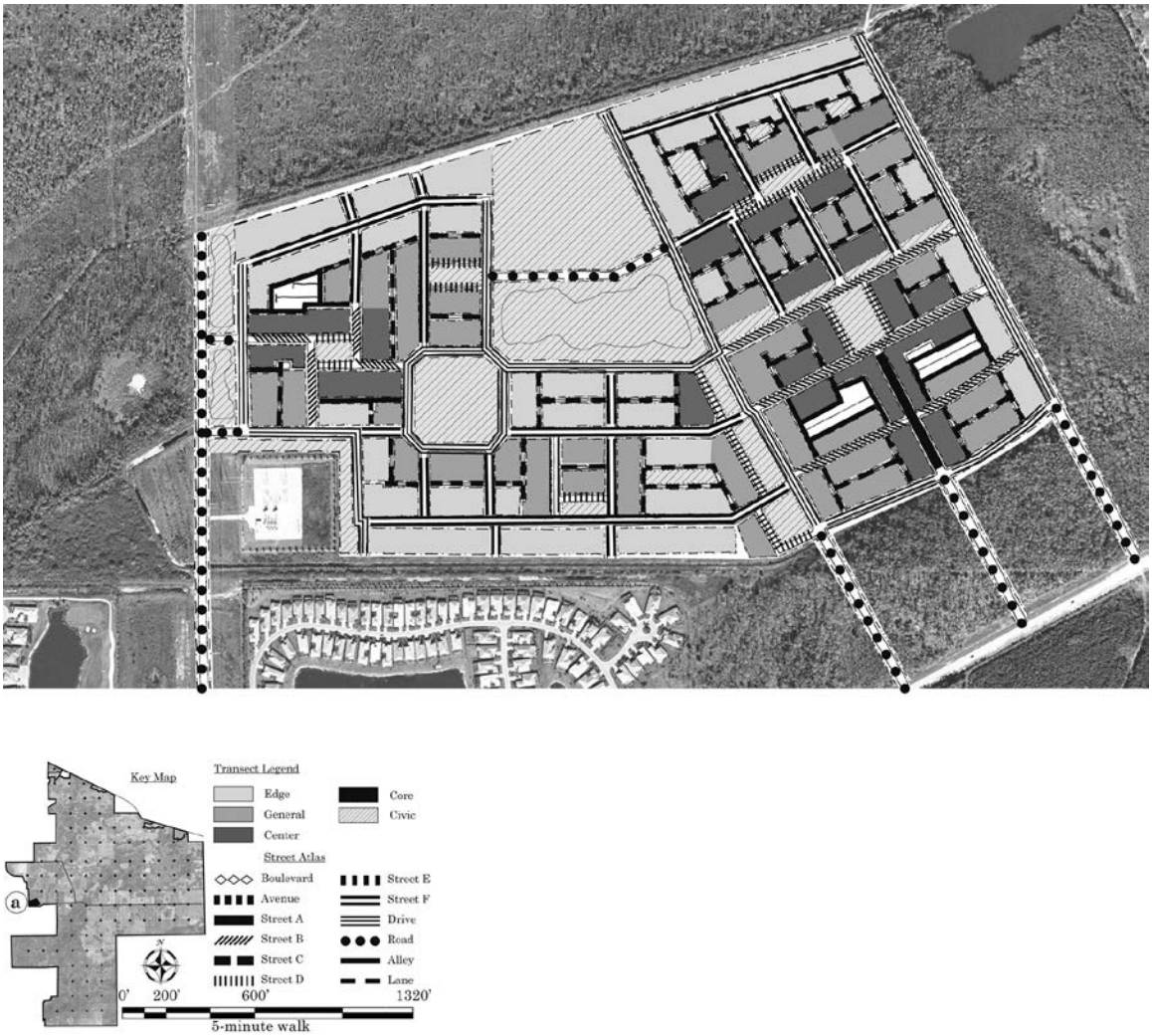

Figure 32-405(a), conceptual regulating plan for Mixed-Use Community in 19-46-26

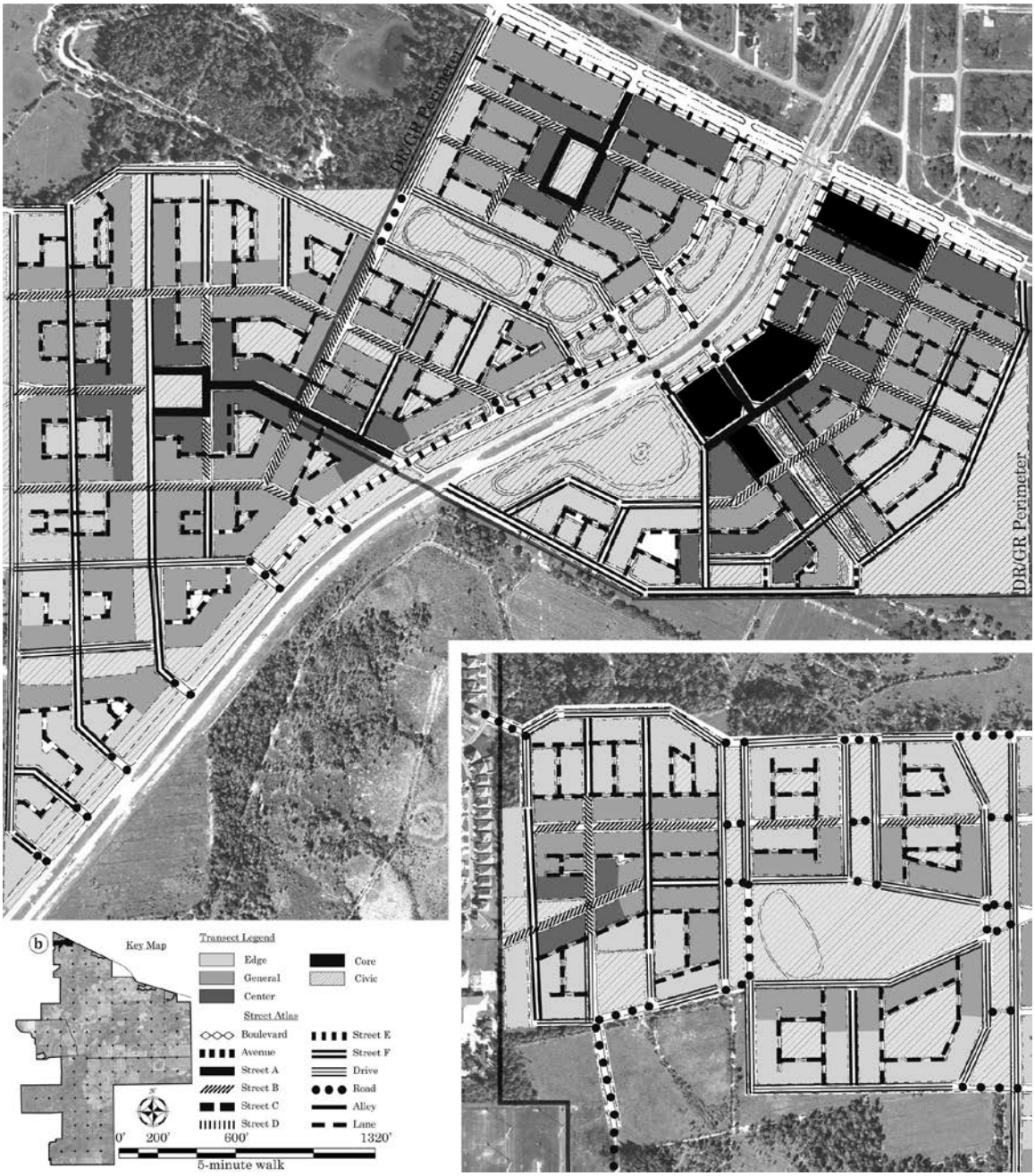

Figure 32-405(b), portion of conceptual regulating plan for Mixed-Use Community in 18 / 19-45-26

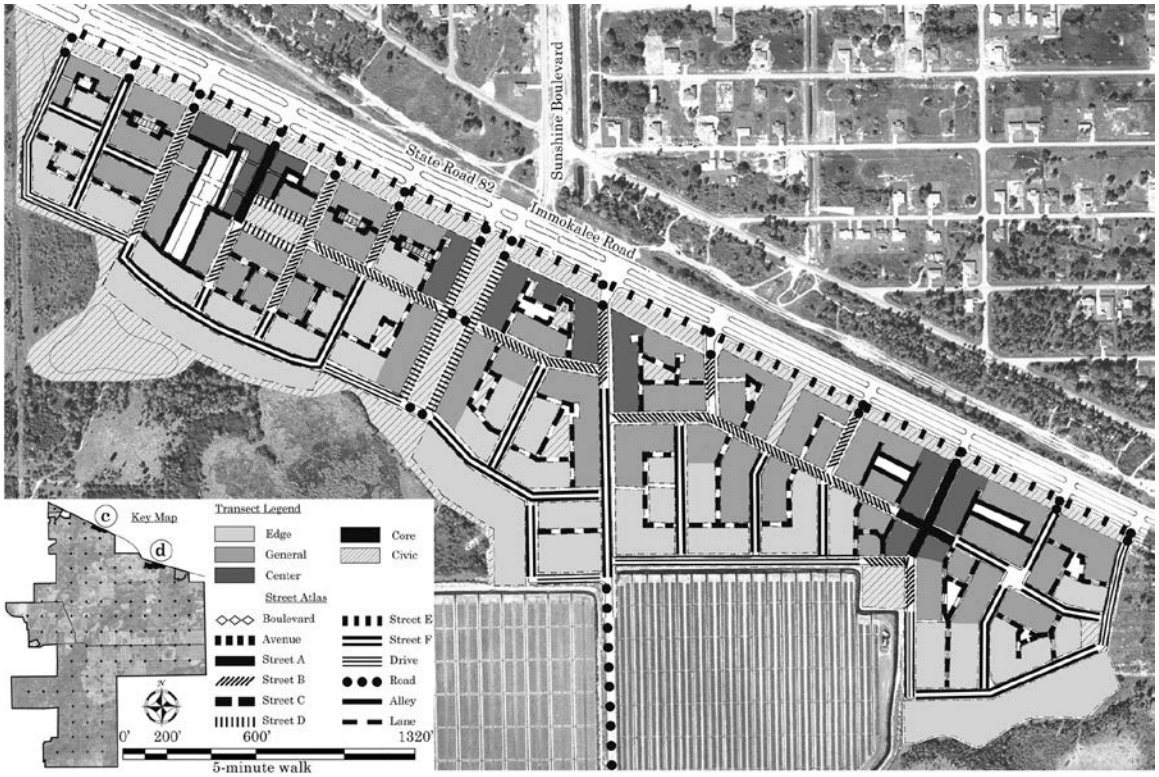

Figure 32-405(c), conceptual regulating plan for Mixed-Use Community in 13 / 14-45-26

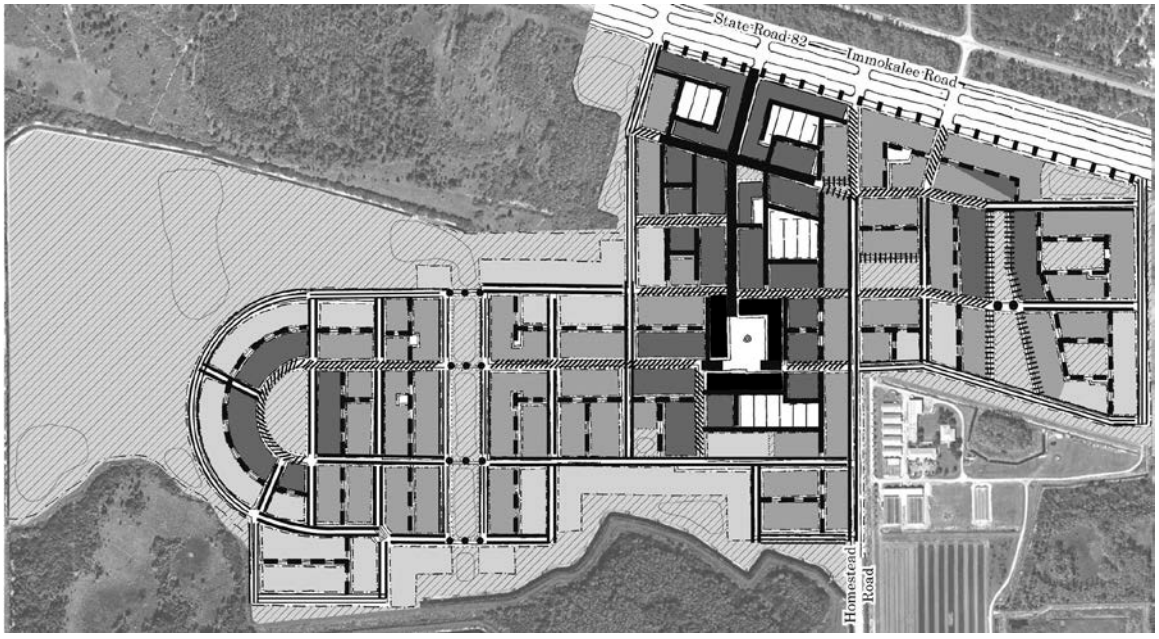

Figure 32-405(d), conceptual regulating plan for Mixed-Use Community in 28 / 33-45-27

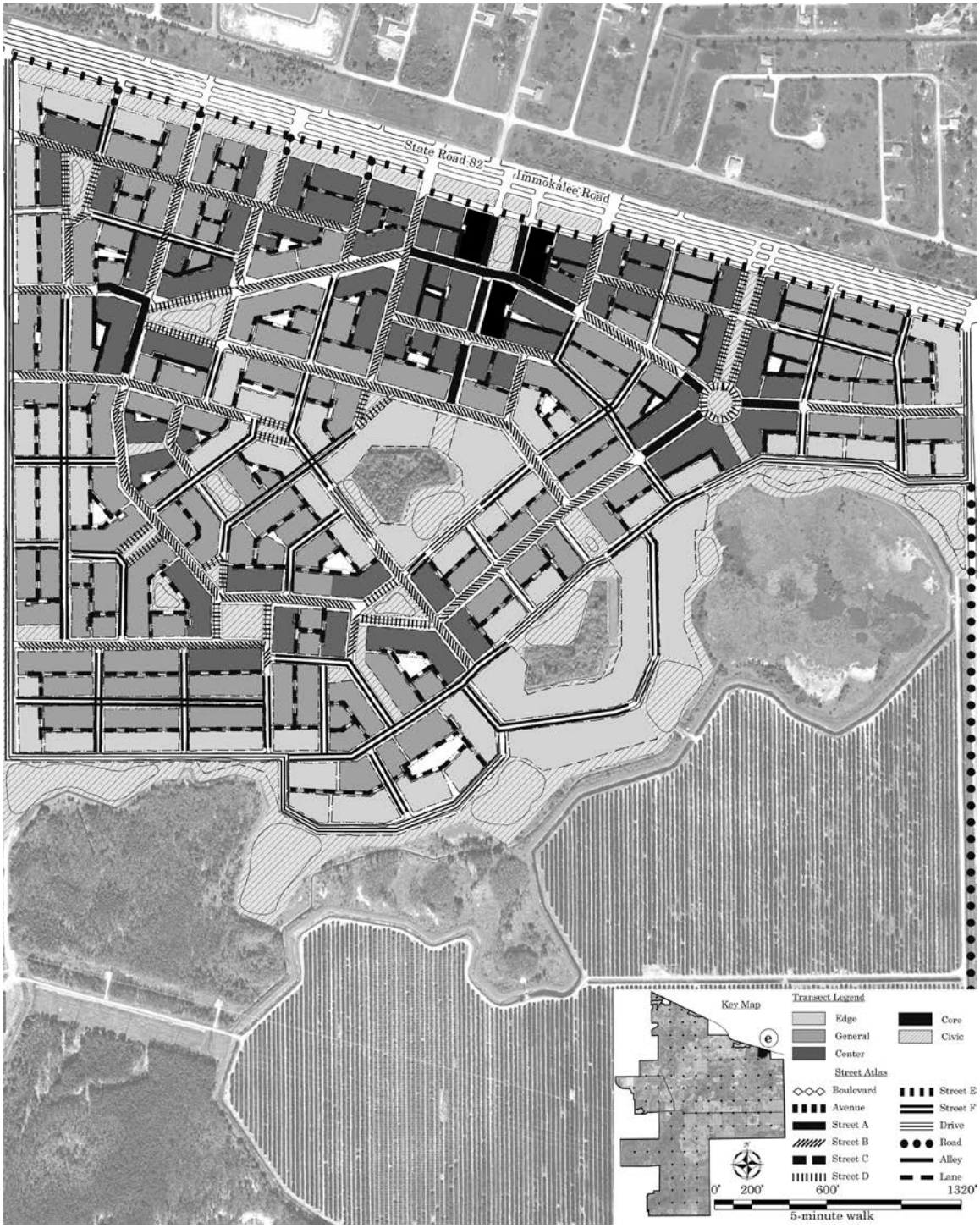

Figure 43-205(e), conceptual plan for Mixed-Use Community in 35-45-27

(Ord. No. 10-25 , § 3, 6-8-10)

Secs. 32-406—32-500. Reserved.

FOOTNOTE(S):

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Note: [The entirety of Chapter 32, Article IV, is effective June 24, 2011.] (Back)

ARTICLE V. COMPACT COMMUNITIES THROUGH PLANNED DEVELOPMENT REZONING

Sec. 32-501. Purpose of article. [4]

A Compact Planned Development (Compact PD) zoning district is hereby created to provide a rezoning option for creating a compact community. This option may be used by:

(1) Landowners in a Lee Plan "Mixed-Use Community," as an alternative to administrative approval of a compact community under article IV.

(2) Landowners in the Lee Plan's Mixed Use Overlay (see Lee Plan Map 1, Page 6).

(3) Any landowner who wishes to develop a compact community that conforms with the density and intensity caps of the current Lee Plan designation.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-502. Application requirements.

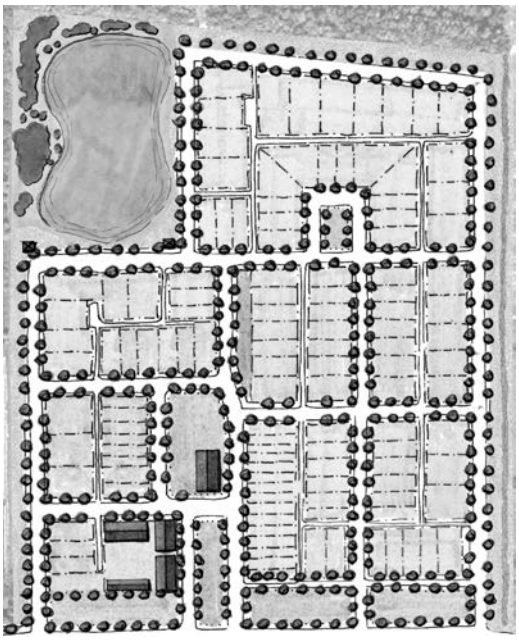


Figure 32-502, sample illustrative plan

(a) ***Application Procedures.*** Except as set forth in this article, applications for rezoning to Compact PD must meet the requirements and follow the procedures for planned development districts as described in chapter 34

(b) ***Regulating Plan.*** An applicant for rezoning to Compact PD must submit a proposed regulating plan that complies with the standards in article IV for detailed regulating plans. This regulating plan will replace the master concept plan normally required for planned development applications.

(c) ***Illustrative Plan.*** An applicant for the Compact PD district must submit a non-binding illustrative plan drawn to the same scale as the proposed regulating plan. The purpose is to illustrate the likely built results of the regulating plan by showing buildings on some lots and preliminary designs for streets and civic spaces in compliance with these regulations and the proposed regulating plan. A sample illustrative plan is shown in figure 32-502.

(d) ***Deviations From Chapter 32*** An applicant must clearly identify deviations requested from the specific standards of chapter 32. The Board of County Commissioners will decide whether to accept, modify, or reject each proposed deviation during the planned development rezoning process based on a determination as to the consistency of each deviation with this chapter, good planning practice for compact communities, and the deviation criteria in chapters 10 and 34. Potential deviations specific to compact communities include the following:

(1) Modified block standards (section 32-225).

(2) For street types shown in article II, modified cross-sections (section 32-226) and/or modified streetscape standards (section 32-227).

(3) Additional street types, accompanied by proposed cross-sections (section 32-226) and streetscape standards (section 32-227).

(4) For lots types shown in article II, modified transect zone assignments (table 32-241), modified property development regulations (table 32-243), and/or modified use regulations (table 32-244).

(5) Additional lot types, accompanied by allowable transect zone assignments (table 32-241), proposed property development regulations (table 32-243), and proposed use regulations (table 32-244).

(e) ***Deviations From Other Chapters.*** Deviations from other chapters of this Code may be requested as provided in chapters 10 and 34.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-503. General approval procedures.

(a) The approval process for the Compact PD district will follow the standard procedures for planned development districts.

(b) If the Compact PD district is approved, the regulating plan, as adopted by the Board of County Commissioners during public hearings, becomes a binding part of the rezoning approval. A development order must be issued prior to development; the development order review process will follow the procedures in article IV and chapter 10 except where modifications have been approved through the Compact PD rezoning process.

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-504. Southeast Lee County approval procedures. [5]

(a) In addition to the general approval procedures in section 32-503, an application requesting the Compact PD district in Southeast Lee County must meet the following additional requirements:

(1) A landowner may request Compact PD zoning for only a portion of land in a Lee Plan Mixed-Use Community. Unless the applicant intends to develop all the property within the application at one time, a phasing plan must be submitted that shows how early increments will be developed in a manner that ensures future increments can be added to create the seamless neighborhood depicted on the proposed regulating plan.

(2) Before approving Compact PD zoning, the Board of County Commissioners must find that the regulating plan will be similar in performance to the conceptual regulating plan provided in section 32-405. Refer to chapter 3 of "Transferable Development Rights In Southeast Lee County" (July 2009) for basic neighborhood design conventions and for design features anticipated for each Mixed-Use Community. The basic conventions include an identifiable center and edge, walkable size, mix of land uses and housing types with opportunities for shopping and workplaces close to home, an integrated network of walkable streets, and the reservation of special sites for civic purposes.

(b) The availability of the Compact PD district for use in a Mixed-Use Community does not preclude owners of land in the DR/GR land use category from seeking rezoning to other zoning districts that comply with the base requirements for the DR/GR land use category described in chapter 34 (see also section 32-402(d)).

(Ord. No. 10-25 , § 3, 6-8-10)

Sec. 32-505. Modifications after rezoning process.

(a) Modifications to an approved Compact PD regulating plan may be accepted by the Director of Community Development or designee at the development order stage provided the proposed modifications conform with all of the following requirements:

(1) Modifications must comply with all special conditions of the planned development approval, including any conditions that may limit the Director's authority to modify specific portions of an approved regulating plan.

(2) Modifications must be consistent with the Lee Plan and with the intent and the specific regulations of this chapter.

(3) Modifications may not change transect zones, increase allowable building heights, increase overall density, exceed allowable block sizes, add an access point through the Edge transect zone, or reduce the diversity of lot types or street types that had been shown on the approved regulating plan. However, modifications may substitute similar lot types or street types that are allowed in the designated transect zone and may make adjustments to comply with regulatory actions of the Florida Department of Transportation or the South Florida Water Management District.

(4) Modifications may not increase the intensity of any block in the Edge transect zone.

(5) The cumulative effect of multiple modifications to an approved regulating plan will be evaluated using the same standards in section 32-305(1)-(4) that apply to individual modifications.

(b) If proposed modifications exceed these thresholds or are deemed by the Director to be material changes that may affect the original planned development approval, the proposed modifications can only be approved by the Board of County Commissioners through the rezoning process.

(c) Approved modifications must be reflected on a new record copy of the regulating plan (see section 32-404).

(Ord. No. 10-25 , § 3, 6-8-10)

Secs. 32-506—32-600. Reserved.

FOOTNOTE(S):

--- (**4**) ---

[The provisions of § 32-501(1) are effective October 19, 2011.] (Back)

--- (**5**) ---

Note: [The provisions of § 32-504 are effective October 19, 2011.] (Back)

ARTICLE VI. COMPACT COMMUNITIES THROUGH OPTIONAL REGULATING PLANS

Secs. 32-607—32-700. Reserved.

Sec. 32-601. Purpose of article.

This article will provide an optional administrative process to develop compact communities on land designated as "Mixed Use Overlay" on Lee Plan Map 1, Page 6 and per section 32-602 "Applicable Areas" below. This optional process will eliminate the need to rezone land for compact communities and will provide clear standards for the development of compact walkable communities or fragments thereof. This article will also provide means to utilize adopted regulating plans for compact communities, make minor changes to adopted regulating plans administratively, and create new adopted regulating plans in the future in other areas within Lee County. Use of the adopted regulating plans is voluntary. Lands with adopted regulating plans may utilize underlying zoning prior to adoption of an "Opt-In" Resolution (see section 32-604).

Additional geographic areas in Lee County may be added through amendment of this Article and adoption by the Lee County Board of County Commission of Compact Community Regulating Plans.

(Ord. No. 10-25 , § 3, 6-8-10; Ord. No. 13-05 , § 1, 2-26-13)

Sec. 32-602. Applicable areas.

The provisions of this article apply to the following geographic areas in addition to those properties identified on Lee Plan Map 1, page 6.

(1) ***Lehigh Acres.*** Specialized Mixed Use Nodes, Downtown Lehigh Acres, Neighborhood Mixed Use Activity Center and Local Mixed Use Activity Centers within the Lehigh Acres Planning Community per the Lee Plan (See Objective 32.2, Policy 32.2.1, Objective 32.3, Objective 32.4, Objective 32.5, and Objective 32.6 of the Lee Plan).

(2) ***North Fort Myers.*** The North Fort Myers Town Center within the North Fort Myers Planning Community Per the Lee Plan (See Policy 28.2.2 of the Lee Plan).

(Ord. No. 13-05 , § 1, 2-26-13)

Sec. 32-603. Adopted compact community plans.

The following plans have been adopted and may be utilized in accordance with this article. Minor changes may be approved per LDC section 32-604(b). Additional plans may be adopted by amendments to this article and adoption of Compact Community Regulating Plans by the Lee County Board of County Commissioners.

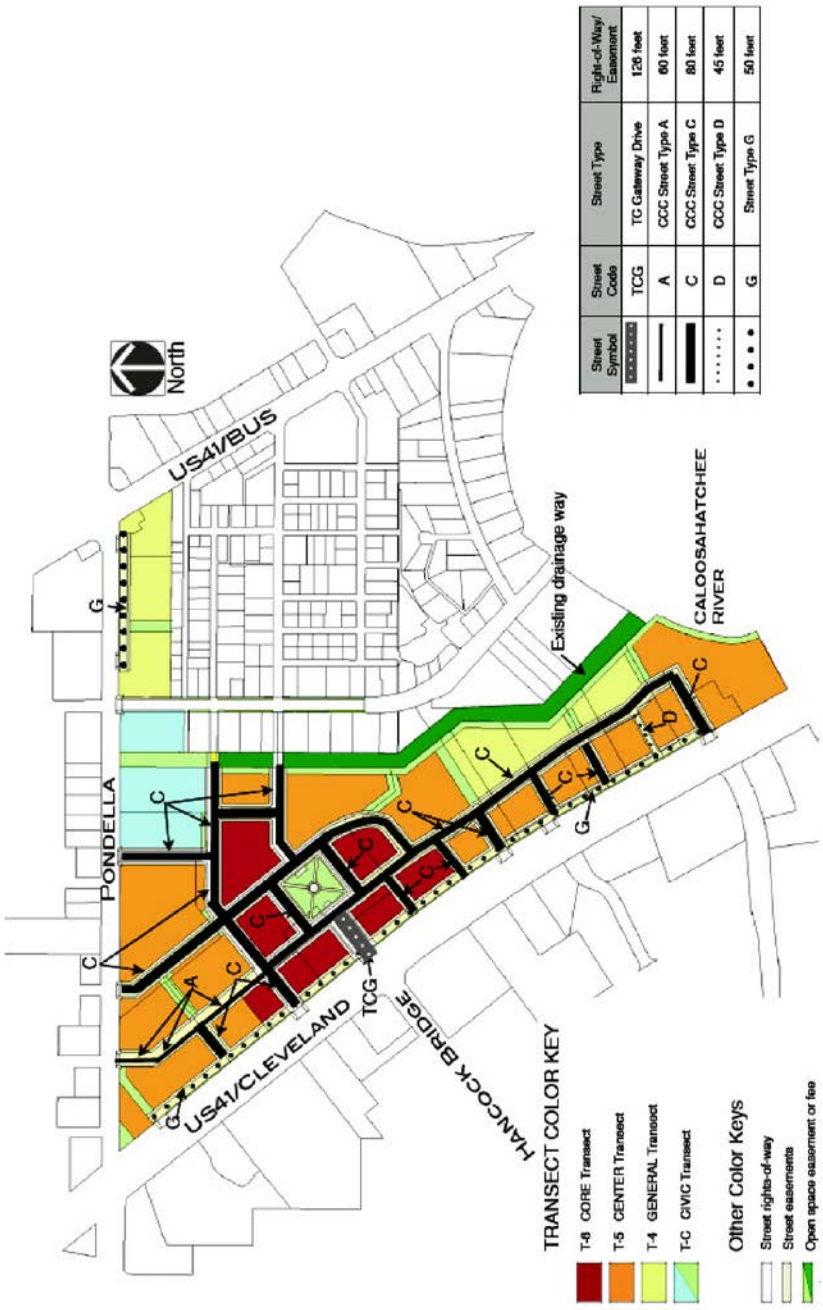


Figure 1. (§ 32-603
North Fort Meyers Town Center
Conceptual Regulating Plan

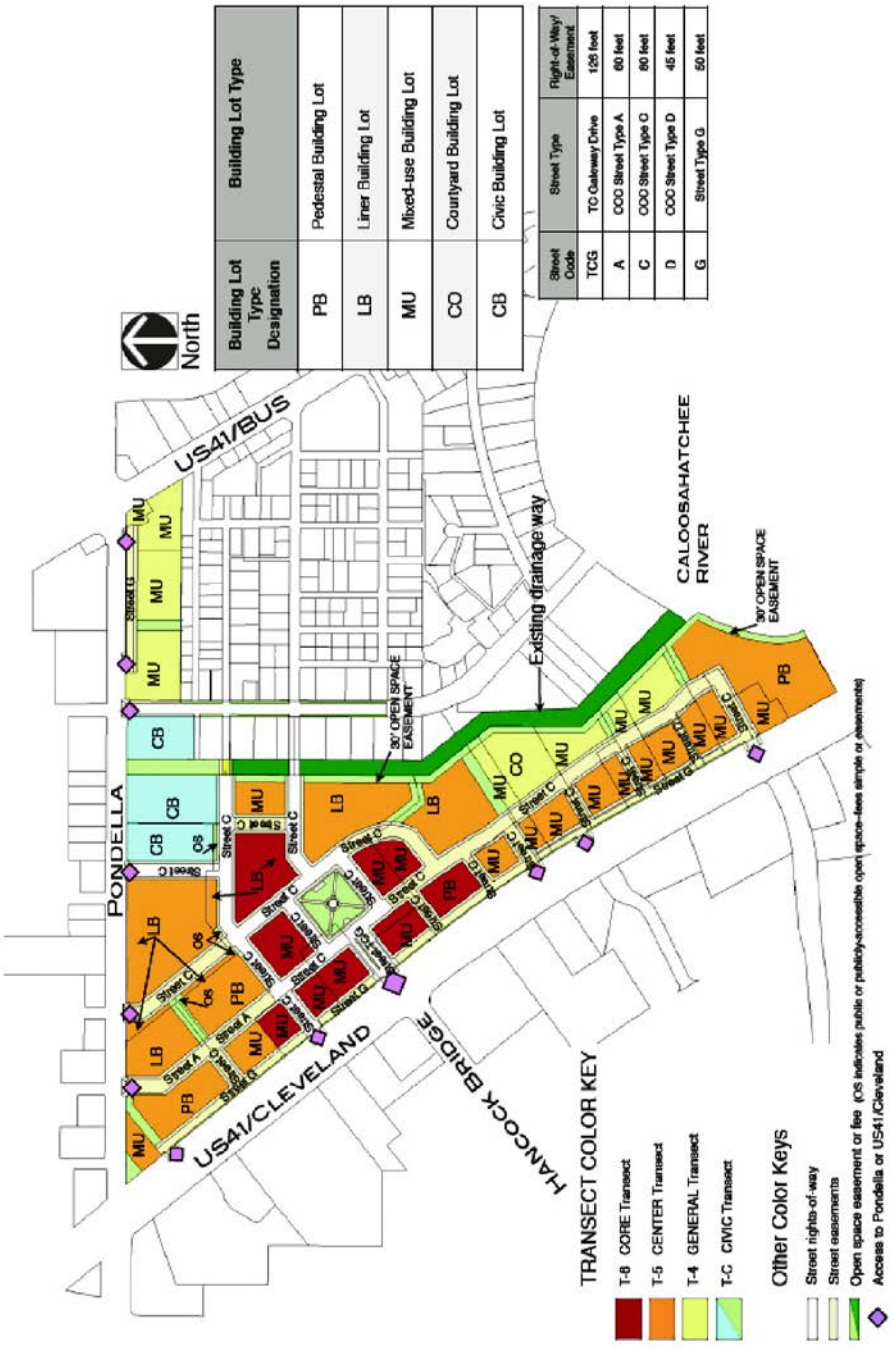


Figure 2. (§ 32-603
North Fort Myers Town Center Detailed Regulating Plan

Figure 3. (§ 32-603
North Fort Myers Town Center Illustrative Site Plan (non-binding)

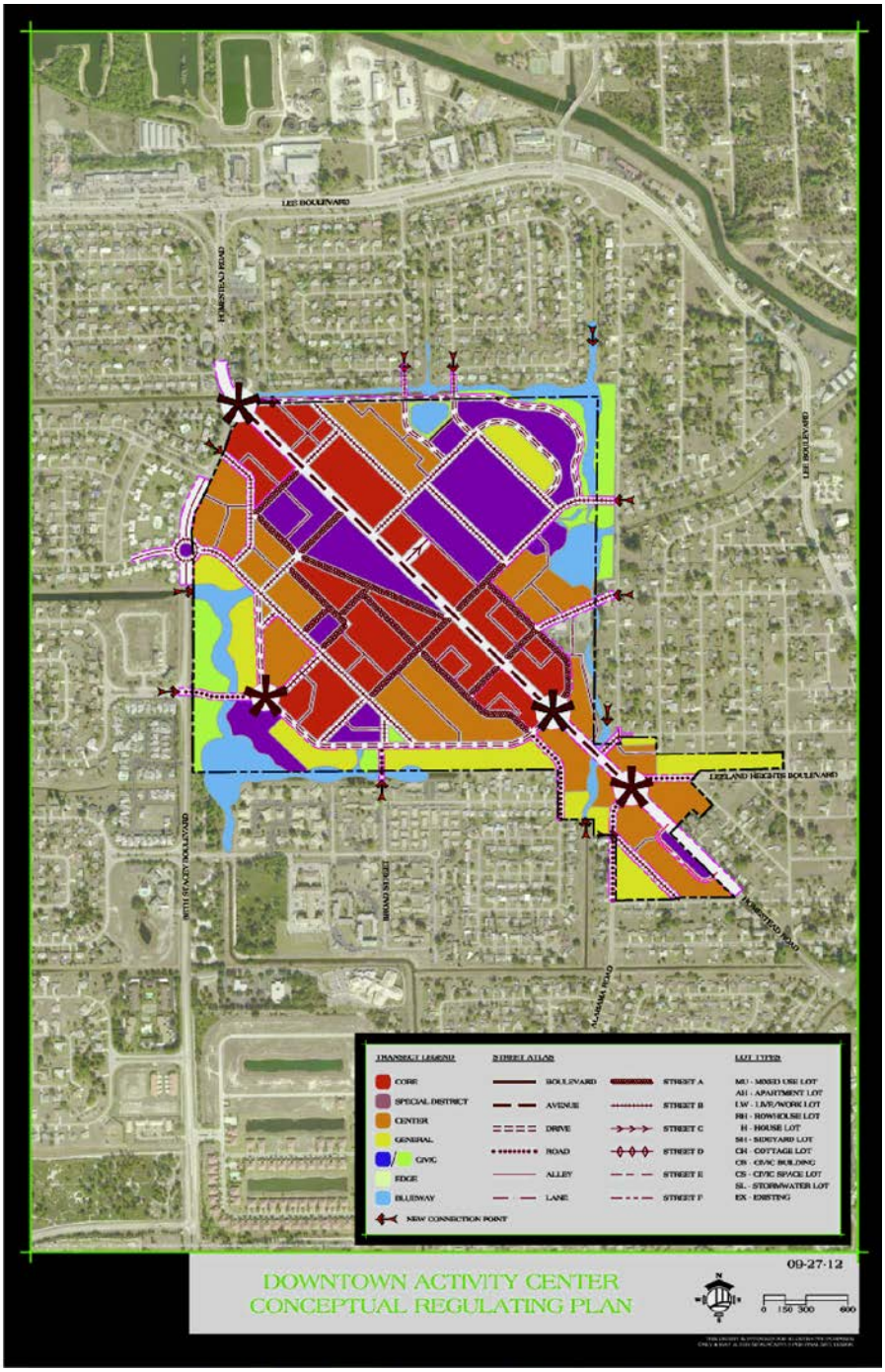


Figure 4. (§ 32-603
Lehigh Acres Downtown Activity Center
Conceptual Regulating Plan

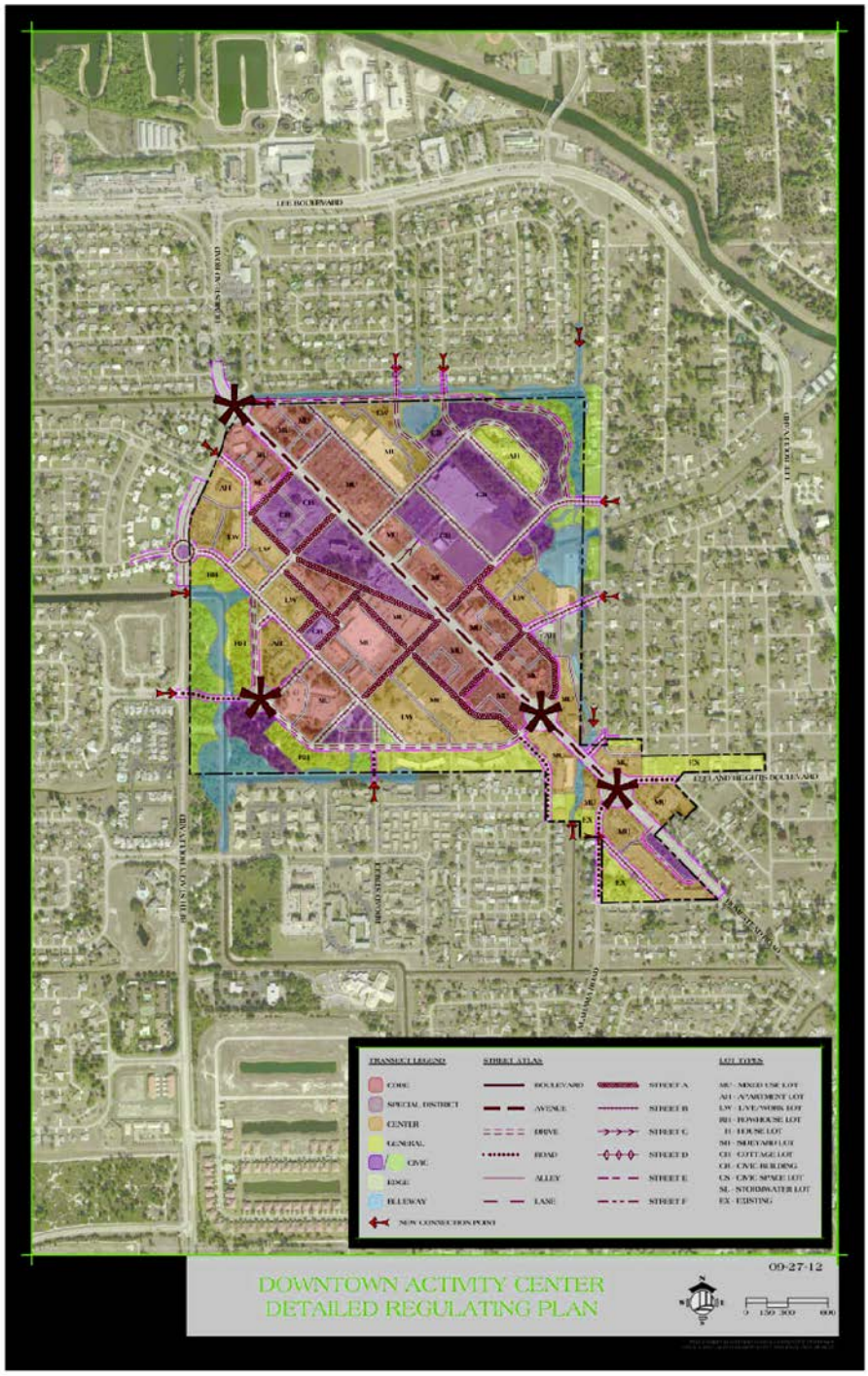


Figure 5. (§ 32-603
Lehigh Acres Downtown Activity Center
Detailed Regulating Plan

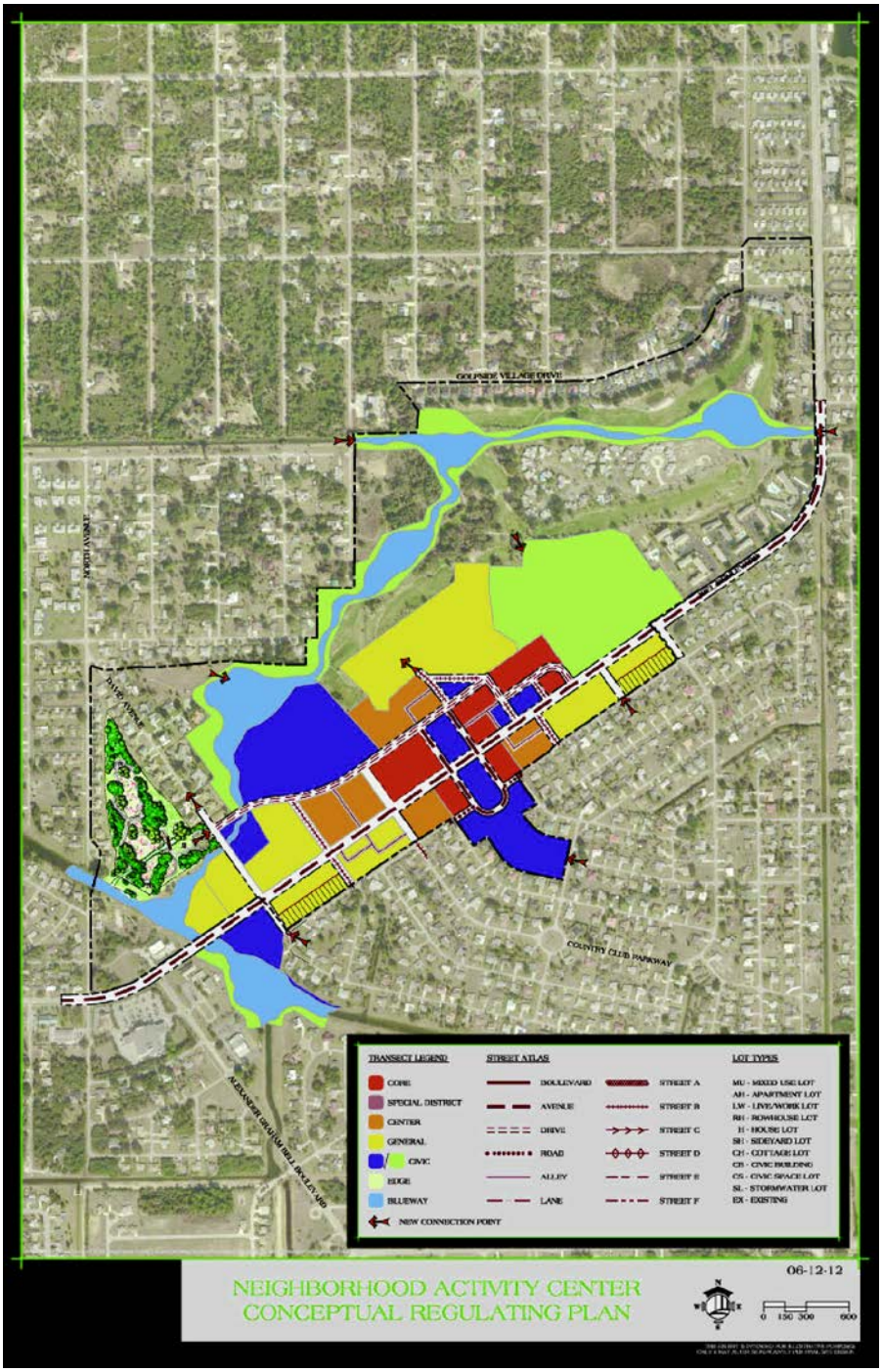


Figure 6. (§ 32-603
Lehigh Acres Admiral Lehigh Neighborhood Activity Center
Conceptual Regulating Plan

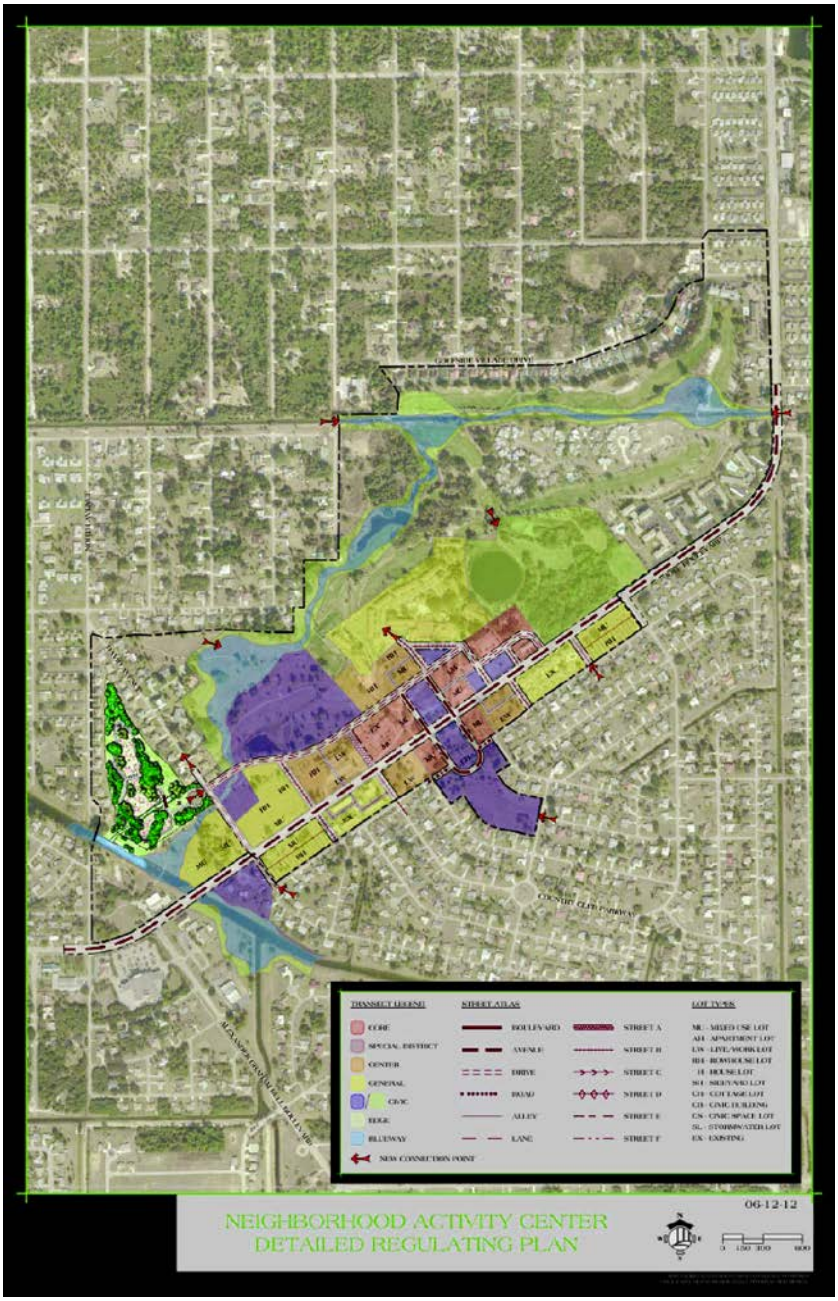


Figure 7. (§ 32-603
Lehigh Acres Admiral Lehigh Neighborhood
Activity Center Detailed Regulating Plan

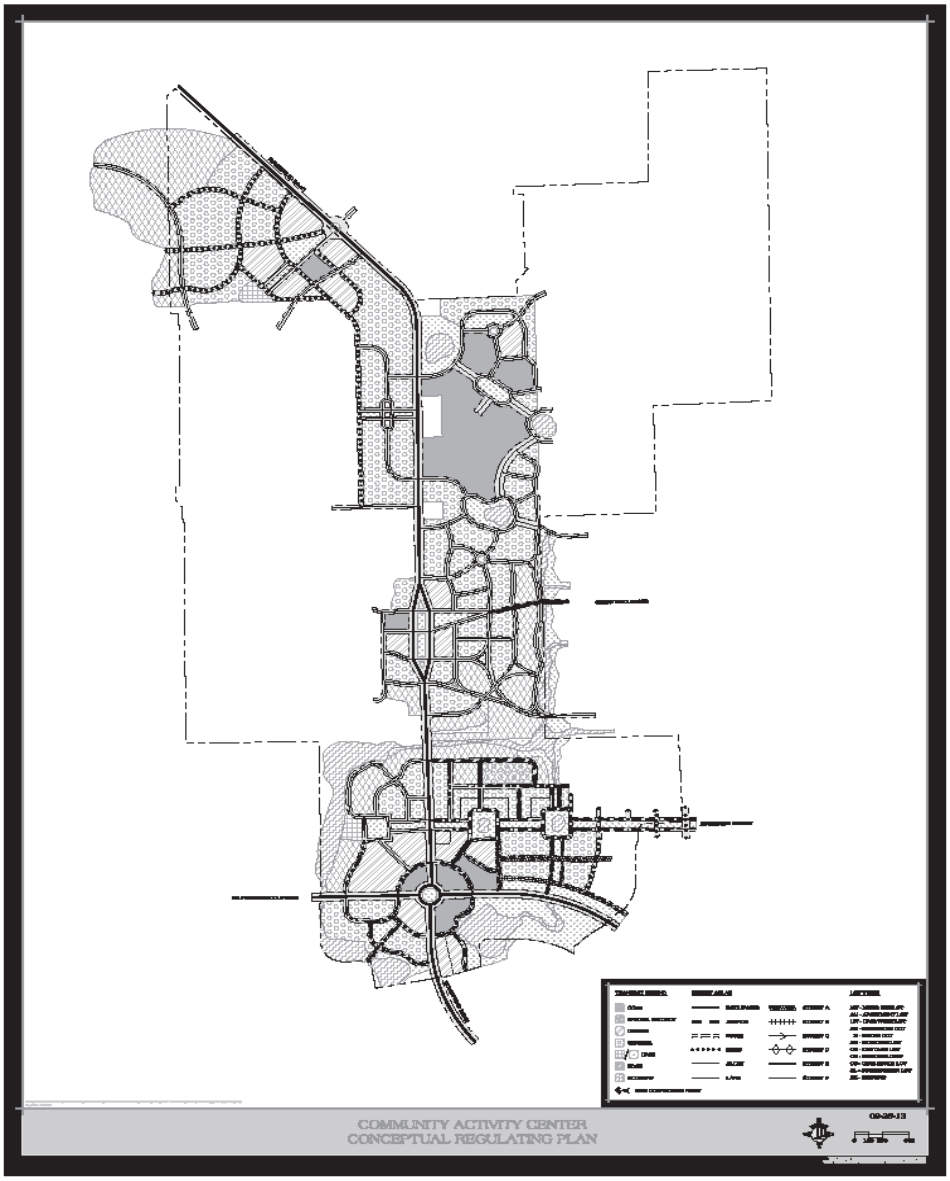


Figure 8. (§ 32-603
Lehigh Acres Community Activity
Center Conceptual Regulating Plan

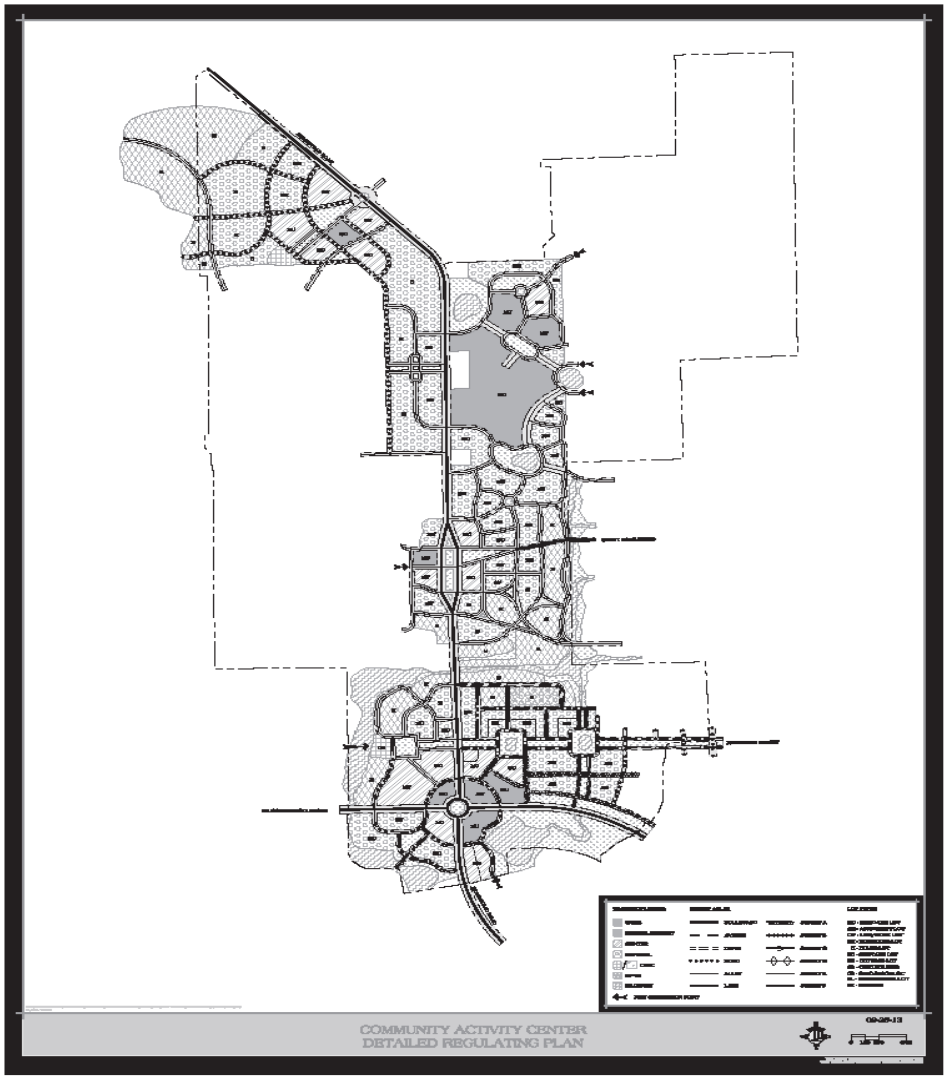


Figure 9. (§ 32-603
Lehigh Acres Community Activity
Center Detailed Regulating Plan

(Ord. No. 13-05 , § 1, 2-26-13; Ord. No. 14-13 , § 5, 6-17-14)

Sec. 32-604. General approval procedures.

(a) *Rezoning not required.* Land identified in section 32-603 may be developed as a Compact Community without going through the rezoning process so long as the proposed development complies with the requirements of Chapter 32 of the LDC including Articles I, II and VI.

(1) An application for an "Opt-in" Resolution is required to utilize the adopted regulating plans. Compliance will be confirmed by issuance of the following joint application for an "Opt-in" Resolution, development order and supporting documentation:

a. *Opt-in.* An "Opt-in" Resolution may be approved administratively consistent with this article. No public hearing will be required. An "Opt-in" Resolution application may be for a portion of or the entirety of an adopted Compact Community. The applicant must also demonstrate either substantial compliance with the adopted regulating plans per this article or utilization of "Minor Changes" to adopted regulating plans per section 32-604(b). below.

b. *Development order.* A local development order using the procedures described in Chapter 10, with the modifications described in this article. The Development Services Director may authorize administrative deviations in accordance with section 10-104 during this process.

(2) A pre-application meeting to review the project with County reviewers is required.

(3) In addition to application requirements for a development order under Chapter 10, an application for development of an adopted Compact Community per this article must include plans and supporting documentation that demonstrate compliance with this chapter:

a. *Regulating plans.* A conceptual and a detailed regulating plan must be submitted for the developable portion of the property. The conceptual and detailed regulating plan must be in substantial compliance with those adopted regulating plans provided in this article.

b. *Density and intensity.* The proposed density and intensity on the developable portion of the property must be in compliance with the applicable Future Land Use category, the Lee Plan, LDC, and any relevant or applicable transfer of development rights, and/or bonus density received.

(b) *Minor changes.*

(1) Minor changes may be approved as part of the "Opt in" Resolution application per section 32-604(a)(1)a. Criteria for administrative approval for minor changes to the adopted regulating plans will be per the following:

a. Modifications must be consistent with the Lee Plan and with the intent and the regulations of this chapter.

b. Modifications may not significantly change transect zones; increase allowable building heights; increase overall density; exceed allowable block sizes; add an access point through the Edge transect zone; or reduce the diversity of lot types or street types per the approved regulating plan per this article. However, modifications may substitute similar lot types or street types that are allowed in the designated transect zone and may make adjustments to comply with regulatory actions of the Florida Department of Transportation or the South Florida Water Management District.

c. Modifications may not increase the intensity of any block in the Edge transect zone.

d. The cumulative effect of multiple modifications to an adopted regulating plan will be evaluated using the same standards per section 32-604(b)(1)a.—c. that apply to individual modifications.

(2) If proposed minor changes exceed the thresholds above or are deemed by the Zoning Director to be material changes that are not in substantial compliance with the adopted regulating plans per this article, the proposed minor changes can only be approved by the Lee County Board of County Commissioners through the rezoning process.

(c) *Existing zoning and development orders.* Property located within the geographical areas identified under section 32-602, may continue to be developed in accordance with existing zoning and development approvals on the property or may acquire development permits and rezoning approvals in accordance with Chapters 10 and 34. Development of property in accordance with this article through an application for an "Opt-in" Resolution is voluntary. Nothing within this Article may be construed to require a property owner to develop property as a Chapter 32 Compact Community.

(Ord. No. 13-05 , § 1, 2-26-13)

Sec. 32-605. Property development regulations.

Property development regulations for Compact Communities per this article will conform with the regulations established in Chapter 32, Table 32-243.

(Ord. No. 13-05 , § 1, 2-26-13)

Sec. 32-606. Permitted uses.

Permitted uses for Compact Communities per this article will conform with the use regulations established in Chapter 32, Table 32-244.

(Ord. No. 13-05 , § 1, 2-26-13)

Secs. 32-607—32-700. Reserved.

ARTICLE VII. COMPACT COMMUNITIES THROUGH COUNTY-INITIATED REZONING

Sec. 32-701. Purpose of article.

(a) This article will provide Lee County with the ability to create and/or protect compact communities through County-initiated rezoning.

(b) Before this article would apply to landowners, Lee County must create a detailed regulating plan and add the plan to this article and then rezone the affected land to a new zoning district created in this article.

(Ord. No. 10-25 , § 3, 6-8-10)

Secs. 32-702—32-800. Reserved.

ARTICLE VIII. COMPACT COMMUNITY REGULATIONS FOR PLANNING COMMUNITIES

DIVISION 1. - NORTH FORT MYERS

DIVISION 1. NORTH FORT MYERS

Secs. 32-808—32-810. Reserved.

Sec. 32-801. North Fort Myers community neighborhood centers and certain portions of commercial corridors.

(a) *Applicability.* The provisions sections 32-801 through 32-825 apply to the following Neighborhood Centers (see Maps 7—13 in Appendix I):

(1) North Tamiami Trail and Nalle Grade Road (Map 7, Appendix I).

(2) North Tamiami Trail and Del Prado Boulevard (Map 8, Appendix I).

(3) Littleton Road and North Cleveland Avenue (Map 9, Appendix I).

(4) Hancock Bridge Parkway and Orange Grove Boulevard (Map 10, Appendix I).

(5) North Tamiami Trail and Pine Island/Bayshore Road (Map 11, Appendix I).

(6) Bayshore Road and Hart Road (Map 12, Appendix I).

(7) Bayshore Road and Slater Road (Map 13, Appendix I).

(8) Commercial Corridors within the North Fort Myers Community that are designated Mixed Use Overlay on the Special Treatment Areas Map, Lee Plan Map 1, Page 6 of 8.

(Ord. No. 12-01 , § 4, 1-10-12)

Sec. 32-802. Property development regulations.

Dimensions for each lot type. Table 32-802 provides property development regulations that apply to each designated lot type utilizing Chapter 32 "Compact Communities." Use of Chapter 32 "Compact Communities" is voluntary, not mandatory in the properties identified under section 32-801.

TABLE 32-802
PROPERTY DEVELOPMENT REGULATIONS

Lot Type	***Lot Area (sf) [min/max]***	***Lot Width (ft) [min/max]***	***Frontage [min/max]***	***Lot*** Coverage by all bldgs ***[max]***	***Setbacks (feet)***				***Height[4] (min/max stories) [max feet]***	***Accessory Apartments[5] (max bldg footprint in sf)***
					[min/max]	***Side Yard [min]***	***Rear Yard[1],[2] [min]***	***Water Body[3] [min]***		
Pedestal building lot	no min / no max	no min / 500	90% / 100%	100%	0 / 10	0	0	25	2 / 5[6]; 85	not permitted

Lined building lot	no min / no max	no min / 500	90% / 100%	100%	0 / 10	0	0	25	2 / 4; 65	not permitted
Mixed-use building lot	no min / no max	no min / 300	90% / 100%	100%	0 / 10	0	3	25	2 / 4; 65	not permitted
Apartment building lot	10,000 / no max	100 / 200	80% / 100%	100%	0 / 10	0	10	25	2 / 4; 55	not permitted
Courtyard building lot[7]	20,000 / no max	150 / 300	50% / 90%	70%	0 / 10	5	10	25	2 / 3½; 55	not permitted
Live-work building lot	1,800 / 7,200	16 /60	60% / 100%	80%	0 / 6	0	20	25	2 / 3; 45	625
Rowhouse lot	1,800 / 3,840	16 / 32	90% / 100%	80%	0 / 6	0	20	25	2 / 3; 45	625
Civic building lot	no min / no max	no min / no max	no min / no max	no min / no max	no min / no max	0	0	15	1 / 4; 55	1,250
Civic space lot	no min / no max	no min / no max	n/a	n/a	n/a	n/a	n/a	n/a	n/a	not permitted

(1) Minimum rear yards apply to lots with alleys or lanes and to lots with neither alleys nor lanes; rear yards do not apply to through lots or to double-frontage lots.

(2) Minimum rear yards in this column apply to principal buildings and structures. When alleys or lanes are provided, garages and accessory dwelling units must be built with one wall placed three feet from the property line which is adjacent to the alley or lane.
(3) Fifty feet for natural waterway buffers per LDC 10-416(d)(9)
(4) Buildings must comply with both maximum heights, as measured in stories and feet. For heights measured in feet, see section 34-2171 et seq. for details and exceptions. Mezzanines that exceed the percentage of floor area for a mezzanine defined in the Florida Building Code are counted as a story for the purpose of measuring height. Space within a roofline that is entirely non-habitable is not counted as a story.
(5) See requirements for accessory apartments in sections 4-243 and 34-1777.
(6) On pedestal buildings, one or more step-back of at least 14 feet must occur above the second floor level. Said step-backs shall consist of 70 percent of a pedestal building's primary facade being built at least 14 feet further from all streets than the story below. In addition to these heights, buildings on pedestal building lots and lined building lots are allowed up to four additional stories provided the square footage of each additional story is less than 70 percent of the largest lower story.
(7) On courtyard building lots, the longer dimension of the central garden or courtyard must be at least 30 feet long if oriented east-west or 40 feet if oriented north-south. If the longer dimension is less than 35; architectural projections such as porches and balconies may only extend into the courtyard from one side. Elevator access is allowed only up to the courtyard level. Maximum lot coverage is measured immediately above the courtyard level.

(Ord. No. 12-01 , § 4, 1-10-12; Ord. No. 13-05 , § 1, 2-26-13)

Sec. 32-803. Permitted uses.

(a) *Permitted uses.* Table 32-803A identifies permitted uses for each lot type.

(b) *Accessory uses.* Accessory uses and structures not listed in table 32-803A are regulated in the same manner as chapter 34 provides for each permitted use.

TABLE 32-803A
COMPACT COMMUNITIES, CENTER TRANSECT
APPLICABLE TO NEIGHBORHOOD CENTERS IN THE NORTH FORT MYERS COMMUNITY
USE REGULATIONS FOR EACH LOT TYPE

Lot Type	***Accessory apartment (see 34-1177***	***Residential type uses***	***Attached dwelling unit***	***Live-work unit***	***All uses allowed in CN-3 zoning***	***Commercial uses not otherwise listed***	***Hotel/motel & timeshares***	***All uses allowed in CF-2 & CF-3 zoning***	***Urban agriculture***	***Excavation for water retention only***
Pedestal building lot[(1)]		See Table 32-803B	P	P		See Table 32-803C	P	P		
Lined building lot[(1)]		See Table 32-803B	P	P		See Table 32-803C	P	P		
Mixed-use building lot[(1)]		See Table 32-803B	P	P		See Table 32-803C	P	P		
Apartment building lot		See Table 32-803B	P							
Courtyard building lot		See Table 32-803B	P							
Live-work building lot	P	See Table 32-803B	P	P	P	See Table 32-803C		P		

Rowhouse lot	P	See Table 32-803B	P							
Civic building lot	P							P		
Civic space lot								P[2]	P	
Stormwater lot										P
NOTES:										
P = Permitted use (see section 34-621).										
BLANK = Use not permitted.										
[1] = Residential uses may not be placed in the ground (first) story. If live-work units are located in the ground (first) story, the work space must be located facing the street or public space.										
[2] = Civic space lots are not building sites; see division 4 for allowable uses on Civic space lots.										

TABLE 32-803B
LIST OF ALLOWABLE RESIDENTIAL TYPE USES

ALLOWABLE USE	***Special Notes or Regulations***	***Permissibility Status***
Bed and breakfast	Note (25), See 34-1494	P
Boarding house	Note (25)	P
Community residential home	Note (29)	P

Dormitory	Note (25)	SE
Two-family attached	Note (25) & (35)	P
Townhouse	Note (25)	P
Multiple-family building	Note (25)	P
Excavation for water retention	34-1651 et seq.	P
Fraternity house	Note (25)	SE
Home care facility	Note (25)	P
Home occupation, no outside help	Note (27), 34-1771 et seq.	P
Home occupation, with outside help	Note (27), 34-1771 et seq.	AA
Residential accessory uses (34-622(c)(42))	Note (27)	P
P = Permitted; SE = Special Exception; AA = Administrative Approval Note: Uses allowed by special exception may also be requested through PD zoning. All references to notes are to those notes found in section 34-844		

TABLE 32-803C
LIST OF ALLOWABLE COMMERCIAL TYPE USES

DESCRIPTION OF USE	***Special Notes or Regulations***	***Permissibility Status****
Administrative offices		P
Aircraft landing facilities, private: Lawfully existing:		
Expansion of aircraft landing strip, helistop or heliport landing pad	34-1231 et seq.	SE

New access. Bldgs.	34-1231 et seq.	P
Aircraft landing facilities, private: New		
Heli-stop	34-1231 et seq.	SE
Amateur radio antennas and satellite earth stations when accessory to an existing principal use	Refer to 34-1175 for regulations	
Animals:		
Clinic	34-1321 et seq.	P
ATM (automatic teller machine)		P
Auto parts store:		
No installation service	34-1351	P
With installation service	34-1351, 34-1353	P
Automobile repair and service (34-622(c)(2)):		
Group I	34-1351, 34-1353	P
Automobile service station	Note (34), 34-1351, 34-1353	P
Bait and tackle shop	Note (33)	P
Banks and financial establishments (34-622(c)(3)):		
Group I		P
Group II		P

Bar, cocktail lounge or nightclub as an accessory use to a hotel or restaurant	34-1201 et seq., 34-1261 et seq.	AA/SE
Bar, cocktail lounge or nightclub (freestanding)	34-1201 et seq., 34-1261 et seq.	SE**
Boats:		
Boat parts store		P
Boat ramp		P
Boat rental		P
Boat sales		P
Broadcast studio, commercial	34-1441 et seq.	P
Building materials sales (34-622(c)(4))		P
Business services (34-622(c)(5)):		
Group I, except bail bonding		P
Group II		SE
Bus station/depot	34-1381 et seq.	SE
Caretaker's residence	Note (30)	SE
Car wash	34-1353	P
Cleaning and maintenance services (34-622(c)(7))		P
Clothing stores, general, 34-622(c)(8))		P
Clubs:		

Commercial		P
Fraternal	34-2111	P
Membership organization	34-2111	P
Private		P
Communication facility, wireless	Refer to 34-1441 et seq. for regulations	
Consumption on premises	43-1261 et seq.	Refer to bars, cocktail lounges, and nightclubs
Contractors and builders, (34-622(c)(9)):		
Group I		P
Group II		P
Convenience food and beverage store	34-1353	P
Cultural facilities (34-622(c)(10))		P
Day care center, adult, child	Note (25)	P
Department store		P
Drive-through facility for any permitted use		P
Drugstore, pharmacy		P
Entrance gates and gatehouse	34-1748	P
EMS, fire or sheriff's station	Note (33)	P
Essential services	34-1611 et seq.	P

Essential service facilities, (34-622(c)(13)), Group I	34-1611 et seq.	P
Excavation:		
Water retention	34-1651 et seq.	P
Oil or gas		SE
Flea market indoor only		P
Food and beverage service, limited		SE
Food stores (34-622(c)(16)):		
Group I	Note (33)	P
Group II		P
Funeral home or mortuary:		
No cremation		P
With cremation		SE
Gambling establishments and casino style gaming		SE**
Hardware store		P
Health care facility (34-622(c)(20)), Group III		P
Hobby, toy and game shops, 34-622(c)(21)		P
Household and office furnishings, (34-622(c)(22)): Groups I & II		P
Impound yard	Note (33)	EO

Insurance companies (34-622(c)(23))		P
Laundromat		P
Laundry or dry cleaning, (34-622(c)(24)): Group I		P
Lawn and garden supply store	34-2081	P
Library	Note (25)	P
Marina	34-1862	EO
Marina, ancillary uses		EO
Mass transit depot (government-operated)		P
Medical office		P
Mobile home dealers	34-1352	SE
Model display center	34-1951 et seq.	P
Nonstore retailers (34-622(c)(30)), all groups		P
Package store	34-1261 et seq.	P
Paint, glass and wallpaper		P
Parks (34-622(c)(32)), Group I		P
Parking lot:		
Accessory		P
Commercial		SE
Garage, public parking		SE

Temporary	Note (14), 34-3049	P
Pawn Shop		SE**
Personal services (34-622(c)(33)): Groups I — IV		
Group I		P
Group II, except massage parlors (article VII, division 3)		P
Group III		P
Group IV, except escort services, palm readers, fortunetellers or card readers		P
Pet services		P
Pet shop		P
Pharmacy		P
Place of worship	Note (25), 34-3051	P
Post office		P
Printing and publishing, (34-622(c)(36))		EO
Recreation facilities:		
Recreation facilities: Commercial (34-622(c)(38))		
Group I		P
Group III	Note (20)	P/SE
Group IV	Note (20)	P/SE

Recreation facilities: Private On-site		P
Recycling facility		SE
Religious facilities	Note (25), 34-2051 et seq.	P
Rental or leasing establishments, (34-622(c)(39)):		
Group I	34-1352, 34-3001 et seq., Note (33)	P
Group II	34-1352, 34-3001 et seq.	P
Group III	34-1352, 34-3001 et seq.	P
Repair shops (34-622(c)(40)):		
Group I		P
Group II		P
Research and development labs (34-622(c)(41)): Group II		P
Restaurant, fast food	34-1353	P
Restaurants (34-622(c)(43)):		
Group I	Note (33)	P
Group II	Note (33)	P
Group III	Note (33)	P
Group IV		P

Schools:		
Commercial (34-622(c)(45))	34-2381	P
Non-commercial	Note (25), 34-2381	P
Self-service fuel pumps	Note(18)	P
Signs in accordance with chapter 30		P
Social services (34-622(c)(46)), Group I		P
Specialty retail shop (34-622(c)(47)), Groups I — IV		P
Storage: Indoor only	34-3001 et seq.	P
Storage, open	34-3001 et seq., 34-1352	SE
Studios (34-622(c)(49))		P
Supermarket		P
Temporary uses	34-3041 et seq.	TP
Theater, indoor only	34-2471 et seq.	P
Transportation services, (34-622(c)(53)):		
Group II		P
Group III		SE
Used merchandise stores, (34-622(c)(54)):		
Group I, except pawn shops		P

Group II		P
Group III		P
Group IV		EO
Variety store		P
Vehicle and equipment dealers, (34-622(c)(55)):		
Group I	34-1352	P
Group II	34-1352	P
Group III	34-1352	P
Group IV	34-1352	SE
Warehouse, Mini-warehouse only		SE
Wholesale establishment, (34-622(c)(56)):		
Group III	Note (15)	P
Group IV	Note (15)	SE
All references to notes are to those notes found in section 34-844		
* Uses allowed by special exception may also be requested through PD zoning.		
** Use must not be located closer than 500 feet, measured in a straight line from any public school or charter school; child care center; park, playground, or public recreation facility; place of worship or religious facility; cultural center, or hospital.		
AA = Administrative Approval; P = Permitted; SE = Special Exception; EO = Existing Only; TP = Temporary		

(Ord. No. 12-01 , § 4, 1-10-12; Ord. No. 13-10, § 8, 5-28-13)

Sec. 32-804. Publicly accessible open space.

(a) Each development must provide publicly accessible open space equal to not less than ten percent of the land area of the development.

(b) On parcels of more than 20,000 square feet, urban open space must not comprise greater than 50 percent of the land area required for publicly accessible open space.

(c) On parcels of 20,000 square feet or less, urban open space may comprise as much as 100 percent of the required publicly accessible open space.

(d) For the purposes of this section, urban open space includes:

(1) Spaces that are within buildings, especially large spaces, such as atriums and courtyards. These may be counted toward the public accessible open space requirement if the spaces are connected directly to the outside publicly accessible open spaces or public open spaces, and clearly visible from the exterior open spaces.

(2) Publicly accessible outdoor common space such as open space squares that have a minimum average dimension of 30 feet and a maximum average dimension of 65 feet. Open space squares may be interconnected to form a larger square or a series of squares and must be integrated into the pedestrian circulation pattern for the project. Open space squares must also be located in the front or middle of the project/development.

(e) Publicly accessible open space required of multiple individual developments may be consolidated into one centralized open space subject to the following requirements:

(1) The publicly accessible open space will be developed by one entity. One entity will be defined as either a single owner or a group of owners which form a legal partnership for the purpose of consolidating their open space requirements.

(2) Consolidated publicly accessible open space will be developed and open for use prior to issuance of the first certificate of occupancy of the building or buildings for which the open space is required.

(3) Provisions for the maintenance of the open space will be determined and documented in a written agreement with the County prior to the issuance of the first certificate of occupancy.

(Ord. No. 12-01 , § 4, 1-10-12)

Sec. 32-805. Urban design guidelines.

(a) *Complement surrounding development.* In addition to the requirements of section 10-620, all proposed residential, commercial, public and vertical and horizontal mixed-use buildings or development must blend with and complement architectural features of adjacent structures constructed under these standards.

(b) *Architectural design.* The design of all residential, commercial, public and mixed-use buildings within a North Fort Myers Neighborhood Center must comply with the following standards and be compatible with Florida Traditional Styles:

(1) The exterior finish on all facades will be limited to brick, stonework, architectural concrete block, wood, Hardiplank, tile, terracotta, and stucco.

(2) Buildings will have sloped roofs or "flat roofs" closed by parapets.

(3) Balconies, galleries and arcades will be made of concrete, painted wood, or metal; or will match abutting wall material.

(c) *Architectural Style.* The preferred architectural styles for commercial and residential development in the Neighborhood Centers include a mixture of Old Florida, Key West, Colonial, Caribbean and other styles of architecture that are deemed compatible with or complementary to these styles (see Figures 1—4).

(1) Distinct vernacular styles should be displayed through the inclusion of roof overhangs and brackets, porches, decorative columns, galleries, arcades, and pitch roofs (where applicable).

(2) Nothing herein shall serve to inhibit the use of solar panels, be they photovoltaic or domestic hot water.

(3) Metal buildings and flat roofs without parapets are prohibited in residential and commercial development.

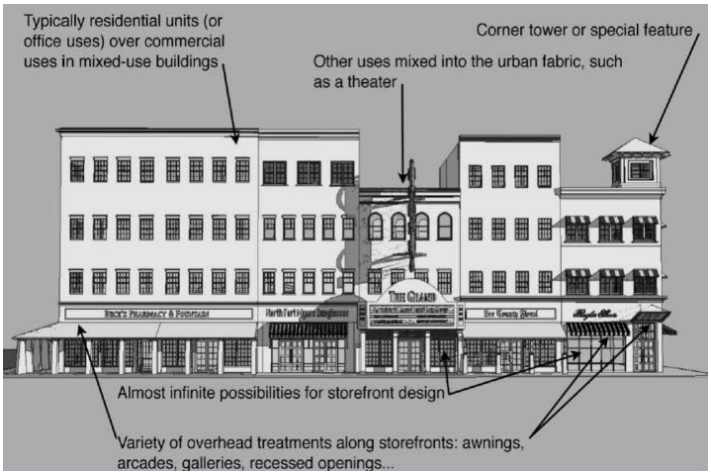


Figure 1 (§ 32-805(c))

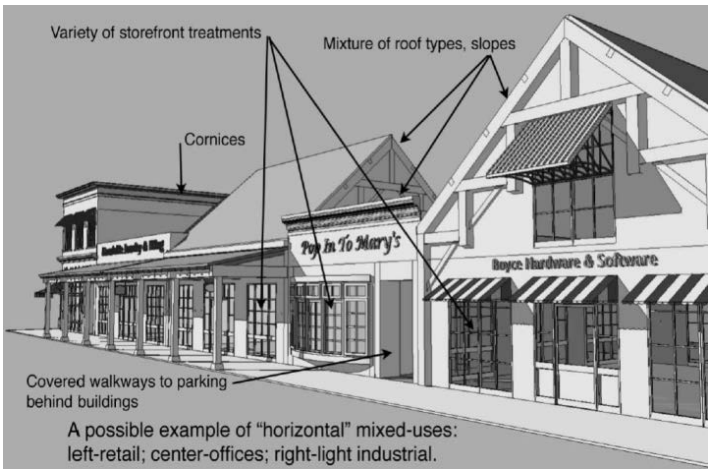


Figure 2 (§ 32-805(c))

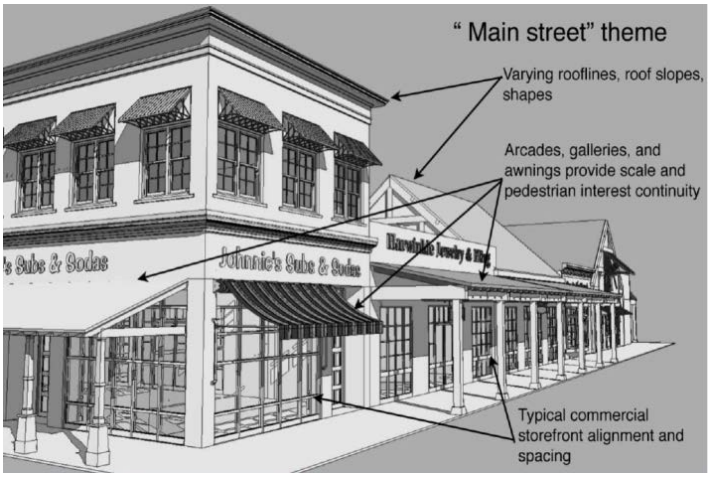


Figure 3 (§ 32-805(c))

Figure 4 (§ 32-805(c))

(d) *Exterior treatment.*

(1) In addition to the requirements of section 10-620(c), projects must use architectural elements and articulation on building exteriors to reduce the bulk of buildings. Buildings must be designed to be visually appealing from all directions and must include at least three of the following methods of providing architectural relief:

a. Recessed or defined entryways;

b. Varying rooflines, pitches, and shapes;

c. Dormers, balconies, porches, and staircases;

d. Display windows that provide visibility into the building interior;

e. Overhangs, awnings, and marquees; and

f. Features such as cornices, articulated roof parapets, porticos, towers, or other details that alter building height.

(2) Examples of character and styling that emulate architectural features and materials that are associated with or compatible to the Florida Traditional and other acceptable and compatible architectural styles:

Key West or Cracker Style

Figure 5 (§ 32-805(d)(2))

Caribbean Style

Figure 6 (§ 32-805(d)(2))

Colonial Style

Figure 7 (§ 32-805(d)(2))

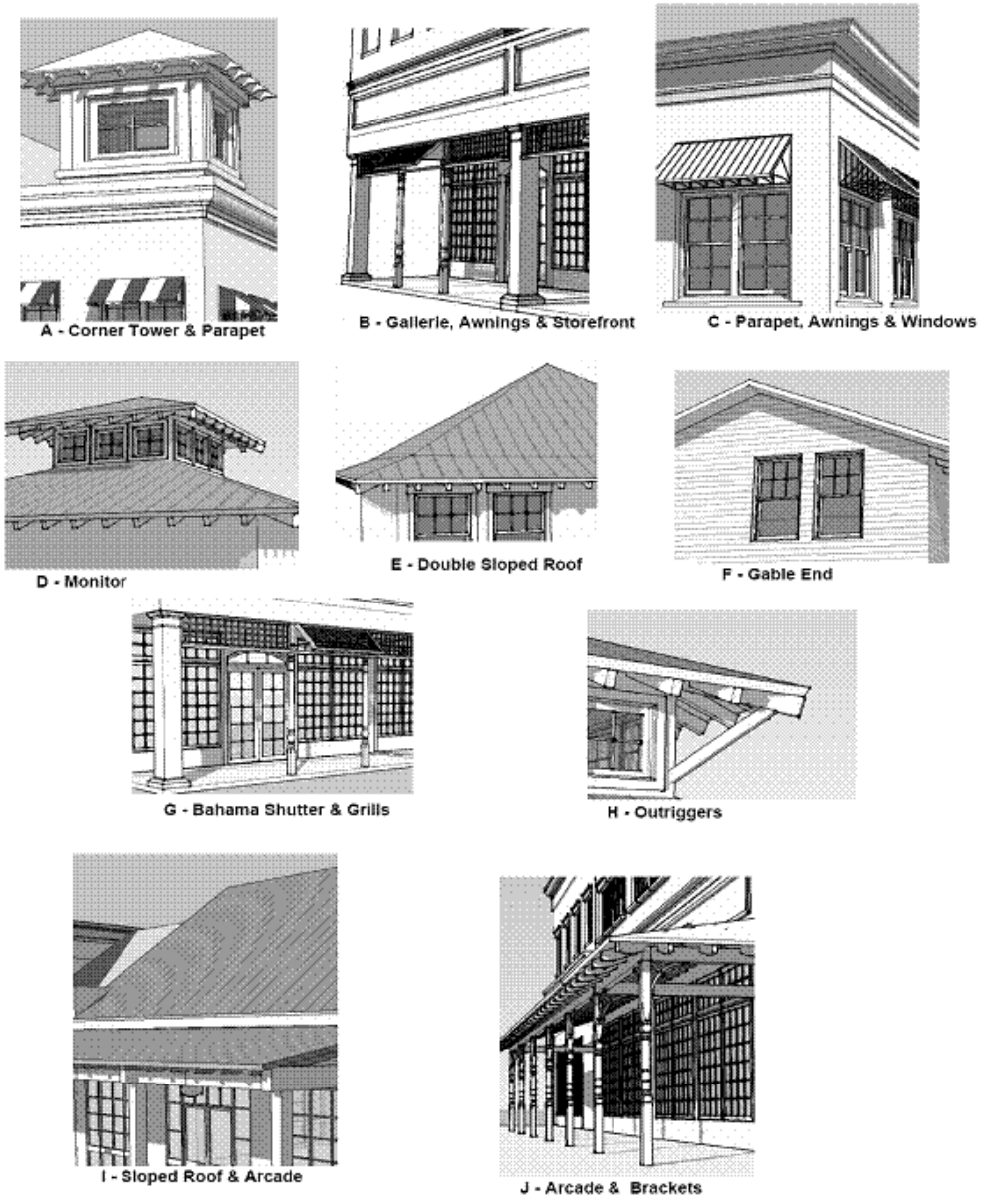


Figure 8 (§ 32-805(d)(2))

(Ord. No. 12-01 , § 4, 1-10-12)

Sec. 32-806. Street types.

In addition to the regulations contained in section 32-221, the following street types are permissible in the North Fort Myers Town Center.

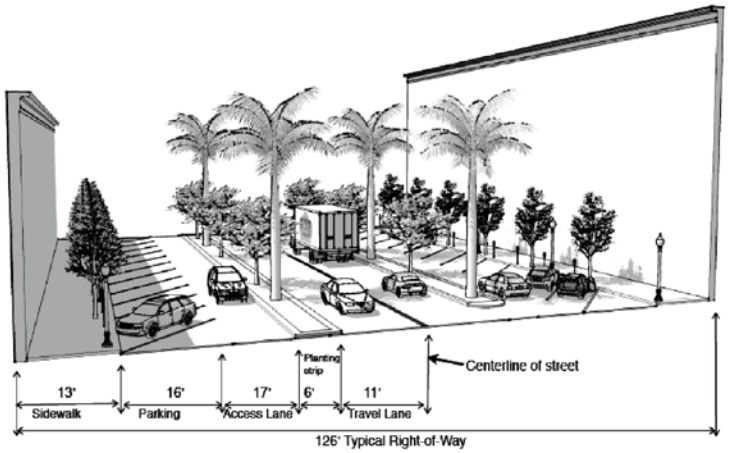
(a) TC Gateway Drive is permissible in the Core transect zone.

(b) Street G is permissible as an access roadway parallel to an arterial roadway in any transect in the Town Center.

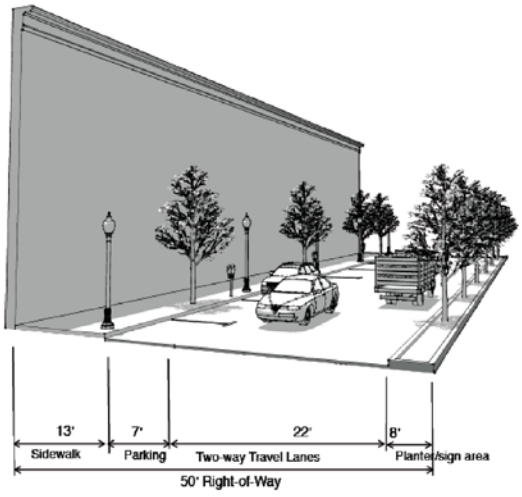
(Ord. No. 13-05 , § 1, 2-26-13)

Sec. 32-807. Street cross-sections.

In addition to the regulations and illustrations contained in section 32-226, the following cross-sections apply to Streets TC and G, respectively.



TC Gateway Drive Two-lane, two-way travel lanes with medians and access drives and 45-degree angle parking on both sides of street



Street G Two-way parallel parking one side (with 50' ROW/Easement)

North Fort Meyers Town Center Street Types - New

(Ord. No. 13-05 , § 1, 2-26-13)

Secs. 32-808—32-810. Reserved.

Chapter 33 PLANNING COMMUNITY REGULATIONS [1]

ARTICLE I. - IN GENERAL

ARTICLE II. - ESTERO PLANNING COMMUNITY

ARTICLE III. - GREATER PINE ISLAND

ARTICLE IV. - PAGE PARK PLANNING COMMUNITY

ARTICLE V. - LEHIGH ACRES PLANNING COMMUNITY

ARTICLE VI. - MATLACHA RESIDENTIAL OVERLAY

ARTICLE VII. - CALOOSAHATCHEE SHORES PLANNING COMMUNITY

ARTICLE VIII. - NORTH FORT MYERS PLANNING COMMUNITY

ARTICLE IX. - CAPTIVA

ARTICLE X. - NORTH OLGA

ARTICLE XI. - UPPER CAPTIVA

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Ord. No. 05-29, § 5, adopted Dec. 13, 2005, amended the Code to create a new Chapter 33 as follows. This initial creation of Chapter 33 includes the renumbering and amendment of existing LDC provisions pertaining to the Estero Planning Community. For historical reference purposes, the existing section of renumbered provisions are identified in editor's notes. The user is also directed to the Code Comparative Table for a detailed analysis of inclusion. (Back)

ARTICLE I. IN GENERAL

Sec. 33-1. Purpose and intent.

The purpose of this chapter is to adopt the guidelines and provisions a planning community believes is necessary to achieve the goals, objectives and policies set forth in the Lee County Comprehensive Plan applicable to each recognized individual planning community located within unincorporated Lee County. These provisions are intended to enhance, not replace, the regulations contained in the balance of this Code, unless a particular planning community specifically provides otherwise.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-2. Applicability.

The following articles apply to the planning communities in unincorporated Lee County that are specifically identified in the Lee Plan. Each article covers an individual planning community, or specifically identified portion of a planning community, that has chosen to pursue adoption of standards for the particular community.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-3. Effect of LDC provisions.

Development within the planning communities affected by this chapter must comply with all Lee County regulations, including the provisions of this Code. The planning community regulations are intended to supplement regulations in this Code, unless a particular planning community specifically provides otherwise.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-4. Conflict.

A conflict between the provisions of this chapter and the balance of this Code will be resolved in accordance with the following. The provisions of the Lee Plan in effect at the time of the conflict is discovered will control. If the Lee Plan is silent with respect to the issue, then the standards articulated in this chapter will control. If the Lee Plan and this chapter are silent with respect to an issue, then the provisions within the balance of this Code will control.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-5. Deviations/variances.

Deviations and variances from the provisions set forth in each article may be achieved under the standards specifically set forth by the particular planning community. If the article does not contain a specific provision related to variances and deviations, then the relevant provisions in chapters 10 and 34 will apply.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-6. Appeal.

Appeal of the application or interpretation of this chapter must be filed and processed in accord with section 34-145(a).

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-7—33-50. Reserved.

ARTICLE II. ESTERO PLANNING COMMUNITY

DIVISION 1. - IN GENERAL

DIVISION 2. - DESIGN STANDARDS

DIVISION 3. - CORRIDOR OVERLAY DISTRICTS

DIVISION 4. - SPECIFIC USES

DIVISION 1. IN GENERAL

Sec. 33-51. Purpose and intent.

The purpose of this division is to create standards for growth in the Estero Planning Community (see map in Appendix I), described in Goal 19 of the Lee County Comprehensive Plan. Specific high growth corridors may be designated as overlay districts subject to the provisions of this subdivision. The policies contained within this article are intended to encourage mixed-use developments, interconnectivity, pedestrian activity, and to achieve and maintain a unique, unified and pleasing aesthetic/visual quality in landscaping, architecture, signage. The standards in Article II apply to all commercial, religious, institutional, and mixed use buildings within the Estero Community, except where the authority of a separate political jurisdiction supercedes county authority.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-52. Applicability.

(a) *Scope.* The provisions of article II apply to all development located in the Estero Planning Community, as defined in section 33-53(a) and Goal 19 of the Lee County Comprehensive Plan.

(b) *Development orders.* The provisions of article II apply to all development orders and limited review development orders described in sections 10-174(1), 10-174(2) and 10-174(4)a. that are requested within the Estero Planning Community. Compliance with these provisions will be required in order to obtain development order approval.

(c) *Demonstrating compliance.* Compliance with the standards set forth in this article must be demonstrated on the drawings or site development plans submitted in conjunction with an application for development order approval or with a building permit application if a development order is not required. This will not prevent simultaneous applications for a development order and building permit on the same parcel, however, the development order approval must precede the building permit approval.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-53. Planning community boundaries.

(a) *Estero Planning Community.* The boundaries of the Estero Planning Community are as depicted in the Lee County Comprehensive Plan on Lee Plan Communities Map 16.

(b) *Corkscrew Road Overlay.* The boundaries of the Corkscrew Road overlay district are as depicted in Appendix I on Map 1.

(c) *Sandy Lane Overlay.* The boundaries of the Sandy Lane overlay district are as depicted in Appendix I on Map 1

(d) *US 41 Overlay.* The boundaries of the US 41 overlay district are as depicted in Appendix I on Map 2.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-54. Community review.

(a) *Applications requiring review.* The owner or agent applying for the following types of county approvals must conduct one public informational session in accord with section 33-54(b) within the Estero Planning Community prior to obtaining a finding of sufficiency.

(1) *Development orders.* This includes all applications for development orders requested within the Estero Planning Community.

(2) *Planned development zoning actions.* This includes administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution.

(3) *Special exception and variance requests.* This includes all requests that will be decided by the hearing examiner.

(4) *Conventional rezoning actions.*

(5) *Permanent monument-style identification sign permits requested from the Building Department.*

(b) *Meeting requirements.* The owner or agent submitting the application requiring review under this section must conduct one public informational session within the boundaries of the Estero Planning Community where the agent will provide a general overview of the project for any interested citizens. The applicant is fully responsible for providing the meeting space and providing security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of

attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07; Ord. No. 12-21 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-55. Existing development.

Existing planned developments may voluntarily bring a master concept plan into compliance with the Estero Plan or any regulation contained in this division administratively. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-56. Definitions.

The following definitions are in addition to those set forth in other chapters of this Code and are applicable to the provisions set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise the definitions contained elsewhere in this Code will control.

Articulation means shapes and surfaces having joints or segments that subdivide the area or elements; the joints or members add scale and rhythm to an otherwise plain surface.

Big box/large retail/large footprint means a single use retailer of more than 50,000 square feet of building footprint, or a multi-use development, with more than 100,000 square feet of building area, excluding out parcel development.

Building footprint means the total area of land covered or occupied by an individual building, including all roofed areas and outdoor sales area. Walkways and public spaces are excluded from the calculation.

Column/pillar means freestanding vertical supports that generate unique features through the composition of the base, shaft and capital arrangement of column parts.

Facade means the vertical exterior surfaces of a building.

Fully shielded light fixture means a light fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal.

Human scale and proportion means the adequate positioning of building details and attributes that take into consideration the approximate eye level and average human height, in order to create a sense of its presence, or simply for it to be perceived and appreciated when encountered.

Interior access drive/street means any vehicular roadway, excluding alleys or driveways, located within the confines of the property.

Internal block means a building pad that does not front on a major road.

Liner building/structures means additional buildings located along a big box type structure to mask blank and unadorned walls. Liner buildings may also be used to help mass up or mass down the big box. Liner buildings may either be attached to the big box or be within 15 feet of the big box. (See Figure 11 in section 33-458) Liner buildings may either be an enclosed, partially enclosed, or a covered structure, including covered walkways.

Mall means a structure with multiple tenants with an internal public circulation spine (roofed or not roofed) with more than 450,000 square feet of retail space.

Monument sign or monument-style sign is a ground sign, the structural base of which is on the ground. The height of the base must be at least 24 but no more than 36 inches above the adjacent ground. The average width of the sign structure must exceed the total height of the sign structure. The width of the top of the sign structure must not exceed 120 percent of the width of the base. The sign copy area will 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.

Reflective pool means a geometric pool like structure with a minimum of six inches of water and a maximum of two feet of water in the structure. Reflective pools may not be connected to the water management system.

Open space square means an outdoor common space. Open space squares must have a minimum average dimension of 30 feet and a maximum average dimension of 65 feet. Open space squares may be interconnected to form a larger square or a series of squares and must be integrated into the pedestrian circulation pattern for the project. Open space squares must also be located in the front or middle of the center.

Out parcel buffer means building parcels that are placed along more than 75 percent of the public right-of-way, having no more than two rows of parking in the front, and a landscaped buffer (type "D," minimum of six feet) provided at the front, back and the sides of the out parcel. Properties sharing common buffers may agree to install a joint buffer, at least eight feet in width, provided the buffer meets all type "D" buffer requirements, and includes three trees per 100 linear feet. When a building is located in the Corkscrew Road overlay area, a setback of no more than 20 feet from the Corkscrew Road right-of-way may satisfy the front landscaping requirements.

Parapet means a low protective wall at the edge of a terrace, balcony or roof.

Parking pods means a discrete parking lot with no more than four ingress/egress points, limited to a maximum of 120 parking spaces, and surrounded by a type "D" landscape buffer.

Pedestrian passageway means a pedestrian connection between buildings that allows safe access to other public spaces.

Pole sign is a freestanding sign composed of a single, double, or multiple pole or support structure, that is not a solid monument-style.

Storefront means the wood or metal armature of a window or door system, located within a ground-floor opening in the facade of a building.

Street furniture means objects that are constructed or placed above ground such as outdoor seating, kiosks, bus shelters, sculptures, tree grids, trash receptacles, fountains, and telephone booths, which have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to, and used by, the public.

Usable open space means a passive or active area set aside for the visitor enjoyment while adding to the diversity of the activities at the center.

Vernacular means building structure whose design is determined by an informal local tradition. A vernacular building is one that possess attributes common to other buildings in the region in terms of appearance, use of materials, dimensions, exterior decoration and approximate age. While there may be differences in attributes, it should "belong" and not seem out of place.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 12-21 , § 2, 9-11-12)

Sec. 33-57. Deviations and variances.

If an applicant desires to deviate from any architectural, site design, landscaping or signage guidelines in article II, including all sections from 33-111 through 33-385, an applicant may do so at the time of zoning or development order if permitted under section 10-104(b). A rendered drawing to scale, showing the

design, and clearly demonstrating the nature of the requested deviation must be submitted as part of the development order application. Administrative deviations to a planned development may be allowed subject to a meeting within the Estero Planning Community in accord with section 33-54(b).

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 11-01 , § 4, 3-8-11; Ord. No. 13-10 , § 9, 5-28-13)

Secs. 33-58—33-99. Reserved.

DIVISION 2. DESIGN STANDARDS

Sec. 33-100. Design standards.

The design standards included in this division are intended to help create a distinguished architectural style and appearance within the Estero Planning Community and the specific overlay districts identified in section 33-53. The standards provide design criteria intended to stimulate creative project designs, while fostering compatibility with surrounding developments.

These development provisions are intended to create an integral distinct community image, one that will enhance, unify, and harmonize properties throughout the Estero Planning Community.

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-101—33-110. Reserved.

Subdivision I. - Basic Elements

Subdivision II. - Architectural

Subdivision III. - Landscaping

Subdivision IV. - Transportation

Subdivision V. - Signs

Subdivision I. Basic Elements

Sec. 33-111. Water management.

(a) Closed drainage is encouraged for storm water management systems along arterial and collector streets. If swales are utilized, sidewalks must be located on the development side of the swale, and pedestrian and bicycle connections must be provided at intersections and entryways into the development.

(b) The shape of stormwater ponds must be designed to appear natural by having a meandering shoreline. Stormwater pond configurations that are generally rectangular or triangular in shape are prohibited. (Refer to Figure 1).

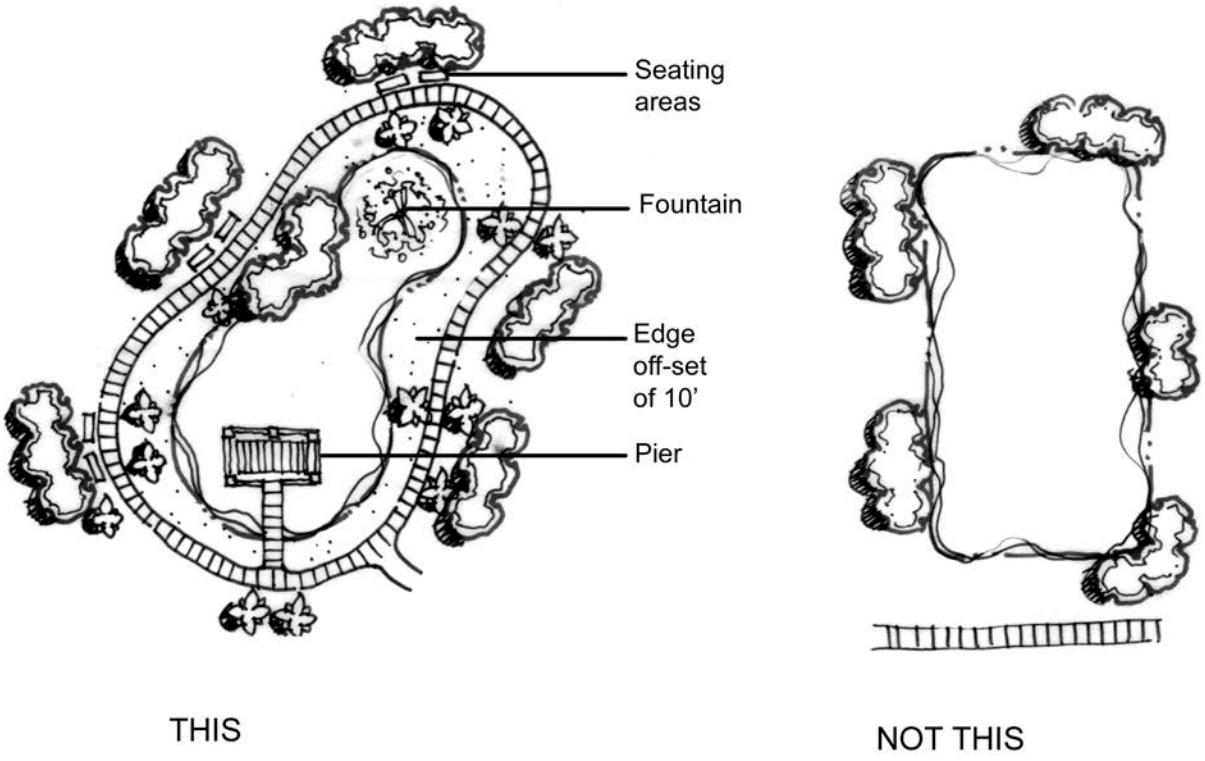


Figure 1. (s.33-111) Treatment of all bodies of water to appear natural and to incorporate landscaping features where possible.

(c) Wet and dry detention areas must comply with section 33-117

(d) All dry detention basins must be planted with wetland type plant species (such as Spartina) in minimum one-gallon containers not more than 36 inches on center throughout the extent of the basin.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-112. Utilities.

All utility lines must be located underground except when located within a public street or road right-of-way.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-113. Places of public interest/open space.

(a) Places of public interest/open space are intended to provide for areas of public interest within commercial developments and must be provided where possible. These areas must be equipped with amenities such as seating areas, structures that provide shade, drinking fountains and other amenities.

(b) Umbrellas and open shopping carts are encouraged within these areas to stimulate informal activities. Open-air restaurants and cafes are encouraged.

(c) Landscaping elements such as plantings, fencing, and changes of paving material are encouraged to demarcate change in function of a public area and adjacent street. Where necessary, traffic calming devices must be applied to slow down traffic. (Refer to Figure 2)

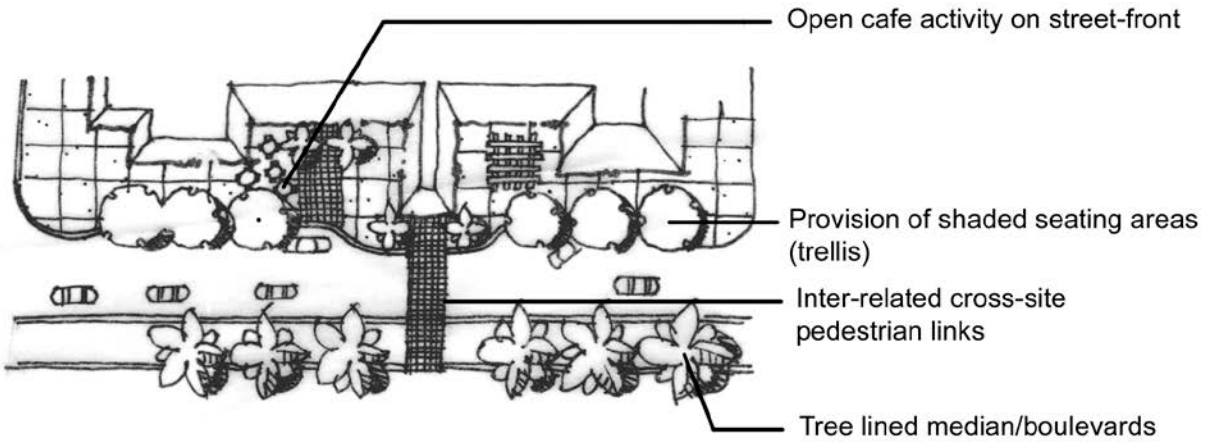


Figure 2. (s. 33-113)

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-114. Parking.

(a) Developments must follow these general requirements:

(1) Parking areas must be designed to minimize hard landscaped areas, visually and physically, with vegetation, fountains, seating areas or other features.

(2) Parking areas must be well configured with pedestrian links, buffers and visually pleasing landscaped areas.

(b) Parking lots must be located in accordance with section 34-2192

(c) Side parking areas must be adequately screened from pedestrian and vehicular travel along the frontage road.

(d) Parking area configurations must promote interconnections between adjacent project parcels. (This should be accomplished by providing an interconnected vehicular circulation route to the rear of properties fronting onto Corkscrew Road and Sandy Lane.)

(e) Sixty percent of the primary facade of a parking garage must incorporate the following:

(1) Transparent windows, with clear or lightly tinted glass, where pedestrian oriented businesses are located along the facade of the parking structure; or

(2) Display windows; or

(3) Decorative metal grille-work or similar detailing, which provides texture and partially or fully covers the parking structure openings; and

(4) Vertical trellis or other landscaping or pedestrian plaza area.

(f) A minimum ten-foot wide terminal island is required at the end of all parking rows.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 12-20 , § 3, 9-11-12)

Sec. 33-115. Services areas.

Service areas, including loading docks, trash receptacles, mechanical equipment, outdoor storage areas and utility vaults must be located in areas where traffic impacts are minimized, and public visibility is diminished, and in areas that are accessible and functional. Smaller trash receptacles must be decorated or screened and placed in visible locations.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-116. Lighting.

(These requirements are in addition to the requirements of section 10-610(b)).

(a) Provide pedestrian level lighting of building entryways.

(b) Lighting must be given a distinct architectural theme that complements the building's exterior. Light fixtures must complement the overall building development.

(c) Provide lighting throughout all parking areas utilizing decorative light poles/fixtures. Other than pedestrian light fixtures, all other outdoor light fixtures must be fully shielded. Lighting must be directed to avoid intrusion on adjacent properties and away from adjacent thoroughfares.

(d) Lighting plans must be coordinated with landscape plans to identify and eliminate potential conflicts.

(e) Buildings, awnings, roofs, windows, doors and other elements may not be designed to be outlined with light. Exposed neon and backlit awnings are prohibited. Temporary seasonal lighting during the month of December is excluded from this requirement.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-117. Natural and manmade bodies of water.

Bodies of water, including wet and dry detention areas, exceeding 20,000 square feet in cumulative area and located adjacent to a public right-of-way are considered park area and an attractor for pedestrian activity. These areas must incorporate into the overall design of the project at least two of the following items:

(1) A five-foot wide walkway with trees an average of 50 feet on center; shaded benches a minimum of six feet in length located on average every 150 feet; or

(2) A public access pier with covered structure and seating; or

(3) An intermittent shaded plaza/courtyard, a minimum of 200 square feet in area with benches and/or picnic tables adjacent to the water body; and/or

(4) A permanent fountain structure.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-118. Interconnections and shared access.

(a) *Interconnects.* Adjacent commercial uses must provide interconnections for automobile, bicycle and pedestrian traffic. All adjacent parking lots must connect. Interconnects between parking lots are not intended to satisfy the criteria for site location standards outlined in Policy 6.1.2(5) of the Lee Plan.

(b) Inter-parcel vehicle access points between contiguous commercial tracts must be provided. Properties that have frontage or other means of access to a side street parallel or perpendicular to US 41, Corkscrew Road, or Sandy Lane must connect to the side street.

(c) Use of shared accessways is encouraged.

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-119—33-225. Reserved.

Subdivision II. Architectural

Sec. 33-226. Applicability.

Architectural design of all commercial, industrial, public and mixed use buildings within the Estero Planning Community must comply with this subdivision.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-227. Architectural style.

The preferred architectural style in the Estero Planning Community is Mediterranean, with Old Florida where appropriate, and other styles of architecture that are deemed compatible with these styles. Distinct vernacular styles must be displayed through the inclusion of extended roof overhangs, porches, decorative columns, covered corridors, covered walkways, and pitch roofs (where applicable). Buildings of less than 5,000 square feet of gross floor area must be designed with roofs having a minimum pitch of 30 degrees. (Refer to Figure 3).

Figure 3. (s. 33-227)

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-228. Compliment surrounding development.

In addition to the requirements of section 10-620, all proposed commercial, industrial, public and mixed use buildings must blend with and complement existing architectural features of adjacent structures constructed under these standards.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-229. Maximum height.

Buildings outside of the Interstate Highway Interchange Areas are limited to a maximum of three stories or 45 feet, whichever is less, in height. Elements that enhance visibility, create focal points or amenities, such as turrets, sculpture, clock tower and corner accentuating rooflines, may exceed the

maximum height limitations with an approved variance or deviation. (Refer to Figure 4.)

Figure 4. (s. 33-229)

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-230—33-329. Reserved.

Sec. 33-330. Facade treatment.

In addition to the requirements of section 10-620(c), projects must use architectural relief, articulation or landscaping on building facades to reduce the bulk of buildings with facades longer than 75 feet that are visible from the street. Buildings must be designed to be visually appealing from all directions. Buildings that are visible from more than one right-of-way, or an exit ramp must use facade treatments on all viewable facades. Methods for providing architectural relief of blank facades must include one or more of the following:

(1) Recessed or clearly defined entryways;

(2) Varying rooflines, pitches and shapes;

(3) Dormers, balconies, porches and staircases;

(4) Transparent window or door areas or display windows that provide visibility into the building interior. No reflective or darkly tinted glass may be used on ground level;

(5) Overhangs, awnings and marquees;

(6) Building ornamentation and varying building materials, colors, decorative tiles, edifice detail such as trellises, false windows or recessed panels reminiscent of window, door or colonnade openings and wall murals;

(7) Shrubs or vines trained to grow upright on wire or trellises next to blank walls;

(8) Architectural features such as cornices, articulated roof parapets, porticos, towers or other details that alter the building height;

(9) Application of a contrasting base that is a minimum one-foot high and extends along the entire front of the building and at least ten feet along the sides of the building.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-331. Window treatment.

Place display windows at the street level around the exterior of commercial buildings and provide windowsills and ledges. Windows must not appear to be false and applied.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-332. Awnings.

(a) If an awning is over a public sidewalk, it must project from the surface of the building at a minimum height of eight feet. No awnings may be placed in or over any public right-of-way.

(b) The design, materials and color of the awnings must complement the architecture of the building and not obscure its features.

(c) Awnings must be consistent with the visual scale of the building.

(d) Awnings must be placed at the top of openings. The awning shape must correspond with the shape at the top of the opening. Flat canopies are discouraged except in circumstances where it is accompanied by a valance. (Refer to Figure 5).

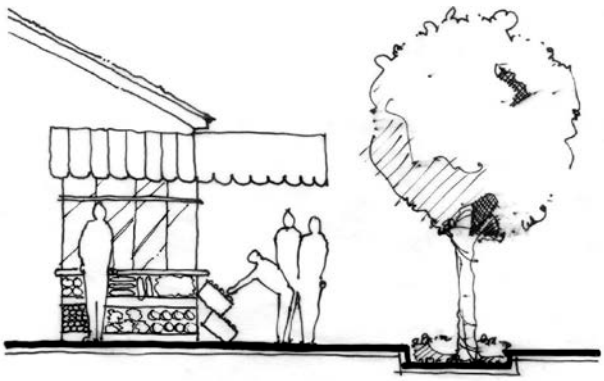
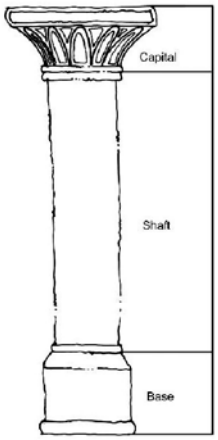


Figure 5. (s. 33-332

(e) Materials must be of high quality, durable and weather resistant. Plastic or shiny materials are prohibited.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-333. Columns.



Aesthetic details may be created using columns/pillars. (Refer to Figure 6).

Figure 6 (s. 33-333) Column detailing through base, shaft and capital configuration

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-334. Building color.

(a) The colors for commercial structures must be neutral, warm earth tones or subdued pastels. Where applicable, commercial buildings may use brightly colored trims, cornices, or columns that may be reinforced to create a special effect or setting. However, these contrasts must create a harmonious impact, complementing the principal structure as well as existing surrounding building structures.

(b) Brighter colors can be utilized to create focal points of interest in locations including on doors, windows and architectural details. Buildings should not exceed three colors on one architectural detail in composite. Contrasting accent colors of any wall, awning or other feature must be limited to no more than ten percent of the total area for any single facade.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-335. Landscaping/window boxes.

In addition to building perimeter plantings required by section 10-416(b), buildings may incorporate live plant material growing immediately on the building, by providing window boxes, planter boxes or hanging flowers.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-336. Multi-tenant buildings.

For multi-tenant buildings, roof parapets must be varied in depth and height. Roof parapets must be articulated to provide visual diversity. Parapets must include architectural relief or features at least every 75 feet. The minimum height of the architectural features must be one foot, and may be provided in height offset or facade projections such as porticoes or towers.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-337. Out-parcels.

Exterior facades of out-parcel buildings must be treated as primary facades and must employ architectural, site, and landscaping design elements that are common to the theme used in the main development on site, including colors and materials associated with the main building. The purpose of this requirement is to assure a unified architectural theme and site planning between out-parcels and the main buildings on site, enhance visual impact of the buildings and to provide for safe and convenient vehicular and pedestrian access and movement on site.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-338. Infill development.

Buildings planned for infill developments must be designed to relate to adjacent property structures so as to create an overall visually pleasing effect. In developing an infill development, consideration must be given to existing adjacent building heights, roof structures, colors, cornices and other architectural elements provided they are in compliance with these regulations. (Refer to Figure 7).

Figure 7. (s. 33-338) Application of the varied elements that present a composite Mediterranean streetscape and texture:

(a) Varying roof heights;
(b) Application of decorative building ornamentations;
(c) Integration of landscaping features into building facades - hanging plants, shrubs, vines;
(d) Street lighting with distinctive commercial characteristics; and
(e) Awnings which complement building facade, placed at a height that appeals to the human scale.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Secs. 33-339—33-350. Reserved.

Subdivision III. Landscaping

Sec. 33-351. Landscaping buffers.

BUFFER REQUIREMENTS											
PERMITTED OR EXISTING USE											
Pro		**SF-R**	**MF-R**	**COM**	**ROW**	**IND**	**STP**	**AG**	**WOR**	**REC**	**PRE**
	SF-R	A	A	A	D[4]	—	—	—	—	B	F[5]

p o s e d U s e	**MF-R**	B	A	B	D[3]	A	A	—	—	B	F[5]
	COM	C/F[1]	C/F[1]	A[2]	D[3]	A	—	A	A	A	F[5]
	WOR	B	B	A	D[3]	A	A	C/F	A	A	F[5]
	IND	E	E	B	D	A	A	A	B	—	F[5]
	STP	E	E	E	C	C/F	A	C/F	C	—	F[5]
	REC	C/F	A	A	D	—	—	—	A	F	F[5]
	PRE	F	F	—	—	—	—	—	—	F	—

Notes:

[1] Commercial projects that are part of mixed use developments, as defined in section 34-2, are not required to provide buffers between uses.

[2] Type "A" buffers required between commercial uses must be designed to allow for pedestrian, bicycle, and automobile connections through adequate spacing between required trees. Palms may be used where COM abuts COM on a 1:1 basis, if they are clustered as defined.

[3] The Type "D" buffers required between commercial uses and rights-of-way may be waived, or reduced if the proposed building setback is within 25 feet of the right-of-way. This is not intended to allow for a reduction in general tree requirements or building perimeter tree planting requirements.

[4] All Residential Planned Developments adjacent to I-75 are required to plant a buffer 40 feet in width and must contain 15 trees, 50 shrubs and 60 ground cover plants per 100 linear feet. If a berm is constructed, the 40-foot setback must include a minimum of eight feet from the toe of the berm to the right-of-way to allow for both state and private property maintenance of the edge of the right-of-way and for maintenance of the berm.

[5] The required buffer must be 100 percent native.

Buffer Types (per 100 linear Feet)[1]						
Buffer Types	**A**	**B**	**C**	**D**	**E**	**F**
Minimum Width in Feet	5	15	20	20	30	50
Minimum # of trees	4	5	10	5[4]	10	15
Minimum # of shrubs	—	Hedge[3]	30	Hedge[3]	30	Hedge[3]

Wall Required[2]	—	—	8′ ht. solid	—	8′ ht. solid	—

Notes:

[1] All landscape buffer designs should complement adjacent project buffers to help aid in establishing a continuous landscape theme within the Estero Planning Community. The use of plant material indigenous to, and consistent with, existing vegetation within the Estero Planning Community is recommended.

[2] A solid wall, berm, or wall and berm combination, must be not less than eight feet in height. All trees and shrubs required in the buffer must be placed on the residential side of the wall. The height of the wall must be measured from the average elevation of the street or streets abutting the property, as measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage. Walls must be constructed to ensure that historic flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.

[3] Hedges must be planted in double staggered rows and be maintained so as to form a 36-inch high (F type buffers must be 48 inches at installation and be maintained at 60 inches high) continuous visual screen within one year after time of planting. In situations where the elevation of the ROW is higher than the elevation of the adjacent property, the effective plant screen must have an elevation of 36-inches as measured from the highest elevation within the buffer area resulting from the combination of the berm and/or plants. Clustering of shrubs that would not create a continuous visual screen, but add interest to the landscape design, is allowed on a review basis by Development Review staff.

[4] Trees within the ROW buffer must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms within the ROW buffer will add design flexibility and reduce conflicts.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-352. Plant materials.

(a) Palms used in buffers must be clustered in lengths of not less than four feet and more than eight feet apart. Not more than 50 percent of the required trees for a given buffer along its length may be in palms. A single tree may be used when an odd number of required trees along a frontage so warrant. Palms must be planted in staggered heights with a minimum of three palms per cluster. The use of single palms is permitted if the palms are the Royal Palm, Date Palm or Bismakia Palm variety; and, the use of palms does not constitute more than 50 percent of the total required tree count along a given buffer.

(b) Palms used to meet the required tree count for buffers may be used on a 2:1 basis. Cabbage palms may be used on a 3:1 basis for canopy trees when planted in clusters. Palms may be used to meet general tree requirements if they do not constitute more than 50 percent of the required tree count.

(c) Soldiering of cabbage palms in buffers is prohibited.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-353. Landscape design.

(a) Developments must provide separation between pedestrian and vehicular movement by using plantings as space defining elements.

(b) Developments must utilize both hardscape and landscape features as space defining elements (Refer to Figure 8), including, where possible:

(1) Distinctive paving or painting to define the appropriate location for pedestrian and vehicular traffic;

(2) Plantings such as street trees, hedges and screening;

(3) Replicating landscaping patterns and materials to visually unify a development and creating focal points through design diversification where possible;

(4) Plant materials must be suited to the climate and, at their mature, natural size, be suitable for their planting location; and

(5) Selecting trees for parking lots and sidewalk areas that do not interfere with the visibility and movement of vehicles or pedestrians, or cause pavement or other hard surfaces to heave. Material selection must be designed to survive the effects of building or large paved areas (in terms of heat, shade, wind, etc.)

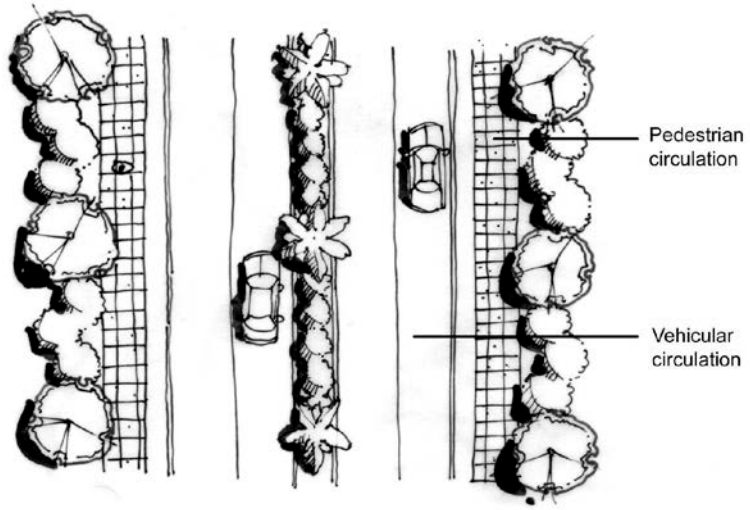


Figure 8. (s. 33-353

(c) All required trees must be a minimum 45 gallon container, 12-foot to 14-foot planted height, six-foot spread and 32-inch caliper, or field grown equivalent, at the time of planting.

(d) Not more than ten percent of the required internal landscape area, as related to the vehicular use area identified in section 10-416, may be planted in sod.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-354. Tree preservation.

In an effort to preserve expansive open spaces and native vegetative communities:

(1) Development must be clustered to reserve large areas of open space;

(2) Existing native vegetation must be preserved whenever possible; and

(3) Infrastructure design must integrate existing trees and the natural character of the land to the greatest extent possible.

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-355—33-360. Reserved.

Subdivision IV. Transportation

Sec. 33-361. Transit facilitation.

Convenient access to public transportation, ride-share and passenger drop off areas must be provided. The following examples are design techniques that may be used to meet this requirement:

(1) Accommodate public transportation vehicles on the road network that services the development.

(2) Provide passenger loading/unloading facilities.

(3) For streets adjacent to a development, provide sidewalks and other pedestrian facilities such as bus shelters.

(4) Provide a convenient and safe access between building entrances and a transit or bus area, such as walkways or painted pedestrian crosswalks.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-362. Pedestrian walkways/linkages.

The following requirements are in addition to the requirements of section 10-610(d):

(1) Pedestrian walkways must be provided for each public vehicular entrance to a project, excluding ingress and egress points intended primarily for service, delivery or employee vehicles.

(2) In order to accentuate and highlight pedestrian areas, wherever possible, materials must include specialty pavers, concrete, colored concrete or stamped concrete patterns.

(3) Pedestrian walkways/links must be incorporated into, within and through a project in a way that addresses both site security concerns and pedestrian safety. The following are examples of design techniques that should be applied:

a. Incorporate cross-site pedestrian connections within projects.

b. Define walkways with vertical plantings, such as trees or shrubs. Pedestrian walkways may be incorporated within a required landscape perimeter buffer, in compliance with section 10-416(d)(4), Note 11.

(4) Sidewalks or pedestrian ways must connect the on-site pedestrian systems to pedestrian systems on adjacent developments.

(5) Traffic calming devices, at the discretion of the developer, must be provided at points where conflicting pedestrian and vehicular movements exist.

(6) Sidewalks or bikeways must be installed along all project frontage roads, and whenever possible must be separated from the edge of pavement by a minimum four-foot wide planting strip. The property owner must provide for maintenance of the planting strips unless the County formally accepts responsibility for maintenance. Existing non-conforming sidewalks must be brought into compliance with this section.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-363. Bicycle racks.

Bicycle racks are required for all retail and office developments within overlay districts.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-364. Street furniture and public amenities.

Developments must provide street furniture and other pedestrian amenities in their design. All accessories such as railings, trash receptacles, street furniture and bicycle racks must complement the building design and style.

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-365—33-380. Reserved.

Subdivision V. Signs

Sec. 33-381. Purpose.

The purpose and intent of this subdivision is to modify and supplement Chapter 30 in order to protect and preserve the character and appearance of the Estero Planning Community.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-382. Applicability.

This subdivision is adopted as an addendum to the general sign regulations set forth in Chapter 30.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-383. Prohibited signs.

Unless a deviation or variance is granted, the following types of signs are prohibited within the Estero Planning Community:

(1) Animated signs.

(2) Emitting signs.

(3) Balloons, including all inflatable air signs or other temporary signs that are inflated with air, helium or other gaseous elements.

(4) Banners, pennants or other flying paraphernalia, except an official federal, state or county flag, and one symbolic flag not to exceed 15 square feet in area for each institution or business.

(5) Changing sign (automatic), including electronic changing message centers, except as approved within a development of regional impact by planned development zoning resolution adopted prior to June 24, 2003 (the adoption date of Ordinance 03-16).

(6) Figure-structured signs.

(7) Pole signs/freestanding.

(8) Pylon signs, except as approved within a development of regional impact by planned development zoning resolution adopted prior to June 24, 2003 (the adoption date of Ordinance 03-16).

(9) Off-site directional signs, except as approved within a development of regional impact by planned development zoning resolution adopted prior to June 24, 2003 (the adoption date of Ordinance 03-16).

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 11-01 , § 4, 3-8-11)

Sec. 33-384. Temporary signs.

(a) Temporary sign permits for prohibited signs will not be issued.

(b) Special occasion signs.

(1) Temporary on-site sign permits may be issued for special occasions such as holidays (other than Christmas and Hanukkah, which are addressed in section 30-6), carnivals, parking lot sales, annual and semiannual promotions or other similar events, provided:

a. A special occasion sign permit is issued by the building official;

b. The special occasion sign permit is issued for a period of time not to exceed 15 days;

c. No business may be permitted more than two special occasion permits in any calendar year; and

d. The business did not violate the time limitation in subsection (b)1.b. above, within the calendar year preceding the request for the temporary sign permit.

(c) Signs must be located on-site and in a manner that does not create a traffic or pedestrian hazard;

(d) Signs illuminated by electricity must comply with all electrical and safety codes; and

(e) Signs must be constructed and secured in accordance with all applicable standards.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-385. Permanent signs in commercial and industrial areas.

(a) *Identification sign.* A nonresidential subdivision or parcel will be permitted one monument-style identification sign along any street that provides access to the property in accordance with section 30-153

(1) Except as provided in subsection (3) below, the maximum height of any identification sign will be 17 feet.

(2) Lighting.

a. *Permissible lighting.* Except as provided in section 30-153(2)a.1.iv., the monument-style identification or wall sign may be illuminated by:

1. Individual internally illuminated letters and logo on an unlit background (i.e. channel lit lettering);

2. Lighting behind the letters and logo that illuminates the sign background (i.e. reverse channel lit lettering);

3. A combination of 1. and 2., above; or

4. Edge-lit letters using concealed neon or remotely lit fiber optics.

b. *Prohibited lighting.* Monument-style identification or wall signs will not be animated or illuminated by:

1. A visible source of external lighting;

2. Exposed neon;

3. Exposed raceways; or

4. Internally illuminated box signs (as defined by a sign comprised of translucent surfaces illuminated from within), unless face and side of sign are opaque except for letters and/or logo being translucent.

c. All electrical connections, wiring, etc., must be concealed.

(3) Except as provided herein, monument-style identification signs must be set back a minimum of 15 feet from any street right-of-way or easement, and ten feet from any other property line. In no case will a monument-style identification sign be permitted between a collector or arterial street and a frontage road.

Exception: Where the building is within 15 feet of the street right-of-way or road easement the sign may be placed closer than 15 feet to the right-of-way or easement provided it does not project over any right-of-way or easement, the height does not exceed seven feet, and the sign is not located within ten feet of any overhead electrical supply.

(4) All monument-style identification signs must display the street address of the property. Street numbers must measure between a minimum of four inches and a maximum of six inches, in height. The copy area of the street address will not be counted toward the allowable sign copy area.

(5) Copy area of a monument sign will not exceed 75 percent of the total sign structure area and a minimum 25 percent of the sign structure area must be devoted to architectural features.

(6) Signs identifying individual businesses must be easily read from the pedestrian level.

(7) Signs must match the architectural style of the building or development.

(8) Wall signs are permitted in accordance with section 30-153(2)c.1. and section 30-153(3)d., with a maximum area of 300 square feet per wall per tenant. This area is to be determined by the sum of any and all signs on the tenant's wall. Wall signs will not contain advertising messages or sales item names.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 12-21 , § 2, 9-11-12)

Secs. 33-386—33-399. Reserved.

DIVISION 3. CORRIDOR OVERLAY DISTRICTS

Sec. 33-400. Purpose and intent.

Overlay districts are corridors within the Estero Planning Community that are of special concern and require special site design standards.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-401. Applicability.

Whenever the requirements of the overlay districts impose a different standard than the provisions of this Code, the requirements of the overlay district will govern. Except where specifically modified by the provisions of this subdivision, all other requirements of this Code apply.

(Ord. No. 05-29 , § 5, 12-13-05)

Subdivision I. Corkscrew Road and Sandy Lane

Sec. 33-402. Intent.

The Corkscrew Road and Sandy Lane districts will be developed as the Estero Planning Community's Main Street, a corridor of architecturally appealing and attractively landscaped retail, office, residential and institutional developments that cater to the needs of the community. These districts are depicted in Appendix I, Map 1.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 09-23 , § 9, 6-23-09)

Sec. 33-403. Corner lots.

In addition to the requirements of section 10-620(c)(3), the development must create visually attractive street corners using distinctive building entryways in combination with landscaping or artwork. Buildings on corner lots must be designed with a maximum setback of 25 feet from each adjacent right-of-way and must provide pedestrian access from the street intersection (Refer to Figure 9).

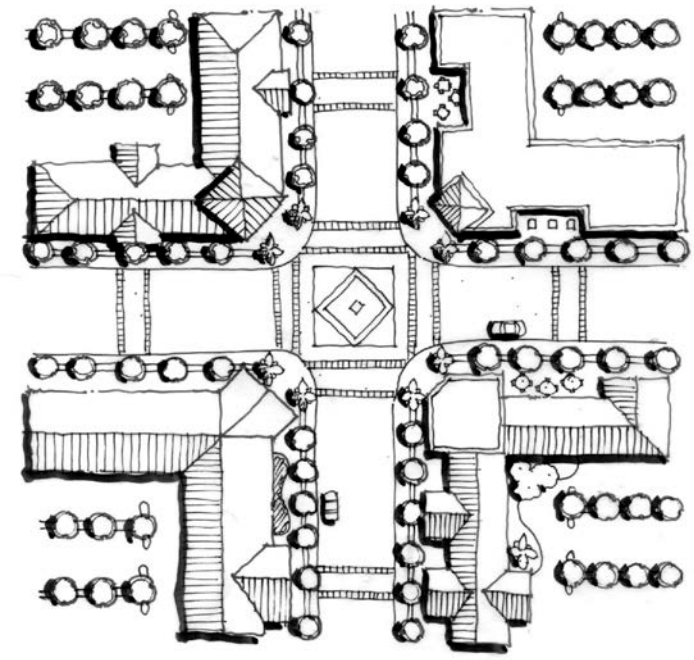


Figure 9. (s. 33-403

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-404. Areas of public interest.

The development must be designed to create people-oriented spaces along the street that are visually attractive, take into consideration the human scale and proportion, and provide for pedestrian connections.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-405. Street front activity.

The development must be designed to create public spaces to allow for activity to take place along the street front, such as sidewalks and open areas.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-406. Property development regulations.

Setbacks for the Corkscrew Road and Sandy Lane Overlay Districts are shown in the following Table 1. With the exception of setbacks set forth within Table 1, the property development regulations set forth in section 34-935 will apply. Table 1 specifically modifies and supercedes the provisions set forth in Section 34-935(b)(1).

To ensure conformity and development consistent with the goals and requirements of this section, developments that were approved prior to June 25, 2002, as part of a planned development, must also comply with the setback requirements contained in Table 1 to the extent the setback requirement was not specifically addressed as part of the planned development. Specific property development regulations that were approved as part of a planned development prior to June 25, 2002, are exempt from this section.

Table 1

Dimensional Regulations	**Special Notes**	**Corkscrew Road & Sandy Lane Overlay Districts**	
Setbacks[1]	**34-2191 et seq.**	Minimum	**Maximum**
Street (feet)[2]		0′	25′
Side yard (feet)[3]		0′	N/A
Rear yard (feet)		25′	N/A
Water body (feet)		25′	N/A

Notes:

(1) Building setback requirements must follow these General Requirements (See Figure 2):

a. Setbacks will be established to facilitate the creation of uniform streetscape.

b. Maximum right-of-way setbacks will be zero feet to 25 feet. This must allow for buildings to front directly onto the adjacent sidewalks, while providing for slight undulation (variety) in the definition and character of the corridor. The flexibility in this setback will also allow for the creation of small use areas (i.e. limited outdoor seating for restaurants and coffee shops, display of goods being sold, and small landscaped entrances) and enhance opportunities for activity. Automobile service stations and convenience food and beverage uses with fuel pumps may deviate from the maximum setback requirement per landscape requirements in section 33-435. Interior lots are permitted for developments provided that there is a minimum 75-foot setback for all parking lots.

c. Minimum of 40 percent of the building frontage will be required at the setback.

d. These setback requirements do not apply to properties fronting Corkscrew Road east of I-75.

(2) The provisions of section 34-3131(a) "Vehicle Visibility at Intersections" is amended for the purposes of the Corkscrew Road and Sandy Lane Overlay Districts to read as follows:

Corner lots. On a corner lot, no obstruction may be planted or erected that materially obstructs traffic visibility within the triangular space bounded by the two intersecting right-of-way lines and a straight line connecting the two points on the street right-of-way lines 50 feet from their intersection. No structural and planting masses will be permitted between one and one-half feet and eight feet above the average grade of each street.

(3) Developments are encouraged to provide side setbacks of five feet or less to create a continuous "street wall" of building frontage where possible. Where side setbacks are less than five feet, evidence must be presented that the land owner will be able to maintain the exterior wall. The exterior walls of buildings must meet fire protection standards.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Secs. 33-407—33-420. Reserved.

Subdivision II. US 41

Sec. 33-421. Intent and scope.

The US 41 overlay district will continue to grow as a commercial and residential corridor over the next decade, providing for the regional and local shopping needs of Estero and South Lee residents. The purpose of the overlay district is to create a corridor that is well landscaped and aesthetically pleasing while providing for a free flow of traffic through South Lee County. The following regulations aim to create a roadway corridor that enhances the drive through experience of the Estero Planning Community. The US 41 Overlay is depicted on Appendix I, Map 2.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-422. Parking lots.

(a) Freestanding buildings or shopping center developments containing 7,500 gross square feet of space or less may provide no more than 20 percent of parking areas in the front of buildings and/or be limited to no more than one double row of parking. No more than 20 percent of the parking area may be located to the side of building, with the balance of parking located to the rear of the building.

(b) For buildings exceeding 7,500 square feet, and fronting US 41, parking is encouraged to the sides or rear of the building.

(c) Where parking is located adjacent to US 41, adequate screening, consisting of a minimum type "E" buffer, as specified in section 33-351, containing a two to three foot undulating landscaped berm, without a wall, is required. The intent is to screen parking areas but not buildings.

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-423—33-430. Reserved.

DIVISION 4. SPECIFIC USES

Subdivision I. - Automobile Service Stations and Convenience Food and Beverage Stores

Subdivision II. - Big Box Commercial

Subdivision I. Automobile Service Stations and Convenience Food and Beverage Stores

Sec. 33-431. Applicability.

The following regulations apply to the location, layout, drainage, operation, fencing, landscaping, parking, architectural features and permitted sales and service activities of automobile service stations and also convenience food and beverage stores selling motor fuels.

For purposes of this subdivision only, the term "automobile service station" will be interpreted to also include the use "convenience food and beverage stores" selling motor fuels.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-432. Purpose and intent.

Ensure that automobile service stations do not adversely impact adjacent land uses, especially residential land uses. The high levels of traffic, glare, and intensity of use associated with automobile service stations, particularly those open 24 hours, are incompatible with surrounding uses, especially residential uses. Therefore, in the interest of protecting the health, safety and general welfare of the public, the regulations in this subdivision apply.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-433. Location and site standards.

All automobile service stations must meet the following criteria:

(1) *Minimum frontage:* An automobile service station may not be located on a lot with less than 150 feet of frontage on a vehicular right-of-way.

(2) *Minimum depth:* 180 feet.

(3) *Minimum lot or parcel area:* 30,000 square feet.

(4) *Separation requirements:* There must be a minimum distance of 500* feet, between the nearest points on any lot or parcel of land to be occupied by automobile service stations, and any lot or parcel for such use already occupied by an automobile service station, or for which a building permit has been issued.

* unless waived by the director in compliance with section 33-444.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-434. Setbacks.

The following setbacks are the minimum setbacks for all structures.

(1) Front yard setback—50 feet.

(2) Side yard setback—40 feet.

(3) Rear yard setback—40 feet.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-435. Landscaping.

The following landscape requirements are in addition to the requirements set forth in Chapter 33, Article II, Division 2, Subdivision III.

(1) *Right-of-way buffer landscaping:*

a. Landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer easement that is a minimum of 25 feet in width.

b. A horizontal undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum average height of three feet. The berm must be planted with ground cover (other than grass), shrubs, hedges, trees and palms.

c. The required trees and palms must be clustered in double rows with a minimum of three trees per cluster. Canopy trees must be planted a maximum of 20 feet on center within a cluster. The use of palms within the right-of-way buffer must be limited to landscaped areas adjacent to vehicular access points. Palms must be planted in staggered heights to a minimum of three palms per cluster, spaced at a maximum of eight feet on center, with a minimum of a four foot difference in height

between each tree. Exceptions will be made for *Roystonea spp., Bismarka spp.* and *Phoexnix spp.* (not including *roebelenii*), which may be planted one palm per cluster. A maximum distance of 25 feet between all types of tree clusters must be maintained.

d. All trees must meet the minimum standards stated in section 33-353(c). At installation, shrubs must be a minimum of ten gallon, five feet in height with a three-foot spread, planted four feet on center.

(2) *Landscaping adjacent to all other property lines:* Rear and side property boundaries must be planted with a single row hedge. The hedge must be a minimum height of four feet at planting, planted at three feet on center and must be maintained at a height of five feet.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-436. Curbing.

Curbing must be installed and constructed consistent with minimum code requirements between all paved areas and landscape areas.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-437. Perimeter walls.

Automobile service station sites must be separated from adjacent residentially zoned or residentially developed properties by an architecturally designed eight-foot high masonry wall or fence utilizing materials similar in color, module and texture to those utilized for the building. Landscaping must be planted on the residential side of the fence or wall.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-438. Trash storage.

An eight-foot high enclosed trash area must be integrated within the design of the service station.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-439. Storage tanks.

Motor vehicle fuel storage tanks must be located below grade.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-440. Outside display or storage products.

Outside display or storage of products is prohibited.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-441. Building colors and color banding on canopy structures.

Color accent banding on fuel pump canopy structures and all other structures is prohibited. Canopies must be of one color, consistent with the predominant color of the principal structure, if applicable. The color of all structures on site must be of soft earth tones or pastels.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-442. Infrastructure for generators.

Each automobile service station must provide the necessary infrastructure and pre-wiring to provide the capability for generator service in case of emergencies.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-443. Entrances and exits.

No automobile service station may have an entrance or exit for vehicles within 200 feet, along the same side of a street, as a school, public playground, child care center, church, hospital, or public library.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-444. Waiver of distance requirements.

The Director of Community Development may grant a waiver of part or all of the minimum separation requirements set forth in section 33-433(d), if it is demonstrated by the applicant that the site proposed for development of an automobile service station is separated from another automobile service station by natural or manmade boundaries, structures, or other features that offset or limit the necessity for such minimum distance requirements. The Director's decision to waive part or all of the distance requirements must be based, in part, upon whether or not:

(1) The nature and type of natural or manmade boundary, structure, or other feature lying between the proposed establishment and an existing automobile service station is determined by the Director to lessen the impact of the proposed automobile service station. Such boundary, structure or other feature may include, but is not limited to, lakes, marshes, nondevelopable wetlands, designated preserve areas, canals and a minimum of a four-lane arterial or collector right-of-way.

(2) The automobile service station is only engaged in the servicing of automobiles during regular, daytime business hours, or, if in addition to or in lieu of servicing, the station sells food, gasoline and other convenience items during daytime, nighttime, or on a 24-hour basis.

(3) The automobile service station is located within a shopping center and has access only from a shopping center parking lot aisle or is not within a shopping center and has access directly to a platted road right-of-way.

(4) The granting of the distance waiver will have an adverse impact on adjacent land uses, especially residential land uses.

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-445—33-454. Reserved.

Subdivision II. Big Box Commercial

Sec. 33-455. Purpose.

Big box retail designs pose enormous challenges to the community, governmental agencies, and designers because they are large and difficult to coordinate within the existing context of the community without detracting from the existing scale, connectivity, traffic patterns, walk-ability and image for the area. It is understood that large retailers can produce a useful economic function, serving as anchors for a center, bringing in sales and property taxes, revenues, and regional draws that can benefit the community and other business in the area. It is not the intention of these provisions to eliminate big box retailers from the market place, but to assimilate them into the community for the mutual benefit of both. These provisions have been drafted to acknowledge that large retail stores can be a productive and aesthetically pleasing part of a community and can be designed so as to minimize any negative impacts on the community.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-456. Applicability.

The big box commercial design standards, as set forth in this subdivision, are applicable throughout the Estero Planning Community, unless otherwise provided in this subdivision:

(1) *Renovations or remodeling.* In the case of renovations to a big box building's facade, the cost of which may not exceed 50 percent of the value of the existing structure or reconfiguration of vehicular use areas, the provisions of this subdivision will be applied only to the specific areas of renovation, remodeling or reconfiguration.

(2) *Redevelopment.* In the case of additions to, or redevelopment of, an existing big box building or project, where either the cost of such addition or redevelopment exceeds 50 percent of the value (based on the property appraiser's assessment) of the existing structure or structures or 20 percent of the square footage of the existing structures, the provisions of this subdivision will apply.

(3) *Discontinuance.* Where the use of a big box structure ceases for any reason for more than 180 consecutive days, compliance with this subdivision is required prior to re-occupancy of the structure.

(4) *Developments of Regional Impact (DRI).* Developments of Regional Impact are exempt from the standards of this subdivision provided that design standards for the DRI are approved by the county as part of the zoning process. An example of this would be a new or existing regional mall type structure or as a requirement of the DRI Development Order.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-457. Horizontal design elements.

Purpose. The following horizontal design standards have been created to help manage the horizontal design elements of a big box project. Horizontal design elements are defined as those elements that lay horizontal on the site and include, but are not limited to items such as sidewalks, wet and dry retention, roads, parking lots, site design, utilities, and landscaping. The intent is to create flexible and functional standards for site development of large tracts of land that contain one or more large retailers. The provisions related to the horizontal design elements are set forth in section 33-458 through 33-464.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-458. Building location.

(a) *Big box buildings.*

(1) To the extent possible big box retail buildings must be placed in a location that will satisfy functional needs while providing and being aesthetically pleasing for the community, the site, and the developer/retailer.

(2) Big box retail buildings must be placed away from residential areas. (see Figure 10)

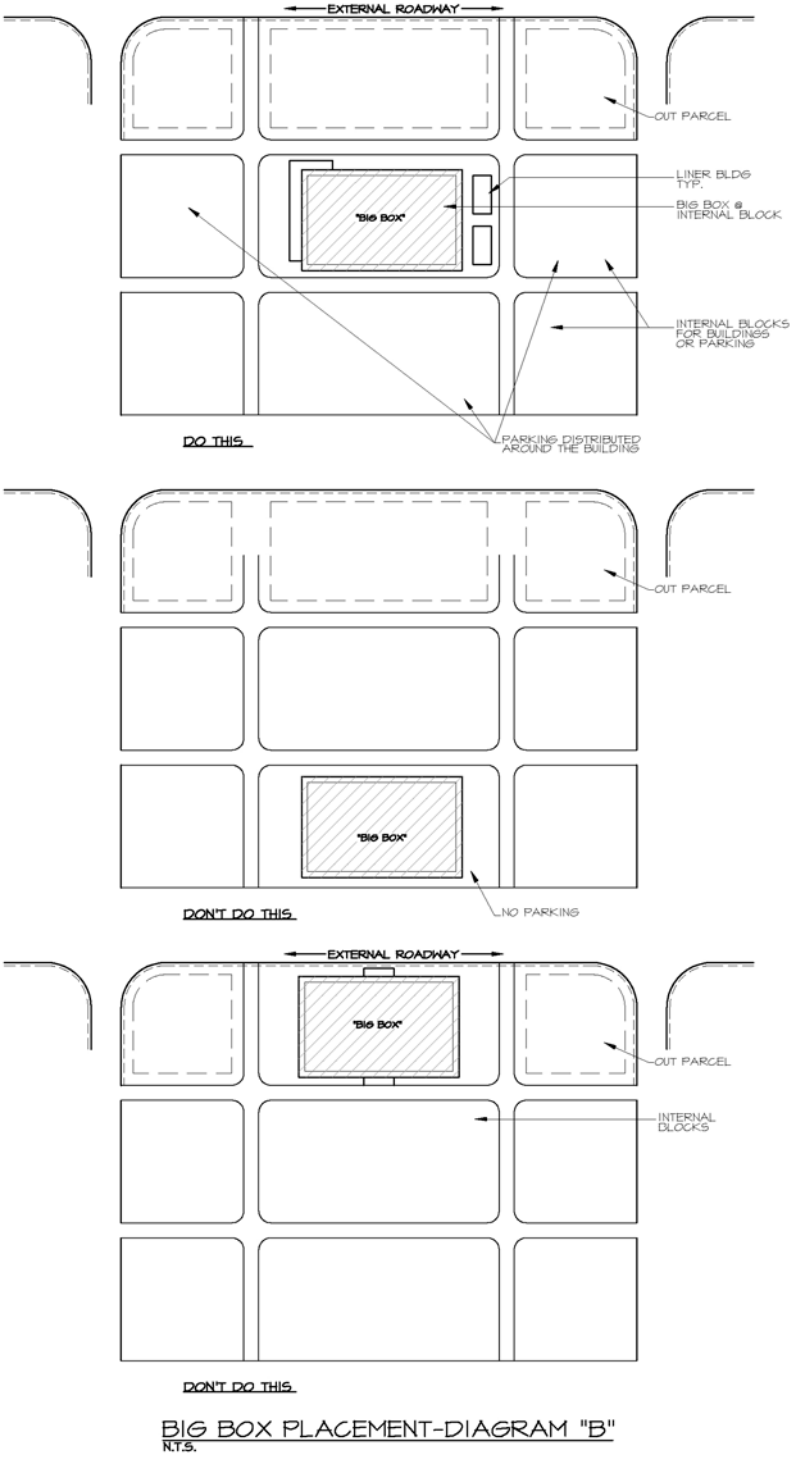


Figure 10 (s. 33-458(a)(2))

(3) Large format retail buildings must provide liner buildings along all primary facades and on a minimum of two sides of the building. (see Figure 11)

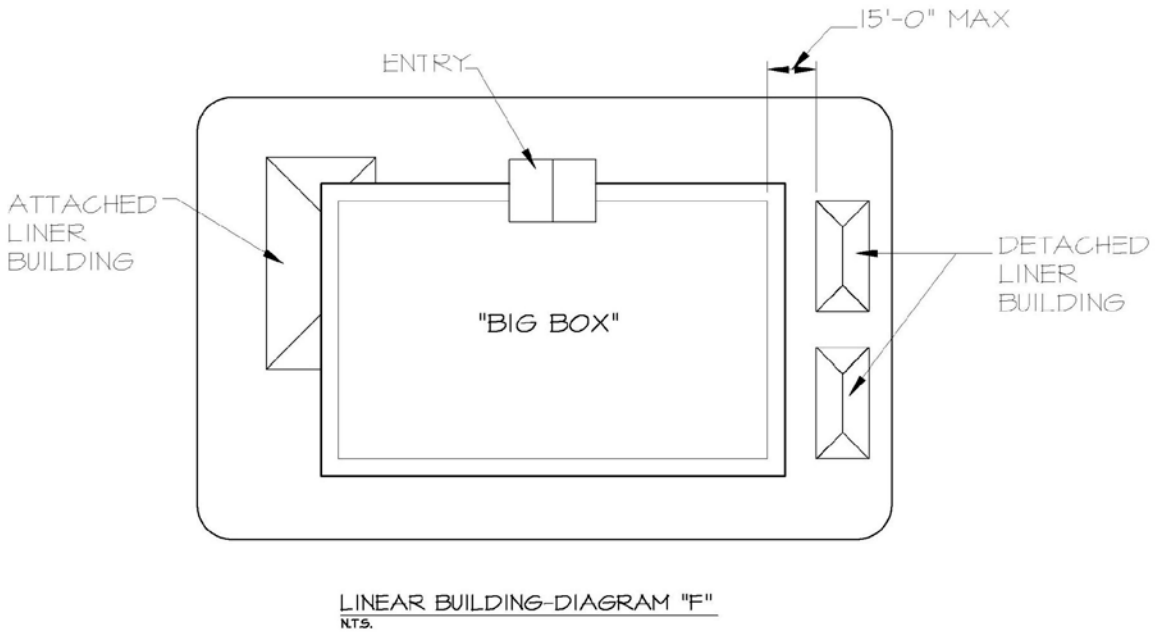


Figure 11(s. 33-458(a)(3) & (b)(2))

(b) *Liner buildings.*

(1) The purpose of liner buildings is to break the big box retail building down into smaller massing elements, and conceal any blank walls or facades of the large retail structure while creating scale and architectural character.

(2) Liner buildings may be placed on any side of the building, but must be placed along all walls of big box buildings that face public right-of-ways (see Figure 11). Liner buildings must be utilized on a minimum of two sides of each building with over 50,000 square feet.

(3) Liner buildings must cover a minimum of 40 percent of the primary building facade.

(4) The roof height of a liner structure must be at least five feet lower or higher than the roof of the related big box.

(5) Liner buildings must be designed to be complementary to the approved design standards for the project and must include along its facade a minimum of 15 percent and a maximum of 75 percent glazing.

(6) Liner buildings may be used by a separate tenant or may be integrated for use by the adjacent big box user.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-459. Out parcels.

(a) To the extent possible out parcels should be placed to frame major commercial roadways, thus creating grand boulevards and gateways within the Estero Planning Community.

(b) Projects that exceed 50,000 square feet of retail floor area must provide a berm or an out parcel pad along collector and arterial roadways, with the majority of the parking located behind the building or berm. The berm must be an average of four feet high and 30 feet wide for 75 percent of the public right-of-way that does not possess an out parcel pad. The berm must have a minimum of ten trees per 100 linear feet with a double hedge row. All plants must meet standard sizes as required in sections 33-351 through 33-354. (see Figure 12)

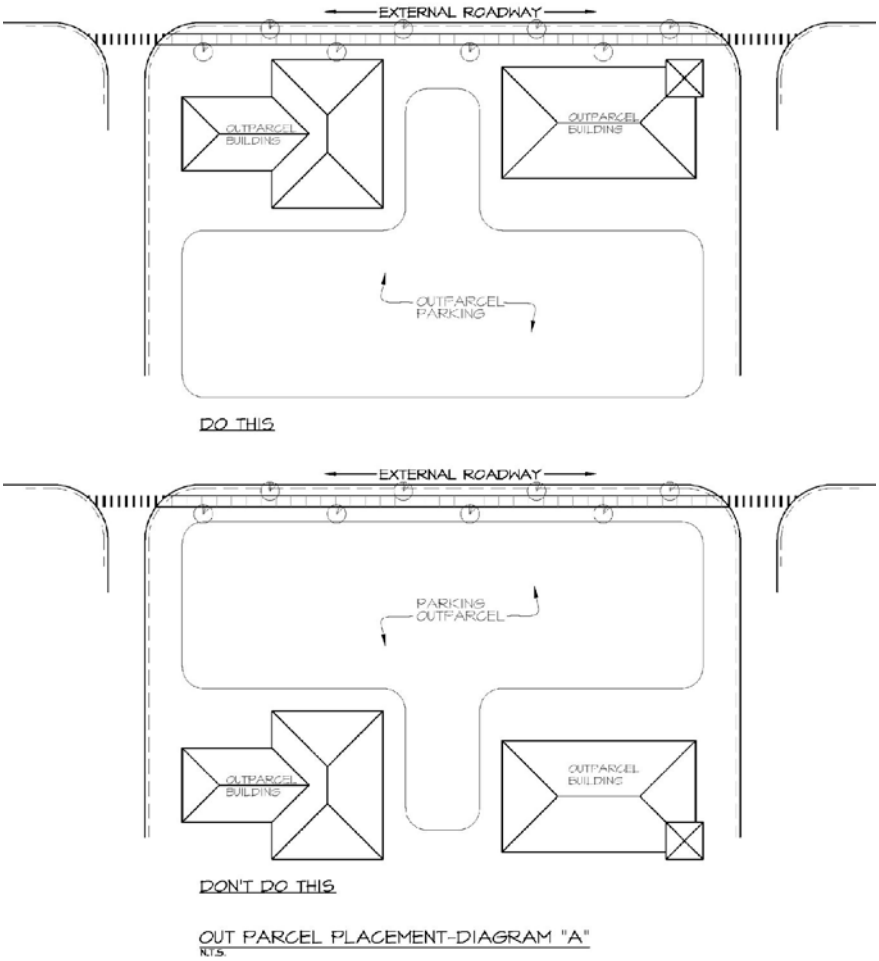


Figure 12 (s. 33-459

(c) Out parcels may also be developed along internal access drive locations provided the majority of the parking is not placed along the major roads of the community.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-460. Access.

(a) To the extent possible, access to, from and within the big box project must be designed to create:

(1) A safe and memorable environment for vehicular and pedestrian access to and from the site;

(2) A minimal number of curb cuts on the major arteries by providing shared access to adjacent properties; and

(3) Convenient, safe, and attractive access around the project for vehicular and pedestrian movement.

(b) Internal access drives/streets to the property must be developed at minimum intervals of 250 feet and maximum intervals of 1,400 feet in length, creating internal blocks for parking and buildings.

(c) Internal access must be developed to simulate streets with sidewalks and trees, with an average tree separation of 30 feet and a 15-foot planting strip with a combination of plants and grass along the street/parking/building edge. The planting may not contain more than 30 percent grass for these areas.

(d) Internal lanes must be no less than ten feet in width for each lane.

(e) Street and sidewalk accesses must be provided up to adjacent properties for future connectivity where not prohibited. The developer may provide an easement agreement in lieu of the physical interconnection when no development is planned on an adjacent parcel.

(f) Landscaped pedestrian sidewalks must be provided along the sides of large buildings with adjacent parking lots.

(g) All streets must terminate at other streets, future streets, or a parking lot. Cul-de-sacs or dead end streets are to be avoided if possible.

(h) After 700 linear feet of roadway, five degrees (in plan) deflection or a landscaped median strip (minimum ten feet by 18 feet) must be designed into the road for traffic calming reasons.

(i) On street parking is encouraged on internal access roads where a main street type of development is desired. "Main street development" is defined as development where sidewalks and buildings or public spaces (excluding parking lots) are planned for the majority of both sides of the street.

(j) Internal street medians are encouraged. Median widths must be a minimum of six feet and maximum of 15 feet in width.

(k) Sidewalks (minimum five feet wide) must be constructed on at least one side of all internal roadway or vehicular access areas (exclusive of parking lanes). In the alternative, walkways may be developed through the landscaped median areas, to facilitate access from the sidewalks along the rights-of way, provided the medians are increased by five feet to accommodate the walkway.

(l) Sidewalks along buildings must be a minimum of eight feet in width excluding landscaping.

(m) Each building must be interconnected via a pedestrian pathway.

(n) Development must be coordinated with Lee Tran where transit access is to be provided to the area.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-461. Parking.

(a) To the extent possible the site must be developed to create attractive parking areas that provide convenient and safe multi-modal movement of vehicular, public transportation, bicycles and pedestrian traffic.

(b) Parking areas must be developed into parking pods that do not exceed 120 parking spaces, have a maximum of four entry/exit points, and be separated by a continuous double row hedge and large canopy trees at 30 feet on center.

(c) Parking lots must provide landscaped islands in accordance with Chapter 10

(d) Parking must be distributed on three sides of the big box retail building and away from loading areas. Peak and employee parking areas must be located on the sides of the building.

(e) All parking lots must be interconnected.

(f) As an alternative to the parking pod set forth in section 33-461(b), parking areas must have a type "D" buffer separating every four rows of parking, provided the big box building is screened by an out parcel buffer.

(g) The number of parking spaces developed as part of the big box project may not exceed the number of spaces required by section 34-2020, or other code parking requirement unless the increase complies with one of the following subsections.

(1) Up to a 20 percent increase in parking spaces may be granted administratively if:

a. Parking pods are used for all parking on the project site; or

b. All landscaping trees are increased to a minimum of 14 feet, 65-gallon, six-foot spread with a four-inch caliper at the time of planting.

(2) A parking space increase over 20 percent may be granted administratively only if the number of required trees is increased by 25 percent.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07; Ord. No. 12-20 , § 3, 9-11-12)

Sec. 33-462. Open space.

(a) To the extent possible, big box retail development must be designed to manage open space for public benefit through combining a portion of the required open space into a usable component of the retail center.

(b) A minimum of ten percent of the required open space must be aggregated together into usable format called "open space squares." Retail is encouraged to develop around these squares when possible.

(c) Open space squares must be a minimum of 30 feet and a maximum of 65 feet wide.

(d) Open space squares must be integrated into the site plan as either a passive or active space.

(e) Open space squares may be interconnected to form a series of usable spaces for the project.

(f) Open space squares will be counted towards open space requirements.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-463. Service and loading areas.

(a) To the extent possible, loading areas must be designed to diminish both the visual and noise pollution that these facilities can create on a community.

(b) Loading areas must either be located out of view from all public roads, or adequately screened.

(c) When a loading area is facing a public right-of-way or a residentially zoned area, a ten-foot high architecturally screened wall must be provided on a four-foot berm located within a 25-foot landscaped buffer. Berm and wall breaks are required every 200 feet in order to diminish the height and length of the wall and berm. Loading areas that are more than 450 feet from the property line may utilize only the berm requirements provided they are not adjacent to and facing a residentially zoned parcel.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-464. Shopping cart storage.

(a) To the extent possible shopping cart storage must be concealed from public view.

(b) Storage of carts must be behind a wall or landscaped area with 80 percent opaqueness at planting.

(c) Temporary cart storage in the parking area must be between two landscaped islands with a double row hedge and two trees.

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-465—-33-470. Reserved.

Sec. 33-471. Vertical design elements.

The purpose of the vertical design standards is to help manage the above ground design elements of a project. Vertical design elements are defined as those elements that protrude up and out of the ground and include, but are not limited to, such elements as signs, walls and buildings. The vertical design elements are set forth in section 33-471 through 33-477.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-472. Building design.

(a) To the extent possible, big box projects must be designed to create buildings that respect the area in which they are located and create a place that is attractive and flexible over time.

(b) *Unified massing, details, and material:* All buildings associated within the big box project must be developed with similar design treatment to create unity among the elements and buildings. This may include, but is not limited to, exterior materials, roof pitches and treatments, colors, proportions, ornamentation and trim in accord with the design standards for the development.

(c) If the primary entry does not face a public right-of-way, then additional design elements must be added to create the appearance of a public entry. (see Figure 13)

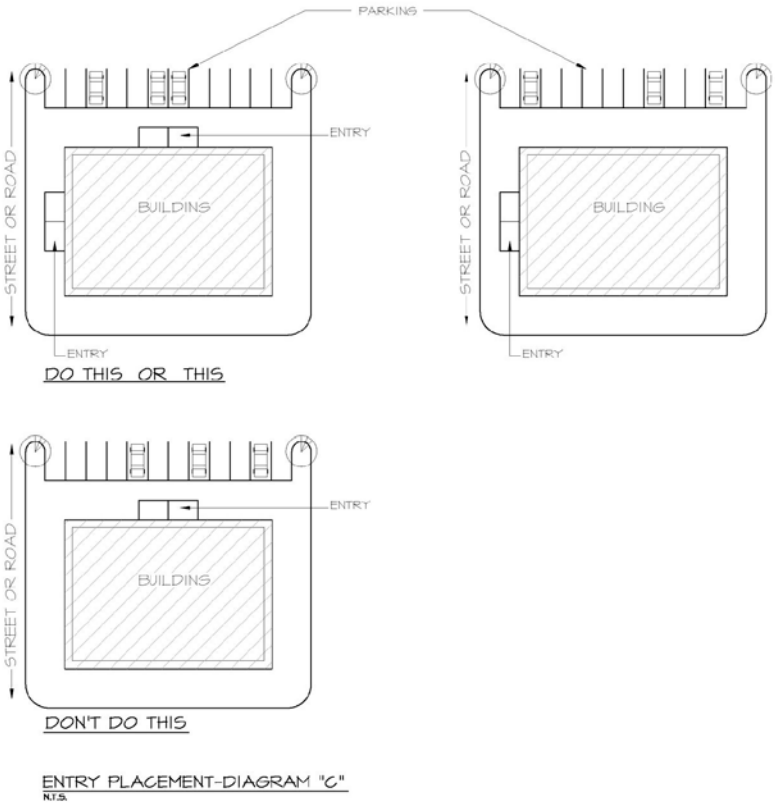


Figure 13 (s. 33-472)

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-473. Building facade.

(a) The treatment of the front facade must be continued, in its major features, around all sides of the building. Features must be carried for a minimum of 15 percent of the nonprimary facade and be attached to the primary facade.

(b) Individual or individual looking exterior facades must be faced with no more than four cladding materials. These cladding materials may be combined on the facade in a horizontal manner only (i.e. base of building: one material; middle area: another material; and, the top portion: a third type of material).

(c) Vinyl siding materials are prohibited.

(d) Metal sided buildings are not permitted except as an accent material that does not exceed 25 percent of the building facade.

(e) The ground floor of all building facades facing a public right-of-way must be detailed and glazed as storefronts.

(f) Storefronts must have glazed areas equal to at least 15 percent and not more than 75 percent of the ground level portion of the facade when facing a public right-of-way.

(g) *Building color.* Primary and secondary colors on the exterior of buildings are restricted to a minimum of two inches for their shortest dimension. (see Figure 14)

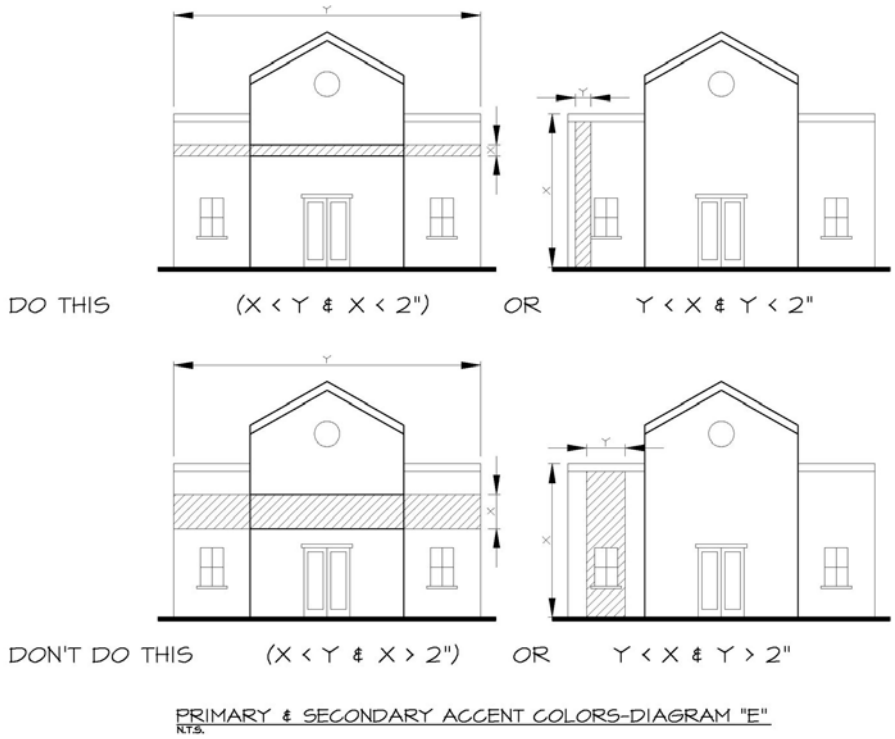


Figure 14 (s. 33-473)

(h) Outdoor sales areas must be designed with similar details, colors and materials used in the primary facades of the building to which the outdoor sales area is attached.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-474. Windows, doors and other openings.

(a) *Openings.* Windows, doors, arcades and other openings in the facade must be squared or vertical in proportion. Arched windows may be approved administratively as a window or door type provided they are square or vertical in their overall proportions. (see Figure 15)

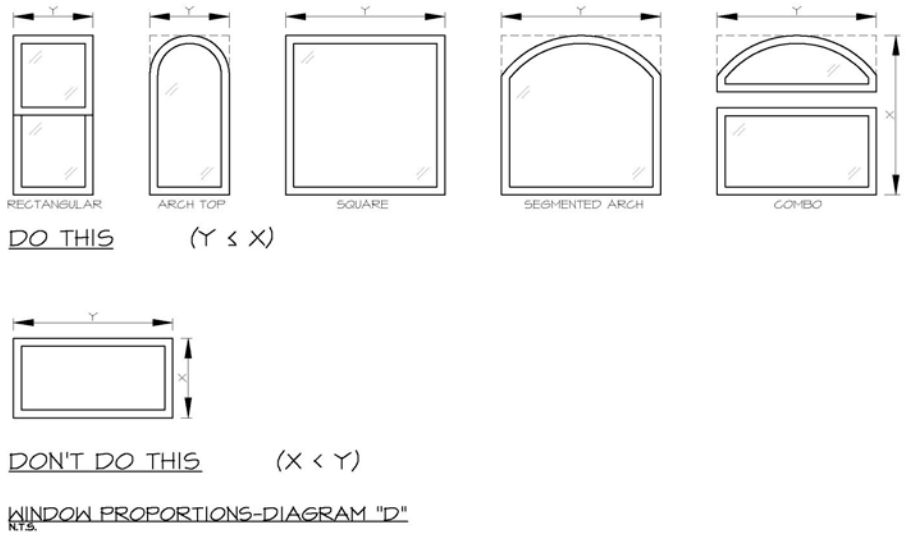


Figure 15 (s. 33-474)

(b) *Windows and doors.*

(1) "Non-motorized" sliding glass doors and or sliding windows are prohibited at ground level.

(2) Glass may only be clear or lightly tinted.

(3) *Shutters.* Shutters must be sized and shaped to match the opening to which they are attached.

(4) *Awnings.*

a. Awnings may not have a bottom soffit panel or be backlit.

b. Awnings must be sized to match the window or door openings to which they correspond, and may not extend more than two feet on either side of the opening.

c. Awnings may not be used at the corner of buildings to transition from one facade to the next.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-475. Roofs.

(a) *Pitched roof.* All roofs must be pitched between 30 degrees and 8:12 (unless flat). Ancillary roof structures may be flat or pitched between 30 degrees and 12:12.

(b) *Flat roof.* Flat roofs must have a full parapet at the perimeter of the roof. The parapet must not be less than 24 inches or exceed 15 feet in height. The height will be measured from the deck of the flat roof to the highest point of the parapet with the exception of nonhabitable architectural elements.

(c) *Roof changes* must occur at a minimum of one per 15,000 square feet with a minimum of three for any building.

(Ord. No. 05-29 , § 5, 12-13-05)

Sec. 33-476. Walls and fences.

(a) Walls and fences must be designed to be complementary to the main facade elements of the building.

(b) Fences, when not associated within a landscaped double row hedge, must be solid. Fences of chain link, barbed wire or razor wire are prohibited.

(c) Wall runs may not exceed 100 feet in length without a horizontal change of three feet.

(Ord. No. 05-29 , § 5, 12-13-05; Ord. No. 07-24 , § 6, 8-14-07)

Sec. 33-477. Service areas.

Service function areas, including rooftop or ground equipment and dumpster areas must be fully screened, and out of public view from ground level.

(Ord. No. 05-29 , § 5, 12-13-05)

Secs. 33-478—33-1000. Reserved.

ARTICLE III. GREATER PINE ISLAND

DIVISION 1. - IN GENERAL

DIVISION 2. - TRANSPORTATION CONCURRENCY

DIVISION 3. - AGRICULTURAL CLEARING

DIVISION 4. - SIGNS

DIVISION 5. - COASTAL RURAL DEVELOPMENT REGULATIONS

DIVISION 6. - DESIGN STANDARDS

DIVISION 1. IN GENERAL

Sec. 33-1001. Purpose and intent.

The purpose of this article is to establish standards for the Greater Pine Island Planning Community, which includes Pine Island, Matlacha, and several surrounding islands and certain unincorporated enclaves west of Cape Coral (see Appendix I, Map 5). These standards are intended to carry out Lee Plan Goal 14 and related objectives and policies in order to accomplish the vision for the future of Greater Pine Island. The purpose of these standards is to maintain an equilibrium between modest growth, a fragile ecology, and a viable and productive agricultural community. These standards reflect an effort to manage future growth based on the remaining traffic capacity available on the existing narrow road link to the mainland while retaining a reasonable opportunity for hurricane evacuation.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1002. Applicability and community boundary.

The standards in this article apply to all development within the Greater Pine Island Planning Community as depicted in the Lee County Comprehensive Plan on Future Land Use Map 1, Page 2 and Planning Communities Map 16. A copy of the Greater Pine Island portion of the planning communities map is reproduced in Appendix I as Map 5. A legal description of the Greater Pine Island Planning Community, which encompasses all of Pine Island, Little Pine Island, West Island, Porpoise Point Island, and other small adjacent islands is also set forth in Appendix I.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1003. Definitions.

The following definitions are in addition to those set forth in other chapters of this code and are applicable to the provision set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this code, then the definition set forth below will control. Otherwise the definition contained elsewhere in this code will control.

Continued agricultural use on existing farmland means existing farmland identified on Lee Plan Map 21 that will be committed, through a recorded perpetual easement, to continued agricultural activity and use in exchange for County approval allowing residential density above the standard maximum residential density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands within the boundary of the subject property.

Permanently preserved native habitat means native upland habitat that the landowner guarantees, through a recorded perpetual easement, to preserve or restore as permanent native habitat/open space in exchange for County approval allowing residential density above the standard maximum residential density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands within the boundary of the subject property.

Restored native habitat means uplands that the landowner commits, through a recorded perpetual easement, to restoring and permanently preserving as open space in exchange for County approval allowing residential density above the standard maximum residential density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands within the boundary of the subject property.

State-designated aquatic preserves and associated wetlands and natural tributaries means:

(a) The following aquatic preserves as designated by the State of Florida:

(1) Gasparilla Sound-Charlotte Harbor Aquatic Preserve, and

(2) Matlacha Pass Aquatic Preserve, and

(3) Pine Island Sound Aquatic Preserve;

(b) All wetlands, as defined in chapter 14, article IV, that adjoin any portion of these aquatic preserves; and

(c) All natural tributaries, including bays, lagoons, and creeks that adjoin any portion of these aquatic preserves, but excluding man-made canals.

(d) For purposes of this definition, any portion of a wetland or natural tributary lying farther than one-half mile from the nearest edge of an aquatic preserve will not be deemed to be an associated wetland or natural tributary.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1004. Community review.

(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publically advertised informational session in accord with section 33-1004(b) within the Pine Island Community prior to obtaining an approval or finding of sufficiency of the following:

(1) Planned development zoning actions.

(2) Special exception and variance requests. This includes all requests that will be decided by the hearing examiner; and

(3) Conventional rezoning actions.

(4) Development orders.

(b) *Meeting requirements.* The applicant for projects that require review under this section must conduct one informational session within the boundaries of the Pine Island Community where the agent will provide a general overview of the project for any interested citizens. The applicant is fully responsible for providing: advertising, providing the meeting space, and security. Subsequent to this meeting, the applicant must provide staff with a summary that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues.

(Ord. No. 11-08 , § 9, 8-9-11; Ord. No. 13-10 , § 9, 5-28-13)

Secs. 33-1005—33-1010. Reserved.

DIVISION 2. TRANSPORTATION CONCURRENCY

Sec. 33-1011. Greater Pine Island concurrency and traffic-based growth limitations.

Concurrency compliance and traffic-based growth limitations for property located in Greater Pine Island, as identified on the future land use map and described in section 33-1002, will be determined in accordance with the level of service and restrictions set forth in Lee Plan policies 14.2.1 and 14.2.2 to the extent the policies provide additional restrictions that supplement other provisions of this code. These policies require the following:

(a) The minimum acceptable level of service standard for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is level of service D on an annual average peak-hour basis and level of service E on a peak-season peak-hour basis using methodologies from the 1985 Highway Capacity Manual Special Report 209. This standard will be measured at the county's permanent count station #3 on Little Pine Island at the western edge of Matlacha and will apply to all of Greater Pine Island.

(b) In addition, when traffic on Pine Island Road at the western edge of Matlacha reaches 810 peak-hour annual average two-way trips, rezonings in Greater Pine Island that increase traffic on Pine Island Road may not be granted. During the rezoning process only, three types of exceptions to this rule may be considered:

(1) Minor rezonings on infill properties surrounded by development at similar densities or intensities. A minor rezoning under this exception may not rezone more than five acres of land or have a net effect of allowing more than 15 additional dwelling units.

(2) Rezonings that would have insignificant or trivial effects on traffic flows at the western edge of Matlacha during peak periods in the peak (busier) direction, or would have positive effects by reducing trips during those peak flow periods.

(3) Rezonings to accommodate small enterprises that promote the natural features or cultural heritage of Greater Pine Island. Small enterprises are those that operate with five or fewer full-time employees.

(c) When traffic on Pine Island Road at the western edge of Matlacha reaches 910 peak-hour annual average two-way trips, residential development orders for properties not designated "Coastal Rural" will be limited to one-third of the maximum density otherwise allowed on that property by the Lee Plan and this code. Density for property designated "Coastal Rural" will be in accordance with Table 33-1052

(d) The standards in subsections (b) and (c) of this section will be interpreted and applied as follows:

(1) Traffic counts will be taken from the county's permanent count station #3 on Little Pine Island at the western edge of Matlacha.

(2) For purposes of the regulations in this section, the 810-trip and the 910-trip thresholds will be considered to be exceeded upon approval by the Board of County Commissioners of the annual concurrency management inventory of available capacity of public facilities in accordance with section 2-50

(3) Development order applications submitted prior to March 14, 2006 will be processed as though the 910 density threshold has not been exceeded. For these applications, the 180-day period for resubmittal of supplemental or corrected application documents (see section 10-110(b)) will not be shortened by the determination in Lee County Resolution 06-03-24 that the 910 threshold has been exceeded. These residential development orders must be diligently pursued and obtained by May 31, 2008 or the application must be modified to comply with the rules that apply after the 910-trip threshold has been exceeded. Provided, however:

a. Additional development rights may not be appended to a request for a development order during this period.

b. This allowance does not extend to tracts of land in large phased projects that are proposed for future development but for which a development order has not been sought in the current application.

(e) Expiring development orders in Greater Pine Island cannot be extended or renewed unless they are modified to conform with the regulations in effect at the time of extension or renewal.

(f) The restrictions in subsections (b) and (c) will not be interpreted to affect ongoing developments whose final phases are already platted in accordance with F.S. ch. 177, provided that no new lots are added and that the number of allowable dwelling units is not increased. These restrictions also will not be interpreted to affect expansions to existing recreational vehicle parks to serve additional transient RVs if such expansions were explicitly approved by Lee County under Ordinance No. 86-36 (see section 34-3272(1)d.) and the land is properly zoned for this purpose.

(Ord. No. 07-19 , § 5, 5-29-07)

Secs. 33-1012—33-1030. Reserved.

DIVISION 3. AGRICULTURAL CLEARING

Sec. 33-1031. Agricultural notice of clearing on Greater Pine Island.

Notices of clearing for agricultural purposes in Greater Pine Island must comply with the following additional requirements in accordance with Policy 14.1.5 of the Lee Plan:

(a) Agriculturally zoned land that is pursuing a new agricultural use through the Agricultural Notice of Clearing process that adjoins state-designated aquatic preserves and associated wetlands and natural tributaries (see section 33-1003) must preserve or create a 50-foot-wide native vegetated conservation buffer area between all agricultural lands and the natural waterbody and associated wetlands.

(b) The purpose of this conservation buffer is to capture or slow the movement of sediments, fertilizers, pesticides, pathogens, and heavy metals that may be concentrated in stormwater runoff and to allow for increased biodiversity and improved wildlife habitat.

(c) Existing native vegetation within the 50-foot buffer must be preserved. If existing native vegetation is removed, it must be replaced using the restoration standards in section 14-384

(d) Non-native vegetation must be removed from the 50-foot buffer utilizing hand removal methods. A specific mechanical removal method may also be approved in writing by the division of Environmental Sciences staff.

(e) Planting of native vegetation indigenous to Pine Island is allowed within the 50-foot buffer. If no native vegetation exists within the buffer, then three-gallon South Florida slash pine, longleaf pine or native oaks trees must be planted on 20-foot centers within three years of the recording of the Agricultural Notice of Clearing and with a guaranteed 80 percent survivability for a period of five years.

(f) No other grading, excavating, or filing is allowed within the 50-foot buffer.

(g) These conservation buffer regulations will not be construed in a manner that violates the Agricultural Lands and Practices Act, F.S. § 163.3162, or the Florida Right-to-Farm Act, F.S. § 823.14.

(h) The Agricultural Notice of Clearing recorded in the official records of Lee County must include a description of the 50-foot wide buffer that is sufficient to allow a reasonable person to know the location, extent and boundary of the buffer area to be preserved.

(Ord. No. 07-19 , § 5, 5-29-07)

Secs. 33-1032—33-1041. Reserved.

DIVISION 4. SIGNS

Sec. 33-1042. Wall-mounted identification signs.

A wall-mounted identification sign may be placed on the front wall of a building that is closer than 15 feet to the front property line provided the building was lawfully constructed and the sign otherwise meets the requirements of section 30-153. Wall-mounted signs must be architecturally compatible with the design theme, material and color palette of the principal building.

(Ord. No. 07-19 , § 5, 5-29-07; Ord. No. 11-08 , § 9, 8-9-11)

Sec. 33-1043. Ground-mounted identification signs.

Commercial and industrial establishments wishing to place a ground-mounted identification sign pursuant to section 30-153(3)a.2., 3. and 4. are limited to a maximum sign area of 48 square feet and a maximum height and width of 12 feet (as measured in accordance with sections 30-91 and 30-92). Ground-mounted signs must be architecturally compatible with the design theme, material and color palette of the principal building.

(Ord. No. 07-19 , § 5, 5-29-07; Ord. No. 11-08 , § 9, 8-9-11)

Sec. 33-1044. Internally illuminated box signs.

Internally illuminated box signs are limited to a maximum sign area of 12 square feet per establishment. Signs consisting of individual letters or symbols that have their own internal illumination are not subject to this special size limitation. For purposes of this section, an internally illuminated box sign means a sign comprised of translucent surfaces electrically illuminated from within that is mounted against, or projects from, a building.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1045. Tourist-oriented directional signs.

The Lee County Department of Transportation may fabricate, install, and maintain (if the owner pays for signs that meet FDOT and MUTCD standards, along with the costs of mowing and maintenance) tourist-oriented directional signs in the right-of-way of Stringfellow Road and Pine Island Road in Greater Pine Island for qualifying businesses and organizations if appropriate amendments are made to Lee County's Commercial Use of Rights-of-Way Ordinance, Ordinance No. 88-11, as may be amended from time to time. Tourist-oriented directional signs that are not approved in accordance with the provisions of Ordinance 88-11 may not be installed in public rights-of-way by any party.

(Ord. No. 07-19 , § 5, 5-29-07)

Secs. 33-1046—33-1050. Reserved.

DIVISION 5. COASTAL RURAL DEVELOPMENT REGULATIONS

Sec. 33-1051. Purpose and intent.

Lee County has reclassified all formerly "Rural" lands in Greater Pine Island to a new "Coastal Rural" designation on the Future Land Use Map. This designation provides landowners with flexibility while accomplishing the following public purposes:

(a) To provide a clearer separation between rural and urban uses in Greater Pine Island;

(b) To discourage the unnecessary destruction of native upland habitat;

(c) To encourage continued agricultural use on existing farmland; and

(d) To avoid placing more dwelling units on Pine Island than can be served by the limited road capacity to the mainland.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1052. Residential density limitations.

(a) *Standard and adjusted densities.* The "Coastal Rural" areas will remain rural except for portions of properties where smaller residential lots are permitted in exchange for permanent commitments to preservation or restoration of native upland habitat or to continued agricultural use of existing farmland.

(1) The standard maximum density established by Policy 1.4.7 of the Lee Plan is one dwelling unit per ten acres (1 DU/10 acres); however, see sections 33-1057 and 34-3273 regarding nonconforming lots.

(2) Maximum densities may increase in accordance with Table 33-1052 as higher percentages of upland portions of a site are permanently committed in one of the following ways:

a. Land uses are restricted in native habitat that is permanently preserved on upland portions of a site.

b. Land uses are restricted in native habitat that is restored and then permanently preserved on upland portions of a site.

c. Existing farmland that is identified on Map 21 of the Lee Plan and is limited in the future to agricultural uses.

Table 33-1052. ADJUSTED MAXIMUM DENSITIES FOR PRESERVED/ RESTORED HABITAT AND FOR CONTINUED AGRICULTURAL USE

Percentage of the on-site uplands that are: -preserved or restored native habitat; -or- for continued agricultural use on existing farmland	**Adjusted Maximum Densities***	
	If undeveloped land will be permanently preserved or restored as native habitat:	If undeveloped land will be continued in agricultural use on existing farmland:
0% to 4.99%	1 DU/ 17 acres	1 DU/ 17 acres
5% to 9.99%	1 DU/ 15 acres	1 DU/ 15 acres
10% to 14.99%	1 DU/ 13 acres	1 DU/ 15 acres
15% to 19.99%	1 DU/ 12 acres	1 DU/ 15 acres
20% to 29.99%	1 DU/ 10 acres	1 DU/ 13 acres
30% to 39.99%	1 DU/ 8 acres	1 DU/ 12 acres
40% to 49.99%	1 DU/ 7 acres	1 DU/ 10 acres
50% to 59.99%	1 DU/ 5 acres	1 DU/ 8 acres
60% to 69.99%	1 DU/ 4 acres	1 DU/ 5 acres

70% or more	1 DU/ 2.7 acres	1 DU/ 4 acres

* Lee County Resolution 06-03-24 determined that the 910 traffic counts for Pine Island Road have been exceeded. Accordingly, the density stated above is the maximum density permitted in the Coastal Rural land use category for purposes of section 33-1052.

(b) Two or more contiguous or noncontiguous "Coastal Rural" parcels may be combined into a single development application for purposes of computing the actual maximum density allowed on those properties. This provision would allow acreage on one parcel that is preserved or restored as native habitat, or existing farmland that is committed to continued agricultural use, to increase the density on another parcel that is included in the same development application.

(c) Rezoning is not required for a proposed residential development on land zoned AG-2 and designated "Coastal Rural" by the Lee Plan provided that the proposed development will comply with all regulations in this code, including all of this article.

(1) The determination of actual maximum densities and the compliance of the application and its supporting documentation with this section may be confirmed by issuance of a development order using the process described in chapter 10, modified as follows:

a. Additional application requirements will be established by the director. At a minimum, these requirements will include:

1. A mandatory pre-application meeting.

2. Narrative description of the process used to determine the best areas on the site to remain undeveloped (see section 33-1053(d)).

3. For applications proposing narrower streets in conformance with section 33-1053, proposed cross-sections of right-of-way and lane widths, supported by a sealed statement from a professional engineer.

4. For applications proposing permanent preservation of native habitat:

i. Map clearly delineating native habitat to be preserved, with precise acreage computations of habitat being preserved including the extent of other allowable land uses within preserved habitats (section 33-1054(a)).

ii. Description of interruptions of original water flows and intended corrections (section 33-1054(b)).

iii. Plan for removing and controlling invasive exotic plants (section 33-1054(c)).

iv. Draft of the proposed conservation easement including identification of proposed grantees; for grantees other than Lee County, include a statement from the grantee that it will consent to accept and enforce the easement's obligations in perpetuity (section 33-1054(d)).

v. Long-term management plan for the preserved habitat (section 33-1054(e)).

vi. Identification of proposed ownership of preserved habitat and the means that will be used to provide future management of the area in perpetuity.

5. For applications proposing restoration of native habitat in conformance with section 33-1055, include all the requirements for permanent preservation of native habitat, plus:

i. Analysis of the suitability of the site's hydrologic regime for the ecological community being restored (section 33-1055(a)).

ii. Plan for reintroduction of native trees (section 33-1055(b)).

iii. Plan for reintroduction of native midstory shrubs and understory plants (section 33-1055(c)).

iv. Plan for monitoring the success of restoration (section 33-1055(d)).

v. Proposed financial guarantees if the landowner wishes to begin development prior to successful completion of the restoration (section 33-1055(e)).

6. For applications proposing continued agricultural use on existing farmland in conformance with section 33-1056

i. Plan for removing and controlling invasive exotic plants (section 33-1056(b)).

ii. Draft of the proposed conservation easement including identification of proposed grantees; for grantees other than Lee County, include a statement from the grantee that it will consent to accept and enforce the easement's obligations in perpetuity (section 33-1056(c)).

b. An additional application fee will be established by the director to cover review costs for these complex applications. This fee may not exceed the fee for a planned development rezoning application.

c. The normal timeframe for review of residential development orders will be extended as needed to allow thorough yet timely review of all applications submitted in accordance with this article.

(2) A proposed development that would deviate from this code, except for administrative deviations in accordance with section 10-104, must seek approval through the planned development rezoning process prior to obtaining a development order pursuant to chapter 10

a. Deviations or variances can never be granted to increase the densities in Table 33-1052

b. Example of deviations that can be considered during the planned development process include:

1. Permitted uses and property development regulations other than those provided in section 33-1053

2. Reforestation methods that do not meet all of the technical requirements of this section for "permanently preserved native habitat" or "restored native habitat" but which will achieve the same ends.

3. Infrastructure more suited to country living, such as narrower streets, alternative paving materials, stormwater management systems that promote infiltration of runoff, etc.

c. The special application requirements in section 33-1052(c)(1)a. must supplement this code's requirements for planned development applications.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1053. Development standards.

If a landowner chooses to increase the standard maximum density of "Coastal Rural" land as provided by this division, development standards will apply as follows:

(a) *General standards.* All requirements of this code remain in effect except as modified through the planned development rezoning process or as otherwise provided in this article.

(b) *Property development regulations and permitted uses.*

(1) For individual lots that are created on "Coastal Rural" land based on increases above the standard maximum density of one dwelling unit per ten acres:

a. Lots that are 39,500 square feet or larger in area must meet all property development regulations that apply to the AG-2 zoning district including lot width and depth, setbacks, special regulations, building height, and lot coverage. Use regulations for these lots will be the same as for lots in the AG-2 zoning district.

b. Lots that are smaller than 39,500 square feet must meet all property development regulations that apply to the RS-1 zoning district including lot width and depth, setbacks, special regulations, building height, and lot coverage. Use regulations for these lots will be the same as for lots in the RS-1 zoning district.

(2) Native habitat that is being preserved or restored in order to qualify for increases above the standard maximum density will be governed by section 33-1054 instead of the regular AG-2 regulations.

(3) Existing farmland that is being committed to continued agricultural uses in order to qualify for increases above the standard maximum density will be governed by section 33-1056 in addition to the regular AG-2 regulations.

(c) *Local street standards.*

(1) Section 10-296(d) provides standards for new local streets that vary based on residential density levels. For development orders that subdivide residential lots from "Coastal Rural" land, these local street standards will be interpreted as follows:

a. "Category C" streets must be provided for residential lots that are two and one-half acres or smaller.

b. "Category D" streets may be provided in lieu of Category C streets for residential lots that are larger than two and one-half acres.

(2) Right-of-way and lane widths for privately maintained local streets may be narrower than the standards set forth in section 10-296 for Category C and Category D streets provided the widths are selected in accordance with the criteria in Traditional

Neighborhood Development Street Design Guidelines or Neighborhood Street Design Guidelines (or successor recommended practices) published by the Institute of Transportation Engineers, or in accordance with Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT<400) published by AASHTO.

(3) Privately maintained local streets defined by section 10-296 as Category C streets may have a wearing surface of porous (pervious) asphalt or concrete, in lieu of the other surface options provided in chapter 10. Porous paving can increase the infiltration of stormwater and reduce the need for separate stormwater infrastructure.

(4) Dead-end streets are generally not permitted but may be unavoidable due to adjoining wetlands, canals, or preserved areas. When the director deems a dead-end street to be unavoidable, the dead-end must be provided with a cul-de-sac or other termination that is designed in accordance with county standards as specified in section 10-296 or the alternate standards set forth in section 33-1053(c)(2).

(d) *Locational standards.* The following approach and guidelines must be used to determine the best areas on the site to remain undeveloped and to be developed.

(1) Begin by identifying potential areas to remain undeveloped.

a. For native habitat being preserved or restored: healthy, diverse, or unusual native vegetation (such as mature pine trees, oak hammocks, or dense saw palmetto); listed species habitat; historic/archaeological sites; unusual landforms; wet or transitional areas; etc.

b. For existing farmland being committed to continued agricultural use: existing surface water management infrastructure; availability of irrigation water; large contiguous acreage relative to potential conflicts with adjoining non-agricultural land uses; etc.

(2) Then identify potential areas for homesites: locations near existing developed areas or adjoining existing streets (or logical street extensions); areas with fewer natural resource values; areas that can be served with minimal extensions of infrastructure; areas that would provide views of preserved open spaces; etc.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1054. Permanently preserved native habitat.

A development proposal that requests an increase to the standard maximum residential density for committing to "permanently preserved native habitat," as that phrase is defined in section 33-1003, must be accompanied by plans and supporting documentation that demonstrate compliance with the following requirements.

(a) *Land uses in preserved habitat.* Native habitat that is counted as preserved for the purposes of Table 33-1052 cannot be part of any individual lots or parcels on which development is permitted.

(1) Portions of these native habitats may be used as buffer strips and wooded portions of golf courses provided those areas have a minimum dimension of 40 feet and are protected by the same conservation easement as the remainder of the native habitat.

(2) Land that is subdivided by roads cannot qualify as permanently preserved native habitat, but up to the following percentages of other land uses may be permitted:

a. Facilities for passive recreation such as hiking trails, bridle paths, boardwalks, or fishing piers, up to two percent of the preserved area.

b. Buffers, lakes, and utilities, up to ten percent of the preserved area.

c. Commercial or non-commercial agriculture, up to ten percent of the preserved area.

(b) *Hydrologic restoration.* Interruptions of original water flows must be corrected to ensure proper hydrologic conditions for the long-term survival of the permanently preserved native habitat. For instance, ditches or berms that interfere with natural surface and ground water flows must be eliminated (unless mitigation is possible, for instance by placing multiple culverts through berms to restore sheet flows). This requirement may not be construed to require hydrologic changes that would adversely affect the public health, safety or welfare or the property of others.

(c) *Removal of invasive exotic plants.* Invasive exotic plants must be removed from the area being preserved. Methods to remove and control invasive exotic plants must be included on the development order plans. For purposes of this subsection, invasive exotic plants mean the same plants as described in section 10-420

(d) *Conservation easement.* The guarantee of preservation must include a perpetual conservation easement granted to a governmental body or agency or to a qualified charitable corporation or trust whose purposes include protecting natural, scenic, or open space values of real property.

(1) This conservation easement must be a right or interest in real property that is appropriate to retaining the land in predominantly its natural forested condition as suitable habitat for native vegetation and wildlife in accordance with this section; and, which prohibits or limits the activities described in F.S. § 704.06, as such provisions now exist or as may be amended.

(2) This conservation easement must acknowledge that all residential and commercial development rights have been transferred away from the portion of the property subject to the conservation easement.

(3) The agency or entity accepting the easement must be acceptable to Lee County. Lee County will accept the conservation easement in the event no suitable entity is willing to accept the easement.

(4) This agency or entity must explicitly consent to enforce the easement's obligations in perpetuity. This requirement does not apply to a secondary or tertiary back-up grantee that is empowered, but not obligated, to enforce the terms of the easement.

(5) Unless Lee County is the entity accepting the easement and consenting to enforce its obligations in perpetuity, Lee County must be named in the easement as a back-up grantee that is empowered, but not obligated, to enforce the terms of the easement.

(6) If no entity suitable to Lee County will accept such conservation easement, Lee County will accept the easement.

(e) *Management plan.* The guarantee of preservation must also include a long-term management plan that will accomplish the following goals for the area being preserved:

(1) The preserved habitat must be kept free of refuse, debris, and pests and must be maintained in perpetuity against the reestablishment of invasive exotic plants. The management plan must describe how invasive exotic plants will be prevented from being reestablished within the preserved habitat.

(2) The preserved habitat must be managed to maintain a mosaic of plant and habitat diversity typical of the ecological community being preserved. A reference source describing the native habitats found in Greater Pine Island is available in chapter 3 of the Multi-Species Recovery Plan for South Florida, published by the U.S. Fish & Wildlife Service.

(3) The management plan must describe acceptable forest management practices such as prescribed burning, selective thinning, and replanting. If the management plan does not include prescribed burning to mimic the historic fire regime, the plan must propose an alternative method for selectively thinning flammable understory plants.

(4) The management plan must specify how the preserved habitat will be demarcated through fencing or other means to clearly identify preserved habitat without unnecessary blockage of recreational usage or wildlife movement.

(5) The management plan must also comply with the standards set forth in section 10-415(b)(4).

(f) *Ownership of preserved habitat.* The underlying ownership of these permanently preserved native habitats may be retained by the original landowner, transferred to a homeowners or condominium association or transferred to another entity acceptable to the County.

(1) If the ownership of this land and the management commitments are to be transferred to a homeowners or condominium association, this transfer must be accomplished through a covenant that runs with the land that is binding on the homeowners or condominium association and their members (and not changeable by them), or such other legal mechanisms as will guarantee that the permanently preserved native habitats will be managed in accordance with these regulations. The association must provide proof that they have the financial ability to carry out the long term management responsibility. Legal documents that provide for the continued management will be accepted only after they are reviewed and approved by the county attorney's office as complying with this section.

(2) Alternatively, a landowner who wishes to retain ownership of this land or convey it to a different party must present evidence of financial ability to carry out the management responsibilities. Evidence of financial ability may consist of, but is not limited to, trust funds, bonds, surety documents, dedicated bank funds or another income stream acceptable to the County that will be used to discharge the management responsibility. The landowner may also provide evidence of the transfer and acceptance of the management responsibility to a governmental entity or other appropriate management entity (e.g. tax-exempt charitable entity) approved by the County that has the requisite financial ability to carry out the management responsibility. Legal documents that provide for the continued management will be accepted only after they are reviewed and approved by the county attorney's office as complying with this section.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1055. Restored native habitat.

A development proposal may request an increase to the standard maximum residential density for committing to "restored native habitat," as that phrase is defined in section 33-1003. The restoration goal is to initiate the re-creation of native habitats that had been typical of Greater Pine Island and to establish conditions suitable to their long-term maturation, regeneration, and sustainability. Restored native habitat must meet all of the requirements of section 33-1054, plus the following requirements.

(a) *Hydrologic restoration.* In addition to the correction of modified water flows and quality as described in section 33-1054(b), the site's hydrologic regime must be appropriate for the ecological community being restored. A reference source describing the native habitats found in Greater Pine Island and their natural hydrologic conditions is available in chapter 3 of the Multi-Species Recovery Plan for South Florida, published by the U.S. Fish & Wildlife Service. This requirement will not be construed to require any hydrologic changes that would adversely affect the public health, safety, or welfare or the property of others.

(b) *Reintroduction of native trees.* Native trees must be planted and must be of species typical of the native habitat being restored, as set forth in the Multi-Species Recovery Plan. For example, the dominant tree species in mesic pine flatwoods, the most common native upland habitat on Pine Island, will be longleaf and South Florida slash pines; the dominant tree species in mesic temperate hammocks will be live oaks and cabbage palms.

(1) Site preparation must include removal of non-native vegetation that will compete with newly planted trees.

(2) Trees must be planted in clusters or random patterns rather than rows. Bare-root or containerized seedlings (seedling cone container size) may be planted using standard forestry techniques. A minimum of 300 trees per acre must be planted with a minimum of 250 trees surviving at five years, and, an overall minimum of 200 trees maintained in perpetuity.

(3) Fertilization and watering-in are required at time of planting to ensure survival of seedlings, with spot irrigation beyond planting. Exotic and problematic plant monitoring and control is required for at least five years after planting.

(c) *Reintroduction of native midstory shrubs and understory plants.* In addition to the introduction of native pine trees as mentioned in subsection (b) above, midstory and understory species must be planted.

(1) These species must include at least five of the following:

a. wiregrass (*Aristida stricta var. beyrichiana*),

b. tarflower (*Bejaria racemosa*),

c. wax myrtle (*Myrica cerifera*),

d. fetterbush (*Lyonia lucida*),

e. rusty lyonia (*Lyonia ferruginea*),

f. gallberry (*Ilex glabra*),

g. saw palmetto (*Serenoa repens*), or

h. cabbage palm (*Sabal palmetto*).

(2) Additional native species may be substituted for the species listed above with the consent of Lee County.

(3) No single species may comprise more than 25 percent of the total number of plants installed.

(4) All of the acreage being restored must be planted with acceptable midstory and understory plants.

a. Plants must be placed in groupings or clusters throughout the area to be restored at an average spacing of ten-foot centers for midstory plant and five-foot centers for understory plants.

b. Plants to be used must consist of containerized plants or tubelings. Direct seeding may also be a viable alternative to planting with the approval of Lee County.

(5) Site preparation may be necessary to adequately prepare the site for planting. Site preparation may include such activities as re-contouring, disking, roller chopping, bush hogging, prescribed burning, herbiciding, or other recognized vegetation management activities.

(d) *Criteria for success of restoration.* Plantings of native trees and midstory and understory plants must be monitored annually to assure a minimum density of 100 trees per acre and 80 percent survival of midstory and understory species (with no supplemental plantings for two years following the third year after the initial planting).

(1) Monitoring must be performed for a minimum of five years after initial planting. Monitoring must be done by a qualified biologist, ecologist, forester, or natural areas manager subject to approval by Lee County.

(2) Annual monitoring reports must be submitted to the director. After reviewing a monitoring report for the fifth or later year for methodology and accuracy, the director is authorized to issue a finding that the restoration has been successfully completed and that no further monitoring reports are required, or that restoration has been partially completed and that monitoring reports are required only for the incomplete portion of the restoration.

(e) *Financial guarantees.* If a landowner wishes to begin development prior to successful completion of the restoration, completion must be assured in the same manner that off-site improvements or on-site subdivision improvements may be guaranteed pursuant to section 10-154 of this Code.

(f) *Flatwoods restoration bank.* As an additional alternative to restoring native habitat on-site or on contiguous or non-contiguous parcels combined into a single development application, Lee County may adopt an administrative code that sets forth the requirements for a third party to preserve or restore degraded upland habitats on large parcels on Pine Island. Credits for this restoration work could be sold to other landowners in Greater Pine Island who wish to increase their allowable density in accordance with Table 33-1052

(1) The restored land must meet all of the conditions for restored native habitat in this section in addition to the requirements of the administrative code.

(2) The administrative code will determine the assignment of restoration credits in a manner that is proportional to the ecological value of the restoration using a functional assessment method acceptable to Lee County. Credits can be sold once the restoration has proven successful according to criteria set forth in the code.

(3) Lee County will not be involved in any way in establishing the financial value of restoration credits.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1056. Continued agricultural use on existing farmland.

A development proposal that requests an increase to the standard maximum residential density for committing to "continued agricultural use on existing farmland," as that phrase is defined in section 33-1003, must be accompanied by plans and supporting documentation that demonstrate compliance with the following requirements.

(a) *Land uses.* Existing farmland that is committed to continued agricultural uses under this section is limited to those uses allowable under the applicable agricultural zoning category assigned to the land, plus the following additional restrictions:

(1) Residential and commercial development is not permitted because those development rights have already been transferred by the landowner to other property.

(2) The conservation easement applicable to the property may contain further restrictions on land uses.

(b) *Removal of invasive exotic plants.* Invasive exotic plants must be removed. Methods to remove and control invasive exotic plants must be included on the development order plans. The farmland must be maintained in perpetuity against the reestablishment of invasive exotic plants and must be kept free of refuse, debris, and pests. For purposes of this subsection, invasive exotic plants mean the same plants as described in section 10-420

(c) *Conservation easement.* To qualify for an increase to the standard maximum residential density on the entire property, the portion of the site being committed to continued agricultural use must be placed under a perpetual conservation easement that meets the requirements of section 33-1054(d), except that instead of committing to retain the land in predominantly its natural forested condition as suitable habitat for native vegetation and wildlife, the perpetual conservation easement must commit to conserve the land as open space that is available for farming by the landowner or lessees of the landowner. The easement must also define the latitude for construction, modification, or demolition of structures necessary for farm operations without approval by the easement holder.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1057. Lots of record in "Coastal Rural."

One single-family residence may be constructed on a lot of record in the Lee Plan's "Coastal Rural" land use category (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan), provided that the lot was lawfully created on or before the effective date of the ordinance adopting this provision.

(Ord. No. 07-19 , § 5, 5-29-07)

Secs. 33-1058—33-1080. Reserved.

DIVISION 6. DESIGN STANDARDS

Sec. 33-1081. Proposed street layout.

All new streets in the Greater Pine Island Planning Community must be fully integrated into the county maintained street system of the surrounding area. These requirements apply equally to new county maintained and privately maintained streets.

(a) New streets in a proposed development must be connected to existing county maintained streets in the adjacent area, and to likely extensions of existing county maintained streets, unless physical barriers such as canals or wetlands preclude connections. Primary access to a proposed development may not use an existing privately maintained street unless that street is upgraded to a county maintained street as specified in section 10-296 at the developer's expense.

(b) Gates or guardhouses may not be used to block the movement of cars except as provided in sections 33-1087 or 34-1748(4). However, traffic calming measures may be employed in accordance with Lee County administrative codes to slow vehicles or deter excessive cut-through traffic.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1082. Development abutting an aquatic preserve.

(a) *Buffer.* Land abutting state designated aquatic preserves and associated wetlands and natural tributaries must preserve or create a 50-foot wide native vegetative buffer area between the development and the water body or associated wetlands.

(b) *Applicability.* This requirement applies to new development, including "planned development" rezoning approvals, new subdivisions and agriculture.

(c) *Exemptions.* This section does not apply to:

(1) Existing subdivided lots created prior to the adoption of this provision (revise to include date board adopts this ordinance); or

(2) Portions of marinas that provide direct water access.

(d) *Implementation.* The requirement to provide the 50-foot buffer will be imposed on new development during the rezoning, development order approval and building permit issuance process. The buffer requirement will be imposed on agriculture through the notice-of-clearing process set forth in chapter 14 and section 33-1031

(e) *Agriculture requirements.*

(1) If farmland abuts wetlands, the 50-foot buffer area must be maintained as a riparian forest buffer with an adjoining filter strip. An example of acceptable design criteria has been developed by the National Resources Conservation Service and published in the "Conservation Practice Standards", specifically Standard 391 (Riparian Forest Buffer) and Standard 393 (Filter Strip).

(2) If native vegetation does not exist on the agricultural property, then native tree cover must be established within three years of the issuance of the notice of clearing.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1083. Commercial building design standards.

(a) *Applicability.* This section provides additional design standards and guidelines for commercial buildings in Greater Pine Island. These additional standards and guidelines are applicable to all new development and to renovations and redevelopment as provided in section 10-602, except as modified by this section. Where the standards or guidelines in this section conflict with other standards of this code, this section will control.

(b) *Purpose and intent.* The standards in this section implement Lee Plan Policy 14.4.3 by expanding the commercial design standards in chapter 10, article IV.

(c) *Building size and character.* New commercial buildings are limited to 10,000 square feet of floor area per building unless a larger size is approved by variance or by deviation in a commercial planned development. Any larger buildings approved by variance or deviation must be designed to minimize the appearance of a single large box or a standard franchise design.

(d) *Windows.* The following rules apply to windows on all primary facades (as defined in section 10-601).

(1) Transparent windows must be installed along a minimum of 30 percent of each primary facade.

a. All window glass, whether integrally tinted or with film applied, must transmit at least 50 percent of visible daylight.

b. Private interior spaces such as offices may use operable interior blinds for privacy.

(2) New window openings must be rectangular and oriented vertically, except for transom windows over doors.

(3) The bottoms of all new window openings must be no higher than 30 inches above the finished floor elevation.

(4) New windows must contain visible sills and lintels on the exterior of the wall.

(5) New windows must have their glazing set back at least three inches from the surface plane of the wall, or set back at least two inches when wood frame construction is used.

(e) *Metal roofs.* Sloping roofs must use metal for all finished surfaces; however, this requirement does not apply to buildings that have been designated as historic pursuant to chapter 22

(f) *Mature trees.* The development services director may grant deviations from the technical standards in section 10-104 to accommodate the preservation of existing mature trees on a development site.

(1) To qualify for a deviation, the tree being preserved must be at least six inches in diameter at a height of four and one-half feet and must not be an invasive exotic plant as defined by section 10-420

(2) The deviation requested must not compromise the public health, safety, or welfare as determined by the development services director.

(g) *Parking lots.* Except in the Matlacha historic district and except for marinas anywhere in Greater Pine Island, no more than a single row of parking spaces may be located between the primary facade of a building and the front lot line. In addition, at least one-half of all parking spaces provided on a site must be located further from the front lot line than the plane of a primary facade that is closest to the front lot line.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1084. Maximum height of wireless communication facilities.

The overall height of wireless communications facilities must not exceed the height limitations set forth in section 33-1088.

(Ord. No. 07-19 , § 5, 5-29-07; Ord. No. 11-08 , § 9, 8-9-11)

Sec. 33-1085. Density limitations.

(a) Table 1(a) of the Lee Plan contains special density restrictions for Greater Pine Island that would affect rezonings that would allow in excess of 3 dwelling units per gross acre.

(b) Those portions of Greater Pine Island that are classified in the Lee Plan as "Coastal Rural" have special density restrictions as set forth in section 33-1051 et seq.

(c) Residential densities in Greater Pine Island may be further restricted in accordance with concurrency and traffic-based growth limitations in section 33-1011

(d) Housing density bonuses are not permitted in Greater Pine Island (see section 34-1511).

(e) Transfers from on-site wetlands at rates above the standard density rates for wetlands are not permitted in the Greater Pine Island Planning Community.

(f) Land in Greater Pine Island may not receive TDR units in accordance with article IV of chapter 2 (see section 2-148), but density transfers within Greater Pine Island may be permitted in accordance with 33-1052(b) and through a new Greater Pine Island TDR program contemplated by the policies under Lee Plan Objective 14.6.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1086. Residential project fences and walls.

New residential project fences or walls are not permitted in Greater Pine Island (see section 34-1743). This restriction does not affect buffer walls that may be required by section 10-416.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1087. Entrance gates.

Entrance gates or gatehouses cannot interfere with movement of cars between neighborhoods (see also section 33-1081).

(a) Entrance gates or gatehouses can be used to control access only to a single block and may not be located on a publicly dedicated street or street right-of-way.

(1) For purposes of this subsection, a "single block" means the length of any street or accessway from its end or cul-de-sec to the first intersecting street and which provides access to five or fewer existing or potential dwelling units.

(2) An entrance gate to a single block must be designed in such a manner that at least one vehicle can pull safely off the intersecting street while waiting to enter.

(3) These regulations supersede conflicting regulations governing entrance gates and gatehouses in section 34-1748(1).

(b) Entrance gates for non-residential uses only that will remain open during normal working hours are permitted in accordance with section 34-1748(4).

(c) Fencing around individual lots and agricultural properties is governed by general county regulations and is not affected by this section.

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1088. Maximum height of buildings and structures.

No building or structure may be erected or altered so that the peak of the roof exceeds 38 feet above the average grade of the lot in question or 45 feet above mean sea level, whichever is lower.

(a) The provisions of section 34-2171(a)(1) that allow the substitution of "minimum required flood elevation" for "average grade of the lot in question" do not apply to Greater Pine Island.

(b) The provisions of section 34-2174(a) that allow taller buildings in exchange for increased setbacks do not apply to Greater Pine Island.

(c) Structures without roofs will be measured to the highest point on the structure.

(d) No deviations from these height restrictions may be granted through the planned development process.

(e) Any variances from these height restrictions require all of the findings in section 34-145(b)(3), with the sole exception being where the relief is required to maintain or improve the health, safety, or welfare of the general public (not just the health, safety, or welfare of the owners, customers, occupants, or residents of the property in question).

(Ord. No. 07-19 , § 5, 5-29-07)

Sec. 33-1089. Commercial fishing equipment storage as accessory use to residence.

(a) *Permitted use.* The storage and repair of commercial fishing equipment, specifically fishing nets and crab traps, shall be permitted as an accessory use to a single-family or mobile home residence in the AG, RSC, RS, TFC and MH zoning districts when in compliance with the conditions set forth in subsection (b) of this section.

(b) *Conditions.*

(1) The storage and repair of commercial fishing equipment such as nets and traps must be clearly subordinate to the use of the property for residential purposes.

(2) Storage and repair of equipment is limited to equipment owned or leased by the occupant of the residence only.

(3) Storage of equipment must comply with the setback requirements for accessory buildings and structures as set forth in chapter 24, division 2; provided that, with the exception of boats, no storage will be permitted between the street right-of-way and the principal building.

(4) Fishing nets, when not being repaired, must be stored neatly and covered by canvas or other suitable material.

(5) Crab traps, when not being repaired, built or rebuilt, must be stacked neatly. Stacking of traps must not exceed six feet in height.

(6) The open storage of discarded or derelict nets, traps, boats or other fishing equipment is prohibited.

(7) The occupant of the property is responsible for maintaining the property free of rats and vermin.

(Ord. No. 13-10 , § 9, 5-28-13)

Secs. 33-1090—33-1200. Reserved.

ARTICLE IV. PAGE PARK PLANNING COMMUNITY [2]

DIVISION 1. - IN GENERAL

DIVISION 2. - DEVELOPMENT STANDARDS AND SPECIFICATIONS

DIVISION 3. - SPECIFIC USE STANDARDS

FOOTNOTE(S):

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Editor's note— Ord. No. 10-32, § 1, adopted September 14, 2010, added provisions designated as a new Art. IV to read as herein set out. Figures 1—18-D are set out following Art. IV. (Back)

DIVISION 1. IN GENERAL

Sec. 33-1201. Reserved.

Editor's note—

Ord. No. 12-19, § 2, adopted Sept. 11, 2012, repealed § 33-1201 which pertained to purpose and intent of division 1 and derived from Ord. No. 10-32, § 1, adopted Sept. 14, 2010.

Sec. 33-1202. Applicability.

(a) *Scope.* The provisions of this article apply to all development located within the Page Park Community, as defined in Goal 27 of the Lee Plan (see Map 6 in Appendix I). The standards in this article apply to non-residential, religious, institutional, multi-family and mixed-use developments, (which must contain a residential component) including live-work units, except where the authority of a separate political jurisdiction supersedes county authority.

(b) *Zoning.* A public hearing is not required to rezone for a project where the proposed development complies with the provisions in this article. For all development requiring a development order and for live-work units, a master concept plan and the information required pursuant to sections 34-202 and 34-373 must be submitted for review and approval by administrative action. Developments of regional impact, deviations not able to be approved administratively, special exceptions and variances are not exempt from the public hearing process.

(c) *Development orders.* The provisions of this article apply to all development orders and limited review development orders described in sections 10-174(1), 10-174(2) and 10-174(4)a. that are requested within the Page Park Community. Compliance with these provisions will be required in order to obtain development order approval.

(d) *Demonstrating compliance.* Compliance with the standards set forth in this article must be demonstrated on the drawings or site development plans submitted in conjunction with an application for development order approval or with a building permit application if a development order is not required.

(e) *Single-family residential.* Single-family residential must be developed in accordance with all provisions of section 34-693 and only in areas depicted by shading on the Page Park Community Overlay Map in Appendix I.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1203. Community review.

(a) *Applications requiring review.* The owner or agent applying for the following types of county approvals must conduct one publically advertised informational session in accord with section 33-1203(b) within the Page Park Community prior to obtaining an approval or finding of sufficiency of the following:

(1) Development orders. This includes all applications for development orders requested within the Page Park Community;

(2) Planned development zoning actions. This includes administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution;

(3) Special exception and variance requests. This includes all requests that will be decided by the hearing examiner;

(4) Conventional rezoning actions; and

(5) Administrative amendments.

(b) *Meeting requirements.* The applicant is responsible for providing the meeting space, notice of the meeting, and security measures as needed. The meeting location will be determined by the applicant. Meetings must be advertised no later than five days prior to the date of the meeting. Meetings may, but are not required to, be conducted before non-County formed boards, committees, associations, or planning panels. During the meeting, the applicant will provide a general overview of the project for interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to the issues raised. The applicant is not required to obtain an affirmative vote or approval of citizens present at the meeting.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1204. Existing planned development.

Existing, approved master concept plans may be voluntarily brought into compliance with the Page Park Community Plan or any regulation contained in this article through the administrative amendment process. No public hearing or community meeting will be required if the sole intention is for existing planned developments to comply with these regulations.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1205. Definitions.

The following definitions are in addition to those set forth in other chapters of this Code and are applicable to the provisions set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise the definitions contained elsewhere in this Code will control.

Articulation means shapes and surfaces having joints or segments that subdivide the area or elements; the joints or members add scale and rhythm to an otherwise plain surface. (see Figure 6)

Box signs means a sign that is self-enclosed in a typically square or rectangular structure with or without internal lighting. Can be single- or double-faced. Box signs as used herein, is not meant to include business or corporate logos.

Convenience retail means retail stores selling everyday items.

Decorative pavers or *pavers* means pre-formed paving blocks that are installed on the ground to form patterns while at the same time facilitating pedestrian and vehicular travel. Decorative pavers must meet the standards provided in LDC sections 10-296(4) (a) and (b).

Display case/outdoor display case means a container typically with a glass or clear plastic front used to exhibit items for sale.

Façade means the vertical exterior surfaces of a building. (see Figures 5 and 10)

Fully shielded light fixture means a light fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane of the bottom of the fixture.

Hardscape means the inanimate elements of landscaping, including but not limited to, masonry work, woodwork, stone walls, concrete or brick patios, tile paths, pervious pavers, wooden decks and wooden or metal arbors.

Horizontal mixed-use. See "mixed-use."

Human scale and proportion refers to the size of a building or of features of a building that is more closely related to the size of the human figure. Buildings with horizontal façades that relate more to the size of the human figure are defined as human in scale.

Interior access drive/street means any vehicular roadway, excluding alleys or driveways, located within the confines of the property.

Main entry means the primary entrance into a development, neighborhood, commercial or residential unit. Consistent with section 10-619(g), the main or primary entrance is associated with the highest number of trip ends.

Main Street means the architectural style in the Page Park Community, it is somewhat eclectic, having variety, diversity, and of no particular architectural style. Traditional architecture is favored, rather than radical design themes, structures or roof forms that would draw unnecessary attention to the buildings. Building façades that incorporate canopies or walls with mock gables must provide a roof component to provide depth and give a more authentic appearance. Vernacular styles must be displayed through the inclusion of extended roof overhangs, porches, covered corridors, covered walkways, and pitched roofs (where applicable). (see Figure 1 through 6, 10 and 13 through 17)

Mixed-use means a development, in a compact urban form, including residential and one or more different, but compatible uses, such as but not limited to: office, industrial and technological, retail, commercial, public, entertainment, or recreation. These uses may be combined within the same building or may be grouped together in cohesive neighboring buildings with limited separation, unified form and strong pedestrian interconnections to create a seamless appearance. This is also known as horizontal mixed-use (see Figure 1), wherein the development combines multiple single-use buildings within a single development parcel or site.

Monument sign or *monument-style sign* means a ground sign, the structural base of which is on the ground. The height of the base must not be less than 24 inches and may not exceed 42 inches above the adjacent ground. The average width of the sign structure must exceed the total height of the sign structure. The width of the top of the sign structure must not exceed 120 percent of the width of the base or seven feet, whichever is greater. The face of sign area for a monument sign is measured as a rectangle enclosing the entire width and height of the sign structure.

Outbuilding(s) means a building that is subordinate to and separate from a main building but is desired for the full enjoyment of the property (i.e. a shed, garage, etc.).

Parapet means a low protective wall at the edge of a terrace, balcony or roof. (see Figure 5)

Parking pod means a freestanding parking lot separate from the primary use with no more than four ingress/egress points, limited to a maximum of 50 parking spaces, and surrounded by a type "B" landscape buffer.

Pedestrian passageway means a pedestrian connection between buildings that allows safe access to other public spaces.

Public open space means people-oriented spaces along the street that are visually attractive, take into consideration the human scale and proportion, and provide for pedestrian connections and linkages. Exterior public and semi-public spaces, such as courtyards or plazas, must be designed for function, to enhance surrounding buildings and provide amenities for users, in the form of textured paving, landscaping, lighting, street trees, benches, trash receptacles and other items of street furniture.

Stand alone commercial building means a building containing commercial uses only unassociated with any other non-commercial uses.

Storefront means the front side of a store facing the street; usually contains display windows.

Street furniture means objects that are constructed or placed above ground such as outdoor seating, kiosks, bus shelters, sculptures, tree grids, trash receptacles, fountains, and umbrellas which have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to, and used by, the public. (see Figure 9)

Tower element means a structure taller than its diameter; can stand alone or be attached to a larger building column: anything that approximates the shape of a column or tower, such as a bell tower. (see Figures 2, 5 and 10)

Vertical mixed-use building means a building that contains at least two different land uses (i.e. commercial and residential, retail and residential, office and residential, commercial and civic use open to the public) that are related, (see Figure 2), wherein the mixed-use development combines different uses within the same building,

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1206. Deviations and variances.

Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from any architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance must be submitted as part of the application.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1207. Nonconforming screening and buffering.

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

(b) Parcels with nonconforming screening or buffers must come into compliance with the minimum buffer requirements of this Code when the use or structure is expanded or prior to issuance of a development order for improvements to the parcel or structure.

(c) 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, will not trigger compliance with the minimum buffer requirements.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12)

Secs. 33-1208—33-1229. Reserved.

DIVISION 2. DEVELOPMENT STANDARDS AND SPECIFICATIONS

Sec. 33-1230. Reserved.

Editor's note—

Ord. No. 12-19, § 2, adopted Sept. 11, 2012, repealed § 33-1230 which pertained to development standards intent and derived from Ord. No. 10-32, § 1, adopted Sept. 14, 2010.

Sec. 33-1231. Applicability.

The development standards and specifications herein do not apply to development in existence as of September 14, 2010. Any existing structure, building, or portion thereof, that is substantially improved (reconstructed, rehabilitated, altered or demolished), to the extent the cost of such improvement equals or exceeds a cumulative total of 50 percent of the current assessment of value of the structure or building before the start of construction of the improvement, must be reconstructed by utilizing the requirements of this article.

Additional requirements for mixed-use development are found in division 3 of this article.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Secs. 33-1232—33-1249. Reserved.

Subdivision I. - Basic Elements

Subdivision II. - Architectural

Subdivision III. - Landscaping

Subdivision IV. - Signs

Subdivision I. Basic Elements

Sec. 33-1250. Property development regulations table.

Except as provided in the Table below, the property development regulations contained in sections 34-695 and 34-845 will apply.

Table 33-1250. Property Development Regulations

	Minimum	Maximum	Special Notes
Lot Area	None specified	—	—
Lot Width	None specified	—	—
Height - All (except mixed-use)	—	3 stories/40 feet*	—
Height - Mixed-use	—	5 stories/60 feet*	—
Setbacks			section 34-2191 et seq.
Front street	0 feet	25 feet	section 33-1251(a)
Side street	0 feet	15 feet	section 33-1251(c)
Side yard	0/15 feet	n/a	section 33-1251(b) & (d)
Rear yard	15 feet	—	section 33-1251(b)

Waterbody	25 feet	—	—

*Unless restricted by section 34-1004, Flight obstruction surfaces

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1251. Setback requirements.

Setbacks: Setbacks are established to facilitate the creation of uniform streetscape. (see Figures 18-A, B, C and D.)

(a) The front setback must be no greater than the average setback of existing development in the same street block. The maximum right-of-way setback is 25 feet. This allows buildings to front directly onto the adjacent sidewalks, while providing for slight undulation in the delineation and character of the street, and also provide for utilities as necessary. (See section 33-1253.) Not more than 60 percent of the building may be placed closer than the minimum setback chosen.

(b) Where the side or rear yard abuts property which is an existing single family residential unit, the minimum setback must be 15 feet at the rear, and 15 feet at the side or the distance created by the 60-degree angle of sunlight obstruction, whichever is greater. (see Figure 8)

(c) Where the property abuts a street to the side, the minimum setback from that street must 15 feet. (see Figure 11)

(d) Where a nonresidential use is adjacent to a nonresidential use, the side yard setback must be zero at the front of the building for a distance of not less than 20 feet to create a continuous "street wall" of building frontage where possible, except under the following circumstances:

(1) Where access to parking is required.

(2) Where a larger setback is required by the Florida Building Code.

(3) On interior side yards, the minimum side setback must be 15 feet if an existing structure facing the interior side lot line contains windows or other openings and is within 15 feet of that lot line.

(e) All new buildings must comply with the requirements of section 34-3131

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1252. Water management.

(a) Closed drainage per section 10-328(b) is encouraged for conveyance systems along all streets. If swales are utilized, sidewalks must be located on the development side of the swale and pedestrian and bicycle connections must be provided at intersections and entryways into the development.

(b) All dry detention basins must be planted with wetland type plant species (such as Spartina) in minimum one-gallon containers not more than 36 inches on center throughout the extent of the basin along the bottom and up to the top edge.

(c) Utilization of Low Impact Development (LID) management practices for stormwater design is required when appropriate and possible.

(d) Waterbodies, including stormwater systems per section 10-321(a), exceeding 5,000 square feet in cumulative area and located adjacent to a public right-of-way are considered park area and an attractor for pedestrian activity. These areas must incorporate into the overall design of the project at least two of the following items:

(1) A four-foot wide walkway at least 100 feet in length, with trees an average of 25 feet on center; shaded benches a minimum of six feet in length located on average every 100 feet; or

(2) A public access pier or boardwalk with covered structure and seating; or

(3) An intermittent shaded courtyard, a minimum of 200 square feet in area with benches and/or picnic tables adjacent to the water body; or

(4) A permanent fountain structure, art structure or other architectural feature.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1253. Utilities.

(a) All utility lines must be underground from the building to the property line. Utility lines within the right-of-way should be placed underground or relocated to the rear of the site to the maximum extent practicable.

(b) Where electric utilities located behind the street curb are to remain overhead, an overhead utility zone must be provided so that no portion of the building is located within a ten-foot radius of the conductor portion of the power pole. (see Figure 12)

(c) On lots where electric utilities located behind the street curb are to remain overhead, trees from the list identified in Table 33-1254 must be located adjacent to the overhead electric utilities (if allowed by the servicing utility).

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1254. Trees suitable for planting beneath or adjacent to overhead power lines Table.

The following types of trees are considered suitable for planting adjacent to overhead power lines:

Table 33-1254. TREES SUITABLE FOR PLANTING

ADJACENT TO OVERHEAD POWER LINES

Common Name	Scientific Name
Bahama Strongback	*Bourreria succulenta*
Blolly	*Guapira discolor*
Cherry Laurel	*Prunus caroliniana*
Dahoon Holly	*Ilex cassine*
Geiger Tree	*Cordia sebestena*
Glaucous Cassia	*Cassia surattensis*
Pigeon Plum	*Coccoloba diversifolia*
Silver Buttonwood	*Conocarpus erectus var. sericeus*
Spanish Stopper	*Eugenia foetida*
Sweet Acacia	*Acacia farnesiana*
Walter's Viburnum	*Viburnum obovatum*
Wax Myrtle	*Myrica cerifera*

Willow Bustic	*Sideroxylon salicifolium*

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1255. Parking.

In addition to the parking regulations in chapter 34, article VII, division 26, the following will apply to all development:

(a) *Location.*

(1) Wherever possible, building siting and parking design must provide for pedestrian and vehicular circulation between adjacent sites, such as joint access easements, common driveways and vehicular interconnects between properties.

(2) Parking areas, except those located along Danley Drive, must be located at the sides or rear of projects with pedestrian connections between the parking areas and the project.

(3) A parking lot may not be located between the street frontage and the front of a building. It may be located, however, between a street and the side of a building.

(4) On-street parallel parking is encouraged; however, street pavement width must be increased a minimum of eight feet on the side of the street where the on-street parking is proposed, unless it is determined by Lee County Department of Transportation that there is adequate street pavement.

(b) *Distribution.* All outdoor parking areas with more than 50 spaces must be divided into smaller units or pods to decrease visual impacts associated with large expanses of pavement and vehicles, and to facilitate safe and efficient pedestrian movement between parking and mixed-use development.

(c) *Screening.* Parking areas facing a public street must be buffered by a minimum type B landscape buffer on the perimeter (between the property line and the parking) of the parking area.

(d) *Access drives.*

(1) The principle or main entry(ies) into sites must be enhanced with either decorative pavers or stamped concrete. However, brick pavers may not be utilized within the limits of a publically maintained street.

(2) Building siting and parking design must maximize opportunities for shared parking, access entries and driveways in order to minimize the number of curb cuts. This will limit possible conflicts between pedestrians and vehicles entering and leaving the parking area and reduce the number of driveways along the main thoroughfares.

(3) Commercial development adjacent to mixed-use development must provide interconnections for automobile, bicycle and pedestrian traffic.

(e) *Internal circulation and pedestrian connections.* The following requirements are in addition to the requirements of section 10-610(d). Pedestrian walkways must be provided for each public vehicular entrance to a project, excluding ingress and egress points intended primarily for service, delivery or employee vehicles.

(1) Non-residential developments over 20,000 square feet and all mixed-use developments must include at least one separated pedestrian walkway through the parking area to the main entrance.

(2) Sidewalks or pedestrian walkways must connect the on-site pedestrian systems to pedestrian systems on adjacent developments.

(3) Pedestrian walkways and spaces must include a minimum of three of the following elements:

a. Special paving materials, such as specialty pavers, concrete, colored concrete or stamped concrete patterns;

b. Landscaping, (pedestrian walkways may be incorporated within a required landscape perimeter buffer), in compliance with section 10-416(d)(11);

c. Pedestrian-scaled lighting;

d. Seating and cigarette receptacles; or

e. Trash receptacles.

(4) Parking areas for all retail, office and mixed-use developments must provide bicycle racks as required by section 10-610(d)(3).

(5) Where walkways cross traffic lanes, special design features must be used to increase safety for the pedestrian, which may include raised or textured pavement, curb extensions to narrow the travel lane or low-level lighting, such as a bollard light.

(6) Sidewalks or bikeways must be installed as required by section 10-256

(7) Illumination of walkways must be provided along the pedestrian paths leading to parking areas and in the specific areas where cars are parked.

(f) *Garages.*

(1) At least 60 percent of the primary façade of a parking garage must incorporate the following:

a. Where pedestrian oriented businesses are located along the façade of the parking structure, they must contain transparent windows, with clear or lightly tinted glass, or display windows; or

b. Where there are no pedestrian oriented businesses located along the façade of the parking structure, decorative metal grille-work, vertical trellis, landscaping or similar detailing, must be used to provide texture.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-20 , § 3, 9-11-12)

Sec. 33-1256. Lighting.

In addition to the requirements of section 34-625, development design must include the following:

(a) Lighting of building entryways at the pedestrian level, such as lighted bollards, doorway lighting, etc.

(b) Light fixtures must complement the overall building development.

(c) Lighting throughout all parking areas must utilize decorative light poles/fixtures. Except for pedestrian light fixtures, all other outdoor light fixtures must be fully shielded.

(d) Lighting plans must be coordinated with landscape plans to identify and eliminate potential conflicts with required landscaping.

(e) No light poles may be located in parking lot islands that contain required landscaping.

(f) Buildings, awnings, roofs, windows, doors and other elements may not be outlined with light. Exposed neon and backlit awnings are prohibited. Temporary seasonal lighting during the month of December is excluded from this requirement.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1257. Transit facilitation.

Access to public transportation, ride-share and passenger drop off areas must be provided. The following examples are design techniques that may be used to meet this requirement:

(a) Accommodate public transportation vehicles on the road network that services the development.

(b) For streets adjacent to a development, provide sidewalks and other pedestrian facilities such as bus shelters.

(c) Provide a convenient and safe access between building entrances and a transit or bus area, such as walkways or painted pedestrian crosswalks.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1258. Corner lots.

In addition to the requirements of section 10-620(c)(3), the development must create attractive street corners using distinctive building entryways in combination with landscaping or artwork. (see Figures 10 and 11)

(a) The street corners of corner sites must be developed with buildings, public plazas or open space areas.

(1) The building should either be sited on the corner property lines as provided in Table 33-1250, or set back from the corner to provide a public open space that provides direct internal access to the site.

(2) Landscaped areas are permitted where siting of a building or public open space at a corner is not feasible.

(b) With the exception of parking garages, parking may not be located at the corners of corner sites. Required parking should be located behind the building.

(c) Buildings located on corners must include special architectural features, such as a tower element that may not exceed height limits as established herein and help to define and bring attention to the intersection. In addition, corner treatments may include a rounded or angled facet on the corner, location of the building entrance at the corner or other interesting features.

(d) An articulation of the building mass must be utilized at corner sites.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1259. Public open space.

The development must be designed to create public open space; that is, people-oriented spaces along the street that are visually attractive, take into consideration the human scale and proportion, and provide for pedestrian connections and linkages. Exterior public and semi-public spaces, such as courtyards or plazas, must be designed for function, to enhance surrounding buildings and provide amenities for users, in the form of textured paving, landscaping, lighting, street trees, benches, trash receptacles and other items of street furniture, as appropriate.

(a) A development parcel or site, regardless of parcel size, must contain a minimum of ten percent public open space. The public open space requirement is in lieu of the open space requirements set forth in LDC Chapters 10 or 34.

(b) Public open space must provide a minimum of two of the following amenities for every 1,000 square feet of public open space: seating, shade structures, drinking fountains, umbrellas, or other similar amenities.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1260. Street front activity.

The development must be designed to create public spaces to allow for activity to take place along the street front, such as sidewalks and open areas.

(a) Sidewalks located outside of the public rights-of-way may have display merchandise directly in front of an establishment, provided at least five feet of clearance, as measured from the street right-of-way, is maintained along pedestrian circulation routes.

(1) Display cases must be located against the building wall and may not be more than 2 feet deep. The display area may not exceed 50 percent of the length of the storefront.

(2) Display cases may be permitted only during normal business hours (8:00 a.m. to 9:00 p.m.), and must be removed at the end of the business day. Cardboard boxes must not be used for sidewalk displays.

(3) Sidewalk displays must be maintained with a clean, litter-free and well-kept appearance at all times and must be compatible with the colors and character of the storefront from which the business operates.

(4) Displays are prohibited in any right-of-way.

(b) *Vending booths and carts.* The use, excluding storage of vending booths and carts is permitted in the front yard or side yard of any lot adjoining a public street (i.e. between the front or side building façade and the public right-of-way or sidewalk), but are prohibited in public rights-of-way. Vending carts or booths may also be located in or on the periphery of parking lots where vending will not displace required parking.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1261. Permitted uses.

The following uses may be approved through the administrative process set forth in section 33-1202(b) in the stand alone commercial areas of the Page Park Community Overlay District (as depicted in Appendix I, Map 6). These uses are in addition to uses permitted in the underlying zoning district.

Banks and financial establishments. Groups I and II

Business services. Groups I and II

Cleaning and maintenance services (no repairs)

Clothing stores, general

Contractors and builders. Groups I and II

Cultural facilities. EXCEPT: animal or reptile exhibits; aquariums; botanical or zoological gardens; planetarium or zoos

Essential services. See the definition in section 34-2.

Essential Service Facilities Group I

Food stores. Group I and II

Health care facilities. Groups I, II, III, and IV

Hobby, toy and game shops

Household and office furnishings. Groups I, II, and III

Insurance companies

Laundry or dry cleaning. Groups I and II

Measuring, analyzing and controlling instruments, manufacturing

Novelties, jewelry, toys and signs, manufacturing. Groups I, II, and III

Nonstore retailers. Groups I and II

Parks. Groups I and II, EXCEPT:

GROUP I: beach access; beaches; fishing piers or highway rest stops

GROUP : arenas; boat ramps; civic center; fairgrounds; stadiums or State or Federal parks

Personal services. Groups I, II, III, and IV

Rental or leasing establishments (section 34-1352, section 34-3151 and article VII, division 36). Groups I, II, III, and IV

Repair shops. Groups I, II, III, IV and V

Research and development laboratories. Groups I, II, III, and IV

Restaurants. Groups I, II, III, and IV

Schools, commercial

Social services. Groups I, II, III, and IV

Specialty retail shops. Groups I, II, III, and IV

Studios.

Used merchandise stores. Groups I, II, III, and IV, EXCEPT:

GROUP III automotive (not junkyard or auto wrecking yard): automobile accessories and parts; batteries, automotive and tire (automobile) dealers.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1262. Accessory uses.

Accessory uses consist of decks, patios, swimming pools, gazebos, sheds and other outbuildings throughout all areas of Page Park Community Overlay District. Accessory Uses are governed by the following requirements and Chapter 34.

Gazebos, Sheds and other Outbuildings.

(1) The design of any gazebo, shed or other outbuilding must be architecturally compatible in terms of design, scale, proportion, color, finish, and details with the principal building.

(2) Temporary outside storage units must comply with section 34-3050

(Ord. No. 10-32 , § 1, 9-14-10)

Secs. 33-1263—33-1279. Reserved.

Subdivision II. Architectural

Sec. 33-1280. Applicability.

Architectural design of all commercial, public, and mixed-use buildings within the Page Park Community must comply with this subdivision.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1281. Architectural style.

The required architectural style in the Page Park Community is that of a Main Street, as defined in section 33-1205. (see Figures 1 through 6, 10 and 13 through 17).

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1282. Exterior building materials.

Traditional building materials, such as masonry, stone, brick, decoratively treated concrete composite siding or wood, must be used as the predominant exterior building materials for all new construction, renovations and additions. Plain concrete block, plain concrete, corrugated metal, plywood, and vinyl siding and sheet pressboard may only be used as secondary exterior finish materials, provided they cover no more than ten percent of the surface area. In addition to the aforementioned ten percent, foundation material may be plain concrete or plain concrete block when the foundation material does not extend more than three feet above grade.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1283. Façade treatment.

(a) In addition to the requirements of section 10-620(c), façades must be divided into smaller scale widths not exceeding more than 50 feet in width. Façades must incorporate the rhythm of window, door and door openings, and structural bay of a Main Street looking building.

(b) Methods for providing architectural relief of blank façades must include three or more of the following:

(1) Recessed or clearly defined entryways;

(2) Varying rooflines, pitches and shapes;

(3) Dormers, balconies, porches and staircases;

(4) Transparent window or door areas or display windows that provide visibility into the building interior;

(5) Overhangs, awnings and marquees;

(6) Building ornamentation and varying building materials, colors, decorative tiles, edifice detail such as trellises, false windows or recessed panels reminiscent of window, door or colonnade openings and wall murals;

(7) Shrubs or vines trained to grow upright on wire or trellises next to blank walls;

(8) Architectural features such as cornices, articulated roof parapets or other details that alter the building height; or

(9) Application of a contrasting base that is a minimum one-foot high and extends along the entire front face of the building that is adjacent to the right-of-way, and at least ten feet along the sides façades of the building that are perpendicular to the right-of-way.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1284. Roofs.

(a) The roof may contain features such as dormers, widow's walks and chimneys.

(b) The size, color, and patterns of the roofing material must contribute to the building's overall character.

(c) A dormer addition must be in scale and harmony with the existing building and have a roof consistent with that of the existing structure and windows of the same design as the existing structure.

(d) Flat roofs are prohibited on all buildings unless they incorporate a parapet located along the entire perimeter of the flat roof area.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1285. Entrances, porches and doors.

(a) The main entrance of the structure must be oriented toward the street on which the structure fronts. On a corner lot or site, the main entrance may be oriented to either street or the corner. The main public entrance may not open directly onto a parking lot. Overhead doors facing a street are prohibited.

(b) A porch on an existing structure, which contributes to the character of the structure, must not be removed. If a porch is to be enclosed, it must be done in a manner consistent with the style and materials of the existing structure.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1286. Uses of lattice.

(a) On elevated structures, either existing or new, the space between the floor of the structure and the ground must be screened with lattice between supports of the structure or the space may be enclosed with wood or concrete block. This will particularly apply to existing single-family homes that are converting to a mixed-use building or live-work unit.

(b) Only one type of lattice may be used for each structure. Lattice may be either wood or plastic. If wood, the lattice must be a minimum of one-quarter-inch thick and pressure-treated. Posts on which the lattice is to be mounted must be set not more than four feet on center.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1287. Window treatment.

(a) Display windows at the street level around the exterior of commercial and mixed-use buildings must include windowsills and ledges (see Figure 13). Windows must not appear to be false and applied. In addition, all windows:

(1) Must be consistent with the Page Park architectural style of Main Street;

(2) Must be divided light multi-paned windows and doors, where applicable;

(3) Must be energy efficient clear or tinted glass;

(4) Must have designs that are simple, well-proportioned and appropriate to the overall architectural character of the building;

(5) Must use interior and well concealed security gratings, when gratings are necessary; and

(6) May contain planter boxes.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1288. Shutters.

In lieu of hurricane rated impact windows, hurricane shutters or panels must be architecturally compatible with the building. Rolldown shutters may be utilized on commercial buildings so as to allow concealment of the overhead casing. Accordion shutters may be utilized on existing commercial buildings only if the stacked shutter is not visible to pedestrians on the sidewalk passing by the commercial building. Removable storm panels may be utilized in lieu of rolldown or accordion shutters when storm panels are not feasible or are inappropriate. Panels must be removed and stored except during a storm. Tracks for removable panels must be painted to match the wall.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1289. Awnings

(a) All awnings must be made from canvas fabric or similar water-proof material, rather than metal, aluminum, plastic, or rigid fiberglass. However, awnings that are a permanent part of the building architecture may be constructed of metal, wood, or other traditional building materials where they will add diversity and interest to the façade, and only if the design and materials are consistent with the overall design of the building.

(b) Standard street level awnings must be mounted so that the valance is at least eight feet above the sidewalk elevation and projects out no more than four feet from the building, but may not project into the right-of-way.

(c) Awnings must be attached above the display window and below the cornice. An awning must complement the frame of the storefront and must not cover the space between the second story windowsills and the storefront cornice.

(d) If a flat canopy exists, it may be dressed up with a 12-inch to 24-inch awning valance. Round or dome-shaped awnings must be compatible with the structures on which they are to be placed and must be in proportion to the entryway.

(e) Awnings used as vehicle shelters are prohibited.

(f) All awnings must be attached directly to the building, rather than supported by columns or poles.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1290. Building color.

(a) Colors for structures must be neutral, warm earth tones or subdued pastels. Buildings may use brightly colored trims, cornices, or columns; however, these contrasts must complement the principal structure as well as existing surrounding structures.

(b) Brighter colors may be utilized on doors, windows and architectural details. Contrasting accent colors of any wall, awning or other feature are limited to not more than ten percent of the total area for any single façade.

(c) Neon and fluorescent colors are prohibited. The use of black paint is limited to trim.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1291. Ramps.

Ramps, where required, must be concealed with landscaping and must blend with the scale and architectural features of the building. Ramps for the purpose of compliance with ADA must be clearly marked with proper signage to denote their presence.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1292. Multiple-occupancy buildings.

For multiple-occupancy buildings, roof parapets must be varied in depth and height. Roof parapets must be articulated to provide visual diversity. Parapets must include architectural relief or features at least every 50 feet. The minimum height of the architectural features must be one foot, and may be provided in height offset or façade projections such as porticoes or towers.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1293. Street furniture and public amenities.

Developments must provide street furniture and other pedestrian amenities in their design per the requirements of section 33-1259. All accessories such as railings, trash receptacles, street furniture and bicycle racks must complement the building design and style.

(Ord. No. 10-32 , § 1, 9-14-10)

Secs. 33-1294—33-1309. Reserved.

Subdivision III. Landscaping

Sec. 33-1310. Landscaping buffers tables

All landscape buffers must comply with section 10-416, Landscape Standards. However, in lieu of sections 10-416(d)(3) and 10-416(d)(4), the tables below must be used. In addition, section 10-416(d)(6) will not apply to the Page Park Community.

TABLE 33-1310. LANDSCAPE BUFFERS - TABLE 1

Table 1	Existing Use								
	Use	SFR	MFR	COM	IND	ROW	REC	WOR	Live-work
Proposed Use	SFR	—	—	—	—	—	—	—	—
	MU	A	—	—	—	B	A	A	—-
	COM	B	—	—	B	B	A	—-	A
	WOR	B	—	—	—	A	—-	—-	—-
	REC	A	—	—	—	A	—-	—-	—-
	Live-Work	A	—	—	A	A	A	A	—-

	IND	C	C	B	—	B	C	C	B
	MFR	B	—	—	—	B	A	A	—-

Notes:
SFR = Single-family residential
WOR = House of worship
MFR = Multiple-family residential
ROW - Public Right-of-way
COM = Commercial
REC = Recreation and parks
IND = Industrial
MU = Mixed Use

TABLE 33-1310. LANDSCAPE BUFFERS - TABLE 2

Table 2	Landscape Buffer Criteria			Special Notes or Regulations
Buffer types	A	B	C	Note (1)
Minimum width	5 feet	10 feet	15 feet	Notes (5), (6)
Minimum number of trees per 100 feet	4	5	10	Note (4)
Minimum number of shrubs per 100 feet	20	Hedge - 3 feet	Hedge - 3 feet	Note (3)
Wall/fence required	—	—	6 feet high	Note (2)

Notes:

(1) All landscape buffer designs should complement adjacent project buffers to help aid in establishing a continuous landscape theme within the Page Park Community.

(2) A solid wall, fence, berm, or wall/fence and berm combination, may not be less than six feet in height.

a. All trees and shrubs required in the buffer must be placed on the exterior side of the wall.

b. The height of the wall will be measured from the finished grade of the project or finished floor of the building.

c. Walls must be constructed to ensure that historic flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.

d. Walls, berms and buffer plantings may not be placed so as to violate the vehicle visibility requirements of section 34-3131.

(3) Hedges must be planted in double staggered rows and must be maintained so as to form a 36-inch high (C type buffers must be 36 inches at installation and be maintained at 60 inches high) continuous visual screen within two years after the time of planting. In situations where the elevation of the right-of-way is higher than the elevation of the adjacent property, the effective plant screen must have an elevation of 36 inches as measured from the highest elevation within the buffer area resulting from the combination of the berm and/or plants. Clustering of shrubs that does not create a continuous visual screen, but adds interest to the landscape design, may be allowed per section 10-419, the Alternate Landscape Betterment Plan (ALBP).

(4) Trees within the right-of-way buffer must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms within the right-of-way buffer will add design flexibility and reduce conflicts.

(5) No structures, off street parking or loading may be located within any buffer.

(6) For developments with a zero-foot building setback, the landscape buffer may be eliminated for just that portion of the site with the zero-foot setback.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1311. Plant materials.

In addition to sections 10-420(a)-(l) and 10-421, the following must apply:

(a) Palms used in buffers must be clustered not less than four feet nor more than eight feet apart. Not more than 50 percent of the required trees for a given buffer along its length may be in palms. Palms must be planted in staggered heights with a minimum of three palms per cluster. Clustered palms may not exceed a six-foot on-center spacing. The use of single palms is permitted if they are either royal palms or bismarck palms; and the use of palms does not constitute more than 50 percent of the total required tree count within a given buffer.

(b) Palms used to meet the required tree count for buffers may be used on a 2:1 basis. Cabbage palms may be used on a 3:1 basis for canopy trees when planted in clusters. Palms may be used to meet the general tree requirements if they do not constitute more than 50 percent of the required tree count.

(c) Straight, evenly spaced planting or "soldiering" of cabbage palms in buffers is prohibited.

(d) All required trees must be a minimum six- to seven-foot planted height, two-foot spread and one-inch caliper at measured at 12 inches above ground at the time of planting, and must consist of at least three different tree species. Palms must have a minimum of ten feet of clear trunk.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1312. Landscape design.

(a) Developments must provide separation between pedestrian and vehicular movement by using both hardscape and landscape features, including:

(1) Distinctive paving or painting to define the appropriate location for pedestrian and vehicular traffic;

(2) Plantings such as street trees, hedges and screening;

(3) Replicating landscaping patterns and materials to visually unify a development and creating focal points through design diversification;

(4) Plant materials must be suited to the climate and, at their mature, natural size, be suitable for their planting location; and

(5) Selecting trees for parking lots and sidewalk areas that do not interfere with the visibility and movement of vehicles or pedestrians, or cause pavement or other hard surfaces to heave. Material selection must be designed to survive the effects of building or large paved areas (in terms of heat, shade, wind, etc.).

(b) Not more than ten percent of the required internal landscape area, as related to the vehicular use area identified in section 10-416, may be planted in sod.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1313. Tree preservation.

(a) In an effort to preserve open spaces and native vegetative communities, development must be clustered to preserve or create areas of open space. Existing native vegetation must be preserved as follows:

(1) Preservation of indigenous tree clusters is preferred over individual tree protection. Reasonable efforts to retain individual trees must be made. It is recognized that site design requirements (e.g. fill) may limit the ability to retain some individual trees, and in that case the county will allow the removal of those trees.

(2) Healthy cabbage palms with eight-foot clear trunk must be relocated in a horticulturally correct manner and clustered within open space areas.

(3) Native trees (four- to 15-inch caliper dbh) may be relocated to open space areas when proper horticultural methods (e.g. root pruning; use of anti-transpirants) are utilized to insure the survivability of the trees, and a vegetation removal permit is obtained.

(4) Effort must be made to preserve heritage trees with at least a 20-inch caliper dbh, including but not limited to live oak, South Florida slash pine, or longleaf pine. If a heritage tree must be removed from a site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.

(5) Native tree preservation must incorporate techniques as established in section 10-420(j).

(6) Surface water management systems may overlap with native tree preservation areas only where it can be clearly demonstrated that the effects of water management system construction or operation will not cause death or harm to the preserved tree and indigenous plant community of protected species.

(b) Infrastructure design must integrate existing trees and the natural character of the land to the greatest extent feasible.

(Ord. No. 10-32 , § 1, 9-14-10)

Secs. 33-1314—33-1329. Reserved.

Subdivision IV. Signs

Sec. 33-1330. Purpose.

The purpose and intent of this subdivision is to modify and supplement Chapter 30 in order to protect and preserve the character and appearance of the Page Park Community.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1331. Applicability.

This subdivision is adopted in addition to the general sign regulations set forth in Chapter 30.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1332. Prohibited signs.

The following types of signs are prohibited within the Page Park Community:

(1) Animated signs.

(2) Emitting signs.

(3) Balloons, including all inflatable air signs or other temporary signs that are inflated with air, helium or other gaseous elements.

(4) Banners, pennants or other flying paraphernalia, except an official federal, state or county flag, and one symbolic flag not to exceed 15 square feet in area for each institution or business.

(5) Changing signs (automatic), including electronic changing message centers.

(6) Figure-structured signs.

(7) Pole signs/freestanding.

(8) Pylon signs.

(9) Box signs. (See section 33-1205.)

(10) Off-site directional signs.

(11) Temporary signs, EXCEPT, for the following which must comply with section 30-151

a. Special occasion signs;

b. Real estate signs;

c. Residential construction signs; or

d. Political or campaign signs.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1333. Permanent signs.

(a) *Identification sign.* A nonresidential or mixed-use parcel will be permitted one monument-style identification sign along any street that provides direct access to the property in accordance with section 30-153

(1) One square foot of sign per face may be permitted for every two linear feet of street frontage, provided the height of the sign may not exceed seven feet.

(2) No sign may exceed 50 square feet for copy area per sign face. A minimum of 25 percent of the area must be devoted to architectural features. The overall total area may be increased a maximum of five percent, provided the additional area is devoted to architectural features, with the following exception:

Allowable size for multiple occupancy buildings will be as follows:

a. *Two tenants or less:* Consistent with section 33-1333(a)(1) and (2);

b. *Three to six tenants:* Consistent with section 33-1333(a)(1) and (2), plus 15 percent;

c. *Six tenants or more:* Consistent with section 33-1333(a)(1) and (2), plus 20 percent.

(3) *Lighting.*

a. *Permissible lighting.* Except as provided in section 30-153(2)a.1.iv., the monument style identification sign may be illuminated by:

1. Individual internally illuminated letters and logo on an unlit background;

2. Reverse channel-lit signage;

3. A combination of 1. and 2., above; or

4. Edge-lit letters using concealed neon or remotely lit fiber optics.

b. *Prohibited lighting.* Monument-style identification signs may not be animated or illuminated by:

1. A visible source of external lighting;

2. Exposed neon; or

3. Exposed raceways.

c. All electrical connections, wiring, etc., must be concealed.

d. All sign lighting must be shielded to prevent light bleed.

(4) Except as provided herein, monument-style identification signs must be set back a minimum of 15 feet from any street right-of-way or easement, and ten feet from any other property line. Exception: Where the building is within 15 feet of the street right-of-

way or road easement the sign may be placed closer than 15 feet to the right-of-way or easement provided it does not project over any right-of-way or easement, the height may not exceed seven feet and the sign may not be located within ten feet of any overhead power line or electrical supply line.

(5) All monument-style identification signs must display the street address of the property. Street numbers must measure between a minimum of six inches and a maximum of eight inches, in height. The copy area of the street address will not be counted toward the allowable sign copy area.

(6) Signs must match the architectural style of the building or development.

(b) *Individual occupants within multiple-occupancy complex.* Individual offices, or business establishments located within a multiple-occupancy complex will not be permitted individual ground-mounted identification signs, but may display wall-mounted or under-canopy signs.

(1) *Under-canopy signs.* Signs attached to the underside of a canopy may have a copy area no greater than four square feet, with a maximum letter height of six inches, subject to a minimum clearance height of eight feet from the sidewalk, and must be mounted as nearly as possible at a right angle to the building face and rigidly attached.

(2) *Wall-mounted signs.* Wall-mounted signs are permitted on any wall facing Danley Drive, Center Road, South Road or a parking lot in accordance with section 30-153(2)(c)1., provided that the total sign area of the wall sign and any attached canopy sign does not exceed 15 percent of the wall area, only if there is no other signage. If there are other signs, wall signs may not exceed ten percent of the wall area.

(Ord. No. 10-32 , § 1, 9-14-10)

Secs. 33-1334—33-1349. Reserved.

DIVISION 3. SPECIFIC USE STANDARDS

Subdivision I. - Mixed-Use Standards

Subdivision I. Mixed-Use Standards

Sec. 33-1350. Applicability.

The following regulations apply to the dimensional requirements, access, and permitted uses for new mixed-use developments, as defined in section 33-1205.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12)

Secs. 33-1351, 33-1352. Reserved.

Editor's note—

Ord. No. 12-19, § 2, adopted Sept. 11, 2012, repealed §§ 33-1351 and 33-1352 which pertained to purpose and intent and derived from Ord. No. 10-32, § 1, adopted Sept. 14, 2010.

Sec. 33-1353. Mixed-use property development regulations table.

Setbacks for mixed-use property development are shown in the table below. With the exception of the setbacks set forth in the below, the property development regulations in sections 34-695 and 34-845 will otherwise apply.

TABLE 33-1353. MIXED-USE PROPERTY DEVELOPMENT REGULATIONS

	Minimum	Maximum	Notes
Minimum lot area	6,000 sf	—	Live-work units only
Minimum lot width	70 feet	—	Live-work units only
Maximum Height*	—	5 stories/60 feet	Mixed-use only
Setbacks	—	—	section 2191, et seq.
Front street	0 feet	25 feet	section 33-1251(a)
Side street	15 feet	—	section 33-1251(c)
Side yard	0 feet	—	section 33-1251(b) & (d)
Rear yard	15 feet	—	section 33-1251(b)
Waterbody	25 feet	—	—

* Unless restricted by Section 34-1004, Flight Obstruction Surfaces

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1354. Dimensional requirements for mixed-use projects greater than 20,000 square feet.

(a) *Developments of more than 20,000 square feet.* There is no minimum size for buildings within the mixed-use overlay district. However, within the mixed-use overlay district, nonresidential developments with more than 20,000 square feet of leasable floor area are considered mixed-use neighborhood centers and are subject to the rights of and conditions for mixed-use neighborhood centers.

(b) *Maximum nonresidential floor area.* No more than 40,000 square feet of nonresidential floor space is permitted within any mixed-use neighborhood center.

(c) *Maximum nonresidential floor area in any one business.* No more than 15,000 square feet may be contained in any one business located within a mixed-use neighborhood center.

(d) *Dimensional requirements for permitted nonresidential uses.* All principal and accessory structures must be located and constructed in accordance with the following requirements:

(1) *Required yard setbacks:*

a. *Minimum front:* Zero feet.

b. *Maximum front:* 50 feet.

c. Where the side or rear yard abuts property which is an existing residential unit, the minimum setback must be 50 feet or the distance created by the 45 degree angle of sunlight obstruction, whichever is greater. (see Figure 7)

(2) *Maximum lot coverage:* 70 percent for mixed-use (inclusive of residential) or compound use.

(3) *Maximum building height:* Five stories/60 feet.

(e) *Vehicular access.* Access to the mixed-use neighborhood center must be in accordance with the provisions of section 33-1255(d). Parking areas, including maneuvering space, ingress and egress roads and driving lanes, must be improved in accordance with the provisions of section 33-1255(d). All loading and unloading must be done in designated areas within the mixed-use neighborhood center property. Areas used by motor vehicles must be aesthetically screened from public streets by landscaped buffer areas.

(f) *Bicycle and pedestrian access.* Provisions must be made to safely incorporate travel ways for bicycle and pedestrian usage into any mixed-use neighborhood center project. Where bikeways or sidewalks are presently adjoining the property, provisions must be made to safely link the internal bicycle and pedestrian system with adjoining facilities.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1355. Dimensional requirements for mixed-use projects less than 20,000 square feet.

(1) *Setbacks:*

a. *Front:* The front setback must be no deeper than the approximate average setback of existing development in the same block face, and within zero to 50 feet.

b. Where the side or rear yard abuts property which has an existing residential unit, the minimum side setback must be 15 feet or the distance created by the 60-degree angle of light obstruction, whichever is greater, and 25 feet to the rear or the distance created by the 60-degree angle of light obstruction, whichever is greater. (see Figure 8)

c. Where the property abuts a side street, the minimum setback from that street must be 15 feet.

d. Where a nonresidential use is adjacent to a nonresidential use no side yard setback is required.

(2) Accessory structures may not exceed 25 feet in height.

(3) *Maximum lot coverage:* 50 percent for single-purpose, nonresidential; 60 percent for mixed-use (inclusive of residential) or compound use.

(4) *Maximum building height:* Five stories/60 feet.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1356. Access.

Access must be designed to integrate all aspects of the development and must meet the requirements of section 33-1255(d). The use of shared access and parking is encouraged.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1357. Permitted uses.

The following uses may be approved through the administrative process set forth in section 33-1202(b) in the mixed use areas of the Page Park Community Overlay District (as depicted in Appendix I, Map 6). These uses are in addition to uses permitted in the underlying zoning district.

ATM, in conjunction with a permitted use

Banks and financial establishments. Groups I and II

Business services. Groups I and II, EXCEPT:

GROUP I. bail bonding; blood banks; blood donor stations; check exchanges; collection agencies; detective agencies and protective services, but not including armored car or animal (guard dog) rental; oxygen tent services and personal investigation services.

GROUP II. armored car services; automobile claims adjusters, excluding impound yards; automobile repossessing services, excluding impound yards; pest control (exterminators) and swimming pool cleaning and maintenance services.

Cleaning and maintenance services (no repairs)

Clothing stores, general.

Cultural facilities. EXCEPT: animal or reptile exhibits; aquariums; botanical or zoological gardens; planetarium or zoos

Dwelling unit - all types

Essential services. See the definition in section 34-2.

Food stores. Groups I and II

Health care facilities. Groups I, II, III and IV

Hobby, toy and game shops.

Home occupation

Household and office furnishings. Groups I, II and III, EXCEPT:

GROUP I: air conditioners; appliances; awnings and awning products; beds, mattresses and bed springs; cabinets; carpets and rugs; floor tile; freezers, household furniture; garbage disposals; kitchen sinks, cabinets and counters; and linoleum

Insurance companies.

Laundry or dry cleaning. Group I

Measuring, analyzing and controlling instruments, manufacturing.

Novelties, jewelry, toys and signs, manufacturing. Groups I, II and III

Nonstore retailers. Group I only.

Parks. Groups I and II, EXCEPT:

GROUP I: beach access; beaches; fishing piers; highway rest stops.

GROUP II: arenas; boat ramps; civic center; fairgrounds; stadiums; state or federal parks.

Personal services. Groups I, II, III, IV, and V, EXCEPT:

GROUP I: ATMs (automatic teller machines); coin-operated laundries wherein coin-operated or other facilities are provided for self-service laundering or dry cleaning; laundromats; laundry agents wherein the establishment may do its own pressing and finish work but the laundering or dry cleaning is performed elsewhere.

GROUP IV: dating services; debt counseling or adjustment service to individuals; escort services; palm readers, fortunetellers or card readers; or tattoo parlors.

Rental or leasing establishments (section 34-1352, section 34-3151 and article VII, division 36). Groups II, III, and IV

Repair shops. Groups I and II

Research and development laboratories. Groups I, II, III and IV, EXCEPT:

GROUP II: bacteriological laboratories (not manufacturing); biological laboratories (not manufacturing); chemists, biological laboratories of (not manufacturing); Medical laboratories (clinical) and pathological laboratories

Restaurants. Groups I, II, III and IV

Residential accessory uses (article VII, division 2).

Schools, commercial.

Social services. Groups I, II, III and IV, EXCEPT:

GROUP II: offender rehabilitation agencies; offender self-help organizations; self-help organizations, e.g., Alcoholics Anonymous and Gamblers Anonymous

Specialty retail shops. Groups I, II, III and IV

Studios.

Used merchandise stores. Groups I, II, III and IV, EXCEPT:

GROUP I: pawnshops; phonograph and phonograph record stores and secondhand stores

GROUP III. automotive (not junkyard or auto wrecking yard): automobile accessories and parts; batteries, automotive; tire (automobile) dealers.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1358. Specific conditions for multiple-family residences.

Multiple-family housing may be in the form of townhouses, apartments, villas, condos, or similar configuration. Business and office uses may occupy a building used for residential purposes, provided that:

(a) No business or office use may be permitted on the same floor that is used for residential purposes, except in conjunction with a home occupation.

(b) No floor may be used in whole or in part for business or office use on a floor located above a floor used for residential purposes.

(c) Where there are non-residential and residential uses in a building, the residential uses must be provided with separate, private entrances.

(d) Minimum open space: 30 percent of net parcel area (the land area minus the buildings and parking), at least 50 percent of which must be usable recreation area.

(e) Multiple-family development must comply with all regulations in the section 34-715, Multiple-family Residential.

(f) Live-Work units are exempt from the provisions listed in this section.

(Ord. No. 10-32 , § 1, 9-14-10)

Sec. 33-1359. Live-work units.

(a) Live-work units are permitted in mixed-use districts by administrative approval of a Site Plan in accordance with section 33-1202(b).

(b) Uses in live-work units are governed by the zoning district or as approved pursuant to section 33-1357

(c) Where permitted, live-work units located at street level are subject to the development standards for ground-floor retail or commercial establishments as follows, and any additional standards for ground-floor commercial establishments provided in section 33-1355(d) herein:

(1) A minimum of 80 percent of a structure's street front façade at street level must be occupied by nonresidential uses.

(2) Within each live-work unit, the working area must not exceed 50 percent of the total floor area of the unit.

(d) Up to 50 percent of the total floor area may be used for commercial or office uses. Such uses will require a minimum lot size of 6,000 square feet and a lot width of 70 feet.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1360. Business license required.

At least one resident in each live-work unit must maintain a valid County Local Business Tax receipt (formerly occupational license) for the business on the premises. Proof of payment of the annual Local Business Tax will be required to be submitted to the Department of Community Development annually.

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 11-08 , § 9, 8-9-11)

Sec. 33-1361. Live-work unit parking.

Off-street parking for a live-work unit is determined by the number of spaces required for the non-residential use based on the square footage of the work space. The multiple-use development parking standard (see section 34-2020(b)) will be used to determine the minimum number of spaces required for each live-work unit. The minimum number of required parking spaces may be reduced up to 50 percent if a parking demand study that supports the reduction is provided pursuant to section 34-2020(c)(6) and administrative approval is obtained pursuant to section 34-2020(e).

(Ord. No. 10-32 , § 1, 9-14-10; Ord. No. 12-20 , § 3, 9-11-12)

Figure 1

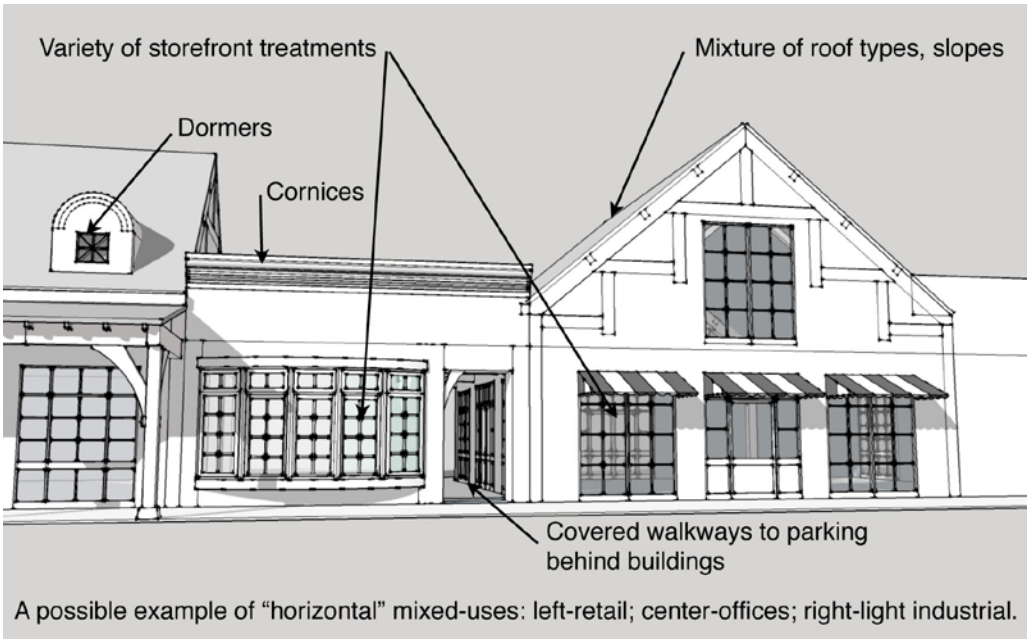
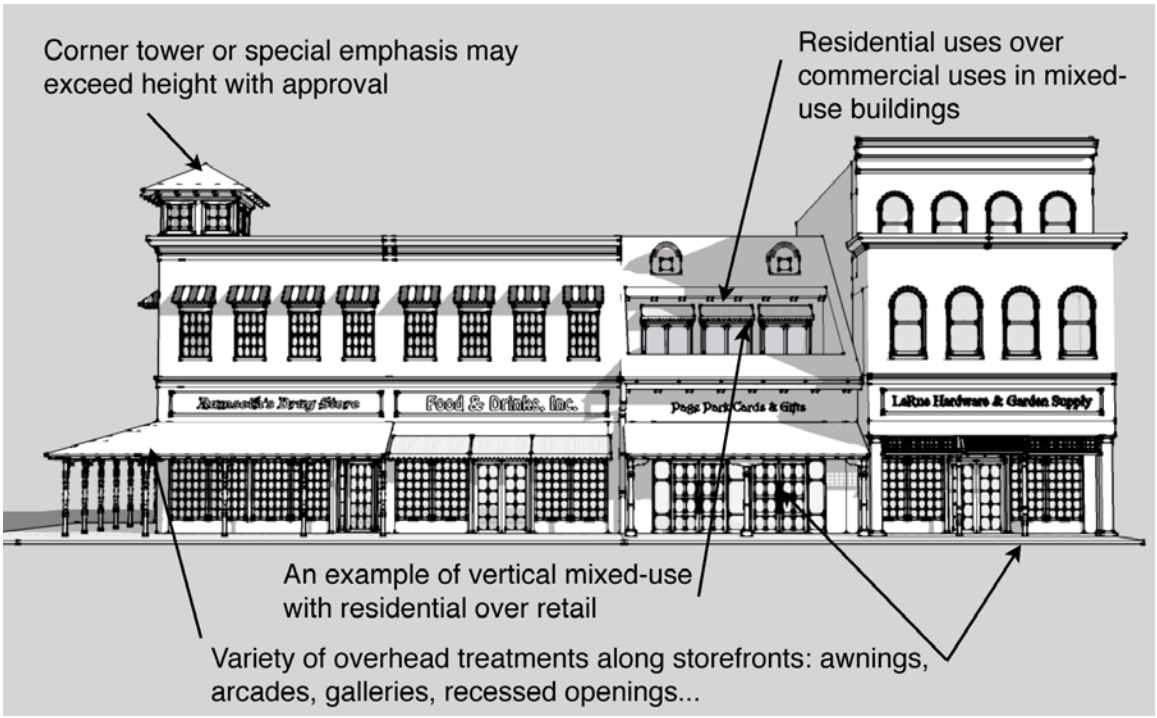


Figure 2



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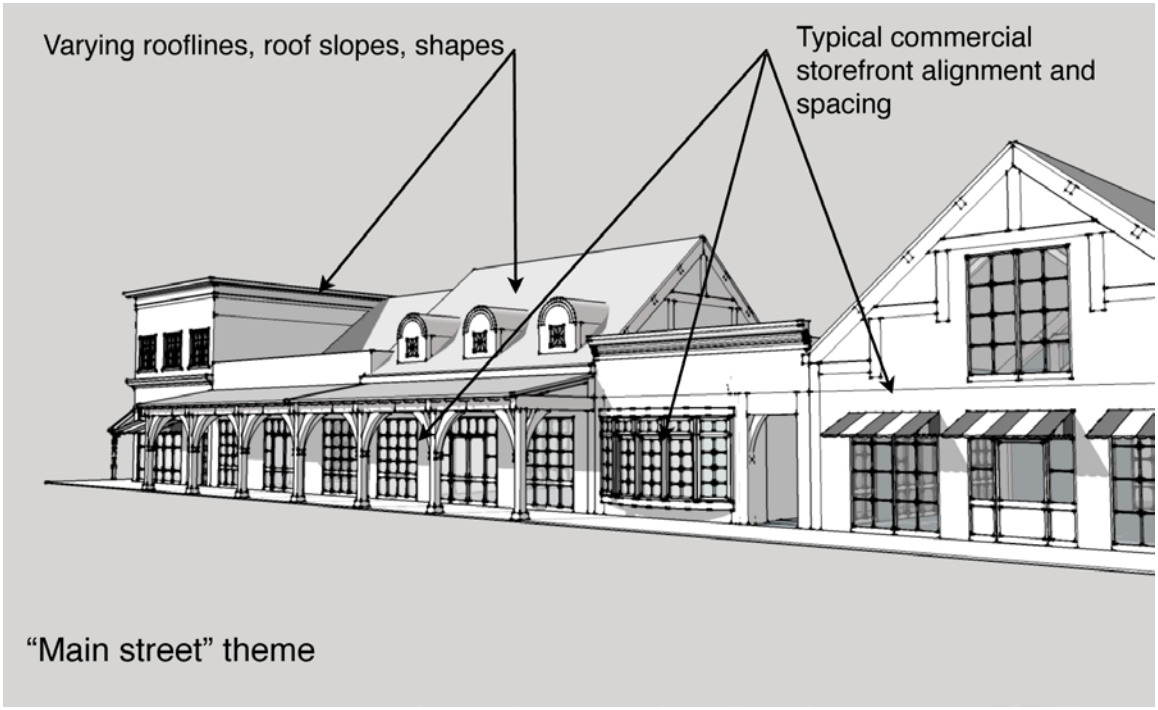

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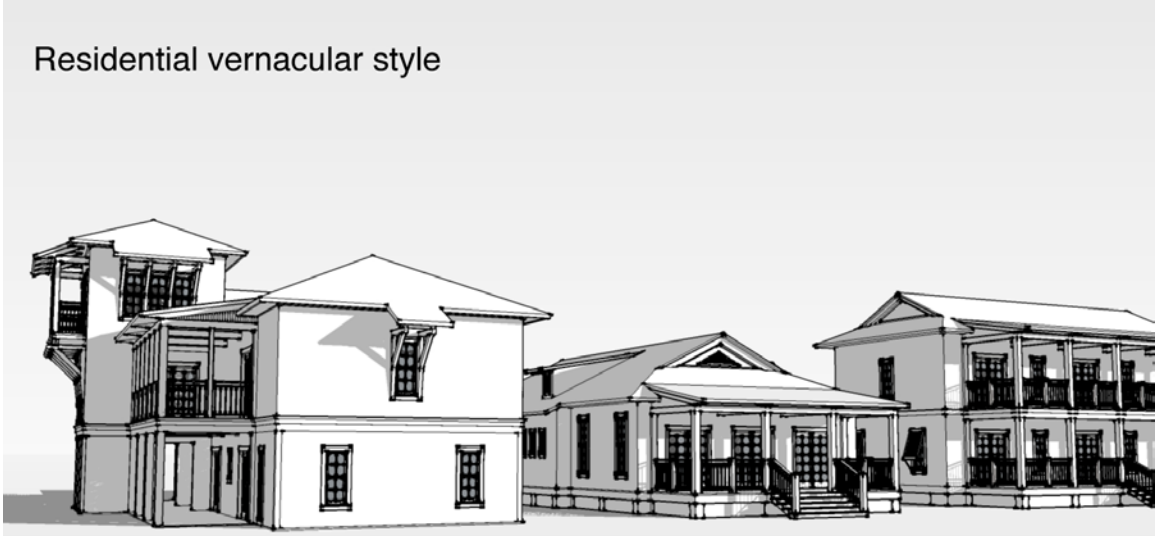

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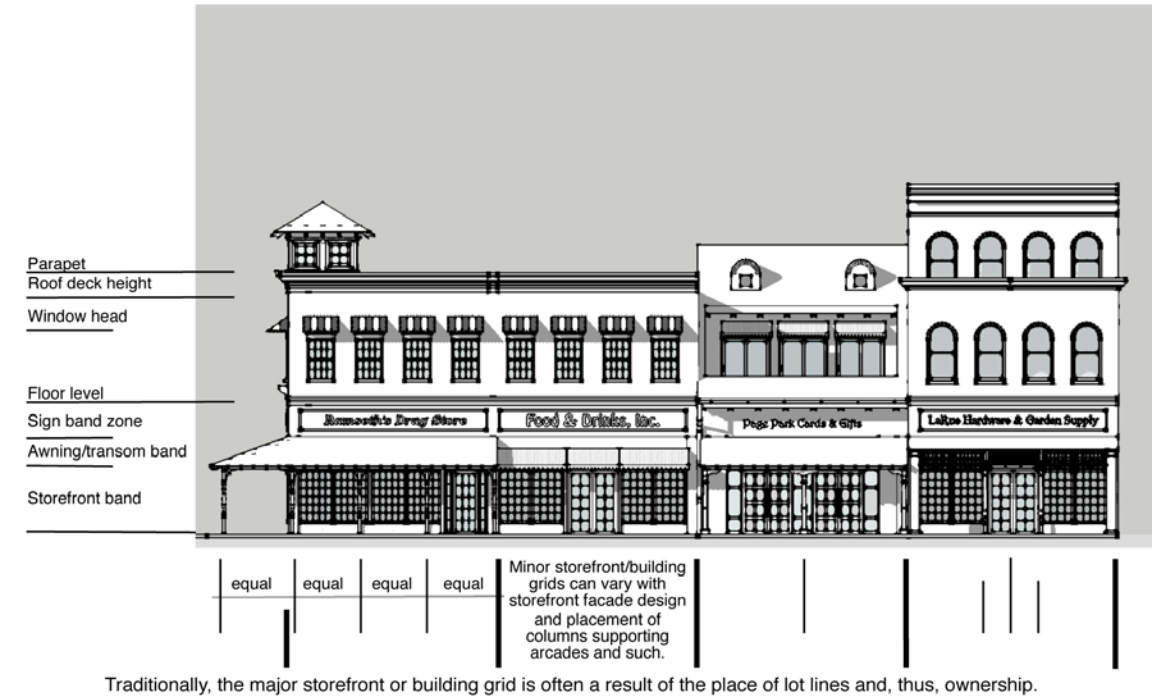

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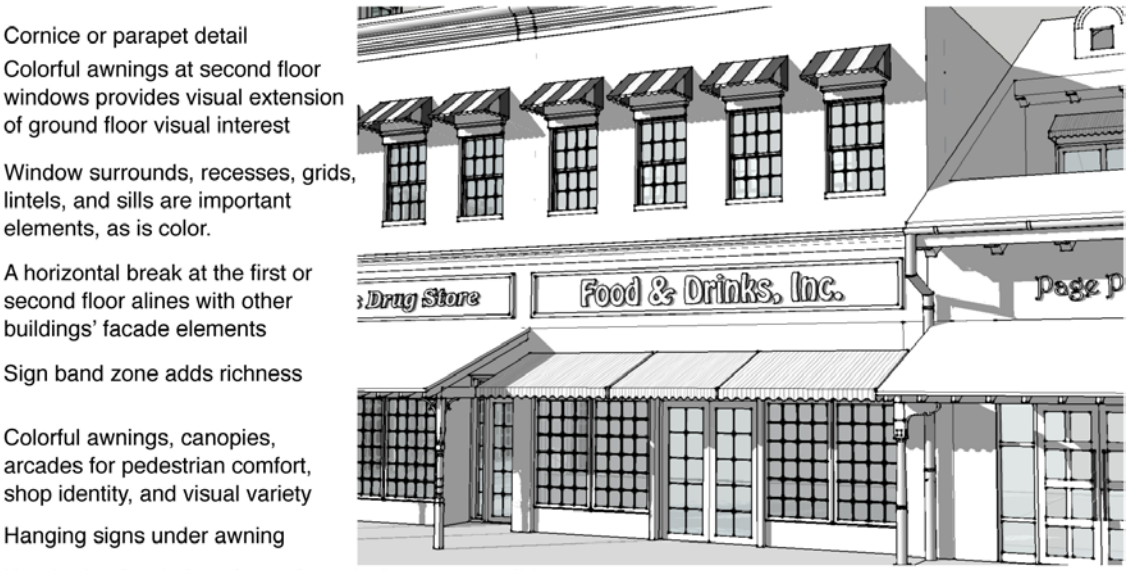

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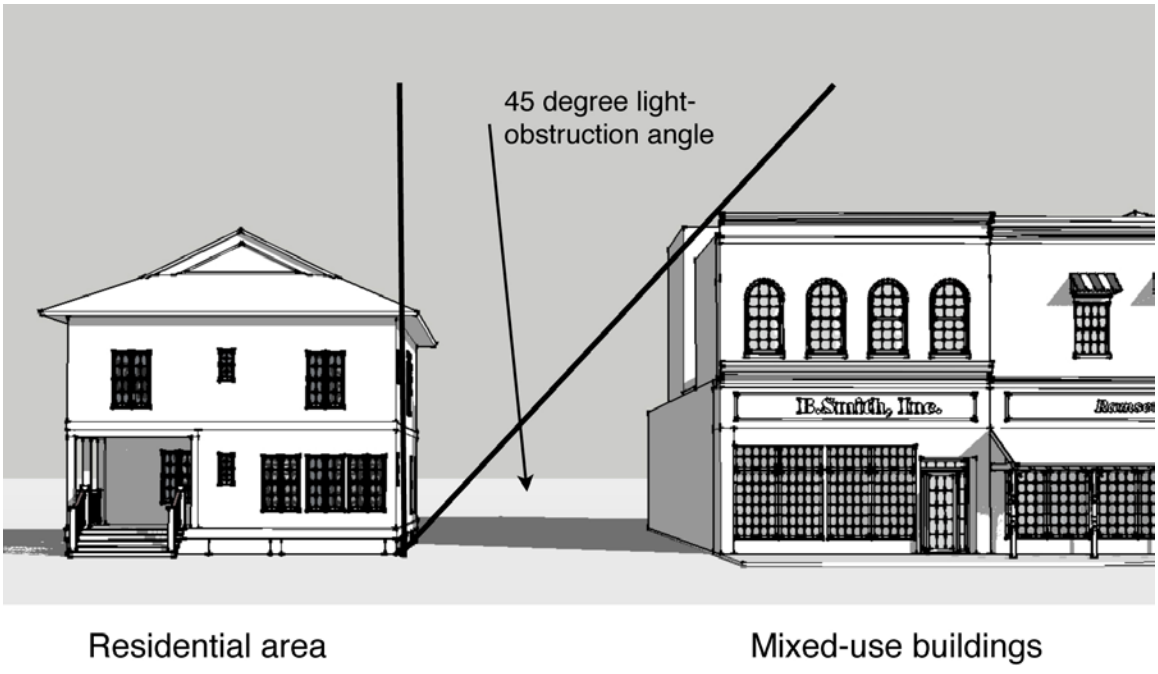

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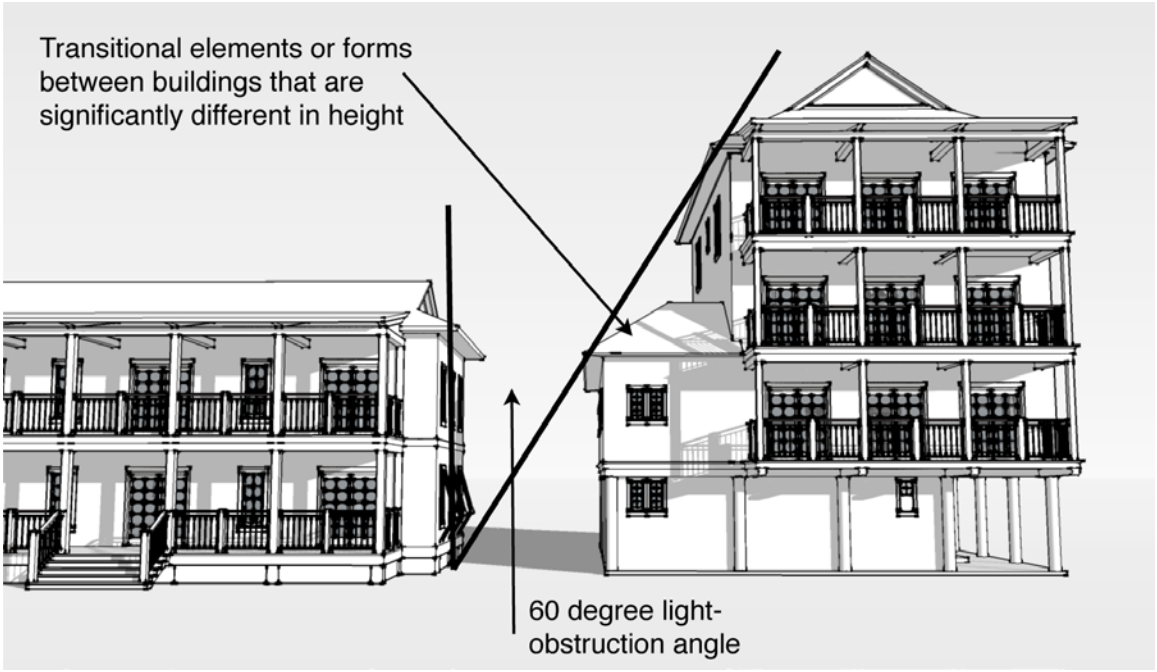

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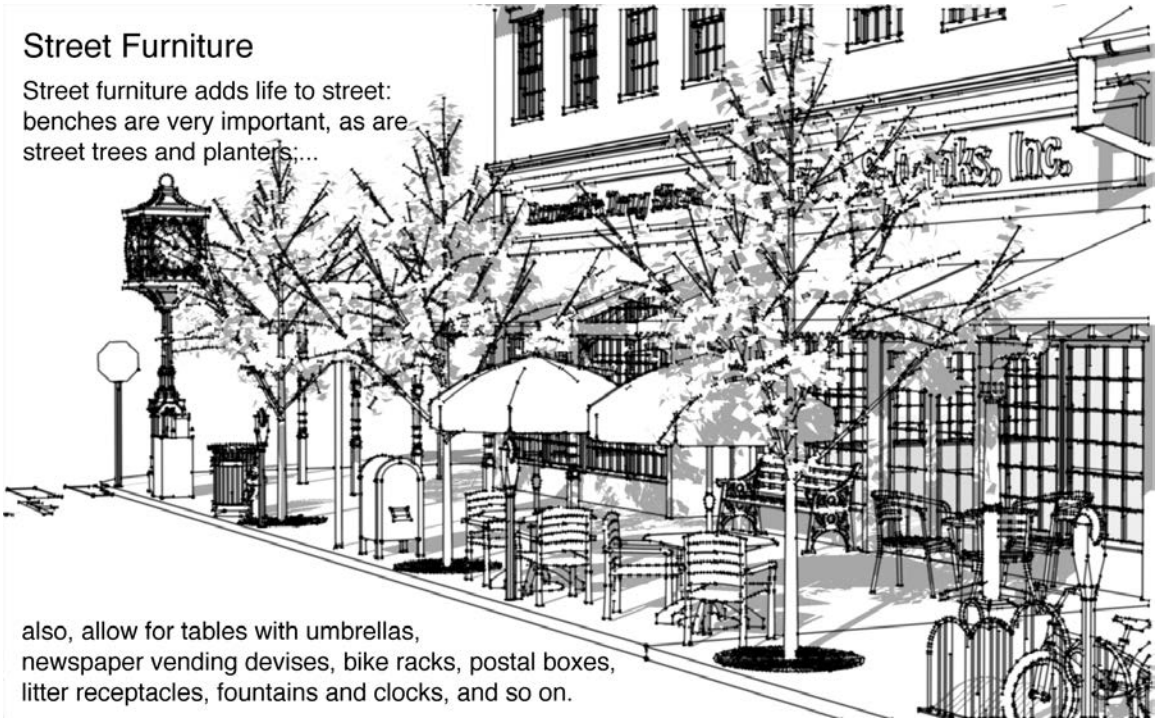


Figure 10


Details are important
Cornice line (possible alignment with adjacent
Windows (note verticality and spacing and alignment)
Note recessed doorway
Retail cornice band
Sign band
Details are important
Storefront elements:
Transom (and awning) zone
Storefront vision zone (must be transparent glass)
Kick-plate (optional)

Figure 11

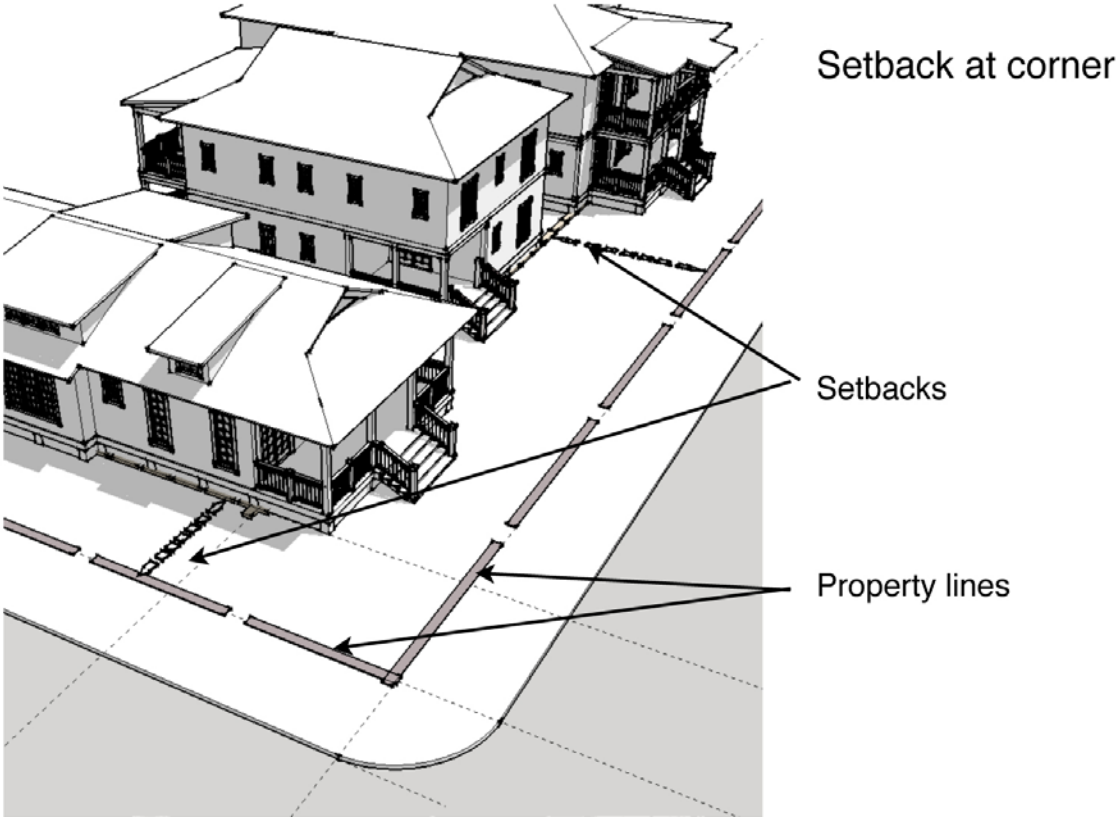
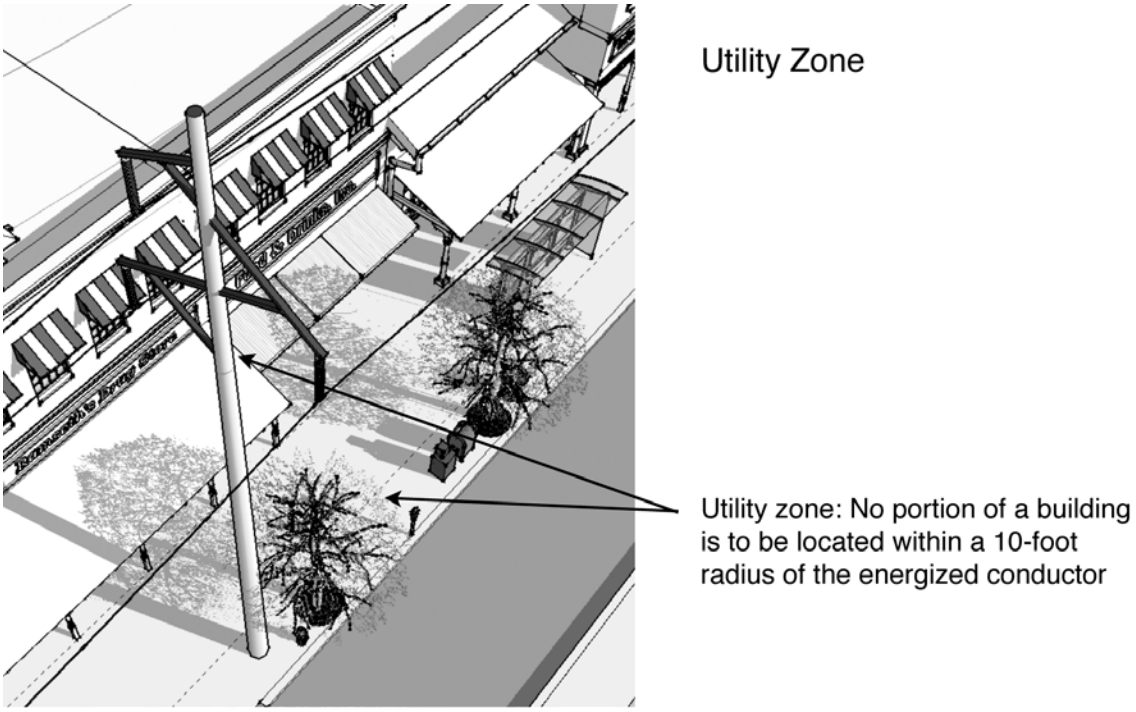

Setback at corner
Setbacks
Property lines

Figure 12



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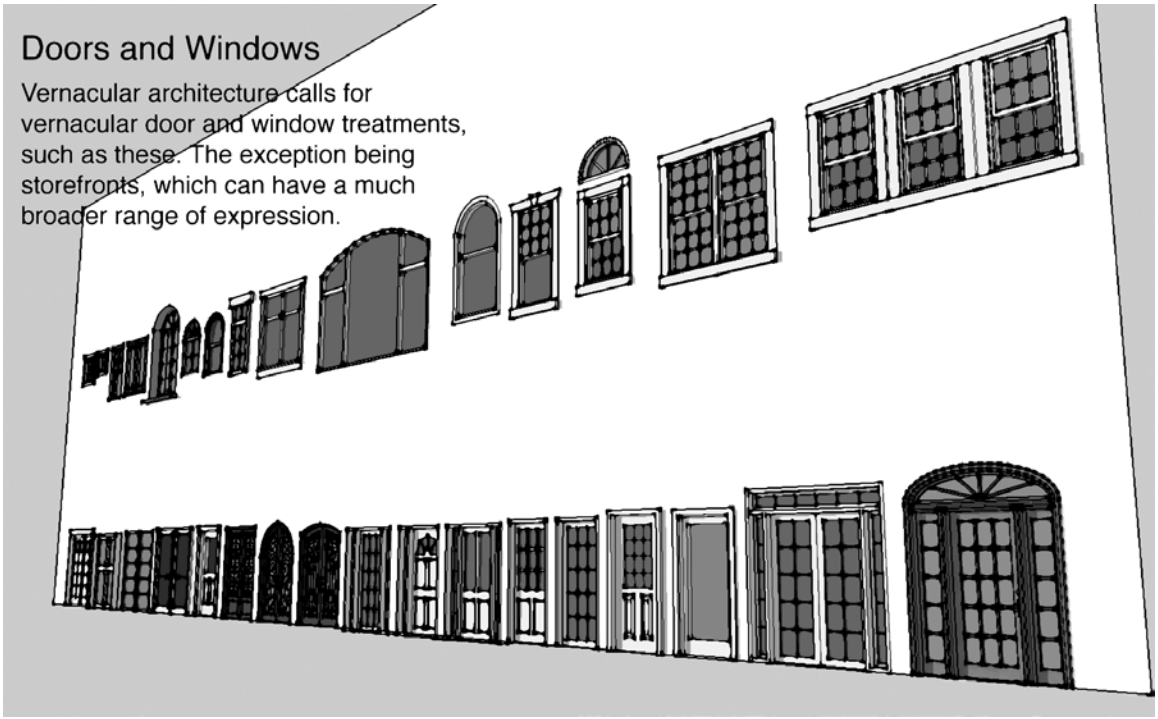

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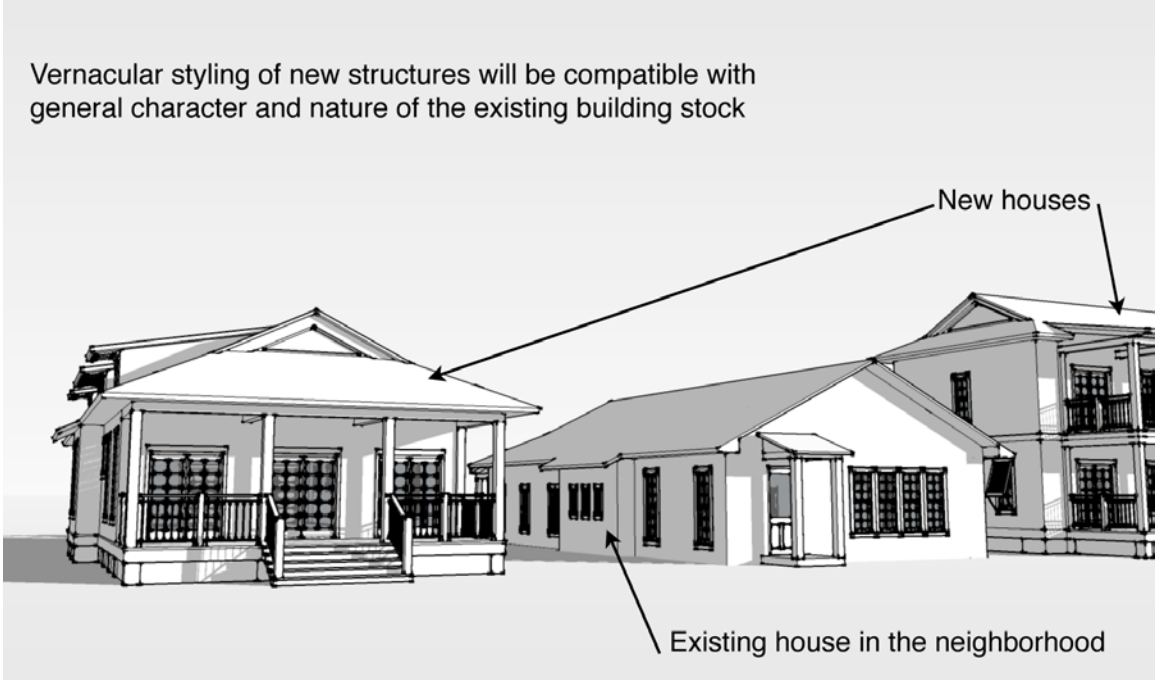

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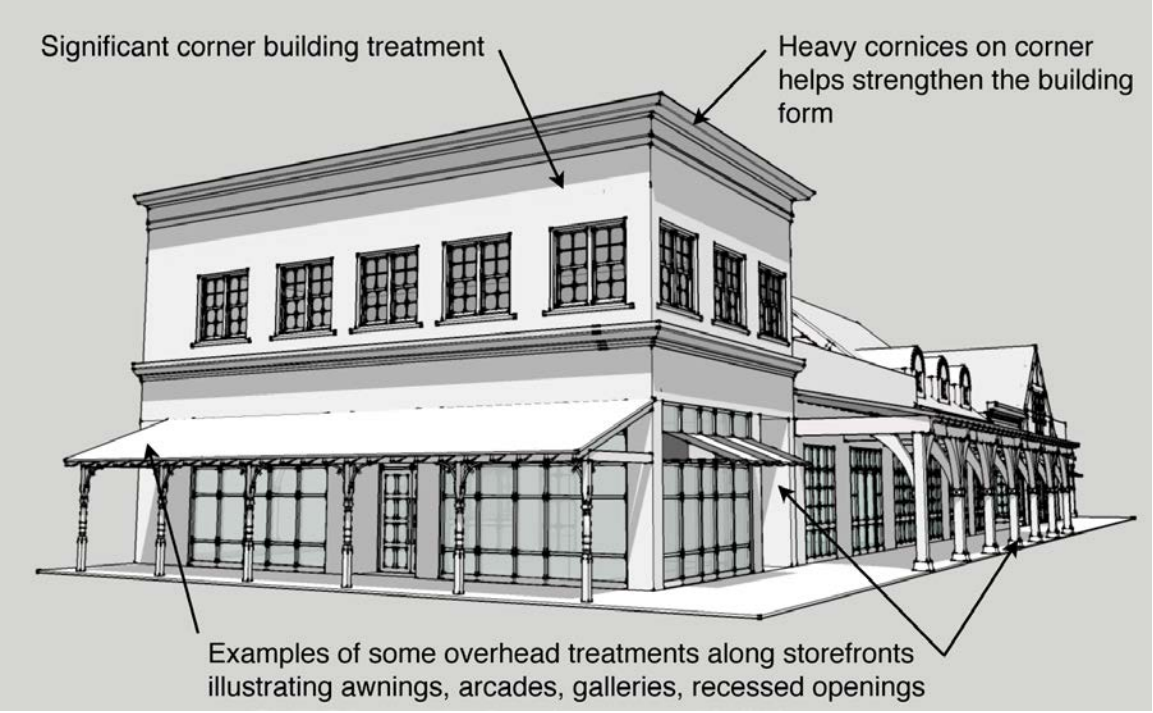

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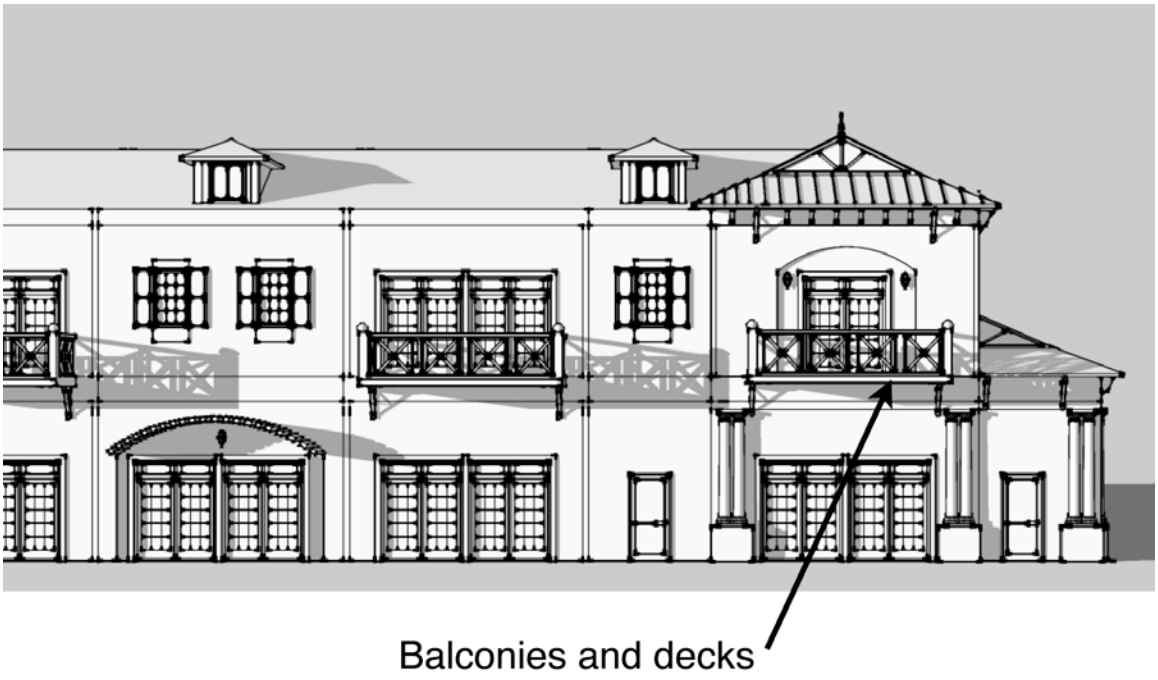

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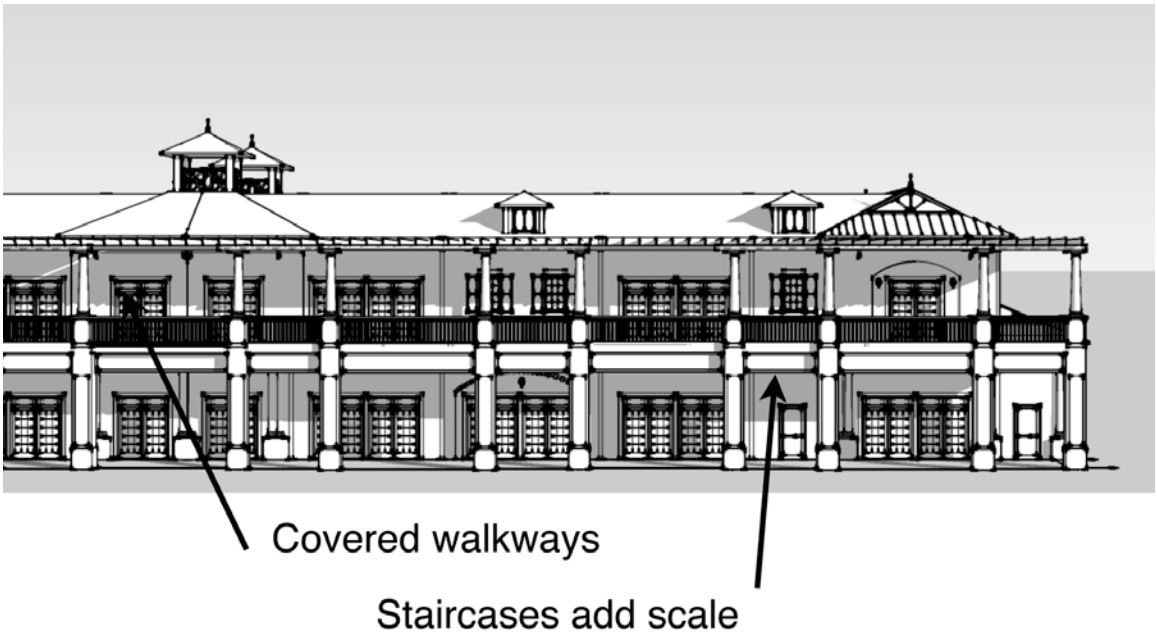


Figure 18-A

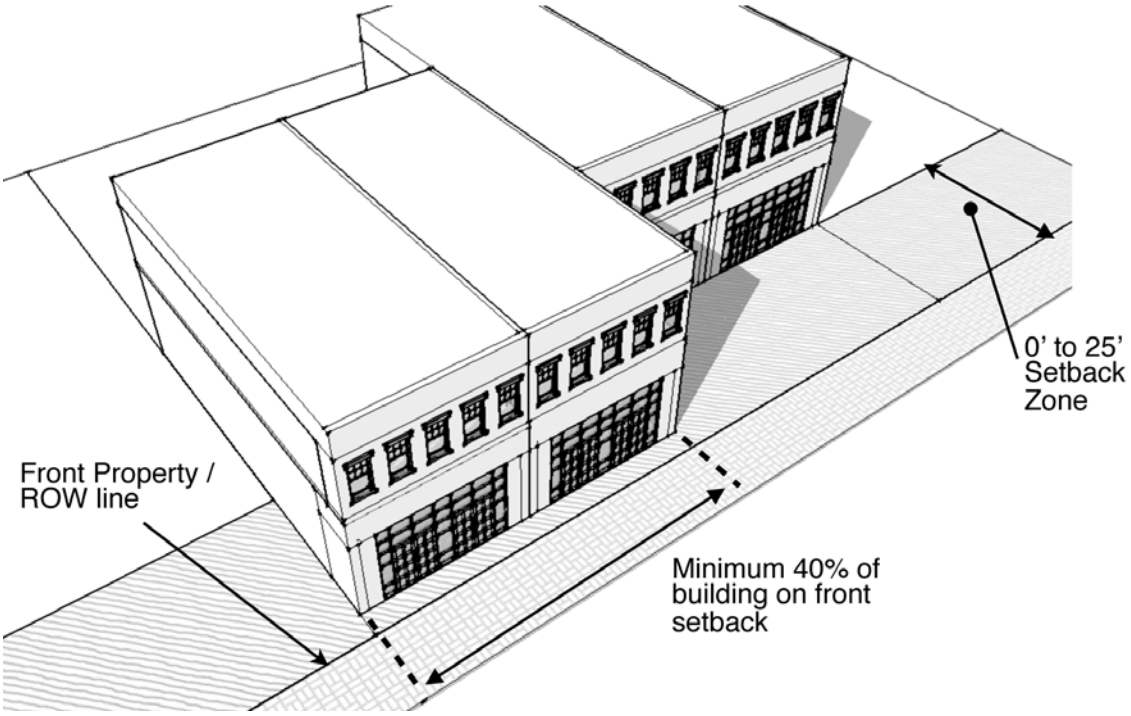


Figure 18-B

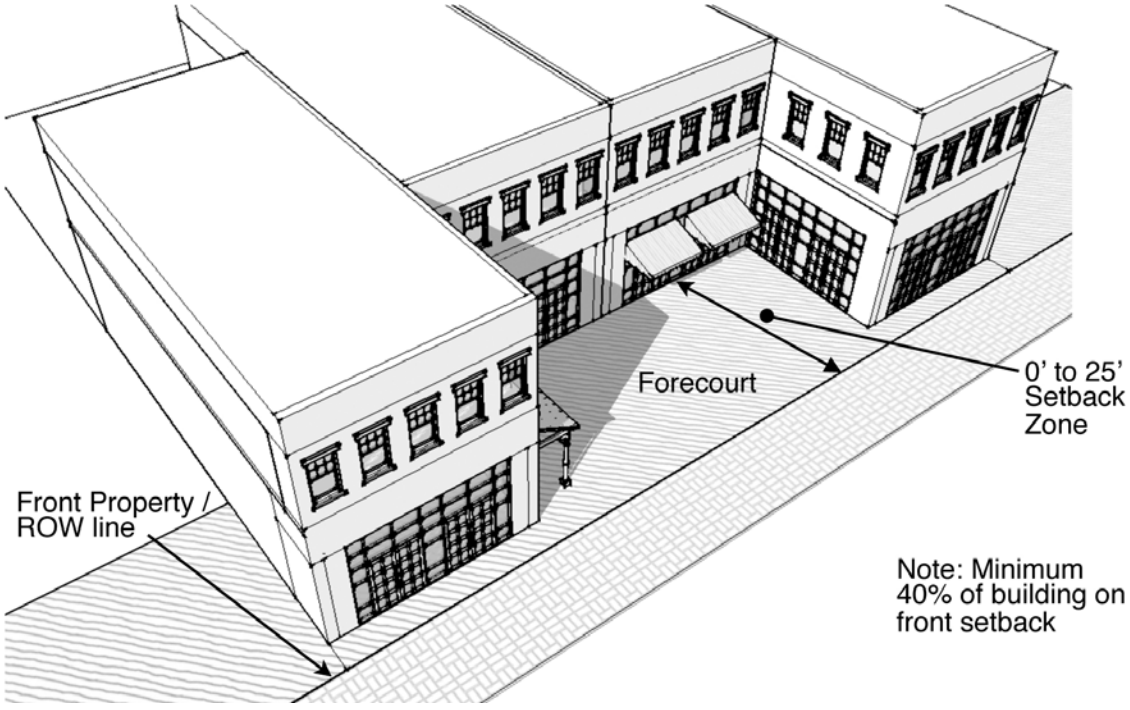


Figure 18-C

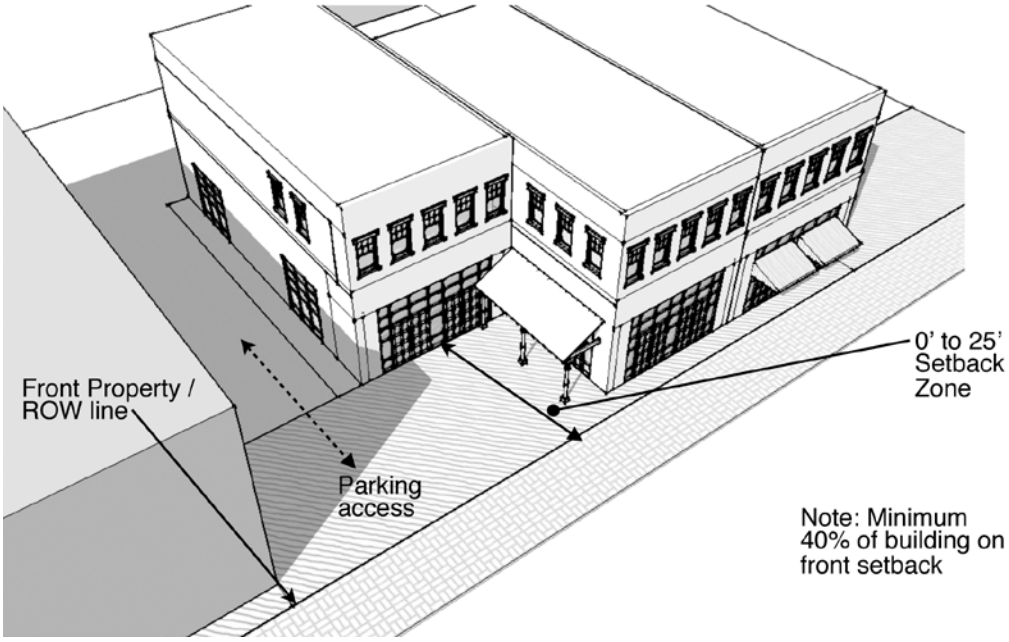
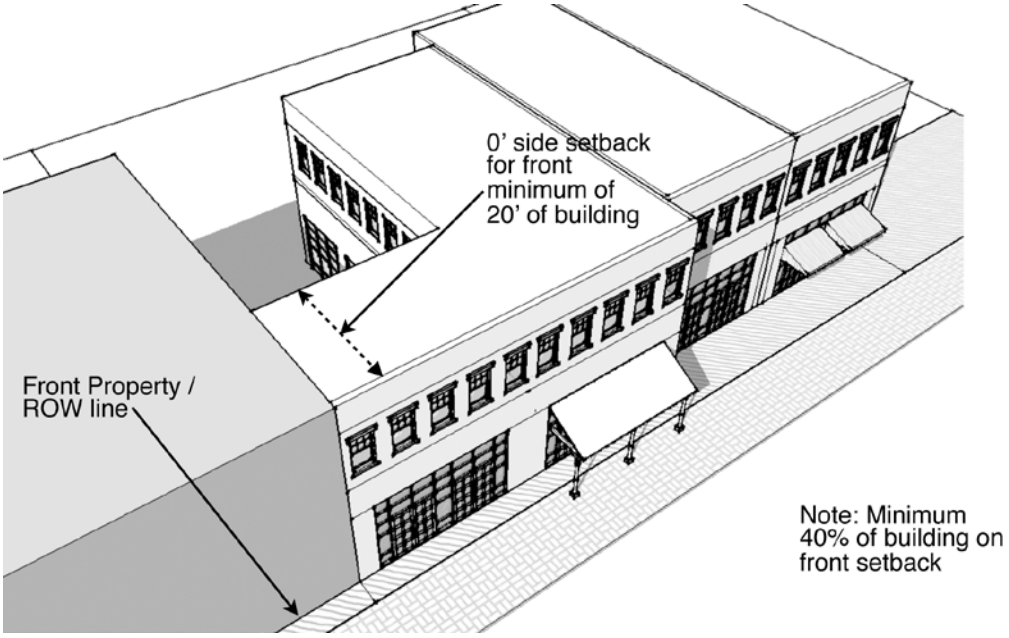


Figure 18-D



(Ord. No. 10-32 , § 1, 9-14-10)

Secs. 33-1362—33-1399. Reserved.

ARTICLE V. LEHIGH ACRES PLANNING COMMUNITY

DIVISION 1. - IN GENERAL

DIVISION 2. - COMMERCIAL DESIGN STANDARDS AND SPECIFICATIONS

DIVISION 1. IN GENERAL

Sec. 33-1400. Applicability.

(a) *Scope.* The provisions of this article will apply to all development located in the Lehigh Acres Planning Community (Lee Plan Map 1), as defined in Goal 32 of the Lee County Comprehensive Plan.

(b) *Zoning.* The provisions of this article apply to all requests to rezone within the Lehigh Acres Planning Community. Compliance with these provisions will be required to obtain zoning approval unless approved by variance or deviation.

(c) *Development orders.* The provisions of this article apply to development orders and limited review development orders described in sections 10-174(1), 10-174(2) and 10-174(4)a. that are requested within the Lehigh Acres Planning Community. Compliance with these provisions will be required in order to obtain development order approval.

(d) *Demonstrating compliance.* Compliance with the standards set forth in this article must be demonstrated on the drawings or site development plans submitted in conjunction with an application for development order approval or with a building permit application if a development order is not required.

(e) *Stipulation and settlement agreements.* Prior to approval of zoning actions (planned development rezonings, special exceptions, variances, and conventional rezonings) and issuance of local development orders, the requested action must be reviewed and found to be in conformance with the stipulation and settlement agreements.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1401. Community review.

(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publically advertised information session within the Lehigh Acres Planning Community prior to obtaining approval or finding of sufficiency of the following:

(1) Development orders.

(2) Planned development zoning actions. This includes administrative deviations amending the approved master concept plan or other provisions of the zoning resolution.

(3) Special exception and variance requests.

(4) Conventional rezoning actions.

(b) *Meeting requirements.* The applicant is responsible for providing the meeting space, providing notice of the meeting, and providing security measures as needed. The meeting location will be determined by the applicant. Meetings may, but are not required to, be conducted before non-County formed boards, committees, associations, or planning panels. During the meeting, the agent will provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1402. Existing Planned Developments.

Existing, approved master concept plans may be voluntarily brought into compliance with the Lehigh Acres Community Plan or any regulation contained in this article through the administrative amendment process. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations. Notwithstanding, any request to change the zoning designation of a parcel must comply with the notice and hearing requirements under F.S. § 125.66.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1403. Deviations and variances.

Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from any architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance must be submitted as part of the application.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1404. Posting of street numbers.

Principal commercial and multiple-family residential buildings must have street numbers displayed. It is the responsibility of both the owner and occupant of each building to post the assigned number in the following manner:

(1) The principal building street number must be affixed to the front of the building and, if available, the ground-mounted identification sign. Street numbers must be clearly visible and legible from the direction in which primary vehicular access is provided to the building.

(2) When more than one building is assigned the same street number, the common street number must be displayed in accordance with subsection (1) above, and on each individual building.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1405. Landscaping.

(a) *Materials.* Required landscaping material must be cold tolerant species.

(b) *Internal landscaping.* Not more than ten percent of the required internal landscape area, as related to the vehicular use area identified in section 10-416, may be planted in sod.

(c) *Buffers.* Buffers must comply with section 10-416(d) except as modified below:

(1) Commercial projects that are part of mixed use developments are not required to provide buffers between internal uses.

(2) Type "A" buffers required between commercial uses must be designed to allow for pedestrian, bicycle, and automobile connections through adequate spacing between required trees.

(3) When commercial, place of worship, industrial, or public active recreational park uses abut single or multiple family residential uses a buffer must be provided. This buffer must be 25 feet in width with seven trees, a double hedge row, and 33 ground covers per 100 linear feet. Palms are limited to a maximum of 25 percent of the buffer tree requirement. The hedge must be 48 inches in height at installation and be maintained at 72 inches high. Ground covers must be a minimum one gallon container size at time of planting.

(4) Section 10-416(d)(6) does not apply within the Lehigh Acres Planning Community.

(Ord. No. 12-01 , § 5, 1-10-12)

Secs. 33-1406—33-1410. Reserved.

DIVISION 2. COMMERCIAL DESIGN STANDARDS AND SPECIFICATIONS

Sec. 33-1411. Applicability.

All commercial development, except areas located within the Downtown Lehigh Acres, Community Mixed Use Activity Centers, Neighborhood Mixed-Use Activity Centers, or the Local Mixed-Use Activity Centers (Lee Plan Map 1, Page 8 of 8).

(Ord. No. 12-01 , § 5, 1-10-12)

Subdivision I. - Basic Elements

Subdivision II. - Architectural

Subdivision III. - Signs

Subdivision I. Basic Elements

Sec. 33-1412. Parking.

In addition to the parking regulations in sections 34-2011 through 34-2022:

(1) Adjacent commercial uses must provide interconnections for automobile, bicycle and pedestrian traffic.

(2) Adjacent parking lots must have vehicular interconnection, unless divided by a public right-of-way.

(3) Commercial development adjacent to a mixed-use development must provide interconnections for automobile, bicycle, and pedestrian traffic.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1413. Lighting.

In addition to the requirements in sections 10-610(b) and 34-625:

(1) Light fixtures must complement the building development with an architectural theme consistent with the overall development.

(2) Parking lot lighting must utilize decorative light poles/fixtures.

(3) Outdoor light fixtures must be shielded. Lighting must be directed to avoid intrusion on adjacent properties and away from adjacent thoroughfares.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 12-20 , § 3, 9-11-12)

Sec. 33-1414. Transportation.

(1) New commercial development or redevelopment adjacent to Lee Boulevard right-of-way must provide access to 5th Street West, 4th Street West, or other local, collector or arterial roadway. Direct vehicular driveway access to Lee Boulevard may only be permitted if the property has no direct or indirect access to a public roadway and the driveway is shared with cross-access to all adjacent parcels. If no shared access exists, one must be created.

(2) Connections to State Road 82 must be consistent with the Florida Department of Transportation (FDOT) Corridor Access Management Plan for State Road 82 adopted by FDOT in July 2007, Lee County Resolution No. 08-06-28. Meadow Road is designated as an access road for State Road 82 and the primary access for properties fronting on State Road 82.

(3) Commercial development adjacent to Gunnery Road must utilize Gretchen Avenue, Floyd Avenue or other public roadway. Any connections to Gunnery Road must be consistent with the Gunnery Road Access Management Plan.

(Ord. No. 12-01 , § 5, 1-10-12)

Subdivision II. Architectural

Sec. 33-1415. Architectural style.

The preferred architectural styles for commercial development include a mixture of Old Florida, Mediterranean, Key West, Colonial, Contemporary, Caribbean, Spanish and other styles of architecture that are deemed compatible with or complementary to these styles. Distinct vernacular styles may be displayed through the inclusion of extended roof overhangs, porches, decorative columns, covered corridors, covered walkways, or pitched roofs.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1416. Facade treatment.

(1) In addition to the requirements of section 10-620(c), projects must use architectural relief or articulation on building facades to reduce the bulk of buildings. Buildings that are visible from more than one right-of-way must use facade treatments on viewable facades.

(a) A singular facade must not exceed 50 lineal feet or more than one-third of the structure's length, whichever is less, before architectural relief or articulation occurs.

(b) Methods of providing architectural relief are not limited to the following:

(1) Recessed or defined entryways;

(2) Varying rooflines, pitches, and shapes;

(3) Dormers, balconies, porches, and staircases;

(4) Display windows that provide visibility into the building interior;

(5) Overhangs, awnings, and marquees; or

(6) Features such as cornices, articulated roof parapets, porticos, towers, or other details that alter building height.

(2) Metal buildings. Sides of a metal building with frontage on an arterial or collector roadway must be designed with primary facade architectural features and elements consistent with section 10-620 so as not to reveal the metal structure.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1417. Maximum height.

(a) Maximum building heights are determined based on location in the Specialized Mixed Use Nodes of the Community Plan Overlay (Lee Plan Map 1, Page 8 of 8). Buildings outside of the Specialized Mixed Use Nodes are limited to a maximum of three stories or 45 feet, whichever is less, unless approved by variance or deviation in accordance with chapter 34

The maximum building heights, based on location in the Specialized Mixed Use Nodes are as follows:

(1) Developments located in the Downtown designation are limited to a maximum of ten stories or 150 feet in height, whichever is less.

(2) Developments located in the Community Mixed Use Activity Center designation are limited to a maximum of seven stories or 85 feet in height, whichever is less.

(3) Developments located in the Neighborhood Mixed Use Activity Center designation are limited to a maximum of four stories or 55 feet in height, whichever is less.

(4) Developments located in the Local Mixed Use Activity Center designation are limited to a maximum of three stories or 45 feet in height, whichever is less.

(b) Elements that enhance visibility, create focal points or amenities may exceed the maximum height limitations by variance or deviation in accordance with chapter 34

(Ord. No. 12-01 , § 5, 1-10-12)

Subdivision III. Signs

Sec. 33-1418. Applicability.

This subdivision is adopted as an addendum to the general sign regulations set forth in chapter 30.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1419. Prohibited signs.

Unless a deviation or variance is granted, the following types of signs are prohibited:

(1) Emitting signs.

(2) Flashing signs.

(3) Exposed neon signs.

(4) Pole signs.

(5) Pylon signs.

(6) Balloons, including inflatable air signs or other temporary signs that are inflated with air, helium, or other gaseous elements, except as permitted by special occasion permit.

(7) Banners, pennants or other flying paraphernalia, except:

a. As permitted by special occasion permit.

b. An official federal, state, or County flag.

c. One symbolic flag not to exceed 15 square feet in area for each institution or business.

d. Decorative seasonal banners and holiday lighting on streetlight poles (Ordinance No. 07-04).

(8) Temporary signs, except for the following that must comply with section 30-151

a. Special occasion signs.

b. Real estate signs.

c. Construction signs.

d. Political or campaign signs.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1420. Permanent signs in commercial and industrial areas.

(1) Ground mounted identification signs must be a monument sign. A monument sign is a ground sign, the structural base of which is on the ground.

(a) The height of the base must not exceed 24 inches above the adjacent ground.

(b) The sign must display the street numbers of the property on the face of the sign. Street numbers must measure between a minimum of four inches and a maximum of six inches in height. The copy area of the street number will not be counted toward the allowable sign copy area.

(c) Signs must complement the architectural style of the building or development.

(2) Nonresidential subdivisions and multiple-occupancy complexes with more than five establishments:

(a) Will be permitted one ground mounted identification sign per road frontage. No sign may exceed 150 square feet in area with a maximum height of 15 feet unless the frontage is along a local street where the primary use across the street is residential. In this instance, the sign is limited to maximum of 24 square feet in area with a maximum height of six feet and may not be illuminated.

(b) Individual occupants within a multiple-occupancy complex may place signs on a wall facing a local street where the primary use across the street is residential but these signs may not be illuminated.

(3) Individual office, institution, business or industrial establishments, and multiple occupancy complexes with five or less establishments:

(a) Will be permitted one ground mounted identification sign per road frontage.

(1) Primary road frontage will be permitted a maximum height of ten feet.

(2) Secondary road frontage will be permitted a maximum height of six feet with a maximum area of 24 square feet.

(3) Provisions for a corner lot as listed in section 30-153(3)a.6 do not apply.

(b) Will be permitted to place signs on a wall facing a local street where the primary use across the street is residential but these signs may not be illuminated.

(4) Lighting.

(a) Ground mounted identification signs:

(1) Illumination must comply with section 34-625

(2) Exposed raceways are prohibited.

(b) Wall mounted signs:

(1) Raceways and electrical junction boxes must be painted to match the building exterior.

(c) Electrical connections, wiring, etc. must be concealed.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1421. Permanent signs for live-work units.

Live-work units, in accordance with section 33-1431(c)(2), are permitted one sign on the property: a ground mounted identification sign; or a wall mounted sign. A ground mounted sign is limited to a maximum structure size of 18 square feet (three feet in height by six feet in length). A wall mounted sign is limited to a maximum size of 24 square feet. Signs may not be illuminated.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1422. Food vending cart signs.

Individual identification signs including sandwich signs are prohibited as well as signs listed as prohibited in this section; however, advertising signs may be permitted on the temporary food vending cart but may not extend beyond the cart.

(Ord. No. 12-01 , § 5, 1-10-12)

Secs. 33-1423—33-1429. Reserved.

DIVISION 3. SPECIFIC USE STANDARDS

Subdivision I. - Model Homes

Subdivision II. - Food Vending Carts

Subdivision III. - Duplex and Two-Family Attached Dwelling Units

Subdivision I. Model Homes

Sec. 33-1430. Applicability.

The following regulations apply to model homes on arterial roads in the RS-1 zoning district that were: approved by special exception; permitted and constructed; and, received a certificate of occupancy/compliance.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1431. Model homes.

(a) *Special exception.* A model home may receive a special exception pursuant to section 34-145(c) for uses permitted in section 33-1431(c). An application for a special exception must be submitted in accordance with the procedures outlined in chapter 34, article II, division 6.

(b) *Development order*. Local development order approval is required prior to occupancy of the existing building, construction of any building additions, and all site related improvements. The existing building, all building additions and site related improvements, except landscaping as specified below, are required to meet the applicable commercial land development and building code regulations prior to development order approval.

Landscaping. When required landscaping cannot be provided due to site constraints, landscaping improvements may be addressed through an alternative landscape betterment plan per section 10-419.

(c) The following regulations will apply to redevelopment of model homes:

(1) *Permitted uses.* The following uses may be approved for a model home through the special exception process. These uses are in addition to the uses permitted by right or by special exception in the RS-1 zoning district. Other uses are subject to approval through a planned development in accordance with chapter 34, article IV.

Banks and financial establishments (section 34-622(c)(3)): Groups I and II.

Business services (section 34-622(c)(5)): Group I.

Cleaning and maintenance services (section 34-622(c)(7)).

Contractors and builders (section 34-622(c)(9)): Group I.

Cultural facilities, limited to art galleries, aquariums, historical sites.

Day care centers, child and adult.

Hobby, toy and game shops (section 34-622(c)(21)).

Laundromat.

Laundry or dry cleaning (section 34-622(c)(24)): Group I.

Library.

Live-work unit (section 33-1431(c)(2)).

Medical office.

Non-store retailers (section 34-622(c)(30)): Group I.

Personal services (section 34-622(c)(33)): Groups I, II, III and IV.

Place of worship.

Real estate sales office.

Religious facilities.

Repair shops (section 34-622(c)(40)): Groups I and II.

Schools, commercial.

Signs per chapters 30 and 33.

Studios (section 34-622(c)(49)).

(d) Live-work units. Live-work units may be developed in former model homes subject to the following:

(1) The working area must not exceed 50 percent of the total floor area of the unit. The use must be conducted entirely within the work unit.

(2) The minimum lot size is 7,500 square feet.

(3) In addition to the uses permitted in the RS-1 zoning district, the uses in a work unit are limited to those uses permitted by special exception in section 33-1431(c)(1).

(4) The owner/occupant must maintain a valid County local business tax receipt (f/k/a occupational license) for the business on the premises. Proof of payment of the annual local business tax will be required to be submitted to the Lee County Department of Community Development annually.

(5) Off-street parking for a live-work unit is determined by the number of spaces required for the nonresidential use based on the square footage of the work space. The multiple-use development parking standard (see section 34-2020(b)) will be used to determine the minimum number of spaces required for each live-work unit. The minimum number of required parking spaces may be reduced up to 50 percent if a parking demand study is provided that supports the reduction pursuant to section 34-2020(c)(6) and administrative approval is obtained pursuant to section 34-2020(e).

(6) Outdoor storage or display of materials, goods, supplies, equipment, or products associated with the business is prohibited.

(7) No equipment may be utilized which create noise, vibration, glare, fumes, odors, or electrical interference objectionable to the normal senses.

(8) Live-work units must comply with all applicable land development, building, and fire code regulations, except as otherwise approved, prior to receiving a certificate of occupancy.

(e) Properties within 300 feet of arterial or collector roads may not be developed with new single-family model homes.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 12-20 , § 3, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13; Ord. No. 14-13 , § 6, 6-17-14)

Subdivision II. Food Vending Carts

Sec. 33-1432. Food vending carts.

(1) *Applicability.* The following regulations apply to food vending carts:

(a) Food vending carts may be permitted in conventional zoned commercial and industrial properties; commercial and industrial planned developments; mixed use planned developments on the commercial or industrial portions; and on properties developed with a religious facility with a place of worship, as defined in section 34-2

(b) Temporary permits for food vending carts will be issued in accordance with section 34-3041

(c) A food vending cart must be located on private property and not be placed within the public right-of-way.

(d) The temporary use permit for food vending carts will be valid for a period of one year from the date of issuance. At the end of one year, the applicant must apply for a new permit.

(e) Responsibility for restroom facilities for employees lies with the occupational license holder and must be detailed in the application for a temporary use permit.

(f) Food vending carts must be approved by the County Health Department with proof of approval provided at the time of request for a temporary use permit as well as compliance with the following conditions:

(1) The applicant must provide a notarized letter from the property owner giving permission for the use of the property.

(2) Food vending carts must be in compliance with applicable building codes and must be located in an area which does not detract from visibility at intersections, block any driveway, fire lane or fire hydrant, or cause parking problem associated with the use or patronage of the food vending cart.

(3) A site plan must be submitted showing the layout of the property, including the location of existing building(s), the food vending cart, parking spaces, aisle ways for pedestrians and any seating area. Food vending carts must be located on an asphalt or concrete surface. Minimum setbacks from all applicable property lines must be shown as follows:

(a) Street setback: 50 feet for arterials and collectors; 25 feet for local.

(b) Side setback: 15 feet.

(c) Rear setback: 25 feet.

(4) Temporary permits will be issued for individual carts at specified locations and will be nontransferable. Change in ownership of a cart or location requires application and applicable fees for a new permit.

(5) There must be no more than one temporary food vending cart located within one mile of another temporary food vending cart.

(6) Food vending carts must not exceed 200 square feet in floor area.

(7) No alcoholic beverages are to be sold or consumed from temporary vending carts.

(8) Food vending carts must not be left unattended and must be removed each evening in accordance with approved hours of operation.

(g) For the purposes of this section, a food vending cart is synonymous with a van, or trailer serving food.

(h) Vending carts used for, but not limited to, the sale of flowers, souvenirs, goods, or paintings, that are not part of a permitted temporary special event, are prohibited.

(Ord. No. 12-01 , § 5, 1-10-12)

Subdivision III. Duplex and Two-Family Attached Dwelling Units

Sec. 33-1433. Purpose.

The purpose of this subdivision is to modify and supplement sections 34-3107 through 34-3108 in order to enhance the appearance of duplex and two-family attached structures.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1434. Development standards.

(a) *Architectural standards.*

(1) Primary facades must be designed with features consistent with the appearance of a single-family dwelling. A maximum of one door may directly face the adjacent street right-of-way and must have a distinct entry feature such as a porch or covered entryway.

(2) Mechanical equipment including, but not limited to, air conditioning units, pool pumps, generators and well tanks, must be screened from view of the public right-of-way and adjacent residential properties with landscaping, fencing, or both. Fencing must be consistent with section 34-1742

(3) A minimum of one attached single car garage is required for each dwelling unit.

(4) Garages must be designed for side-entry so as not to face a street right-of-way, or be recessed a minimum of four feet behind the front facades or porches of the dwelling unit.

(5) When located on a corner lot, each individual unit must face a separate street right-of-way.

(6) When located on a through lot, each individual unit must face a separate street right-of-way.

(b) *Driveways.*

(1) A driveway must be provided for each unit that connects the building to the paved road. The driveways must be a minimum of 20 feet wide and provide a minimum of two parking spaces.

(2) The driveway must be constructed of concrete, asphalt or concrete pavers and comply with the provisions set forth in Lee County Administrative Code 11-2 pertaining to residential driveways.

(3) Use of the driveway for commercial activities is prohibited unless the applicable permits are obtained.

(Ord. No. 12-01 , § 5, 1-10-12)

Secs. 33-1435—33-1449. Reserved.

ARTICLE VI. MATLACHA RESIDENTIAL OVERLAY

DIVISION 1. - IN GENERAL

DIVISION 2. - DEVELOPMENT STANDARDS AND SPECIFICATIONS

DIVISION 1. IN GENERAL

Sec. 33-1450. Applicability.

The provisions of this article apply to all residential development located within Matlacha's Island Harbor, and the southern portion of the Crows Subdivisions, with the exception of residential properties located within the Matlacha Historic District (see Map 16 in Appendix I).

(Ord. No. 12-14 , § 3, 6-12-12)

Sec. 33-1451. Definitions.

The following definitions are in addition to those set forth in other chapters of the Code and are applicable to the provisions contained in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise the definitions contained elsewhere in this Code will control. If a term is not defined, the term must be given its commonly understood meaning unless there is a clear indication of an intent to construe the term differently from its commonly understood meaning.

Building coverage means the horizontal area measured from the outside of the exterior walls of the principal and accessory buildings on a lot, excluding non-ground floor porches, balconies and similar areas without central heating and cooling.

Building height means the maximum vertical extent of the building as measured at a 90-degree vertical angle from the design flood elevation to the roof peak.

Design flood elevation means the required elevation of lowest floor in A zones and lowest horizontal structural member in V zones.

Lot coverage means that portion of the lot area, expressed as a percentage, occupied by the principal residential structure and detached garage or accessory shed structures. Ground floor porches, patios, decks, that are lower than the minimum FEMA flood elevation, along with swimming pools, driveways and walkways, are excluded in the determination of lot coverage.

Substantial improvement has the same meaning as provided in section 6-333.

Vertical plane means a facade height measurement beginning at the minimum design flood elevation and measured at a 90-degree vertical angle from the horizontal, extending to the intersection of the soffit to the vertical building facade so as to limit the maximum vertical extent of the building's side facades.

(Ord. No. 12-14 , § 3, 6-12-12)

Sec. 33-1452. Variances.

(a) Variances. Variances within the Matlacha Overlay District for building coverage, building height, and vertical plane regulations are limited as follows:

(1) *Substantially improved construction and new construction.* Variances from building coverage, building height, and vertical plane regulations are prohibited for substantially improved construction as defined in section 33-1451 and new building construction as defined in section 6-333

(2) *Construction that is not substantially improved and existing construction.* Variances from building coverage, building height, and vertical plane regulations are permitted for building construction that is not substantially improved if the improvement costs do not exceed 50 percent of the market value, as established under Chapter 6, Article IV, Flood Hazard Reduction.

(b) Unless prohibited in subsection (a) of this section, a variance from this article may be approved if the following criteria are met:

(1) There are exceptional or extraordinary conditions or circumstances that exist which are inherent in the land, structure or building involved and those exceptional or extraordinary conditions or circumstances create a hardship on the property owner;

(2) The exceptional or extraordinary conditions or circumstances are not the result of the actions of the applicant;

(3) Strict compliance of the regulations would not permit the property owner's reasonable use of the property;

(4) The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located within the Matlacha Overlay area; and

(5) Granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(c) In addition to the application submittal items identified within LDC section 34-203(f), the following items are required to be submitted for property rezoning, variance requests:

(1) A graphic exhibit drawn to scale that depicts all existing residential structures within 100 feet of the perimeter boundary of the site that includes identifying those structures front, side and rear setback dimensions.

(2) Architectural elevations at measurable scale for all four sides of the proposed new residential structure.

(3) Photographs at minimum five inches by seven inches of the subject property and all existing properties with residential structures within 100 feet of the perimeter boundary of the site.

(Ord. No. 12-14 , § 3, 6-12-12)

Secs. 33-1453—33-1455. Reserved.

DIVISION 2. DEVELOPMENT STANDARDS AND SPECIFICATIONS

Sec. 33-1456. Applicability.

(a) The development standards and specifications requirements of this division will only apply to all new single-family, duplex, two-family attached, mobile homes and manufactured homes constructed after the effective date of this article within the Island Harbors Subdivision and the southern portion of the Crows Subdivisions, excluding residential homes located within the Matlacha Historic Overlay District. The following requirements are not intended to affect a property owner's right to build back as provided under the Lee Plan build-back policy.

(b) The provisions of this division will apply to existing single-family, duplex, two-family attached, mobile home, and manufactured homes and substantially improved homes when the costs of reconstruction, rehabilitation, addition, or other alteration of the structure, or portions thereof, exceed 50 percent of the current market value of the structure before the "start of construction" of the improvement. This division will not apply to interior remodels of an existing structure when the remodel does not affect the outward appearance of the structure. This division will apply to replacement of existing air conditioning units only when the replacement unit is planned to be moved from its current location.

(Ord. No. 12-14 , § 3, 6-12-12)

Sec. 33-1457. Roof standards.

(a) The primary residential structure must use hip or gable roofs.

(b) For the primary residential structure, flat roofs and mansard roofs are prohibited; unless the building is single story.

(c) The use of dormers is acceptable above the vertical plane.

(Ord. No. 12-14 , § 3, 6-12-12)

Sec. 33-1458. Building height and vertical plane.

The maximum vertical plane of a building may not exceed 21 feet, measured from the minimum design flood elevation. The maximum building height of a building may not exceed 32 feet, measured from the design flood elevation to the roof peak. See Figure 1.

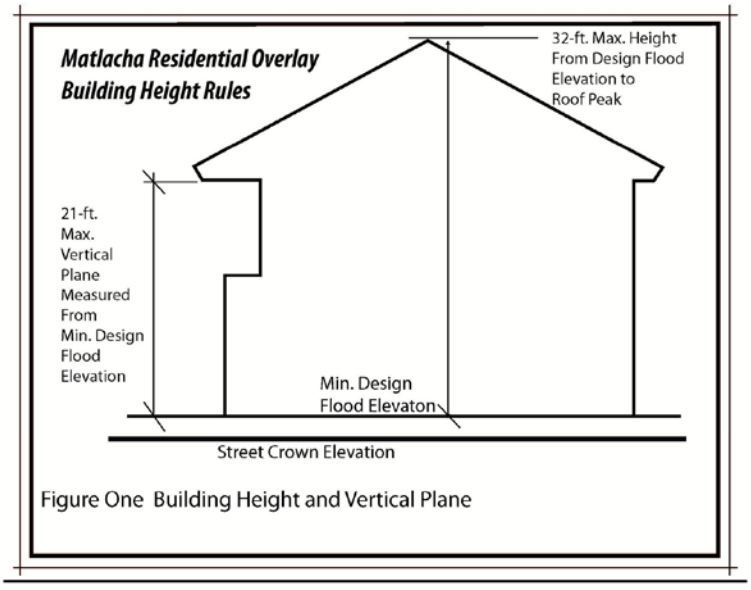


Figure 1 (Building Height and Vertical Plane)

(Ord. No. 12-14 , § 3, 6-12-12)

Sec. 33-1459. Foundation standards.

Foundations for construction or reconstruction of new residential buildings may not utilize lot fill that exceeds 1.5 feet in height. The 1.5-foot height will be measured from the existing average site grade elevation.

(Ord. No. 12-14 , § 3, 6-12-12)

Sec. 33-1460. Swimming pool design standard.

(a) Pool cages may not exceed 12 feet in height as measured from the lot's street grade elevation to the point of attachment of the cage structure to the house facade (Figure 2). Pool cages may not exceed 14 feet in height as measured from the lot's street grade elevation to the peak top of the pool cage.

(b) Pool deck height may not exceed 30 inches above design flood elevation.

(Ord. No. 12-14 , § 3, 6-12-12)

Sec. 33-1461. Air conditioning standards.

(a) Excluding the replacement of an AC unit, a landscape buffer is required around air conditioning units placed within the front yard. All plantings within the buffer must be native, must be located around three sides of the air conditioning unit at a minimum single row, and must be planted and maintained at a minimum height of 36 inches, or equal to the height of the AC unit, so to provide for noise attenuation and visual screening.

(b) The location and placement of all air conditioning units, along with buffering if required, are to be depicted on the building permit plan.

(c) Rear yard and roof mounted air conditioning units are prohibited.

(Ord. No. 12-14 , § 3, 6-12-12)

Sec. 33-1462. Corner lot setbacks.

The front, side, and rear yard setbacks will be located in accordance with Figure 2 for the following corner lots:

Second Addition to Island Harbors PB 9 PG 107:

- Bayshore & Island - Lot 105.
- Bayshore & Island - Lot 133.
- Cay Cove & Island - Lot 104.
- Cay Cove & Island - Lot 88.
- Broadwater & Island - Lot 87.
- Broadwater & Island - Lot 76.
- Harborview & Island - Lot 75.
- Harborview & Island - Lot 68.

Third Addition to Island Harbors PB 10 PG 97:

- Bayshore & Island - Lot 149.
- Bridgeview & Island - Lot 150.
- Bridgeview & Island - Lot 184.
- Clyde & Island - Lot 191.

Fourth Addition to Island Harbors PB 10 PG 98:

- Clyde & Island - Lot 228.
- Geary & Island - Lot 229.

- Geary & Island - Lot 273.
- Bruce & Island - Lot 289.

Fifth Addition to Island Harbors PB 10 PG 99:

- Bruce & Island - Lot 335.
- Velma & Island - Lot 336.
- Velma & Island - Lot 379.
- Janet & Island - Lot 386.

Sixth Addition to Island Harbors Unit One PB 10 PG 119:

- Janet & Island - Lot 416.

Sixth Addition to Island Harbors Unit Two PB 12 PG 93:

- Cheryl & Island - Lot 454.
- Triggerfish & Island - Lot 455.
- Triggerfish & Island - Lot 466.
- Island - Lot 467.

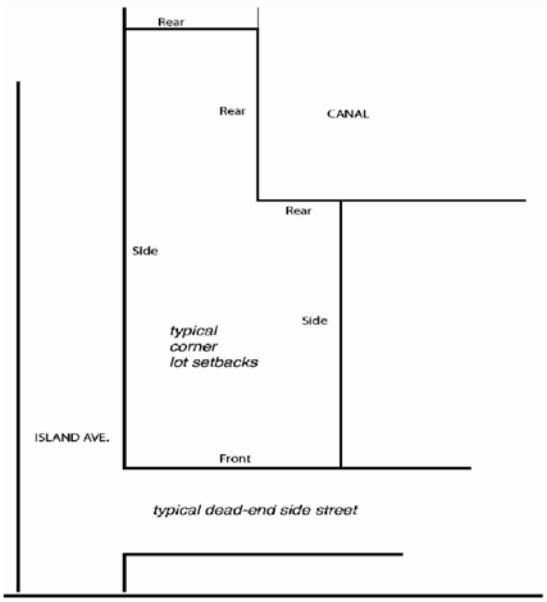


Figure 2

(Ord. No. 12-14 , § 3, 6-12-12)

Sec. 33-1463. Property development regulations table.

The property development in the Matlacha Residential Overlay district must comply with the following development regulations:

Matlacha Overlay Development Standards

	Lot Area	Lot Area	Lot Area
	Less than 2,499 Sq. Ft.	From 2,500 to 6,499 Sq. Ft.	More than 6,500 Sq. Ft.
Minimum lot area	N/A	N/A	N/A
Minimum lot width	N/A	N/A	N/A
Lot coverage:			
Ground floor lot coverage	Maximum 40%	Maximum 40%	Maximum 40%
Second floor building coverage	Maximum 80% of ground floor lot coverage	Maximum 80% of ground floor lot coverage	Maximum 80% of ground floor lot coverage
Height[5]	Maximum 32 feet	Maximum 32 feet	Maximum 32 feet
Vertical plane[5]	Maximum 21 feet	Maximum 21 feet	Maximum 21 feet
Setbacks:			
Front yard	Minimum 18 feet	Minimum 18 feet[1][2]	Minimum 20 feet[1][2]
Rear yard	Minimum 15 feet[3][4]	Minimum 15 feet[3][4]	Minimum 20 feet
Rear yard waterbody	Minimum 15 feet[3][4]	Minimum 15 feet[3][4]	Minimum 20 feet
Side yard	Minimum 5 feet	Minimum 7.5 feet	Minimum 7.5 feet

Notes:

1. For lot depth greater than 80 feet, the front yard setback is 20 feet.

2. For lot depth greater than 90 feet, the front yard setback is 25 feet.

3. For lot depth less than 50 feet, the rear yard and rear yard waterbody setbacks are ten feet.

4. For lot depth greater than 50 feet, the rear yard and rear yard waterbody setbacks are 12 feet.

5. See section 34-1458, Figure 1.

(Ord. No. 12-14 , § 3, 6-12-12)

Secs. 33-1464—33-1479. Reserved.

ARTICLE VII. CALOOSAHATCHEE SHORES PLANNING COMMUNITY

DIVISION 1. - IN GENERAL

DIVISION 2. - DESIGN STANDARDS

DIVISION 3. - OVERLAY DISTRICTS

DIVISION 1. IN GENERAL

Sec. 33-1480. Applicability.

This division is applicable to Caloosahatchee Shores Planning Community (see Map 14 in Appendix I), described in Goal 21 of the Lee County Comprehensive Plan (Lee Plan).

(a) *Scope.* The provisions of this article apply to all development located in the Caloosahatchee Shores Planning Community, as defined in section 33-1481(a) and depicted in the Lee County Comprehensive Plan on Lee Plan Map 1 Special Treatment Areas (Page 2 of 8) and apply to all commercial, religious, institutional, multiple-family, and mixed use developments, including live-work units, except where the authority of a separate political jurisdiction supersedes County authority.

(b) *Zoning.* The provisions of this article apply to all requests to rezone property located within the Caloosahatchee Shores Community. Compliance with these provisions will be required to obtain zoning approval unless approved by variance or deviation.

(c) *Development orders.* The provisions of this article apply to all development orders and limited review development orders described in sections 10-174(1), 10-174(2) and 10-174(4)a. that are for property located within the Caloosahatchee Shores Community. Compliance with these provisions will be required in order to obtain development order approval.

(d) *Demonstrating compliance.* Compliance with the standards set forth in this article must be demonstrated on the drawings or site development plans submitted in conjunction with an application for development order approval or with a building permit application if a development order is not required.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1481. Planning community boundaries.

(a) *Caloosahatchee Shores Planning Community.* The boundaries of the Caloosahatchee Shores Planning Community are as depicted in the Lee County Comprehensive Plan on Lee Plan Map 1 Special Treatment Areas (Page 2 of 8) and in Appendix I on Map 14. The following overlays are located within the Caloosahatchee Shores Planning Community:

(1) *Olga Planning Community Overlay.* The boundaries of the Olga Community overlay district are as depicted in the Lee County Comprehensive Plan on Lee Plan Map 1 Special Treatment Areas (Page 2 of 8) and in Appendix I on Map 14.

(2) *State Route 80 Corridor Overlay.* The boundary of the State Route 80 Corridor overlay district is as depicted in Appendix I on Map 15 and is generally described as the linear corridor between State Route 80 and First Street from West Road to Buckingham Road/Old Olga Road.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1482. Community review.

(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publically advertised information session within the Caloosahatchee Shores Planning Community prior to obtaining approval or finding of sufficiency of the following:

(1) Development orders.

(2) Planned development zoning actions. This includes administrative deviations amending the approved master concept plan or other provisions of the zoning resolution.

(3) Special exception and variance requests.

(4) Conventional rezoning actions.

(b) *Meeting requirements.* The applicant is responsible for providing the meeting space, providing notice of the meeting, and providing security measures as needed. The meeting location will be determined by the applicant. Meetings may, but are not required to, be conducted before non-County formed boards, committees, associations, or planning panels. During the meeting, the agent will provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1483. Existing planned development.

Existing approved master concept plans may be voluntarily brought into compliance with the Caloosahatchee Shores Plan or any regulation contained in this article through the administrative amendment process. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations. Notwithstanding, any request to change the zoning designation of a parcel must comply with the notice and hearing requirements under F.S. § 125.66.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1484. Deviations and variances.

Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from any architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance must be submitted as part of the application.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1485. Definitions.

The following definitions are in addition to those set forth in other chapters of this Code and are applicable to the provisions set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise the definitions contained elsewhere in this Code will control. If a term is not defined the term must be given its commonly understood meaning unless there is a clear indication of an intent to construe the term differently from its commonly understood meaning.

Articulation means shapes and surfaces having joints or segments that subdivide the area or elements; the joints or members add scale and rhythm to an otherwise plain surface. Articulation can be horizontal or vertical.

Board and batten means exterior siding that has alternating wide boards and narrow wooden strips.

Clearstory means an architectural roof feature that extends above the roof and contains windows.

Column/pillar means freestanding vertical supports that generate unique features through the composition of the base, shaft and capital arrangement of column parts.

Facade means the vertical exterior surfaces of a building.

Florida vernacular means the architectural style in the Caloosahatchee Shores Planning Community consistent with the historic design features of central and south Florida building tradition that incorporate elements from traditional Colonial Revival, and Folk architectural styles.

Monument sign or monument-style sign is a ground sign, the structural base of which is on the ground. The height of the base must not exceed 36 inches above the adjacent ground. The average width of the sign structure must exceed the total height of the sign structure. The width of the top of the sign structure must not exceed 120 percent of the width of the base. The face of sign area for a monument sign will be measured in accordance with section 30-91.

Pedestrian level lighting means a lighting fixture with a height between ten feet and 15 feet that provides consistent illumination of at least one footcandle on the walking surface.

Pole sign is a freestanding sign composed of a single, double, or multiple support structure, that is not a solid monument-style.

Public open space means people-oriented spaces that take into consideration human scale and proportion and provide pedestrian connections and linkages, such as courtyards or plazas. Public open space must be designed for function by providing amenities for users. Design and amenities can include textured paving, landscaping, lighting, shade trees, and street furniture such as outdoor seating, kiosks, bus shelters, sculptures, tree grids, trash receptacles, fountains, and umbrellas.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Secs. 33-1486—33-1490. Reserved.

DIVISION 2. DESIGN STANDARDS

Subdivision I. - Basic Elements

Subdivision II. - Architectural

Subdivision III. - Signs

Subdivision I. Basic Elements

Sec. 33-1491. Lighting.

In addition to the requirements of section 34-625, the following standards must be incorporated into development design:

(a) Pedestrian level lighting must be provided at building entryways and on pedestrian walkways from parking areas to building entryways.

(b) Lighting must be given a consistent architectural theme that complements the building's exterior and the overall building development.

(c) Lighting must be provided throughout all parking areas utilizing decorative light poles/fixtures.

(d) Light fixtures must be fully shielded except for pedestrian light fixtures. Lighting must be directed to avoid intrusion on adjacent properties and away from adjacent thoroughfares.

(e) Light fixtures must not conflict with landscaping requirements. Lighting plans must be coordinated with landscape plans to eliminate potential conflicts.

(f) Buildings, awnings, roofs, windows, doors and other elements may not be designed to be outlined with light. Exposed neon and backlit awnings are prohibited. Temporary seasonal lighting during the month of December is excluded from this requirement.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1492. Utilities.

All utility lines must be located underground except when located within a public street or road right-of-way.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1493. Parking.

In addition to the parking regulations in chapter 34, article VII, division 26, the following will apply to all development:

(a) *Location.* No more than 20 percent of parking area may be located between the street right-of-way and the principal structure or on the side of the building. The balance of the parking must be located in the rear of the building.

(b) *Internal circulation and pedestrian connections.* The following requirements are in addition to the requirements of section 10-610(d).

(1) Pedestrian walkways must be provided for each vehicular entrance to a development, excluding ingress and egress points intended primarily for service, delivery, or employee vehicles.

(2) Sidewalks or pedestrian walkways must connect the on-site pedestrian systems to pedestrian systems on adjacent developments (Figure 1).

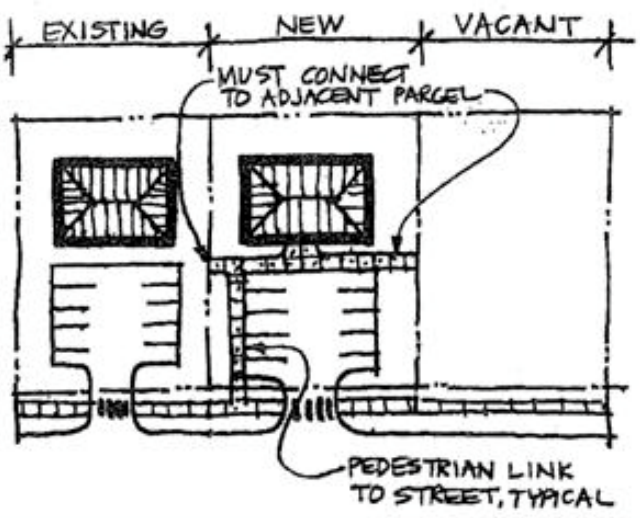


Figure 1 (§ 33-1493(b)(2))

(3) Where walkways cross traffic lanes, special design features must be used to increase safety for the pedestrian, that may include raised or textured pavement, curb extensions to narrow the travel lane or low-level lighting, such as a bollard light.

(c) *Interconnections and shared access.* To increase vehicular and pedestrian interconnections and minimize the number of access points from primary road corridors, adjacent commercial uses must provide interconnections for automobile, bicycle and pedestrian traffic. All adjacent parking lots must connect, unless divided by a public right-of-way.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 12-20 , § 3, 9-11-12)

Sec. 33-1494. Dry detention.

Dry detention areas must be planted with Southern Red Maple (*Acer rubrum*), South Florida Slash Pine (*Pinus elliottii var. densa*), Laurel Oak (*Quercus hemisphaerica*), and/or Cypress (*Taxodium distichum*) trees. The trees must be planted 20 feet on center and at time of installation the trees must be six feet in height, two inch caliper, and a three foot spread.

(Ord. No. 12-01 , § 5, 1-10-12)

Subdivision II. Architectural

Sec. 33-1495. Applicability.

Architectural design of all commercial, public and mixed-use buildings within the Caloosahatchee Shores Planning Community must comply with this subdivision.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1496. Architectural style.

The architectural style in the Caloosahatchee Shores Planning Community is Florida vernacular. Vernacular style must be displayed through the inclusion of building materials, roof overhangs, porches, columns, covered corridors, covered walkways and pitched roofs (where applicable).

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1497. Maximum height.

(a) Building height is limited to a maximum of three stories or 45 feet, whichever is less, for properties located in the suburban, outlying suburban, and rural future land use categories. For all other future land use categories heights are permitted in accordance with chapter 34

(b) Elements that enhance visibility, create focal points or amenities, may exceed the maximum height limitations with an approved variance or deviation. Exceptions to height limitations for certain structural elements are permitted in accordance with section 34-2173

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1498. Facade treatment.

In addition to the requirements of section 10-620(c), projects must use architectural relief or articulation on building facades to reduce the bulk of buildings. Buildings must be designed to be visually appealing from all directions. Buildings that are visible from more than one right-of-way must use articulation and/or architectural treatments on all viewable facades.

(a) A singular facade must not exceed 50 lineal feet or more than one-third of the structure's length, whichever is less, before architectural relief or articulation occurs.

(b) Architectural relief of blank facades must include three or more of the following:

(1) Recessed or clearly defined entryways;

(2) Varying rooflines, pitches and shapes (Figure 2);

(3) Dormers, balconies, porches and staircases;

(4) Transparent window or door areas or display windows that provide visibility into the building interior;

(5) Overhangs and awnings;

(6) Building ornamentation and varying building materials, colors, decorative tiles, edifice detail such as trellises, false windows or recessed panels reminiscent of window, door or colonnade openings;

(7) Architectural features such as cornices, articulated roof parapets or other details that alter the building height; or

(8) Application of a contrasting base that is a minimum three feet high and extends along the entire front face of the building that is adjacent to the right-of-way.

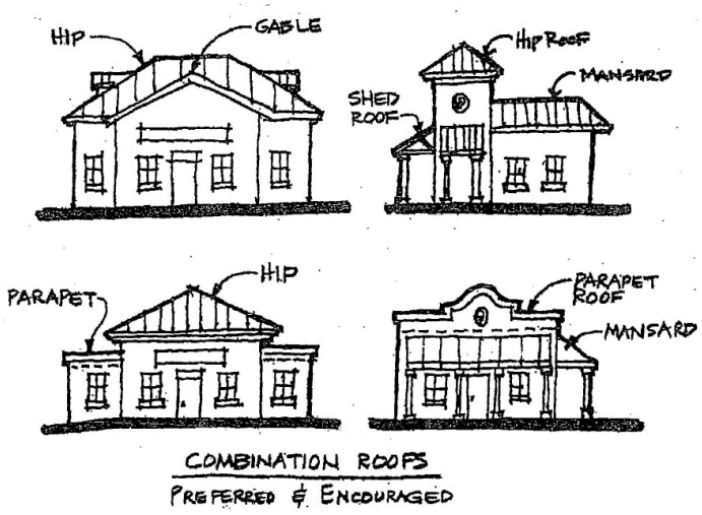


Figure 2 (§ 33-1498(b)(2))

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1499. Building materials.

(a) Traditional building materials, such as masonry, stone, brick, or wood, must be used as the predominant exterior building materials for all new construction renovations and additions. Acceptable finishes include, horizontally struck stucco, board and batten, and stained hardwood panels. Plastic or vinyl siding is permitted only when necessary to establish the Florida vernacular style.

(b) The following exterior building materials may only be used as secondary exterior finish materials, provided they cover no more than ten percent of the building facade area. This restriction does not apply to roofs.

(1) Tile;

(2) Plain, smooth, scored or rib faced concrete block;

(3) Plywood or sheet pressboard;

(4) Any translucent material, other than glass; or

(5) Any combination of the above.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1500. Roofs.

In addition to the requirements of section 10-620(d), the following standards identify appropriate roof treatments and features.

(a) The roof must be a minimum combination of two simple roof styles. Simple roof styles include: flat roof, hip roof, parapet roof, gable roof and mansard roof (Figure 3).

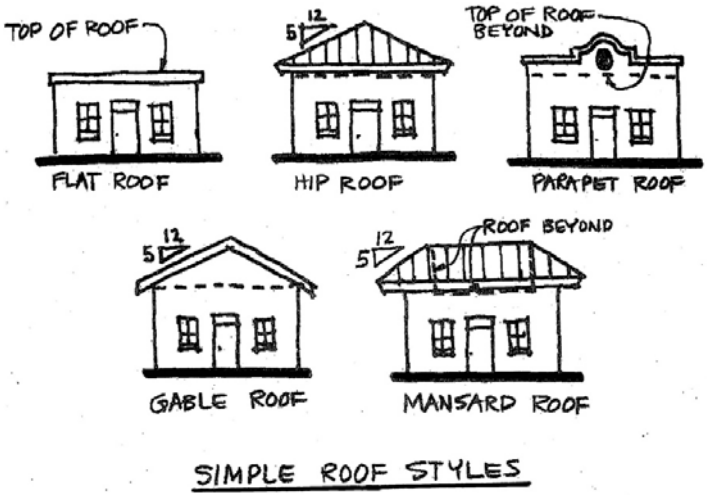


Figure 3 (§ 33-1500(a) & (b))

(b) The pitch of the main roof (hip, gable, or mansard) must be designed to have an average slope of 5V:12H (Figure 3) and a minimum six-inch overhang. The pitch of a porch roof must be lower than that of the main roof.

(c) Architectural roof features are permitted and include dormers, clearstories, chimneys, cupolas, and finials (Figure 4). Mansard roofs must incorporate dormers. Roof features and materials must be in scale with the building's mass and complement the overall architectural design of the building.

ARCHITECTURAL ROOF FEATURES

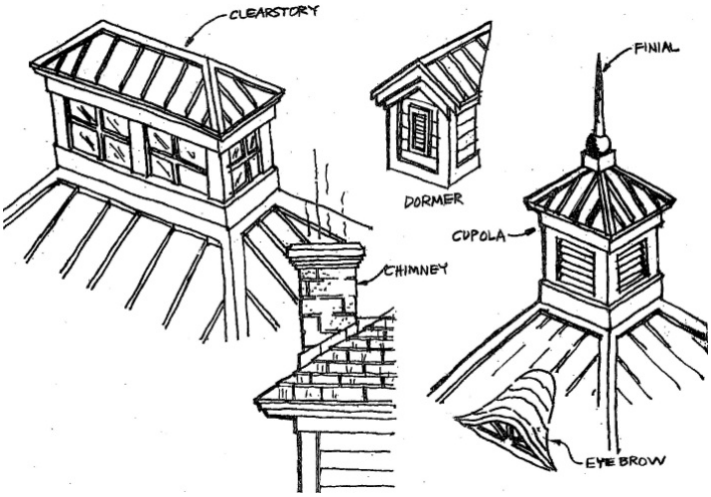


Figure 4 (§ 33-1500(c))

(d) The following types of materials are permitted: standing seam metal, metal shake, 5V crimp metal, and concrete tile. The following materials are not acceptable: two-tab shingles and barrel tiles.

(e) The roof color may contrast the primary building color, but must create a harmonious impact, complement the principal structure as well as existing surrounding buildings.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1501. Window treatment.

(a) Windows must have designs that are simple and in proportion to the overall building design. Windows may be embellished with colonial or Bahama style shutters.

(b) Windows must not appear to be false and applied (Figure 5).

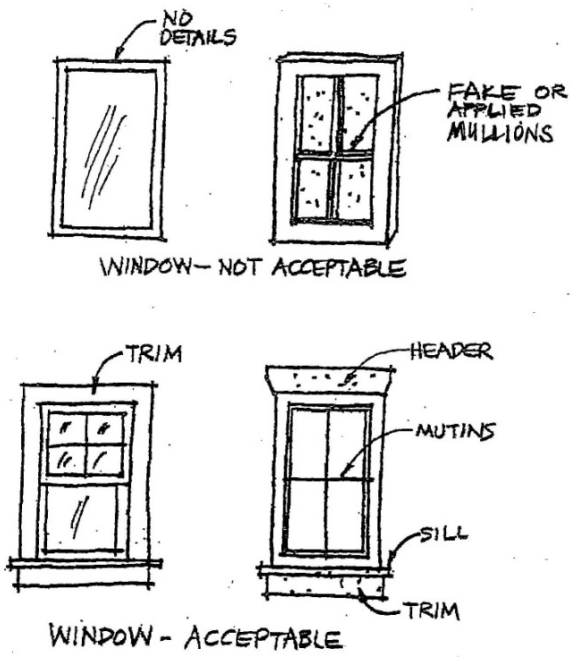


Figure 5 (§ 33-1501(b))

(c) When window security gratings are necessary, they must be interior to the structure and concealed from street view.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1502. Awnings, balconies, porches and stairs.

(a) If an awning or balcony is over a sidewalk, it must project from the surface of the building at a minimum height of eight feet. No awnings, balconies or porches may be placed in or over any public right-of-way.

(b) The design, materials and color of an awning, balcony or porch must complement the architecture of the building, not obscure its features and must be consistent with the visual scale of the building.

(c) *Awnings.*

(1) Awnings must be placed at the top of openings. The awning shape must correspond with the shape at the top of the opening (Figure 6). Flat canopies are discouraged except in circumstances where it is accompanied by a valance.

(2) Awnings must correspond with openings and must not connect at corners so as to "wrap" the building (Figure 7).

(3) Materials must be of high quality, durable and weather resistant. Plastic or shiny materials, such as un-finished metal, are prohibited.

(4) Awnings that are a permanent part of the building architecture may be constructed of metal, wood, or other traditional building materials. The design and materials must be consistent with the overall design of the building.

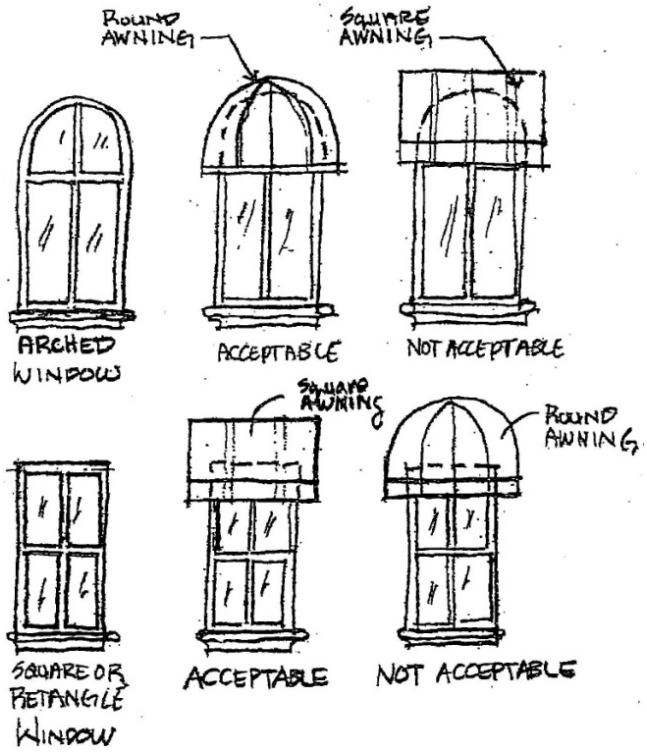


Figure 6 (§ 33-1502(c)(1))

Figure 7 (§ 33-1502(c)(2))

(d) *Balconies.* The balcony must be adorned with a decorative bracket, or similar finish, around the bottom of the structure so as to have a completed appearance. The railings and decorative features must have the appearance of light frame wood construction.

(e) *Porches.*

(1) A porch must encompass an area greater than 50 percent of the front facade and must have a depth of at least 60 inches.

(2) The space between the floor of the porch and the ground must be screened with lattice or enclosed with the predominant exterior building material of the principal building.

(3) Porch railings, columns, posts and decorative trim must have the appearance of light frame wood construction.

(4) Screen enclosures may not be used to enclose the porch and are otherwise prohibited between the principal structure and the street right-of-way.

(f) *Stairs.* Stairs that extend higher than the base elevation of the structure are not permitted between the principal structure and an adjoining street right-of-way.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1503. Multi-tenant buildings.

For multi-tenant buildings, roof parapets must be varied in depth and height. Roof parapets must be articulated to provide visual diversity. Parapets must include architectural relief or features at least every 50 feet or not less than one-third the structure's length. The minimum height of the architectural features must be one foot, and may be provided in height offset or facade projections such as porticoes or towers.

(Ord. No. 12-01 , § 5, 1-10-12)

Subdivision III. Signs

Sec. 33-1504. Applicability.

Whenever the requirements of this subdivision impose a different standard than the provisions of chapter 30, the requirements of this subdivision will govern. Except where specifically modified by the provisions of this subdivision, all requirements of chapter 30 apply.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1505. Prohibited signs.

(a) Unless a deviation or variance is granted, the following signs are prohibited within the Caloosahatchee Shores Planning Community:

(1) Animated signs.

(2) Emitting signs.

(3) Changing sign (automatic), including electronic changing message centers.

(4) Figure-structured signs.

(5) Pole signs/freestanding.

(6) Pylon signs.

(7) Flashing signs.

(8) Roof signs.

(9) Balloons, including all inflatable air signs or other temporary signs that are inflated with air, helium or other gaseous elements, except as permitted by special occasion permit.

(10) Banners, pennants or other flying paraphernalia, except as permitted by special occasion permit or an official federal, state, County flag, or one symbolic flag not to exceed 15 square feet in area for each institution or business.

(b) Temporary sign permits for prohibited signs will not be issued.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1506. Permanent signs in commercial and industrial areas.

(a) *Identification sign.* A nonresidential subdivision or parcel will be permitted one monument-style identification sign (Figure 8) along any street that provides access to the property in accordance with section 30-153 and the following:

(1) Except as provided in subsection (3) below, the maximum height of any identification sign on properties located in the suburban, outlying suburban, or rural future land use categories will be seven feet with architectural features not to exceed ten feet in height.

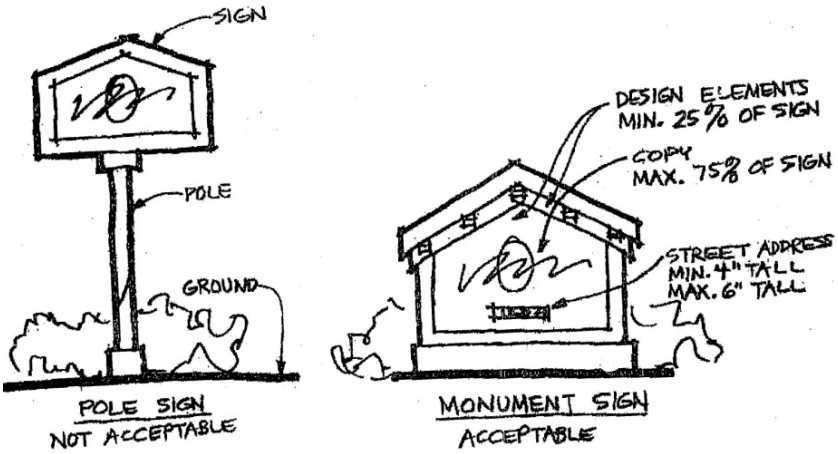


Figure 8 (§ 33-1506(a))

(2) Lighting.

a. *Permissible lighting.* Except as provided in section 30-153(2)a.1.iv., the monument-style identification sign may be illuminated by:

1. Individual internally illuminated letters and logo on an unlit background;
2. Lighting behind the letters and logo that illuminates the sign background;
3. A combination of subsections 1 and 2 above; or
4. Edge-lit letters using concealed neon or remotely lit fiber optics.

b. *Prohibited lighting.* Monument-style identification signs may not be animated or illuminated by:

1. A visible source of external lighting;
2. Exposed neon; or
3. Exposed raceways.

c. All electrical connections, wiring, etc., must be concealed.

(3) Except as provided herein, monument-style identification signs must be set back a minimum of 15 feet from any street right-of-way or easement, and ten feet from any other property line.

Exception: In the State Route 80 Corridor Overlay District, where the building is within 10 feet of the street right-of-way or road easement, the sign may be placed closer than 10 feet to the right-of-way or easement provided it does not project over any right-of-way or easement, the height does not exceed seven feet with architectural features not to exceed ten feet in height, and the sign is not located within ten feet of any overhead electrical supply.

(4) All monument-style identification signs must display the street address of the property. Street numbers must measure between a minimum of four inches and a maximum of six inches, in height. The copy area of the street address will not be counted toward the allowable sign copy area.

(5) Copy area of a monument sign may not exceed 75 percent of the total sign structure area and a minimum of 25 percent of the sign structure area must be devoted to architectural features.

(6) Signs must match the architectural style of the building or development.

(7) Wall signs are permitted in accordance with section 30-153(2)c.1. and section 30-153(3)d., with a maximum area of 300 square feet per wall per tenant. This area is to be determined by the sum of any and all signs on the tenants wall. Wall signs may not contain advertising messages or sales item names.

(Ord. No. 12-01 , § 5, 1-10-12)

Secs. 33-1507—33-1510. Reserved.

DIVISION 3. OVERLAY DISTRICTS

Sec. 33-1511. Applicability.

Whenever the requirements of the overlay districts impose a different standard than the provisions of this Code, the requirements of the overlay district will govern. Except where specifically modified by the provisions of this subdivision, all other requirements of this Code apply.

(Ord. No. 12-01 , § 5, 1-10-12)

Subdivision I. Olga Planning Community

Sec. 33-1512. Commercial development.

All new commercial development must be zoned a Commercial Planned Development district.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1513. Development regulations.

(a) *Setbacks*. The following setbacks are the minimum setbacks for all commercial structures:

(1) Street setback: 40 feet.

(2) Side yard setback: 30 feet.

(3) Rear yard setback: 50 feet.

(b) *Maximum lot coverage.* The maximum lot coverage (percent of total lot area) is 25 percent for all commercial development north of SR 80 and east of South Olga Drive.

(c) *Maximum height.* Buildings are limited to a maximum of two stories or 35 feet, whichever is less, in height. Elements that enhance visibility, create focal points or amenities, may exceed the maximum height limitations with an approved variance or deviation.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1514. Open space.

The following are the minimum open space requirements for developments:

(1) Developments less than five acres must provide 30 percent open space.

(2) Developments between five and ten acres must provide 40 percent open space.

(3) Developments more than ten acres must provide 50 percent open space.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1515. Parking lots.

In addition to the parking regulations in section 33-1493, the following applies to all development:

(a) Parking lots cannot be located between the street right-of-way and the principal building or on the side of the building adjacent to the street right-of way.

(b) Parking may be reduced up to 50 percent in order to provide more open space and less impervious surfaces on the site. The percentage difference must be converted to internal landscaping and open space.

(c) No parking space can be more than 50 feet from a canopy tree.

(d) The internal planting area must be comprised of canopy trees, cold tolerant palms (three palms to one canopy tree), shrubs, and groundcover. Plant material must be in accordance with section 10-420

(Ord. No. 12-01 , § 5, 1-10-12)

Subdivision II. State Route 80 Corridor

Sec. 33-1516. Applicability.

For all development requiring a development order and/or for live-work units, a public hearing is not required when: the property is within the State Route 80 Corridor; when the property has a minimum depth of 260 feet (including a 20 foot-wide alleyway) and a minimum width of 75 feet; the development provides a combination of residential and commercial uses; and the development complies with the provisions of this article. A master concept plan and the information required pursuant to sections 34-202 and 34-373 must be submitted for review and approval by administrative action. Any request to change the zoning designation of a parcel must comply with the notice and hearing requirements under F.S. § 125.66. Developments of regional impact, deviations not able to be approved administratively, special exceptions and variances are not exempt from the public hearing process.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1517. Commercial site location standards.

The parcels located in the State Route 80 Corridor Overlay District are not subject to the commercial site location standards of Lee Plan Policy 6.1.2 and have been determined to meet the requirements of the commercial infill requirements of the Lee Plan.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1518. Uses.

Commercial uses are limited to those permitted in the underlying commercial zoning district or as approved in a schedule of uses for a planned development district. Uses on properties zoned residential, developed in conjunction with a commercially zoned property, are limited to ancillary parking lots, fences and walls, signs, essential services, water retention and temporary uses. If two lots with a minimum 260 foot lot depth are replatted to alter the location of the alleyway, commercial uses, limited to those permitted in the underlying commercial zoning district or as approved in a schedule of uses for a planned development district, will be allowed south of the platted alleyway.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1519. Property development regulations table.

Property development regulations are as follows:

TABLE 33-1519
PROPERTY DEVELOPMENT REGULATIONS FOR
THE STATE ROUTE 80 CORRIDOR OVERLAY DISTRICT

	Special Notes or Regulations	Minimum	Maximum
Lot area and dimensions:	34-2221 & 34-2142		
Lot size (square feet)		7,500	—
Lot width (feet)		75	—
Lot depth (feet)		120	260[1]
Setbacks:	34-2191 et seq.		
Street[2] (feet)		10	25
First Street (feet)	34-2192	0[3]	—
Side yard[4] (feet)		0	N/A
Rear yard (feet)		25	N/A
Building separation (feet)		10[5]	20
Height (feet)		—	45
Lot coverage (% of total lot area)		—	80%[6]

Notes:

1. The maximum lot depth is permitted only when two lots are combined between SR 80 and First Street and include a 20-foot-wide platted alleyway (Plat Book 9, Pages 151—154). The two lots that comprise the 260 foot lot depth may be replatted to alter the location of the alleyway but the alleyway cannot be vacated. The alleyway may be used as primary access into the proposed development.
2. Minimum of 40 percent of the building frontage will be required at the setback along SR 80.
3. The minimum setback of zero feet on First Street is only permitted if the maximum 260 foot lot depth is met. If the lot depth is not 260 feet, a minimum street setback in compliance with section 34-2192 is required.

4. Developments should provide setbacks of five feet or less to create a continuous building frontage where possible. Where side setbacks are less than five feet, evidence must be presented that the land owner will be able to maintain the exterior wall. The exterior walls of the buildings must meet fire protection standards.

5. The minimum building separation of ten feet is permitted subject to compliance with all applicable building and fire codes.

6. The maximum lot coverage may only be obtained when the property has a minimum depth of 260 feet (that includes a 20-foot-wide alleyway) and a minimum width of 75 feet and the development complies, except as otherwise approved, with all applicable LDC regulations including, but not limited to, parking and open space.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1520. Parking.

(a) Parking must comply with the regulations in chapter 34, article VII, division 26 and section 33-1493

(b) Parking located adjacent to State Route 80 is prohibited. Parking must be located in the rear of the building.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 12-20 , § 3, 9-11-12)

Sec. 33-1521. Stormwater management.

Surface water management systems must be provided and designed in accordance with South Florida Water Management District requirements. Innovative and urban stormwater management designs and techniques may be considered for addressing stormwater treatment requirements, including but not limited to porous pavement, treatment inlet boxes with skimmers or traps, subsurface basins for infiltration or detention, prefabricated multi-chamber water quality devices, green roofs, stormwater treatment mitigation, etc. All stormwater management designs and techniques must be certified by a Florida professional engineer or other appropriate professional registered under F.S. chs. 471 or 481, competent in the fields of hydrology, drainage, and flood control. Submittals must include recorded documents creating a maintenance entity or, if under single ownership, a maintenance agreement and maintenance plan that includes a proposed maintenance schedule for each technique, identifying the timing of inspections and maintenance activities such as removing debris from inlet boxes, replacing filters, pumping out accumulated sediment, mechanical sweeping, etc.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1522. Open space.

Commercial projects must provide a minimum 30 percent open space of which ten percent must be public open space. If the maximum lot depth of 260 feet is provided, open space can be reduced to 20 percent with no requirement for public open space.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1523. Buffers.

All buffers must comply with section 10-416, except for the following:

(a) Landscape buffers are not required between commercial uses.

(b) If driveways and/or parking spaces are within 125 feet of a residential use a type F buffer per section 10-416(c) must be provided.

(c) Type D right-of-way buffers must have a minimum ten foot width with five trees per 100 linear feet and a double staggered hedgerow.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1524. Live-work units.

(a) Live-work units may be located in the State Route 80 Corridor Overlay District subject to the following:

(1) The work space must not exceed 50 percent of the total floor area of the unit. The use must be conducted entirely within the work unit.

(2) The minimum lot size is 7,500 square feet.

(3) The owner/occupant of a live-work unit must maintain a valid County local business tax receipt (f/k/a occupational license) for the business on the premises. Proof of payment of the annual local business tax will be required to be submitted to the Lee County Department of Community Development annually.

(4) Off-street parking for a live-work unit is determined by the number of spaces required for the nonresidential use based on the square footage of the work space. The multiple-use development parking standard (see section 34-2020(b)) will be used to determine the minimum number of spaces required for each live-work unit. The minimum number of required parking spaces may be reduced up to 50 percent if a parking demand study is provided that supports the reduction pursuant to 34-2020(c)(6) and administrative approval is obtained pursuant to 34-2020(e).

(5) Outdoor storage or display of materials, goods, supplies, equipment, or products associated with the business is prohibited.

(6) No equipment may be utilized which create noise, vibration, glare, fumes, odors, or electrical interference objectionable to the normal senses.

(b) *Uses.* Live-work unit uses are limited to those uses permitted in the underlying zoning district or as approved in a schedule of uses for a planned development district. Uses permitted by special exception may be approved as a live-work unit use through the public hearing process set forth in chapter 34

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 12-20 , § 3, 9-11-12)

Secs. 33-1525—33-1530. Reserved.

ARTICLE VIII. NORTH FORT MYERS PLANNING COMMUNITY

DIVISION 1. - IN GENERAL

DIVISION 2. - NORTH FORT MYERS COMMUNITY WIDE LAND DEVELOPMENT PROVISIONS

DIVISION 3. - COMMERCIAL CORRIDOR LAND DEVELOPMENT PROVISIONS

DIVISION 4. - TOWN CENTER LAND DEVELOPMENT PROVISIONS

DIVISION 1. IN GENERAL

Sec. 33-1531. Applicability.

Scope. The provisions of this article will apply to all development located in the North Fort Myers Community, as defined in Goal 28 of the Lee County Comprehensive Plan.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1532. Community review.

(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publically advertised information session within the North Fort Myers Planning Community prior to obtaining approval or finding of sufficiency of the following:

(1) Development orders.

(2) Planned development zoning actions. This includes administrative deviations amending the approved master concept plan or other provisions of the zoning resolution.

(3) Special exception and variance requests.

(4) Conventional rezoning actions.

(b) *Meeting requirements.* The applicant is responsible for providing the meeting space, providing notice of the meeting, and providing security measures as needed. The meeting location will be determined by the applicant. Meetings may, but are not required to, be conducted before non-County formed boards, committees, associations, or planning panels. During the meeting, the agent will provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1533. Conflicting provisions.

If the provisions of this article are inconsistent with provisions found in other adopted codes, ordinances, or regulations of the County, this article will take precedence.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1534. Existing planned development.

Existing approved master concept plans may be voluntarily brought into compliance with the North Fort Myers Plan (Lee Plan Goal 28) or any regulation contained in this article through the administrative amendment process. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations. Notwithstanding, any request to change the zoning designation of a parcel must comply with the notice and hearing requirements under F.S. § 125.66.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1535. Deviations and variances.

Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from any architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance must be submitted as part of the application.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1536. Reserved.

Editor's note—

Ord. No. 14-13, § 6, adopted June 17, 2014, repealed § 33-1536 which pertained to compact communities/planned developments and derived from Ord. No. 12-01, § 5, adopted Jan. 10, 2012, and Ord. No. 13-05, § 2, adopted Feb. 26, 2013.

Sec. 33-1537. Definitions.

The following definitions are in addition to those set forth in other chapters of this LDC and are applicable to the provisions set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this LDC, then the definitions set forth below will take precedence. Otherwise the definitions contained elsewhere in this LDC will control.

Alley means a service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

Apartment means a dwelling unit sharing a building and a lot with other dwellings and/or uses. Apartments may be for rent or for sale as condominiums.

Arcade means a series of columns that support a permanent roof over a sidewalk.

Attic means the area within the slope of a roof. An inhabited attic will not be considered a story for purposes of determining building height.

Building height means the vertical extent of a building measured in stories or feet including parking structures but not including a raised basement, habitable attic, masts, belfries, clock towers, chimney flues, steeples, water tanks, elevator bulkheads, rooftop stair enclosures and similar structures. (See Figure 1.)

Casino means a public room or building for gambling and other entertainment.

Casino style games/gambling means the wagering of money or something of material value on an event with an uncertain outcome with the primary intent of winning additional money and/or material goods. Casino style games includes, but may not be limited to; card games, slot machines, dice games, and other games of chance played within an establishment that supports the gambling on these games.

Civic lands means only government owned publicly used land that is intended to remain in public uses and ownership.

Commercial corridor means all commercially zoned properties with frontage on, or contiguous to and developed in conjunction with properties with frontage on, the following roadways within the North Fort Myers Planning Community:

(a) U.S. 41/Cleveland Avenue.

(b) Old 41/Tamiami Trail.

(c) Pine Island/Bayshore Road.

(d) Hancock Bridge Parkway.

(e) Pondella Road.

Density means the number of dwelling units permissible within a unit of land such as units per acre. (See chapter 34, article VII, division 12 for the components and methods of calculating density).

Elevation means the exterior facades and other faces of a building including roof forms as seen from a side view.

Enfront means the placing of an element along a frontage line, as in "porches enfront the street."

Entrance, main/principal means the principal place of pedestrian entry to a building. In the support of pedestrian activity, the principal entrance will face the enfronting street rather than the parking.

Existing large lot residential subdivision means a residential subdivision where the minimum lot size is 14,520 square feet and is either existing or has been approved by Lee County as of January 10, 2012 (effective date of this article).

Facade means an exterior wall or elevation of a building that is set along a frontage line. Facades support the public realm and are subject to frontage requirements additional to those required of other elevations.

Frontage line means those lot lines that coincide with a public thoroughfare or a civic space. Those frontages on an "A" street (see "street grids") will be considered to be primary frontage lines. Facades along frontage lines define the public realm and are therefore more highly regulated than other elevations. For this reason, all frontage lines will meet the facade treatment requirements to the greatest extent possible.

High density or high intensity use means any use greater in intensity or density than a duplex or two-family attached residence (e.g., multi-family, mixed-use, and commercial uses).

Large commercial means any commercial project with a building square footage of 20,000 or more.

Lot line means the boundary that legally demarcates a lot.

Mixed-use means a development, in a compact urban form, including residential and one or more different but compatible uses, such as but not limited to: office, industrial and technological, retail, commercial, public, entertainment, or recreation. These uses may be combined within the same building or may be grouped together in cohesive neighboring buildings with limited separation, unified form and strong pedestrian interconnections to create a seamless appearance. This is also known as horizontal mixed-use, whereby the development combines multiple single-use buildings within a single development parcel or site. (See Figure 2.)

Mixed-use building means a building that contains at least two different land uses (i.e. commercial and residential, retail and residential, office and residential, commercial and civic use open to the public) that are related. This is also known as vertical mixed-use, whereby the mixed-use development combines different uses within the same building. Ancillary parking is usually not included as one of the elements of mixed-use.

Nonconforming use means an activity or structure which was lawful prior to the adoption of article VIII.

Open space. There are various types of open spaces, which are herein defined as follows:

Public open space means space that is generally legally held in ownership in the public domain, such as street and alley rights-of-way, sidewalks (usually located within the rights-of-ways), civic spaces (such as plazas, piazzas, or town squares and greens), public parks, playgrounds, and other venues also held in public ownership and are open to the public.

Publicly accessible open space means open space that is open to the public and that is publicly accessible, but which ownership is NOT public (i.e., on private property). It is the type of open space found within the boundaries of a privately owned site within a project. It may include many of the same types of open spaces included in the definition of public open space such as streets (although private), walkways, plazas, parks, courtyards, and so on. Restrictions may apply as to times of use and occupants of use. Publicly accessible open space includes both green open space and urban open space as set forth below:

Green open space areas that are not occupied by any structures or impervious or semi-pervious surfaces. Natural and artificial water bodies are considered green open space but may be limited to the extent that they are considered publicly accessible.

Urban open space means portions of land areas that are covered by impervious or semi-permeable development paving or structures.

Parking structure means a building built for the purpose of enclosing parking.

Pedestrian-oriented business means a business that by its location and design generates and attracts customers who may be passing by or arriving on foot.

Porch means a roofed, open area, which may be screened, attached to or part of a building, and with direct access to or from it.

Residential means premises available for long-term habitation by means of ownership or rental but excluding short-term renting.

Stoop means a staircase on the facade of a building that leads either to a small unwalled entrance platform or directly to the main entry door.

Storefront or shopfront means the total physical exterior front face of a store or commercial use facing the street and usually contains the main entrance door and display windows, along with their transoms, sign bands, kickplates, and lighting. (See Figure 3.)

Street furniture means objects that are constructed or placed above ground such as outdoor seating, kiosks, bus shelters, sculptures, tree grids, trash receptacles, fountains, and telephone booths, which have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to, and used by, the public. Street furniture elements also include such things as fire hydrants, tree grates and tree guards, planters, light fixtures, and signs. (See Figure 4.)

Street grids means primary grid streets that will form a continuous, high quality pedestrian frontage are designated "A" streets. Secondary grid streets that will be permitted to maintain their automotive focus are designated "B" streets. ("A" streets have higher retail activity than "B" streets, e.g., "A" = gift shop, restaurant. "B" = insurance office.) It is the intent of this Article that properties fronting on "A" streets will have a higher level of regulation than "B" street properties.

Uses permitted means the uses accommodated by a building and its lot within the zoning districts of this article. Uses are categorized as limited or open according to the intensity of the otherwise similar use.

Uses, water dependent means marinas, yacht clubs, customer passenger boating, charter boats, boat ramps, and any related feature.

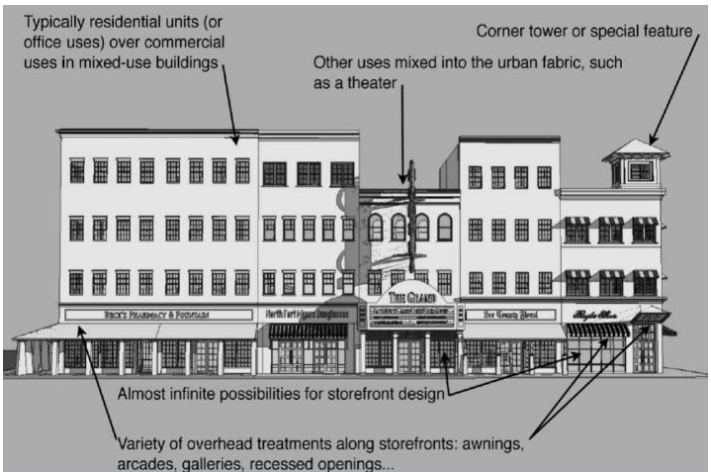


Figure 1 (§ 33-1537 - Building Height)

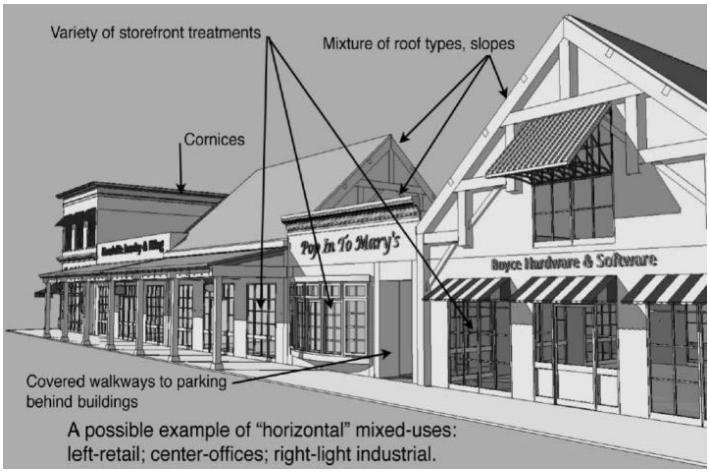


Figure 2 (§ 33-1537 - Mixed Uses)

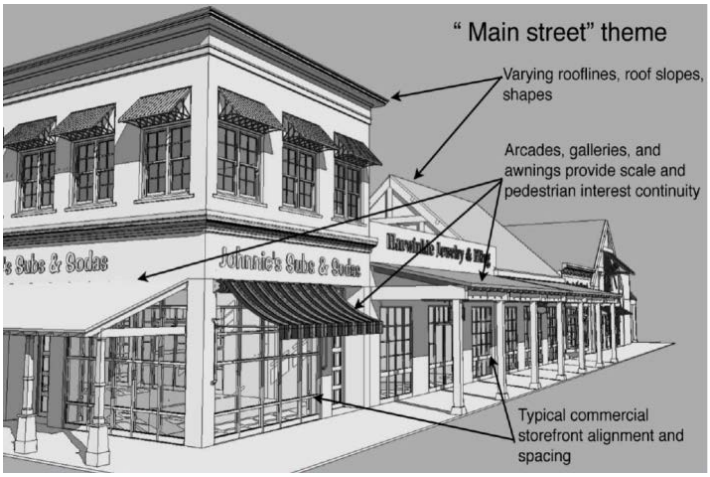


Figure 3 (§ 33-1537 - Storefront or Shopfront)

Figure 4 (§ 33-1537 - Street Furniture)

(Ord. No. 12-01 , § 5, 1-10-12)

Secs. 33-1538—33-1540. Reserved.

DIVISION 2. NORTH FORT MYERS COMMUNITY WIDE LAND DEVELOPMENT PROVISIONS

Sec. 33-1541. Interface between existing large lot residential subdivisions and high density/intensity uses.

The following regulations apply to the location, operation, fencing, landscaping, and parking associated with high density or high intensity uses which abut existing large lot residential subdivisions within the North Fort Myers Planning Community.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1542. Location and site standards.

Any structure other than a single-family, two-family attached or duplex or its associated accessory structure(s) must have a minimum setback of 50 feet between the nearest points on the building and/or structure (not including wing walls, overhangs, shutters, awnings and canopies) and an existing large lot residential subdivision.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1543. Landscaping.

The following requirements for landscaping adjacent to all residential property lines are in addition to the requirements set forth in section 10-416:

(a) Landscape buffers for high density or high intensity development abutting a subdivided lot in an existing large lot residential subdivision must utilize, at a minimum, a 30-foot buffer width.

(b) Landscaped berms without walls may be used for multi-family development abutting an existing large lot residential subdivision.

  (1) If a berm is used it must be constructed and maintained at a minimum average height of four feet, no steeper than a 4:1 slope. The berm must be planted with a combination of groundcovers (other than sod), shrubs, hedges, trees and palms. Plantings must cover a minimum of 50 percent of the total square footage of the berm.

(c) The required trees and palms must be clustered in double rows with a minimum of three trees per cluster. Canopy trees must be planted a maximum of 20 feet on center within a cluster. The use of palms within the buffer must be limited to areas adjacent to vehicular access points, as appropriate, for sight clearances. Palms must be planted in staggered heights to a minimum of three palms per cluster, spaced at a maximum of eight feet on center, with a minimum of a four foot difference in height between each tree. Exceptions will be made for Roystonea spp., Bismarkia spp. and Phoenix spp. (not including robellini), which may be planted one palm per cluster. A maximum spacing of 25 feet between all types of tree clusters must be maintained (25 feet from the closest tree in one cluster to the closest tree in another cluster).

(d) All required shrubs must be a minimum of ten gallons, four feet in height with a three-foot spread, planted four feet on center at installation.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1544. Entrances, exits, and parking spaces.

Vehicular entrances and exits are permitted within the 50-foot setback between the high density or high intensity use building and the required 30-foot landscape buffer. Parking spaces, which are not loading, unloading or servicing the high density or high intensity use, may be placed within the 50-foot setback and may encroach a maximum of 20 feet into the 50-foot setback which is not occupied by any high density or high intensity use building or structure.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1545. Deviations.

The DCD Director or designee may grant a deviation through the Administrative Amendment process to part or all of the requirements set forth in section 33-1542 if it is demonstrated by the applicant that the site proposed for development of high density or high intensity use is separated from the existing large lot residential subdivisions by natural or manmade boundaries, structures, or other features that offset or limit the necessity for such minimum setback requirements.

A community review meeting per section 33-1532(b) of this code may be required at the discretion of the DCD Director or designee for approval of a variance and/or setback request.

The DCD Director or designee's decision to waive part or all of the setback requirements must be based, in part, upon whether or not the nature and type of natural or manmade boundary, structure, or other feature lying between the proposed commercial use and a residential lot or subdivision is determined by the DCD Director or designee to lessen the impact of the proposed commercial use. Such boundary, structure or other feature may include, but is not limited to, lakes, marshes, non-developable wetlands, designated preserve areas, canals and a minimum of a four-lane arterial or collector right-of-way or other physical feature of similar nature or scale so as to achieve the intent of the requirements. The Director's decision is discretionary. If a request for a variance or deviation is denied, the applicant must go through the public hearing process under section 34-145.

Any other variance or deviation must go through the process outlined in section 34-145.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1546. Accessory apartments.

The requirements for accessory apartments are as set forth in section 34-1177, except the following:

Detached apartments. If the accessory apartment is not constructed as part of the main dwelling unit, the maximum floor area will be no greater than 700 square feet.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1547. Special exception uses.

The following uses, when listed as permitted or special exception uses in chapter 34, will be allowed within the North Fort Myers Community only as a Special Exception and will be subject to the following additional condition:

(a) Bars, nightclubs and cocktail lounges not subordinate to hotels or restaurants;

(b) Pawn shops;

(c) Casino style gaming;

(d) Gambling establishments.

Said use(s) must not be located closer than 500 feet, measured in a straight line from any public school or charter school; child care center; park, playground, or public recreation facility; place of worship or religious facility; cultural center, or hospital.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1548. Interconnections and shared access for new development and redevelopment.

Commercial and mixed-use development adjacent to one another must provide interconnections for automobile, bicycle and pedestrian traffic. These regulations apply to new development or redevelopment involving alteration of, or the addition of building square footage, equal to 30 percent or more of existing square footage. Interconnects between parking lots are not intended to satisfy the criteria for site location standards outlined in Policy 6.1.2(5) of the Lee Plan.

(Ord. No. 12-01 , § 5, 1-10-12)

Secs. 33-1549—33-1565. Reserved.

DIVISION 3. COMMERCIAL CORRIDOR LAND DEVELOPMENT PROVISIONS

Subdivision I. Generally

Sec. 33-1566. Applicability.

Scope. The provisions of division 3 apply to all commercially zoned properties with frontage on, or contiguous to and developed in conjunction with properties with frontage on, the following roadways within the North Fort Myers Planning Community:

(a) U.S. 41/Cleveland Avenue.

(b) Old 41/Tamiami Trail.

(c) Pine Island/Bayshore Road.

(d) Hancock Bridge Parkway.

(e) Pondella Road.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 14-13 , § 6, 6-17-14)

Secs. 33-1567—33-1570. Reserved.

Subdivision II. Design Standards for Commercial Corridors

Sec. 33-1571. Property development regulations.

(a) *Minimum building setbacks.*

(1) Side setback. Except as may be necessary to meet the landscaped buffer requirements of section 33-1581, no minimum building setback from side property lines is required; but, if a setback is provided it must not be less than five feet.

(2) Rear setback. Except as may be necessary to meet the landscaped buffer requirements of section 33-1581, no minimum building setback from the rear property line is required.

(3) Setback from man-made lakes or waterways must be at least 20 feet.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1572. Publicly-accessible open space.

In addition to the meeting the requirements of section 10-415, all commercial and mixed-use projects are required to provide publicly-accessible open space that meets the following standards:

(a) Not less than 10 percent of the land area of a development with 40,000 square feet or more of nonresidential floor area must be devoted to publicly-accessible open space.

(b) On parcels of more than 20,000 square feet, urban open space must not comprise greater than 50 percent of the land area required for publicly accessible open space.

(c) Publicly-accessible open space required of multiple individual developments may be consolidated into one centralized open space subject to the following requirements:

(1) The publicly-accessible open space will be developed by one entity. One entity will be defined as either a single owner or a group of owners which form a legal partnership for the purpose of consolidating their open space requirements.

(2) Consolidated publicly-accessible open space will be developed and open for use prior to issuance of the first certificate of occupancy of the building or buildings for which the open space is required.

(3) Provisions for the maintenance of the open space will be determined and documented in a written agreement with the County prior to the issuance of the first certificate of occupancy.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1573. Parking.

The following requirements are in addition to the parking regulations in chapter 34, article VII, division 26:

(a) *Location.*

(1) Building siting and parking design must incorporate pedestrian and vehicular circulation between adjacent sites, such as joint access easements, common driveways and vehicular interconnects between properties.

(2) Parking areas will provide bicycle parking spaces that are located close to the buildings and do not impede pedestrian or auto circulation. Bicycle areas will be located in areas which are clearly visible to site users. The design and materials will be coordinated with the site and building design.

(b) *Distribution.* All outdoor parking areas with greater than 51 spaces must be divided into smaller units or pods to decrease visual impacts associated with large expanses of pavement and vehicles, and to facilitate safe and efficient pedestrian movement between parking and development.

(c) *Access drives.*

(1) Building siting and parking design must maximize shared parking, access entries and driveways in order to minimize the number of curb cuts.

(2) Commercial development adjacent to commercial, mixed-use, or multi-family development must provide interconnections for automobile, bicycle and pedestrian traffic.

(d) *Internal circulation.* The following requirements are in addition to the requirements of section 10-610(d):

(1) Large commercial and mixed-use developments must include at least one separated pedestrian walkway through the parking area to the main entrance.

(2) Sidewalks or pedestrian walkways must connect the on-site pedestrian systems to pedestrian systems on adjacent properties.

(3) Pedestrian walkways and spaces must include at least three of the following elements:

a. Special paving materials, such as specialty pavers, colored concrete or stamped concrete patterns.

b. Landscaping in compliance with section 10-416(d)(11). Pedestrian walkways may be incorporated within a required landscape perimeter buffer and walkways must include one tree per 25 linear feet of walkway. Trees required for internal use (i.e. parking) or general trees may be used to fulfill this requirement. Tree heights and standards must be in compliance with section 10-420

c. Pedestrian walkways may be incorporated within a required landscape perimeter buffer, in compliance with section 10-416(d)(11).

d. Pedestrian-scaled lighting.

e. Seating.

f. Trash receptacles.

g. Primary circulation paths designed to avoid steps or level changes which pose potential tripping hazards and which design facilitates circulation for all potential users, including strollers and wheelchairs.

(4) Parking areas for all retail, office, and mixed-use developments must provide bicycle parking spaces as required by section 10-610(d)(3).

(5) Where walkways cross traffic lanes, special design features must be used to increase safety for the pedestrian. These features may include raised or textured pavement, curb extensions to narrow the travel lane or low-level lighting.

(6) Illumination of walkways must be concentrated along the pedestrian paths leading to parking areas and in the specific areas where cars are parked.

(e) *Garages.* Sixty percent of the primary facade of a parking garage must incorporate the following:

(1) Where pedestrian oriented businesses are located along the facade of the parking structure, they must contain transparent windows, with clear or lightly tinted glass, or display windows; or

(2) Where there are no pedestrian oriented businesses located along the facade of the parking structure, provide decorative metal grille-work; or similar detailing, which provides texture and partially or fully covers the parking structure openings; or vertical trellis or other landscaping; or a pedestrian plaza area. Planting areas must be a minimum of three feet in width and vertical trellises must be at least three feet in height.

(3) All aesthetic improvements must commence on the first floor.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 12-20 , § 3, 9-11-12)

Sec. 33-1574. Transit facilitation.

Access to public transportation must be provided, if applicable. The following examples are design techniques that may be used to meet this requirement:

(a) Accommodate public transportation vehicles on the road network that services the development.

(b) For streets adjacent to a development, provide sidewalks and other pedestrian facilities such as bus shelters.

(c) Provide a convenient and safe access between building entrances and a transit or bus area, such as walkways or painted pedestrian crosswalks.

(d) Pedestrian walkways provided for each public vehicular entrance to a project, excluding ingress and egress points intended primarily for service, delivery or employee vehicles.

(e) Sidewalks or pedestrian ways must connect the on-site pedestrian systems to pedestrian systems on adjacent developments.

(f) Where walkways cross traffic lanes, special design features must be used to increase safety for the pedestrian. Potential design features include: raised or textured pavement, curb extensions to narrow the travel lane or low-level lighting, such as a bollard light.

(Ord. No. 12-01 , § 5, 1-10-12)

Subdivision III. Urban Design Guidelines

Sec. 33-1575. Applicability.

In addition to the requirements of section 10-620, all proposed commercial, public and vertical and horizontal mixed-use buildings or development must blend with and complement, where appropriate architectural features of adjacent structures constructed under these standards.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1576. Architectural standards.

(a) Architectural style. The design of all commercial, public and mixed-use buildings within a North Fort Myers Commercial Corridor must comply with the following standards and be compatible with Florida Traditional Styles. The preferred architectural styles for commercial, public and mixed-use development in the commercial corridors include a mixture of Old Florida, Key West, Colonial, Caribbean and other styles of architecture that are deemed compatible with or complementary to these styles. Distinct vernacular styles should be displayed through the inclusion of roof overhangs and brackets, porches, decorative columns, galleries, arcades, and pitch roofs (where applicable).

(b) Exterior treatment.

(1) Windows will be clear glass, and must transmit at least 50 percent of visible daylight.

(2) Pitched roofs, if provided, will be symmetrically sloped no less than 4:12, except that porches may have attached shed type roofs with slopes no less than 2:12.

(3) "Flat roofs" will be fully enclosed by parapets a minimum of 42 inches high or as required to conceal HVAC equipment to the satisfaction of the director.

(4) Openings above the first story will not exceed 50 percent of the total building wall area, with each facade being calculated independently.

(5) The facades on A streets will be detailed as storefronts and glazed no less than 70 percent of the sidewalk-level story. The facades on office frontages will be glazed no less than 25 percent of the sidewalk-level story.

(6) Open porches, stoops, balconies, awnings and bay windows may encroach into any setback up to the right-of-way line, if not prohibited by an easement.

(7) Openings, including porches, galleries, and windows will be square or vertical in proportion.

(8) Sliding doors are prohibited on the ground floor along frontage lines.

(9) In addition to the requirements of section 10-620(c), projects must use architectural elements and articulation on building exteriors to reduce the bulk of buildings. Buildings must be designed to be visually appealing from all directions and must include at least three of the following methods of providing architectural relief:

a. Recessed or defined entryways;

b. Varying rooflines, pitches, and shapes;

c. Dormers, balconies, porches, and staircases;

d. Display windows that provide visibility into the building interior;

e. Overhangs, awnings, and marquees; or and

f. Features such as cornices, articulated roof parapets, porticos, towers, or other details that alter building height.

(c) Examples of character and styling that emulate architectural features and materials that are associated with or compatible to the Florida Traditional and other acceptable and compatible architectural styles:

Key West or Cracker Style

Figure 6 (§ 33-1576(c))

Caribbean Style

Figure 7 (§ 33-1576(c))

Colonial Style

Figure 8 (§ 33-1576(c))

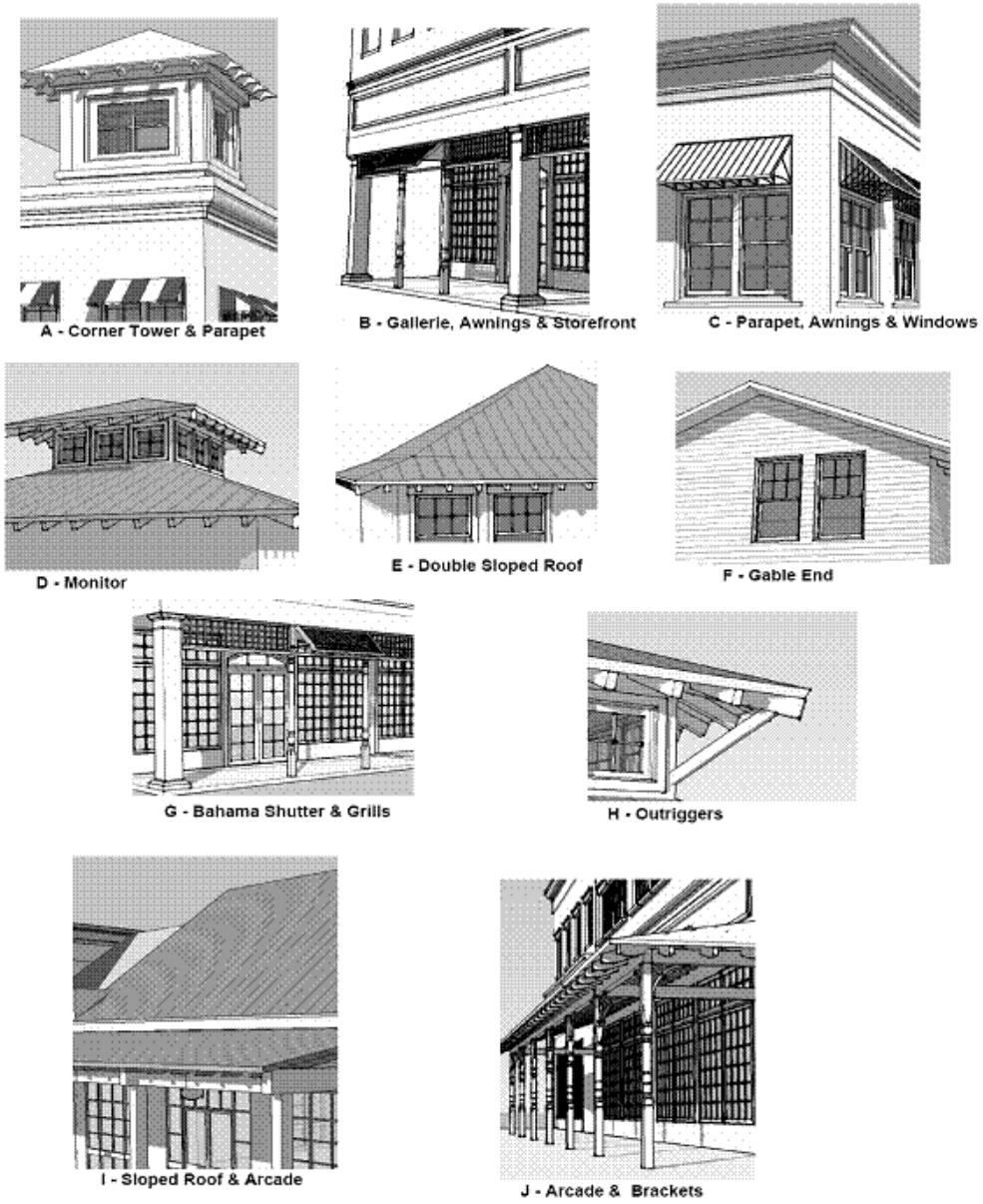


Figure 9 (§ 33-1576(c))

(Ord. No. 12-01 , § 5, 1-10-12)

Secs. 33-1577—33-1580. Reserved.

Subdivision IV. [Miscellaneous]

Secs. 33-1585—33-1590. Reserved.

Sec. 33-1581. Landscaping buffers, pedestrian linkages, and street furniture.

The following buffer table will be used instead of section 10-416(d)(3)&(4):

TABLE 1. BUFFER REQUIREMENTS

	PERMITTED OR EXISTING USE										
PROPOSED USE		SF-R	MF-R	COM	ROW	IND	STP	AG	WOR	REC	PRE[4]
	COM	C/F[1]	C/F[1]	A[2]	D[3]	A	-	A	A	A	F
	WOR	B	B	A	D[3]	A	A	C/F	A	A	F
	STP	E	E	E	C	C/F	A	C/F	C	-	F
	REC	C/F	A	A	D	-	-	-	A	F	F
	PRE	F	F	-	-	-	-	-	-	F	-

Notes:

1. Commercial projects that are part of mixed-use developments, as defined in section 34-2, are not required to provide buffers between uses.

2. Type "A" buffers required between commercial uses must be designed to allow for pedestrian, bicycle, and automobile connections through adequate spacing between required trees. Palms may be used where COM abuts COM on a 1:1 basis, if they are clustered as defined.

3. The type "D" buffers required between commercial uses and rights-of-way may be reduced to not less than ten feet if the proposed building setback is within 25 feet of the right-of-way. This is not intended to allow for a reduction in general tree requirements or building perimeter planting requirements.

4. Required buffer must be 100 percent native.

TABLE 2. BUFFER TYPES (PER 100 LINEAR FEET)[1]

Buffer Types	A	B	C	D	E	F
Minimum width in feet	5	15	20	20	30	50
Minimum # of trees	4	5	10	5[4]	10	15

Minimum # of shrubs	-	Hedge[3]	30	Hedge[3]	30	Hedge[3]
Wall required[2]	-	-	8 feet high solid	-	8 feet high solid	

Notes:

1. All landscape buffer designs will complement adjacent project buffers to help aid in establishing a continuous landscape theme within the North Fort Myers Community. The use of plant material indigenous to, and consistent with, existing vegetation within the North Fort Myers Community is recommended.

2. A solid berm, or wall and berm combination, must be not less than eight feet in height. All trees and shrubs required in the buffer must be placed on the residential side of the wall. The height of the wall must be measured from the average elevation of the street or streets abutting the property, as measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage. Walls must be constructed to ensure that historic flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.

3. Hedges must be planted in double staggered rows and be maintained so as to form a 36-inch high (F type buffers must be 48 inches at installation and be maintained at 60 inches high) continuous visual screen within one year after time of planting. In situations where the elevation of the ROW is higher than the elevation of the adjacent property, the effective plant screen must be installed at an elevation of at least 24-inches and grow to and be maintained at an elevation of 36 inches as measured from the highest elevation within the buffer area resulting from the combination of the berm and/or plants. Clustering of shrubs that would not create a continuous visual screen, but add interest to the landscape design, is allowed on a review basis by Environmental Sciences staff.

4. Trees within the ROW buffer must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms within the ROW buffer will add design flexibility and reduce conflicts.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1582. Tree preservation.

(a) In addition to the requirements to section 10-415(b) all projects with existing native trees must be preserved regardless of project size as follows:

(1) All development projects must be clustered to preserve open spaces.

(2) Preservation of indigenous tree clusters is preferred over individual tree protection. Reasonable efforts to retain individual trees must be made. It is recognized that site design requirements (e.g. fill) may limit the ability to retain some individual trees, and in that case the County will allow the removal of those trees.

(3) Healthy sabal palms with eight-foot clear trunk must be relocated in a manner that utilizes appropriate horticultural practices in accordance with Lee County Extension Services brochure Lee 8/2000A and clustered within open space areas.

(4) Native trees (four- to 15-inch caliper dbh) may be relocated to open space areas when proper horticultural methods (e.g. root pruning; use of anti-transpirants) are utilized to insure the survivability of the trees, and a vegetation removal permit is obtained.

(5) Effort must be made to preserve heritage trees with at least a 20-inch caliper dbh, including but not limited to live oak, South Florida slash pine, or longleaf pine. If a heritage tree must be removed from a site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.

(6) Native tree preservation must incorporate techniques as established in section 10-420(j).

(7) Surface water management systems may overlap with native tree preservation areas only where it can be clearly demonstrated that the effects of water management system construction or operation will not cause death or harm to the preserve tree and indigenous plant community of protected species.

(b) Infrastructure design must integrate existing trees and the natural character of the land to the greatest extent feasible.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1583. Pedestrian walkways/linkages.

The following requirements are in addition to the requirements of section 10-610(d):

(a) Pedestrian walkways must be provided for each public vehicular entrance to a project, excluding ingress and egress points intended primarily for service, delivery or employee vehicles.

(b) In order to accentuate and highlight pedestrian areas, wherever possible, materials must include specialty pavers, colored concrete or stamped concrete patterns.

(c) Pedestrian walkways/links must be incorporated into, within and through a project in a way that addresses both site security concerns and pedestrian safety. The following are examples of design techniques that will be applied:

(1) Incorporate cross-site pedestrian connections within projects.

(2) Define walkways with vertical plantings, such as trees or shrubs, not just sod or ground cover which are horizontal plantings. Pedestrian walkways may be incorporated within a required landscape perimeter buffer, in compliance with section 10-416(d)(4), Note 11.

(d) Sidewalks or pedestrian ways must connect the on-site pedestrian systems to pedestrian systems on adjacent developments.

(e) Where walkways cross traffic lanes, special design features must be used to increase safety for the pedestrian. Potential design features include: raised or textured pavement, curb extensions to narrow the travel lane or low-level lighting, such as a bollard light.

(f) Sidewalks or bikeways must be installed along all project frontage roads, and must be separated from the edge of pavement by a minimum four-foot wide planting strip.

(g) Pedestrian paths located on medians and through landscaped areas must have durable, all weather surfaces to reduce wear on landscaped areas.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1584. Street furniture and public amenities.

(a) Street furniture is an element constructed or placed above ground such as outdoor seating or benches, kiosks, bus shelters, sculptures, trash receptacles, fountains, and telephone booths, which have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to, and used by, the public. Street furniture elements also include such things as tree grates and tree guards, planters, light fixtures, and signs. All street furniture elements are considered fixed, that is, stationary.

(b) All accessories and street furniture such as railings, trash receptacles and bicycle parking spaces must complement the building design and style.

(c) Street furniture must be incorporated into the development site by providing a minimum of three amenities for every 1,500 square feet of publicly accessible open space.

(Ord. No. 12-01 , § 5, 1-10-12)

Secs. 33-1585—33-1590. Reserved.

Subdivision V. Incentives

Secs. 33-1591—33-1595. Reserved.

Secs. 33-1591—33-1595. Reserved.

Subdivision VI. Commercial Corridor Use Regulations

Sec. 33-1596. Use regulations.

Sec. 33-1597. Reserved.

Sec. 33-1596. Use regulations.

The following use regulations apply to property located within the commercial corridor as defined in 33-1537:***

USE DESCRIPTION	SPECIAL NOTES OR REGULATIONS	COMMERCIAL CORRIDOR
Accessory apartment	Note (1) & (25), 34-1177	P
Administrative offices	-	P
Aircraft landing facilities, private: Lawfully existing:	-	-
Expansion of aircraft landing strip, heli-stop or heliport landing pad	34-1231 et seq.	SE*
New accessory buildings	34-1231 et seq.	P
Aircraft landing facilities, private: New:	-	-
Aircraft landing strip and ancillary hangars, sheds and equipment	-	-
Heliport	-	-
Heli-stop	34-1231 et seq.	SE*
Animals, Keeping and breeding of Class I or Class II(df)	-	-
Amateur radio antennas and satellite earth stations when accessory to an existing principal use	-	Refer to 34-1175 for regulations
Amusement park, less than ten acres	-	-
Animals:	-	-
Clinic	34-1321 et seq.	P

Kennel	34-1321 et seq.	P
Control center (including Humane Society)	-	SE*
Assisted living facility	Note (9), (29), 34-1411 et seq.	P
ATM (automatic teller machine)	-	P
Auto parts store+A41:	-	-
No installation service	34-1351	P
With installation service	34-1351, 34-1353	P
Automobile repair and service, (34-622(c)(2)):	-	-
Group I	34-1351, 34-1353	P
Group II	34-1351, 34-1353	P
Automobile service station	Note (34), 34-1351, 34-1353	P
Bait and tackle shop	Note (33)	P
Banks and financial establishments (34-622(c)(3)):	-	-
Group I	-	P
Group II	-	P
Bar, cocktail lounge or nightclub as an accessory use to a hotel or restaurant	34-1201 et seq., 34-1261 et seq.	AA/SE*
Bar, cocktail lounge or nightclub (freestanding)	34-1201 et seq., 34-1261 et seq.	SE**

Bed and breakfast (df)	Note (25), 34-1494	P
Boarding house	Note (25)	P
Boats:	-	-
Boat parts store	-	P
Boat ramp	-	P
Boat rental	-	P
Boat repair and service	-	-
Boat sales	-	P
Boat storage, dry, not exceeding 18 feet above grade	Note (32)	SE*
Boat storage, dry, exceeding 18 feet above grade	Note (32)	SE*
Broadcast studio, commercial radio and television	34-1441 et seq.	P
Building materials sales (34-622(c)(4))	-	P
Business services (34-622(c)(5)):	-	-
Group I	-	P
Group II	-	P
Bus station/depot	34-1381 et seq.	P
Caretaker's residence	Note (30)	SE*
Car wash	34-1353	P
Cleaning and maintenance services (34-622(c)(7))	-	P

Clothing stores, general (34-622(c)(8))	-	P
Clubs:	-	-
Country	-	P
Commercial	-	P
Fraternal	34-2111	P
Membership organization	34-2111	P
Private	-	P
Cold storage warehouse and processing plant (including pre-cooling)	-	-
Commercial fishery	-	-
Communication facility, wireless	Refer to 34-1441 et seq. for regulations	P
Community residential home	Note (29)	P
Consumption on premises	34-1261 et seq., Note (33)	Refer to bars, cocktail lounges, and nightclubs
Contractors and builders, (34-622(c)(9)):	-	-
Group I	-	P
Group II	-	P
Group III	-	SE*
Convenience food and beverage store	34-1353	P
Cultural facilities (34-622(c)(10))	-	P

Day care center, adult, child	Note (25)	P
Department store	-	P
Dormitory	Note (25)	P
Drive-through facility for any permitted use	-	P
Drugstore, pharmacy	-	P
Dwelling unit:	-	-
Duplex	Note (25) & (35)	EO
Single-family	Note (26)	EO
Two-family attached	Note (25) & (35)	EO
Townhouse	Note (25)	P
Mobile home	-	-
Multiple-family building	Note (25)	P
Entrance gates and gatehouse	34-1748	P
Emergency operations center	-	P
EMS, fire or sheriff's station	Note (33)	P
Essential services	34-1611 et seq.	P
Essential service facilities, (34-622(c)(13)): Group I	34-1611 et seq.	P
Excavation:	-	-
Mining	-	-

Water retention	34-1651 et seq.	P
Oil or gas	-	-
Farm equipment, sales, storage, rental or service	-	P
Feed or fertilizer, mixing and sales	-	P
Fish house, wholesale	-	-
Flea market:	-	-
Open	-	EO
Indoor	-	P
Food and beverage service, limited	-	SE*
Food stores (34-622(c)(16)):	-	-
Group I	Note (33)	P
Group II	-	P
Fraternity house	-	-
Freight and cargo handling establishments (34-622(c)(17))	-	-
Funeral home or mortuary:	-	-
No cremation	-	P
With cremation	-	P
Gambling establishments and casino style gaming	-	SE**
Gasoline dispensing system, special	-	-

Hardware store	-	P
Health care facility (34-622(c)(20)):	-	-
Group I (less than 50 beds)	-	-
Group II (less than 50 beds)	-	-
Group III	-	P
Group IV	-	-
Heliport or helistop	-	See aircraft landing facilities, private
Hobby, toy and game shops (34-622(c)(21))	-	P
Home care facility	Note (25)	P
Home occupation:	-	-
No outside help	Note (27), 34-1771 et seq.	P
With outside help	Note (27), 34-1771 et seq.	AA
Hotel/motel	Note (31), 34-1801 et seq.	P
Household and office furnishings (34-622(c)(22)):	-	-
Group I	-	P
Group II	-	P
Group III	-	P

Impound yard	-	-
Insurance companies (34-622(c)(23))	-	P
Laundromat	-	P
Laundry or dry cleaning (34-622(c)(24)):	-	-
Group I	-	P
Group II	-	P
Lawn and garden supply store	34-2081	P
Library	Note (25)	P
Maintenance facility (government)	-	P
Manufacturing of:	-	-
Apparel products (34-622(c)(1))	-	EO
Dairy products (SIC 202 only)	-	EO
Electrical machinery and equipment (34-622(c)(11))	-	EO
Fabricated metal products	-	EO
(34-622(c)(14)), group III	-	EO
Food and kindred products	-	EO
(34-622(c)(15)), group III	-	EO
Leather products	-	EO
(34-622(c)(25)), group II	-	EO

Lumber and wood products	-	EO
(34-622(c)(26)), group II	-	EO
Measuring, analyzing and controlling instruments (34-622(c)(28))	-	EO
Novelties, jewelry, toys and signs (34-622(c)(29)), all groups	-	EO
Rubber and plastic products, (34-622(c)(44)), group II	-	EO
Marina	34-1862	EO
Marina, ancillary uses	-	EO
Mass transit depot or maintenance facility (government-operated)	-	SE*
Medical office	-	P
Mobile home dealers	34-1352	SE*
Model:	-	-
Home	34-1951 et seq.	P
Unit	34-1951 et seq.	P
Display center	34-1951 et seq.	P
Multi-slip docking facility	-	P
Nightclubs	34-1201 et seq., 34-1261 et seq.	Refer to bars, cocktail lounges, and nightclubs
Non-store retailers (34-622(c)(30)), all groups	-	P

Package store	34-1261 et seq.	P
Paint, glass and wallpaper	-	P
Parks (34-622(c)(32))	-	-
Group I	-	P
Group II	-	SE*
Parking lot:	-	-
Accessory	-	P
Commercial	-	SE*
Garage, public parking	-	SE*
Temporary	Note (14), 34-3049	P
Pawn shop	-	SE**
Personal services**** (34-622(c)(33)):	-	-
Group I	-	P
Group II	-	P
Group III	-	P
Group IV	-	P
Pet services	-	P
Pet shop	-	P
Pharmacy	-	P

Place of worship	Note (25), 34-2051	P
Plant nursery	34-2081	P
Post office	-	P
Printing and publishing, (34-622(c)(36))	-	SE*
Processing and warehousing	-	EO
Produce stand	-	-
Racetracks (34-622(c)(37)): Groups I and II	-	-
Recreation facilities: Commercial (34-622(c)(38))	-	-
Group I	-	P
Group III	Note(20)	P/SE*
Group IV	Note(20)	P/SE*
Recreation facilities: Personal	-	P
Recreation facilities: Private on-site	-	P
Recreation facilities: Private off-site	-	P
Recycling facility	-	SE*
Religious facilities	Note (25), 34-2051 et seq.	P
Rental or leasing establishments, (34-622(c)(39)):	-	-
Group I	34-1352, 34-3001 et seq., Note (33)	P

Group II	34-1352, 34-3001 et seq.	P
Group III	34-1352, 34-3001 et seq.	P
Group IV, except for truck tractors, semitrailers, dump trucks similar large transportation and hauling equipment.	34-1352, 34-3001 et seq.	P
Repair shops (34-622(c)(40)):	-	-
Group I	-	P
Group II	-	P
Group III	-	P
Group IV	-	P
Group V	-	-
Research and development laboratories (34-622(c)(41)):	-	-
Group II	-	P
Group IV	-	P
Residential accessory uses, (34-622(c)(42))	Note (27)	P
Restaurant, fast food	34-1353	P
Restaurants (34-622(c)(43)):	-	-
Group I	Note (33)	P
Group II	Note (33)	P

Group III	Note (33)	P
Group IV	-	P
Rooming house	-	-
Schools:	-	-
Commercial (34-622(c)(45))	34-2381	P
Non-commercial	Note (25), 34-2381	P
Self-service fuel pumps	Note(18)	P
Signs in accordance with chapter 30	-	P
Social services (34-622(c)(46)):	-	-
Group I	-	P
Group II	-	-
Group III	-	-
Group IV	-	-
Specialty retail shop (34-622(c)(47)):	-	-
Group I	-	P
Group II	-	P
Group III	-	P
Group IV	-	P
Stable, commercial	-	-

Storage:	-	-
Indoor only	34-3001 et seq.	P
Storage, open	34-3001 et seq., 34-1352	SE*
Studios (34-622(c)(49))	-	P
Supermarket	-	P
Temporary uses	34-3041 et seq.	P
Theater:	-	-
Indoor	34-2471 et seq.	P
Drive-in	Note (25), CPD or MPD only 34-2471 et seq.	EO
Timeshare units	Note (25)	SE*
Transportation services, (34-622(c)(53)):	-	-
Group I	-	P
Group II	-	P
Group III	-	P
Group IV	-	P
Truck stop	-	-
Trucking terminal, motor, rail, air, including warehousing of goods awaiting shipment, parking, and storage of rolling stock	-	-

Used merchandise stores, (34-622(c)(54)):	-	-
Group I, except pawn shops	-	P
Group I, limited to indoor display only	-	P
Group II	-	P
Group III	-	P
Group IV	-	EO
Variety store	-	P
Vehicle and equipment dealers, (34-622(c)(55)):	-	-
Group I	34-1352	P
Group II	34-1352	P
Group III	34-1352	P
Group IV	34-1352	P
Group V	-	-
Warehouse:	-	-
Mini-warehouse	-	SE*
Private	-	SE*
Public	-	SE*
Wholesale establishment, (34-622(c)(56)):	-	-
Group I	-	-

Group II	-	-
Group III	Note 15	P
Group IV	Note 15	SE*

All references to notes are to those notes found in section 34-844

* Uses allowed by special exception may also be requested through PD zoning.

** Use must not be located closer than 500 feet, measured in a straight line from any public school or charter school; child care center; park, playground, or public recreation facility; place of worship or religious facility; cultural center, or hospital.

*** All planned developments approved prior to adoption of this provision will retain the uses approved.

**** Bail bonding, escort services, fortune tellers palm readers or card readers, massage parlors are not permitted.

(Ord. No. 12-01 , § 5, 1-10-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1597. Reserved.

Subdivision VII. Signs

Sec. 33-1598. Signs.

This section is adopted as an addendum to the general sign regulations set forth in chapter 30 and is applicable all properties in the North Fort Myers Planning Community.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1599. Permitted signs—Banners and banner signs.

Notwithstanding the prohibition of banners under chapter 30, banners, banner signs and "feather signs" are permitted providing the following conditions are met:

(a) Not more than a total of three banners or banner signs are allowed on a single lot or parcel and only under the following conditions:

(1) The total area of such signs must not exceed 48 square feet.

(2) The maximum size of any banner will be 16 square feet in area and eight feet in height.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1600. Temporary signs.

Temporary sign permits for prohibited signs will not be issued except for the following:

(a) *Special occasion signs.* Temporary on-site sign permits may be issued for special occasions such as holidays (other than Christmas and Hanukkah, which are addressed in section 30-6), carnivals, parking lot sales, annual and semiannual promotions or other similar events, provided:

(1) A special occasion sign permit is issued by the building official;

(2) The special occasion sign permit is issued for a period of time not to exceed 15 days;

(3) No business may be permitted more than two special occasion permits in any calendar year; and

(4) The business did not violate any applicable time limitations.

(b) *Inflatable wind signs, search lights, and spot lights.*

(1) Not more than one inflatable wind sign or search light or spot light will be permitted on a single lot or parcel. Inflatable wind signs, search lights, and spot lights will be permitted only upon issuance of a special occasion sign permit and no such inflatable wind sign, search light, or spot light may be placed on the public right-of-way.

(c) Other temporary signs such as pennants and balloons are allowed upon approval of a special occasion sign permit by the building official.

(d) Signs must be located on-site and in a manner that does not create a traffic or pedestrian hazard.

(e) Signs illuminated by electricity must comply with all electrical and safety codes.

(f) Signs must be constructed and secured in accordance with all applicable standards.

(Ord. No. 12-01 , § 5, 1-10-12)

Sec. 33-1601. Miscellaneous signs.

(a) *Under-canopy signs.* Signs attached to the underside of a canopy may have a copy area no greater than four square feet, with a maximum letter height of six inches, subject to a minimum clearance height of eight feet from the sidewalk, and must be mounted as nearly as possible at a right angle to the building face, and rigidly attached.

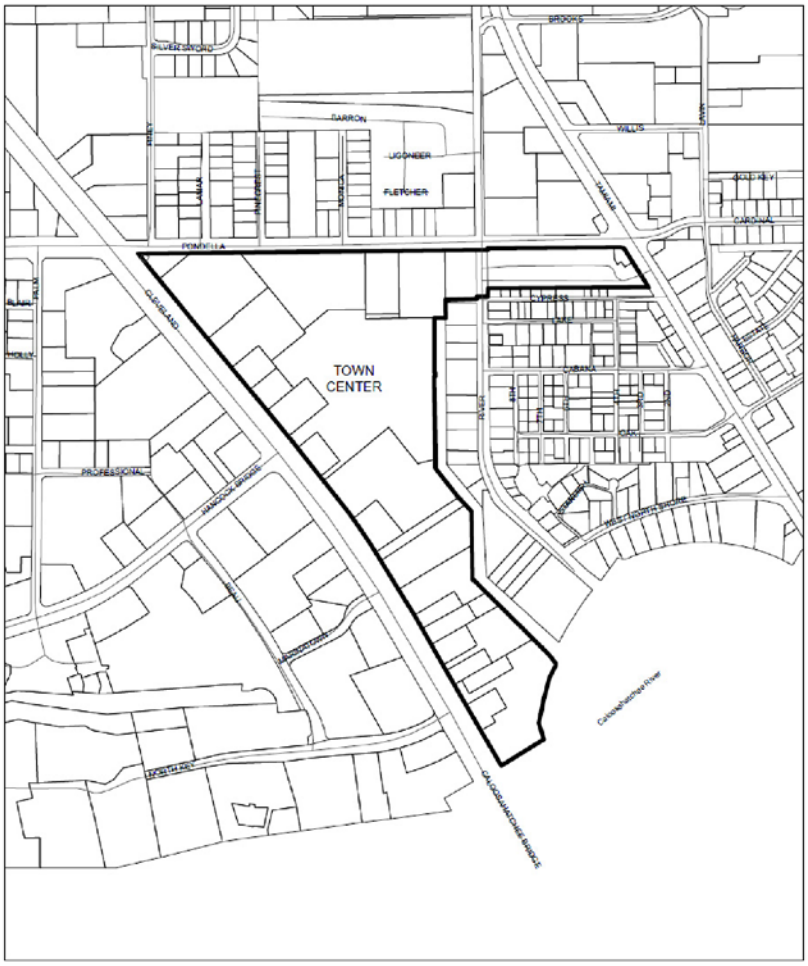
(b) *Sandwich signs/sandwich boards.* On-site sandwich signs/sandwich boards are permitted on commercially-zoned property during business hours, one per business limited to six square feet per side, provided they are not placed within buffers, on the sidewalks or over a fire hydrant, and do not interfere with the public right-of-way or within the visibility triangle. Sandwich signs/sandwich boards will not count against the permitted sign area.

(Ord. No. 12-01 , § 5, 1-10-12)

DIVISION 4. TOWN CENTER LAND DEVELOPMENT PROVISIONS

Sec. 33-1602. Applicability.

The provisions of Division 4 apply to all properties located within the North Fort Myers Town Center as identified in Map 33-1602(a).



Map 33-1602(a)

(Ord. No. 13-05 , § 2, 2-26-13)

Sec. 33-1603. Architectural standards.

In addition to the requirements of section 10-620, all commercial, public and vertical or horizontal mixed-use buildings or development within the North Fort Myers Town Center must comply with "Urban Design Guidelines" applicable to Neighborhood Centers in North Fort Myers (section 32-805). These standards are applicable utilizing conventional zoning, planned development zoning, and/or Compact Communities per Chapter 32.

(Ord. No. 13-05 , § 2, 2-26-13)

Sec. 33-1604. Use regulations.

In addition to uses permitted per Table section 32-244 for Compact Communities, the following uses per Table 32-1604 are permitted when utilizing Compact Communities per Chapter 32 within the North Fort Myers Town Center. Live-Work units are also a permitted use in the North Fort Myers Town Center.

Development utilizing conventional zoning or planned development zoning may utilize uses per Subdivision IV "Commercial Corridor Use Regulations" section 33-1596.

TABLE 33-1604
LIST OF ADDITIONAL ALLOWABLE COMMERCIAL TYPE USES

Description of Use	Special Notes or Regulations	Permissibility Status*
Boat sales		P
Building materials sales (34-622(c)(4))		P
Business services (34-622(c)(5)): Group II		SE
Cultural facilities (34-622(c)(10))		P
Insurance companies (34-622(c)(23))		P
Marina	34-1862	SE (Riverfront property only)
Marina, ancillary uses		SE (Riverfront property only)
Mass transit depot (government operated)		P
Multislip docking facility		SE (Riverfront property only)
Post office		P
Recreation facilities: Commercial (34-622(c)(38)): Group III		P, Less than 10 acres SE, 10 or more acres
Transportation services, (34-622(c)(53)): Group I		SE (Riverfront property only)
Transportation services, (34-622(c)(53)): Group III		SE
Vehicle and equipment dealers, (34-622(c)(55)): Group I	34-1352	P
Vehicle and equipment dealers, (34-622(c)(55)): Group III	34-1352	P

Vehicle and equipment dealers, (34-622(c)(55)): Group IV	34-1352	SE

* Uses allowed by special exception may also be requested through PD zoning.

(Ord. No. 13-05 , § 2, 2-26-13)

Secs. 33-1605—33-1610. Reserved.

ARTICLE IX. CAPTIVA

DIVISION 1. - IN GENERAL

DIVISION 2. - ENVIRONMENTAL STANDARDS

DIVISION 3. - PROPERTY DEVELOPMENT REGULATIONS

DIVISION 4. - DESIGN STANDARDS; SIGNS

DIVISION 5. - MULTIPLE-UNIT DWELLINGS AND TOURIST ACCOMMODATION

DIVISION 1. IN GENERAL

Sec. 33-1611. Applicability.

(a) *Scope.* The provisions of article IX apply to development located on Captiva Island not specifically exempted under section 33-1613, "Existing development" below, as defined in Goal 13 of the Lee County Comprehensive Plan, but excluding Upper Captiva, Cayo Costa, Useppa, Buck Key, and Cabbage Key. This Article applies to development and redevelopment located on Captiva Island unless specifically stated otherwise.

(b) *Zoning.* This article applies to requests to rezone property on Captiva Island.

(c) *Development orders.* This article applies to development orders and limited review development orders described in sections 10-174(1), 10-174(2) and 10-174(4)a. that are requested on Captiva Island.

(d) *Demonstrating compliance.* Compliance with the standards set forth in this article must be demonstrated on the drawings or site development plans submitted in conjunction with an application for development order approval or with a building permit application if a development order is not required.

(e) Unless specifically provided herein, development within the area defined as South Seas Resort is exempt from this article, so long as the development complies with the Administrative Interpretation, ADD2002-00098, adopted by the Board of County Commissioners in 2002.

(Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1612. Community review.

(a) *Applications requiring review.* The owner or agent applying for the following county approvals must conduct at least one public information meeting on Captiva Island prior to obtaining a finding of sufficiency:

(1) Development orders.

(2) Planned development zoning actions, including administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution.

(3) Special exception and variance requests.

(4) Conventional rezoning actions.

(5) Administrative actions.

(b) *Meeting requirements.* The applicant submitting the application requiring review under this section must conduct at least one public informational meeting in conjunction with a publicly advertised meeting, including public notification in community-based media outlets. The applicant must provide a general overview of the project for interested citizens. The applicant is responsible for providing the meeting space and security measures as needed. Subsequent to this meeting, the applicant must provide county staff with a meeting summary document that contains the following information: the date, time and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to the issues raised. The meeting must be advertised no later than five days prior to the date of the meeting.

(Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Sec. 33-1613. Existing development and planned developments.

Existing, approved master concept plans may be voluntarily brought into compliance with the Captiva Community Plan or any regulation contained in this Article through the administrative amendment process. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations. All other requests to change the zoning designation of a parcel must comply with the notice and hearing requirements under F.S. § 125.66.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1614. Definitions.

The following definitions are in addition to those set forth in other chapters of this LDC and are applicable to the provisions set forth in this article only. If, when construing the specific provisions contained in this article, these definitions conflict with definitions found elsewhere in this LDC, then the definitions set forth below will take precedence.

Caretaker: A person employed to look after a public building or a house in the owner's absence.

Cupola: A covered tower or vault, without a separate source of heating or air-conditioning, which may contain an underlying floor, which rises from a roof ridge, and is typically enclosed by opaque walls. (See "Lantern.")

Domestic employee: A person who works within the employer's household providing a variety of household services for an individual or a family.

Dormer: A projection from a sloping roof that includes a window.

Dwelling unit, accessory: A single-family dwelling unit, intended for use by guests or domestic employees, which is located on a lot or parcel containing one principal dwelling unit, and which is smaller than, and detached from, the principal dwelling unit. For purposes of this definition, guests shall mean persons staying on the property at the invitation of the property owner or lessee.

Dwelling unit, principal: The largest single-family dwelling unit, measured in square feet of enclosed living area, located on a lot or parcel containing more than one single-family dwelling unit. (See "Dwelling unit, accessory.")

Façade articulation: An extrusive architectural element or decorative feature which provides visual relief from an exterior wall, e.g. a buttress, pilaster, bay window, or oriel.

Family: One or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit, provided that a group of three or more adults who are not related by blood, marriage or adoption shall not be deemed to constitute a family, and further provided that domestic employees may be housed on the premises without being counted as a separate or additional family. The term "family" shall not be construed to mean a fraternity, sorority, club, monastery, convent or institutional group.

Guest: See "Dwelling unit, accessory."

Lantern: A covered tower or vault, without heating or air-conditioning, rising from a roof ridge, which may contain an underlying floor and is typically enclosed by windows to admit light in order to function as a solarium, observatory, viewing area, or similar use. (See "Cupola.")

Lessee: A person renting property under a written lease from an owner (lessor).

Lock-off accommodations: A portion of a principal or accessory dwelling unit, typically without a kitchen, that is separated from the unit and made available for long-or short-term rental or other use. Where the floor area of a dwelling unit contains lock-off accommodations that can be occupied separately from the main living unit, the lock-off accommodations will be counted as a full dwelling unit when computing the allowable density as provided in section 34-1546. To be counted as a dwelling unit, the lock-off accommodations must contain at least one bedroom with a bathroom and be accessible from a separate door, entering from outside the dwelling unit or a common foyer.

On-site Treatment and Disposal System (OSTDS): Consistent with F.S. § 381.0065(2)(j), means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes items placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under F.S. ch. 403.

Renter: One who pays rent for the use of another's property; a tenant.

Roofline articulation: An architectural element or decorative feature that provides visual relief from a horizontal roof ridge, e.g. a parapet, widow's walk, cupola, or lantern.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1615. Deviations and variances.

(a) Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from the architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance, must be submitted as part of the application.

(b) Variances and deviations will be allowed only where unnecessary hardship would occur; i.e. where the following findings, in addition to the findings required by section 34-145, are met:

(1) The hardship cannot be corrected by other means allowed in the code;

(2) Strict compliance of the regulations allows the property owner no reasonable use of the property, building or structure;

(3) The variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties located on the same street and within the same Future Land Use category, unless denial of the variance would allow no reasonable use of the property, building or structure;

(4) The applicant did not cause the need for the variance;

(5) The variance to be granted is the minimum variance that will make possible the reasonable use of the property, building or structure; and

(6) The variance is not specifically prohibited in this article and not otherwise contrary to the spirit of the ordinance.

(Ord. No. 12-19 , § 2, 9-11-12; Ord. No. 13-10 , § 9, 5-28-13)

Secs. 33-1616—33-1620. Reserved.

DIVISION 2. ENVIRONMENTAL STANDARDS

Sec. 33-1621. Water quality.

Prior to the issuance of a development order, zoning, or building permits for a new building or an addition or remodeling to convert existing space to living area, for properties that contain existing OSTDS, the applicant must provide written documentation indicating the approximate date the System was constructed and the last date the OSTDS was serviced or received a pumpout by a licensed septic contractor.

(Ord. No. 12-19 , § 2, 9-11-12)

Secs. 33-1622—33-1625. Reserved.

DIVISION 3. PROPERTY DEVELOPMENT REGULATIONS

Sec. 33-1626. Residential single-family estate district.

(a) Subdivisions of parcels that were zoned RSC-2 on January 1, 2002, regardless of the zoning designation thereafter, are prohibited unless the resulting lots comply with the minimum lot size and dimensional requirements in the RSC-2 district.

(b) RSC-2 zoning includes the following standards:

(1) Lot area: 43,560 square feet minimum.

(2) Lot width: 100 feet minimum.

(3) Lot depth: 200 feet minimum.

(4) Setbacks:

a. Street: 50 feet minimum. In the instance that the property is bisected by the Coastal Construction Control Line, leaving a limited area for development or redevelopment, the Director may authorize a lesser street setback, but the setback may not be less than 20 feet from the public street right-of-way, and relief must be limited to that which provides a reasonable use of the property while not adversely affecting the aesthetics of the neighboring or adjoining lots.

b. Side yard: 10 feet minimum.

c. Rear yard: 20 feet minimum.

d. Gulf of Mexico: 50 feet minimum.

e. Other water bodies: 25 feet minimum.

(5) Maximum lot coverage: 25 percent.

(6) Allowed structures:

a. Principal dwelling unit.

b. Accessory dwelling units.

(c) Two accessory dwelling units, which may include accommodations for guests, family members, or domestic employees and their families, as well as permitted accessory structures, may be permitted on each lot zoned RSC-2, subject to the following:

(1) The accessory units are in addition to a principal single-family detached dwelling unit.

(2) All units and accessory structures will comply with applicable setback requirements.

(3) Property owners may not rent or lease for periods of less than seven days any combination of principal or accessory dwelling units on a single RSC-2 zoned lot, and may not rent or lease units under more than one lease at a time.

(d) The use of tents, lean-tos, motor vehicles, and similar accommodations, as temporary residences for employees and other persons are prohibited. For purposes of this section, employees include temporary workers and construction and landscape crews, but do not include family members or house guests.

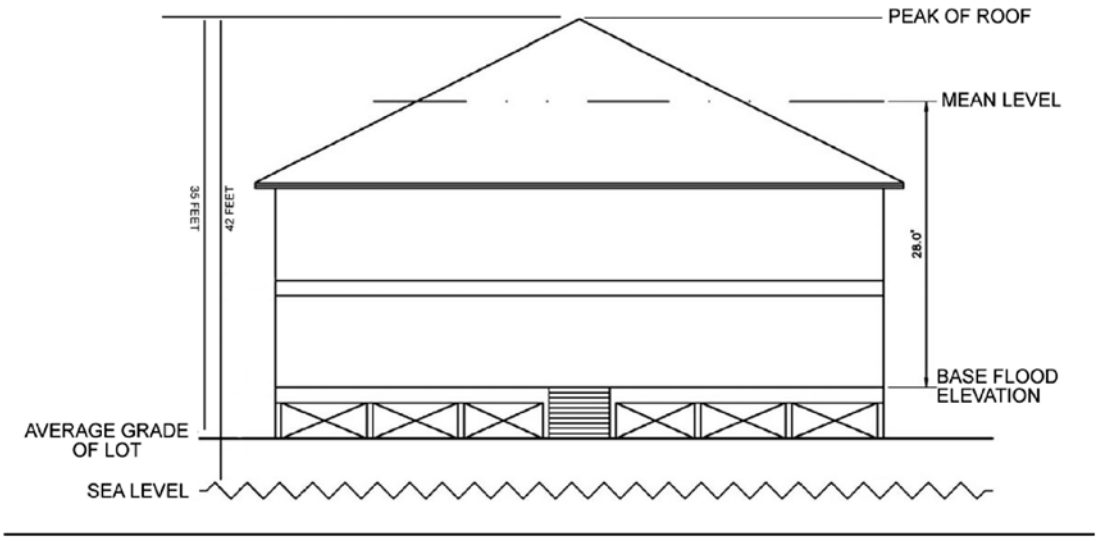
(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1627. Height restrictions on Captiva Island.

(a) Consistent with Policy 13.1.2 of the Lee Plan, the height of buildings and structures may not exceed the least restrictive of the two following options:

(1) Thirty-five feet above the average grade of the lot in question or 42 feet above mean sea level measured to the peak of the roof, whichever is lower; or

(2) Twenty-eight feet above the lowest horizontal member at or below the lawful base flood elevation measured to the mean level between eaves and ridge in the case of gable, hip, and gambrel roofs.



If the lowest horizontal member is set above the base flood elevation, the 28-foot measurement will be measured starting from the base flood elevation. Notwithstanding the above height limitations, purely ornamental structural appurtenances and appurtenances necessary for mechanical or structural functions may extend an additional four feet above the roof peak or eight feet above the mean height level in the case of gable, hip, and gambrel roofs, whichever is lower, so long as these elements equal 20 percent or less of the total roof area.

(b) The existing telecommunications tower facility located in the maintenance and engineering area of South Seas Resort may be replaced to a height not to exceed 170 feet, provided the new facility makes space available to the county for emergency communications service coverage for Captiva, as well as co-location capability for wireless carriers desirous of serving Captiva. Destruction of mangroves to build or operate a tower or related tower facilities is prohibited. The telecommunication tower will be a monopole, unless public safety is compromised.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1628. Rezoning and density.

(a) *Conflicting provisions*. A conflict between this chapter and the balance of this Code will be resolved in accordance with Sections 33-4 and 34-1543.

(b) *Nonconforming uses*. A structure or the use of a structure where the use of the land was lawfully existing on December 13, 1982, but does not conform to the provisions of this subdivision, will be considered an existing nonconforming use. Existing nonconforming uses may be continued after December 13, 1982; provided, however, no existing nonconforming use may be expanded, changed, enlarged or altered in a way that increases its nonconformity. The redevelopment of nonconforming hotels and motels may not result in an increase in the number of rental units. The average unit size of units offered for rent in redeveloped structures may not exceed 550 square feet.

(c) *Density limitations*. Except as may be specifically permitted by the Lee Plan, no building or development permits will be issued for development on Captiva Island at a density greater than the following:

(1) Three units per acre for dwelling units, including condominiums and apartments; or

(2) Three units per acre for motels or hotels;

(3) Lock-off units will be counted as a full dwelling unit when computing the allowable density. To be counted as a dwelling unit, lock-off accommodations may contain at least one bedroom with a bathroom and be accessible from a separate door, entering from outside the dwelling unit.

(d) *Exceptions.* Zoning Resolution No. Z-70-78, adopted on June 2, 1970, remains in force and is binding on present and future property owners. Zoning maps and records will reflect that the property subject to Resolution No. Z-70-78 to be estate zoning requiring each lot or parcel to contain a minimum square footage of 43,560 square feet for the issuance of a building or development permit or order. Parcels or lots containing a minimum of 43,560 square feet and located within the RSC-2 zoning district, may also obtain a permit for no more than two accessory dwelling units in addition to the primary dwelling unit as provided in section 33-1626(c).

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1629. Temporary use permits.

(a) Temporary use permits under section 34-3042, "Carnivals, fairs, circuses and amusement devices," are prohibited on Captiva Island. This section will not be construed to prohibit civic events or not-for-profit fundraising events, sponsored by 501(c) corporations designated by the U.S. Internal Revenue Service, or registered as a not-for-profit entity with the State of Florida. Such events include bazaars, fundraising events, seasonal or holiday observances, or activities (e.g. bounce houses) for which the public may have access.

(b) Temporary use permits for temporary parking lots under section 34-2022, "Temporary parking lots," are prohibited for Captiva Island. This section will not be construed to prohibit temporary parking on a golf course or other unpaved surface when authorized by the owner or manager of a property where an event is taking place.

(Ord. No. 12-19 , § 2, 9-11-12)

Secs. 33-1630—33-1634. Reserved.

DIVISION 4. DESIGN STANDARDS; SIGNS

Sec. 33-1640. Applicability.

This division is adopted as a supplement to the general sign ordinance of the County set out in articles I through IV of chapter 30. The sign ordinance remains in force as to Captiva Island. In case of conflicts between provisions of the general sign ordinance and this article, the more restrictive provision will control.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1641. Definitions.

The following words, terms and phrases, when used in this article, are in addition to the definitions appearing in section 30-2, and will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animated sign: Signs or any part thereof that revolve or moves in any fashion whatsoever, and signs that contain or use for illustration lights or lighting devices that change color, flash or alternate, show movement or motion, or change the appearance of the sign or any part thereof automatically, including wind-operated devices. Animated signs may include flashing signs and a beacon light.

Banner sign: A sign possessing characters, letters, illustrations or ornamentations applied to cloth, paper or fabric of any kind, with or without frames, including awning signs.

Directional sign: Signs used for public information or directions, such as "one way," "entrance," or "exit."

Illuminated sign: See "Lighted sign" in this section.

Lighted sign: A sign with characters, letters, figures, designs or outlines illuminated by electric lights, light emitting diodes (LEDs) or luminous tubes as part of the sign proper.

Residential identification sign: A sign intended to distinguish a particular residential property or estate, using the name of the owner or owners, the street address, or some form of artwork, lettering, fanciful naming, or other device.

Tenant's wall area: The outside wall area of a renter's or lessee's unit in a multi-unit commercial complex, excluding any wall space in the complex's common areas.

Wall sign: An outdoor advertising display sign affixed to or painted on the wall of a building, where the sign projects not more than 12 inches from the building.

(Ord. No. 12-19 , § 2, 9-11-12)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 33-1642. Prohibited signs.

The following types of signs are prohibited, except as exempted in section 33-1645(b), "Signs not requiring a permit":

(1) Banner signs as defined in this section, pennants, or other flying paraphernalia.

(2) Sandwich signs.

(3) Billboards.

(4) Animated signs as defined in this section.

(5) Neon signs or signs of similar effect.

(6) "Sold" signs.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1643. Removal of prohibited signs.

Prohibited signs must be removed upon direction of the County code enforcement officer and may not be replaced.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1644. Temporary signs.

Temporary sign permits for prohibited signs will not be issued.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1645. Signs not requiring a permit.

(a) *Residential identification sign.* Identification signs not exceeding 2.0 square feet in area on lots with total frontage of less than 100 feet and 4.0 square feet in area on lots with frontage of 100 feet or more. The height of identification signs may not exceed four feet above grade and may be placed in rights-of-way and subject to the following standards and restrictions:

(1) Identification signs must comply with sections 14-76 and 34-625 and may be illuminated only in accordance with the following standards:

a. The area occupied by the luminaire and its supports will not be included when calculating the square footage of the sign.

b. Sign lighting must be designed and located so as not to cause confusion with traffic control devices.

c. Full cutoff fixtures with black non-reflective interior surfaces must be used. Uplighting is prohibited. No sign may have internal illumination.

d. If exterior lighting is used to illuminate the sign, the lights must be down lights with shields and louvers to pinpoint the light.

e. Illumination must be with white light only, using fluorescent lamps or bulbs, except if visible from the beach then they must be amber LED bulbs used in properly shielded fixtures. Mercury vapor and metal halide lighting is prohibited. LED bulbs are recommended. Fluorescent fixtures must be of the enclosed type with a gasketed lens and a wet location label.

f. A maximum of one fixture is allowed per sign face.

g. The maximum wattage may not exceed 36 watts per sign face.

h. Approval for electric hookup to illuminate the sign must be obtained from the Lee County Department of Transportation.

(2) The identification sign must include the street number of the property with numerals four inches high.

(3) The sign support must be of a suitable breakaway or yielding design. Identification signs placed in an unsafe or hazardous location, as determined by the Department of Transportation, must be relocated or removed at the owner's expense.

(4) Identification signs in existence at the time of the adoption of the ordinance from which this article is derived that exceed the square footage or height requirements, but are not deemed to be located in an unsafe or hazardous location, will be considered nonconforming uses for purposes of this paragraph and may remain in place until removed or destroyed.

(b) Bulletin boards for public, charitable, or religious institutions, to be located on the same premises as the institution and not exceeding 32 square feet in area.

(c) Signs denoting the contractor, subcontractor, or design professional on the premises of work under construction and not exceeding four square feet in area; provided, however, those signs may not remain on the premises for more than 30 days after the issuance of the certificate of occupancy.

(d) Occupational signs denoting only the name, street number or occupation of an occupant in a commercial building, a public or institutional building, or a dwelling house (except dwelling houses in C-1, CS-1, and CT districts), and not exceeding four square feet in area.

(e) Memorial signs or tablets, names of buildings and dates of erection when cut into masonry surfaces or when constructed of bronze or other noncombustible materials.

(f) Traffic or other municipal, county, state or federal signs, legal notices, and other such temporary emergency or non-advertising signs.

(g) Temporary real estate signs, which for the purposes of this section include "for sale," "open house," "open for inspection," "by appointment only," "model home," and similar signs, must be located in a front yard and a minimum of two feet from the property line, parallel to the frontage and conforming to the following restrictions:

(1) They must be located only on the property advertised.

(2) In all districts not of residential character signs may not exceed four square feet in area, and may not exceed two square feet in areas zoned as RSC-2, RS-1, TFC-2 and RM-2. The bottom edge of the signs may not be greater than 12 inches above average grade of the sign's location. The signs must be limited to one sign per parcel; if the parcel includes water access, a second temporary real estate sign not exceeding two square feet in area is allowed either on a permanent dock structure or a minimum of ten feet landward of the property boundary adjacent to the water access or away from the landward edge of the mangrove fringe.

(3) Temporary real estate signs must be sturdily constructed, neat in appearance, ground signs only, with prongs not exceeding one-half inch in diameter and designed to be inserted and, removed without tools.

(4) Temporary real estate signs must be removed no more than five days after the property is no longer for sale.

(h) Signs that do not exceed 12 inches when measured vertically or horizontally, upon business premises, which are informational or directory in nature, and neither contain the name of the business nor advertise products or services.

(i) Temporary banners, sandwich signs and other temporary ground signs promoting a specific event, to be located in the vicinity of the event promoted and not exceeding 32 square feet in area for banners and ten square feet for sandwich signs and ground signs. Signs cannot be erected more than seven days prior to the event, and must be removed no later than the day following the event.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1646. Nonconforming signs.

With the exception of nonconforming identification signs as provided in section 33-1645, every lawfully existing sign of every type located on Captiva Island that does not comply with this article will be deemed nonconforming upon the effective date of the ordinance from which this article is derived.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1647. Maintenance of nonconforming signs.

(a) A nonconforming sign may be maintained in its condition as of the time it becomes nonconforming, but may not be structurally or mechanically extended or altered except to make it conform more closely to the provisions of this article.

(b) Nonconforming sign may be re-erected according to the standards articulated in section 33-1645

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1648. Permanent signs in commercial areas.

Ground-mounted or wall mounted signs located in the C-1, CS-1, CT or RM-2 zoning categories must comply with sections 14-76 and 34-625.

(a) Ground-mounted identification signs are subject to the following limitations:

(1) No signs may be erected closer than 30 feet to the boundary line dividing the zoning district of the property on which the sign is erected from a zoning district in which they are prohibited.

(2) Sign area is limited to 32 square feet.

(3) Signs cannot exceed a maximum of ten feet in height or ten feet in width.

(4) The sign must display the street number/s of the property on the face of the sign. Each numeral must measure four to six inches in height. The copy area of the street number will not be counted toward the allowable sign copy area.

(b) Wall-mounted signs: Wall signs are limited to ten percent of a tenant's wall area, with a maximum size of 32 square feet.

(c) Illuminated, ground-mounted, and wall signs: Environmental Sciences (ES) staff must review the lighting proposed to ensure compliance with sea turtle regulations in section 14-76 and the outdoor lighting standards in section 34-625 prior to the issuance of the sign permit. The sign must be inspected after dark by ES staff, with all exterior lighting turned on, to determine compliance with an approved lighting plan and this division prior to final inspection.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1649. Number of signs.

Business establishments located upon Captiva Island may not erect more than one permanent ground-mounted commercial advertising sign per driveway and point of access by water. Temporary "for sale" or "for rent" signs will not count against this limit.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1650. Reserved.

DIVISION 5. MULTIPLE-UNIT DWELLINGS AND TOURIST ACCOMMODATION

Sec. 33-1651. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Outdoor or outside sign means any sign visible to passersby, whether the sign is located on the outside walls or separate from a building.

Owner and operator. The term "operator" includes tenants, managers or any person in charge of the operation of hotels, motor courts and like establishments. The word "operator" or "owner" shall include natural persons, firms and corporations.

Room rates means the rate at which rooms or other rental units are rented to occupants.

(Ord. No. 12-19 , § 2, 9-11-12)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 33-1652. Applicability of division.

This division applies to the operators and owners of hotels, motor courts, and motels located on Captiva Island.

(Ord. No. 12-19 , § 2, 9-11-12)

Sec. 33-1653. Posting of room rates.

It is unlawful for an owner or operator of an establishment within the scope of this division located on Captiva Island to post or maintain posted, on an outdoor or outside advertising signs pertaining to the establishments, room rates for accommodations.

(Ord. No. 12-19 , § 2, 9-11-12)

Secs. 33-1654—33-1660. Reserved.

ARTICLE X. NORTH OLGA [3]

DIVISION 1. - IN GENERAL

DIVISION 2. - DESIGN STANDARDS

DIVISION 3. - ADDITIONAL USE

FOOTNOTE(S):

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Editor's note— Ord. No. 14-20, § 3, adopted Oct. 21, 2014, enacted provisions intended for use as Art. XI, §§ 33-1661—33-1679. For purposes of classification, and at the editor's discretion, the former Art. X has been renumbered as Art. XI, and the provisions of Ord. No. 14-20, § 3, have been included herein as Art. X, §§ 33-1661—33-1679. (Back)

DIVISION 1. IN GENERAL

Sec. 33-1661. Applicability.

The provisions of Article XI apply to all new development requiring zoning or local development order approval, excluding limited development orders entitled to limited review per section 10-174, located in the North Olga Community Planning Area, as defined in Goal 35 of the Lee County Comprehensive Plan.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1662. Community planning area boundaries.

The boundaries of the North Olga Community Planning Area are as depicted in the Lee County Comprehensive Plan Map 1, Page 2 of 8.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1663. Community review.

(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publicly advertised informational session prior to obtaining a finding of sufficiency.

(1) Development Orders (excluding Development Orders Entitled to Limited Review per section 10-174).

(2) Planned development zoning actions.

(3) Conventional rezoning actions.

(4) Special exception and variance requests.

(b) *Meeting requirements.* The applicant is responsible for providing the meeting space, providing notice of the meeting, and providing security measures as needed. The meeting location will be determined by the applicant, and must be held within the boundaries of the North Olga Community, or within the boundaries of an immediately adjacent community planning area (Alva, Bayshore, or Caloosahatchee Shores). Meetings may, but are not required to, be conducted before non-County formed boards, committees, associations, or planning panels. During the meeting, the agent will provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1664. Existing development.

Existing planned developments may voluntarily bring a master concept plan into compliance with the North Olga Community Plan or any regulation contained in this division administratively. No public hearing will be required if the sole intention is for existing planned developments to comply with these regulations.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1665. Deviations and variances.

Variances or deviations may be requested in accordance with Chapter 34. If an applicant desires to deviate from any design standards in Division 2 of this article, the applicant may do so through the administrative deviation process in section 10-104.

(Ord. No. 14-20 , § 3, 10-21-14)

DIVISION 2. DESIGN STANDARDS

Subdivision I. - Basic Elements

Subdivision II. - Architecture

Subdivision III. - Landscaping

Subdivision IV. - Signage

Subdivision I. Basic Elements

Sec. 33-1666. Water management.

All dry detention basins must be planted with wetland plant species in minimum one-gallon containers not more than 36 inches on center throughout the extent of the basin. Dry detention basins greater than 20,000 square feet, as measured from top of bank, must be planted with appropriate native trees such as Southern Red Maple, South Florida Slash Pine, Laurel Oak, and/or Cypress trees, in addition to wetland plant species. The trees must be planted at a ratio of one tree per 800 square feet of dry detention area, and may be clustered to mimic the natural environment. At the time of installation trees must be a minimum of six feet in height, ten gallons, 1½-inch caliper, and a three-foot spread, or a field-grown tree of equivalent size.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1667. Parking.

In addition to the parking regulations in Chapter 34, Article VII, Division 26, the following will apply to all development requiring off-street parking. No more than 50 percent of the required parking spaces, or a maximum of ten parking spaces, whichever is less, may be located between the street right-of-way and the principal structure or on the side of the building. The remaining 50 percent of parking spaces must be located in the rear of the building. Alternatively, if parking areas cannot be accommodated in the rear of the building, a 25-foot wide Type D buffer must be provided between the parking area and adjacent right-of-way, with plantings consistent with section 10-420 and 421.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1668. Setbacks from arterial and collector roadways.

The minimum setback for buildings from arterial and collector roadways shall be a minimum of 50 feet. Parking may be located within the setback area in accordance with section 33-1667, and must be setback a minimum of 25 feet from the right-of-way.

(Ord. No. 14-20 , § 3, 10-21-14)

Subdivision II. Architecture

Sec. 33-1669. Applicability.

Architectural design of all buildings within the North Olga Community must comply with this subdivision; places of worship, single family and duplex dwellings are exempt from this subdivision.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1670. Architectural style.

(a) Architectural style. The design of all buildings within North Olga must adhere to the "Old Florida" vernacular architectural style, including "Key West," "Cracker," "Rustic" and other styles deemed compatible with or complementary to these styles. Distinct vernacular styles may be displayed through the inclusion of extended roof overhangs, porches, decorative columns, covered corridors, covered walkways, or pitched roofs.

(b) Examples of character and styling that emulate architectural features and materials that are associated with or compatible with the Old Florida vernacular include:

(1) Old Florida style architecture.

(2) Key West style architecture.

(3) Cracker style architecture.

(4) Rustic style architecture.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1671. Building materials.

(a) Traditional building materials, such as masonry, stone, brick, or wood, must be used as the predominant exterior building material(s). Acceptable finishes include, cementitious horizontal siding, horizontally struck stucco, board and batten, and stained hardwood panels. Plastic or vinyl siding is permitted only when necessary to establish the Florida vernacular style.

(b) The following exterior building materials may only be used as secondary exterior finish materials, provided they cover no more than ten percent of the primary building facade area. This restriction does not apply to roofs.

(1) Tile;

(2) Plain, smooth, scored or rib faced concrete block;

(3) Plywood or sheet pressboard;

(4) Reflective metal panels;

(6) Any translucent material, other than glass; or

(7) Any combination of the above.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1672. Building color.

(a) Building colors must be neutral, warm earth tones or subdued pastels. Buildings may use brightly colored trims, cornices, or columns; however these contrasts must complement the building(s) within the development.

(b) Brighter colors may be utilized on doors, windows and architectural details. Contrasting accent colors of any wall, awning or other feature are limited to not more than ten percent of the total area of any single façade.

(c) The use of black and primary colors are limited to trim. Neon and fluorescent colors are prohibited.

(Ord. No. 14-20 , § 3, 10-21-14)

Subdivision III. Landscaping

Sec. 33-1673. North River Road plantings.

New developments with frontage on North River Road must provide a 25-foot wide right-of-way buffer, planted with native canopy trees, such as Live Oaks and Laurel Oaks. The required planting height of the native canopy tree shall be a minimum of 14 feet, spaced approximately 25 feet on center. Shrubs and/or hedgerows are not required.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1674. Tree preservation.

Regardless of project size, all development will be subject to tree preservation requirements in section 10-415(b), and the following:

(1) Preservation of indigenous tree clusters is preferred over individual tree protection. Reasonable efforts to retain individual trees must be made. It is recognized that site design requirements (e.g. fill) may limit the ability to retain some individual trees, and in that case the County will allow the removal of those trees.

(2) Native trees may be relocated to open space areas when proper horticultural methods (e.g. root pruning; use of anti-transpirants) are utilized to ensure the survivability of the trees, and a vegetation removal permit is obtained.

(3) Effort must be made to preserve heritage trees with at least a 20-inch caliper dbh, including but not limited to Live Oak, South Florida Slash Pine, or Longleaf Pine. If a heritage tree must be removed from a site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.

(4) Native tree preservation must incorporate techniques as established in section 10-420(j).

(5) Surface water management systems may overlap with native tree preservation areas only where it can be clearly demonstrated that the effects of water management system construction and/or operation will not cause death or harm to the preserve tree and indigenous plant community of protected species.

(Ord. No. 14-20 , § 3, 10-21-14)

Subdivision IV. Signage

Sec. 33-1675. Applicability.

This subdivision is adopted as an addendum to the general sign regulations set forth in Chapter 30, and applies only to new signs, excluding change in copy face.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1676. Prohibited signs.

The following types of signs are prohibited unless a deviation or variance is granted.

(1) Emitting and digital signs.

(2) Flashing signs.

(3) Exposed neon signs.

(4) Pole signs.

(5) Pylon signs.

(6) Balloons including inflatable air signs or other temporary signs that are inflated with air, helium, or other gaseous elements, except as permitted by special occasion permit.

(7) Banners, pennants or other flying paraphernalia, except:

a. As permitted by special occasion permit.

b. An official federal, state, or county flag.

c. One symbolic flag not to exceed 15 square feet in area for each institution or business.

(8) Temporary signs, except for the following, which must comply with section 30-151

a. Special occasion signs.

b. Real estate signs.

c. Construction signs

d. Political or campaign signs.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1677. Permanent signs in commercial and industrial areas.

(a) Ground mounted identification signs must be a monument sign. A monument sign is defined as a ground sign, the structural base of which is on the ground.

(b) The maximum height of any identification sign shall not exceed 15 feet.

(c) The height of the base must be at least 24 inches above the adjacent ground, and may not exceed 36 inches.

(d) The sign must display the street numbers of the property on the face of the sign. Street numbers must measure between a minimum of four inches and a maximum of six inches in height. The copy area of the street number will not be counted toward the allowable sign copy area.

(e) Signs must complement the architectural style of the building or development.

(Ord. No. 14-20 , § 3, 10-21-14)

DIVISION 3. ADDITIONAL USE

Sec. 33-1678. Applicability.

The following regulations apply to home occupation within the North Olga Community. This subdivision is adopted as an addendum to the home occupation regulations set forth in LDC Chapter 34, Division 18.

(Ord. No. 14-20 , § 3, 10-21-14)

Sec. 33-1679. Home occupation with outside help.

(a) Home occupations established on existing lots of record equal to or greater than one acre in size are permitted a maximum of one outside employee to work at the residence, in addition to other members of the immediate family residing in the dwelling.

(b) The resident of the premises shall not rent space to others in association with a home occupation.

(c) Home occupations with outside help will comply with all other operational and use regulations in section 34-1772

(Ord. No. 14-20 , § 3, 10-21-14)

Secs. 33-1680—33-1700. Reserved.

ARTICLE XI. UPPER CAPTIVA [4]

FOOTNOTE(S):

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Note— See the editor's note to Art. X. (Back)

DIVISION 1. IN GENERAL

Sec. 33-1701. Applicability.

The provisions of this article apply to all land located within Upper Captiva, which lies north and west of the state park on the island of North Captiva, as depicted on Map 17 in Appendix I.

In the event of a conflict with any other section of this Land Development Code, such as those related to sea turtle nesting habitat (sections 14-78 and 14-79), the more stringent requirement shall apply.

(Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1702. Community review.

Meeting requirements. The applicant is responsible for providing the meeting space, notice of the meeting, and security measures as needed. The meeting must be held within the Upper Captiva planning area. The specific meeting location will be determined by the applicant. Meetings may, but are not required to, be conducted before non-County formed boards, committees, associations, or planning panels. During the meeting, the agent will provide a general overview of the project for any interested citizens. Subsequent to this meeting, the applicant must provide County staff with a meeting summary document that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that were raised at the meeting; and a proposal for how the applicant will respond to any issues that were raised. The applicant is not required to receive an affirmative vote or approval of citizens present at the meeting. This meeting must be held after the application has been filed. The applicant will provide notice to the Upper Captiva community no less than ten days before the meeting by placing signs or posters in public places, by circulating a notice to the broadest e-mail list available, and by submitting a notice for posting on the community website. The applicant must also provide the meeting summary to the Upper Captiva community for the purpose of posting on the community website and on any appropriate Lee County government document clearinghouse.

(Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1703—33-1710. Reserved.

DIVISION 2. [APPLICATIONS]

Sec. 33-1711. Applications requiring community review.

The owner or agent applying for the following types of County approvals must have a community review prior to obtaining a finding of sufficiency.

(1) *Planned development zoning actions.* This includes administrative deviations amending the approved master concept plan or other provisions of the applicable zoning resolution.

(2) *Special exception and variance requests.* These requests will be decided by the hearing examiner.

(3) *Conventional rezoning actions.*

(Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1712—33-1720. Reserved.

DIVISION 3. RESERVED

Sec. 33-1721—33-1730. Reserved.

DIVISION 4. OUTDOOR LIGHTING

Sec. 33-1731. Purpose.

The purpose of this division is to regulate outdoor lighting in public and private places in order to reduce or prevent light pollution or light trespass and to preserve the vision enjoyment of the night sky on Upper Captiva.

(Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1732. Definitions.

The following definitions are in addition to those set forth in other portions of this Code and are applicable to the provisions contained in this division only. If, when construing the specific provisions contained in this division, these definitions conflict with definitions found elsewhere in this Code, then the definitions set forth below will control. Otherwise the definitions contained elsewhere in this Code will control. If a term is not defined, the term must be given its commonly understood meaning unless there is a clear indication of an intent to construe the term differently from its commonly understood meaning.

Accent lighting means any directional lighting which emphasizes a particular object or draws attention to a particular area.

Light trespass means all visible light emitted by a luminaire that shines beyond the property on which the luminaire is installed where the point source of the light is visible at the ground level as measured ten feet from property line.

(Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1733. Applicability.

(a) All new outdoor luminaires and lighting fixtures installed on private and public property on Upper Captiva, including on docks and bulkheads, must comply with this division at time of development permit or no later than five years after the adoption of this code, whichever occurs first.

(b) All new outdoor luminaires and lighting fixtures installed on private and public property on Upper Captiva, including on docks and bulkheads, must comply with this division at time of certificate of occupancy (CO) for a development permit.

(c) All existing outdoor luminaires and lighting fixtures installed on private and public property on Upper Captiva, including on docks and bulkheads, must comply with this division no later than January 1, 2021.

(d) This division supplements the sea turtle lighting requirements found in article II of chapter 14 of this Code.

(e) This division does not apply to interior lighting. However, interior light from any structure that is visible outdoors will be subject to control by this division if it causes light trespass section 33-1732

(f) When an existing outdoor luminaire or fixture is replaced, the replacement must meet the requirements of this division.

(Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1734. Exemptions.

The following sources of light are exempt from this division:

(1) Temporary emergency lighting needed by firefighters, police officers, emergency work crews, etc.

(2) Lights on approved vehicles.

(3) Lights required by government agencies near airstrips or on communication towers.

(4) Seasonal and special event decorations with individual lights in place up to 60 days per year.

(Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1735. Submittals.

(a) Where a sea turtle lighting plan must be submitted to the County in accordance with section 14-76, the lighting requirements of this division must be shown on the same lighting plan, which must be submitted prior to the earlier of building permit or development order issuance.

(b) Where a sea turtle lighting plan is not required by section 14-76, the lighting requirements of this division must be shown on a separate lighting plan, also submitted prior to the earlier of building permit or development order issuance.

(c) The lighting plan required by this division must show the location, number, type, height, wattage, orientation, and shielding devices of all proposed exterior artificial light sources, including landscape lighting and all pole- and ground-mounted fixtures. Fixture cut sheets, catalog illustrations, and/or photometric data furnished by the manufacturer that shows the angle of light emission must also be provided. Additional information may be required to assess compliance with this division. Site lighting only will be shown and reviewed on the development order and inspected at time of certificate of compliance. Building lighting will be shown and reviewed on the building permit plans and inspected at time of certificate of occupancy.

(d) A County-approved lighting plan is required before a development order and building permit will be issued. All lighting installed must be inspected and be in compliance with the approved lighting plans before a certificate of occupancy and certificate of compliance will be issued by the County.

(Ord. No. 14-13 , § 6, 6-17-14)

Sec. 33-1736. Outdoor lighting standards.

The following standards apply to outdoor lighting on Upper Captiva in addition to the sea turtle lighting standards found in article II of chapter 14 of this Code and the outdoor lighting standards found in chapter 34-625 of this Code.

(1) All outdoor lighting, including lighting on docks and bulkheads, must be designed, installed, located, and maintained to be hooded, shielded, and/or aimed downward.

a. Examples of acceptable and unacceptable shielding and hooding are shown in Figures 1 through 3.

b. The hood or shield must mask the direct horizontal surface of the light source, or the light must be aimed to ensure that the illumination is only pointing downward onto the ground surface, with no escaping light permitted to contribute to sky glow by shining upward into the sky.

(2) Bright light shining onto adjacent property or pathways is not permitted. Light trespass beyond property boundaries or above the horizontal plane is a violation of this division.

(3) Accent lighting, when approved pursuant to section 33-1735(c), must be directed downward onto the building or object and not toward the sky or onto adjacent properties. Direct light emissions may not be visible above the roof line or beyond the building edge.

(4) Spotlighting on landscaping and foliage must be shielded and must not spill onto adjacent property.

(5) When this division would otherwise require the replacement of an existing outdoor luminaire or fixture, the existing fixture may instead be adapted to comply by adding a properly designed hood or shield or by pointing any upward-mounted, shielded fixture downward onto the ground.

(6) Fixtures affixed to poles, trees, and other structures must be no more than 15 feet above grade, shielded, and directed downward. The resulting emitted light must not spill onto adjacent property.

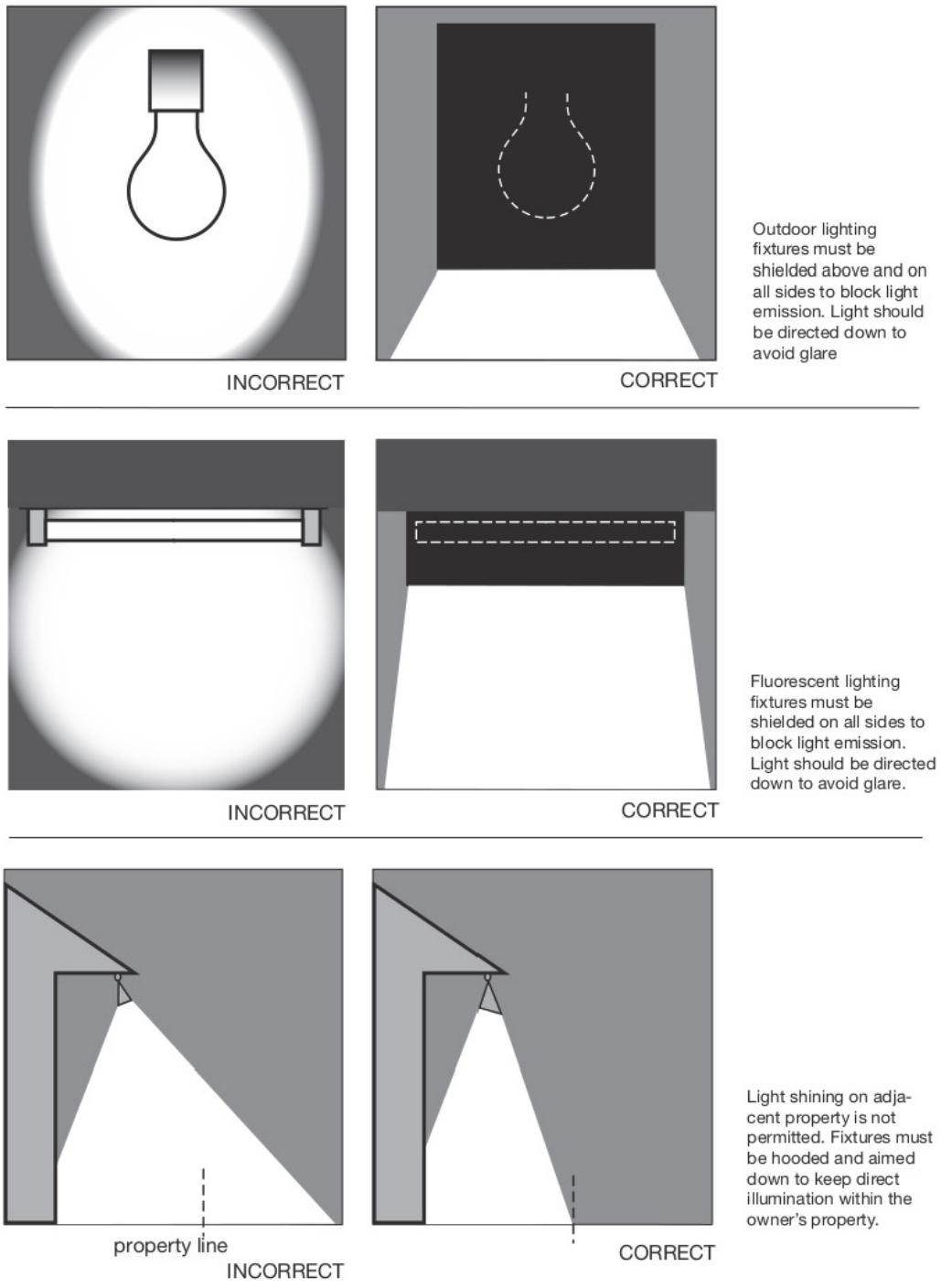

Figure 1 (§ 33-1736(1)a.)

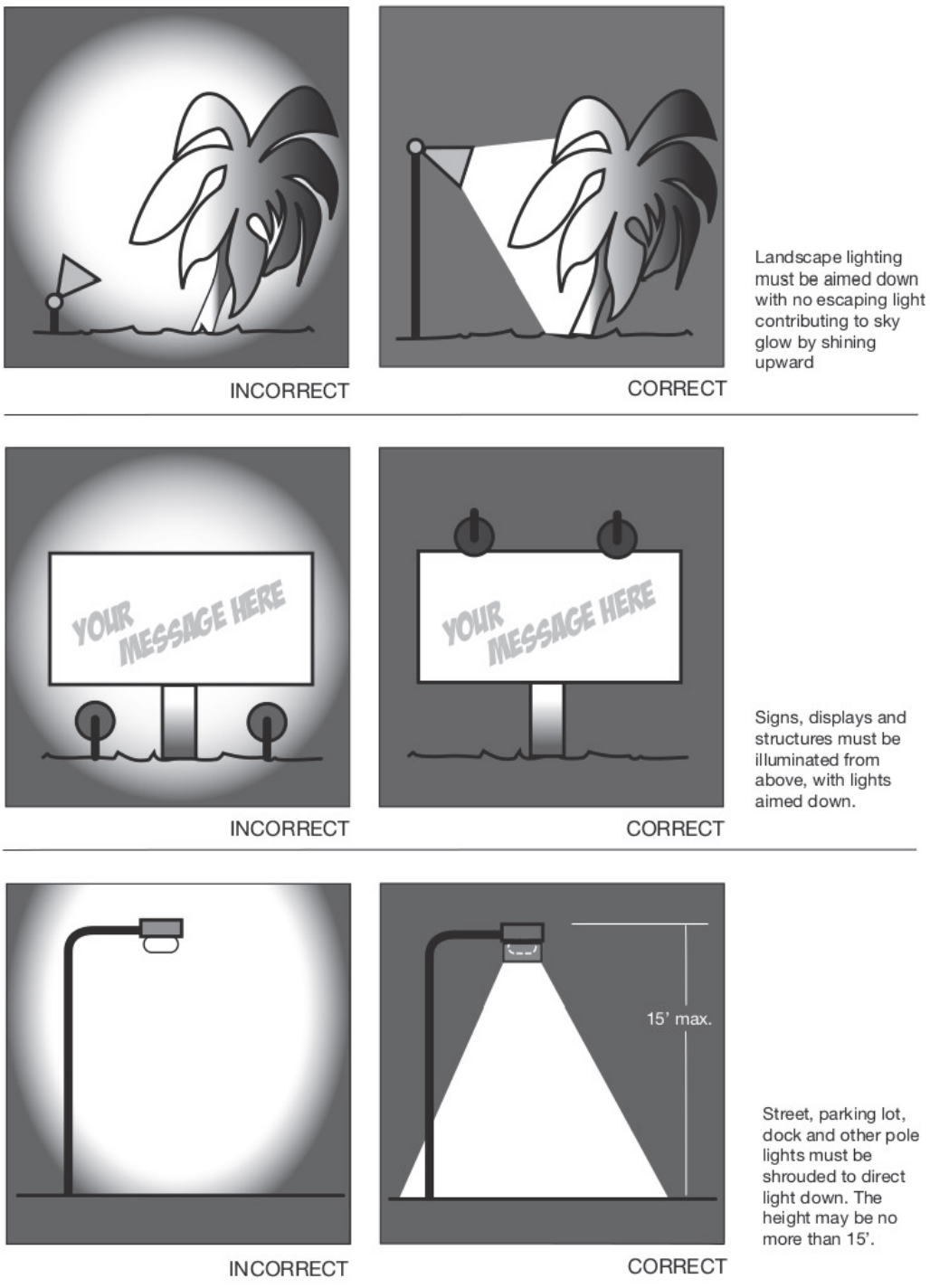

Figure 2 (§ 33-1736(1)a.)

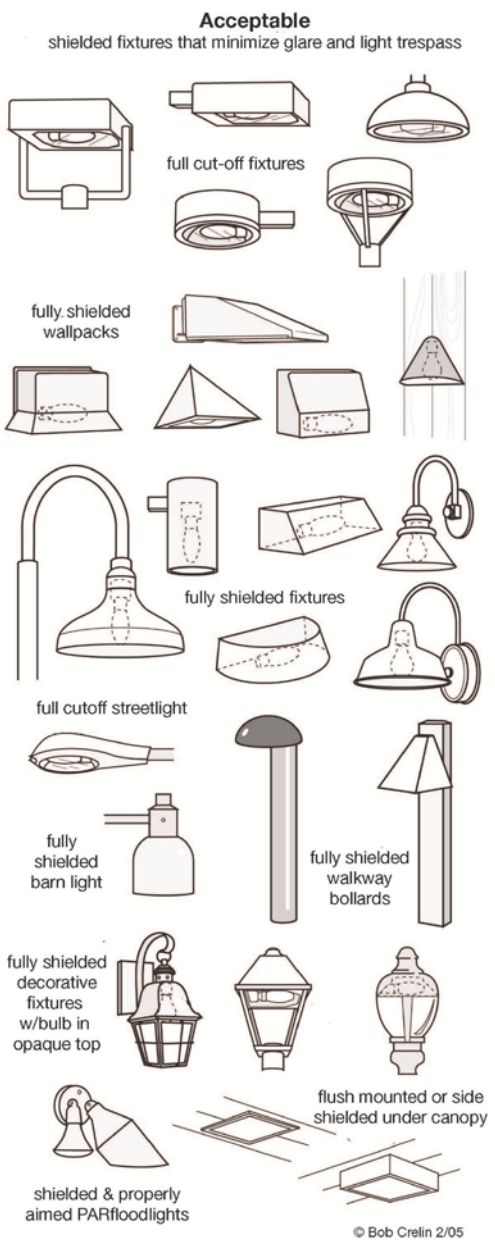

Figure 3.
Examples of Acceptable Fixtures
(§ 33-1736(1)a.)

(Ord. No. 14-13 , § 6, 6-17-14)

Secs. 33-1737—33-1740. Reserved.

DIVISION 5. OPEN SPACE, LANDSCAPING, AND INVASIVE EXOTIC VEGETATION

Sec. 33-1741. Brazilian pepper eradication.

The Brazilian pepper (*Schinus terebinthifolius*) must be entirely eradicated from all real property, including easements, rights-of-way, and common area tracts. The eradication of the Brazilian pepper must be completed prior to issuance of certificate of compliance (CC), issuance of a certificate of occupancy (CO) or by January 1, 2021, whichever comes sooner. All property must be maintained free of Brazilian pepper in perpetuity once it has been eradicated.

(Ord. No. 14-13 , § 6, 6-17-14)

Chapter 34 ZONING [1]

FOOTNOTE(S):

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Editor's note— The history notes for this chapter have been prepared as follows: (Back)

(1)Chapter 34 is derived mainly from the County Zoning Ordinance, Ord. No. 86-17, adopted June 25, 1986, as amended. Except as specified in (2) below, provisions deriving from Ord. No. 86-17, as amended, bear a history note reading "Zoning Ord. 1993, § ," which reflects the section number in the updated County zoning pamphlet including ordinances through Ord. No. 93-04, adopted January 31, 1993. Only ordinances subsequent to Ord. No. 93-04 are included in the history notes for these provisions. (Back)

(2)Ord. No. 93-24, § 7, adopted September 15, 1993, revised chapter IV of the zoning ordinance, pertaining to district regulations, in its entirety. Provisions deriving from Ord. No. 93-24, § 7, bear a history note only to this ordinance and subsequent amendments. (Back)

(3)Provisions transferred from the County Code of Ordinances bear the history note that appeared in the Code of Ordinances as supplemented through Ord. No. 93-23, adopted August 18, 1993, and any subsequent amendments. (Back)

Cross reference— Buildings and building regulations, ch. 6; historic preservation, ch. 22; variance from zoning regulations for historic structures, § 22-174; signs, ch. 30. (Back)

ARTICLE I. IN GENERAL

Sec. 34-1. Reserved.

Editor's note—

Ord. No. 13-10, § 10, adopted May 28, 2013, repealed § 34-1 which pertained to purpose and intent of the chapter and derived from § 102 of the 1993 Zoning Ordinance.

Sec. 34-2. Definitions.

The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abutting property, unless specifically stated otherwise within this chapter, means properties having a boundary line, or point or portion thereof, in common, with no intervening street right-of-way or easement, or any other easement over 25 feet in width.

Access, vehicular means the principal means of vehicular ingress and egress to abutting property from a street right-of-way or easement.

Accessory building or structure. See *Building or structure, accessory*.

Accessory use. See *Use, accessory*.

Administrative office means an office which is customarily ancillary and subordinate to the permitted principal use of the property and which is used for clerical and administrative functions of the principal use. This term shall be interpreted to include managers or association offices for residential rental property, subdivisions, recreational vehicle parks and similar type activities.

Aggrieved person or party means anyone who has a legally recognizable interest which is or which may be adversely affected by an action of or an action requested of the Board of County Commissioners or any other person or Board that has been delegated such authority by the Board of County Commissioners.

Agricultural uses includes but is not limited to farming, horticulture, pasturage, forestry, citrus and other fruit groves, greenhouses and nurseries, truck farms and dairy farms, commercial fish, frog or poultry hatcheries, and raising of hogs and other farm animals. Lumbering or harvesting of cypress (Taxodium spp.) is not permitted except by special exception.

Aircraft landing facilities, private means a facility, which may or may not be open to the public, whose primary purpose is to accommodate the takeoff and landing of noncommercial passenger aircraft.

Airport operations facilities includes all customary facilities for the operation of a major airport, as well as ancillary services such as but not limited to aircraft cleaning and janitorial service, aircraft servicing and repairing, aircraft storage, air freight handling, airline ticket counters or offices, airline catering services, airport terminal services, customs clearance, flying charter services, hangar operation, sightseeing airplane services and flight instruction schools.

Alter and *alteration* mean any change in size, shape, character or use of a building or structure.

Ambient light means light not emanating from the site, such as moonlight.

Amusement device means any mechanical device or combination of devices that carries or conveys passengers on, along, around, over or through a fixed or restricted course or within a defined area for the purpose of giving its passengers amusement, pleasure or excitement. This definition includes all amusement devices, amusement attractions and temporary structures regulated by F.S. ch. 616 and the State Department of Agriculture and Consumer Services.

Amusement device, permanent means a device which is used, or intended to be used, as an amusement device or amusement attraction that is erected to remain a lasting part of the premises.

Amusement park means permanent establishments known as amusement parks, kiddie parks, theme parks, etc., which operate one or more amusement attractions such as mechanical rides, amusement devices, exhibits and refreshment stands or picnic grounds, for a profit.

Animal clinic means an establishment providing for the diagnosis and treatment of ailments of animals other than humans, and which may include facilities for overnight care. See *Animal kennel*.

Animal kennel means an establishment where more than four dogs or cats (except litters of animals of not more than six months of age) are kept, raised, bred, cared for or boarded for others.

Animals, Class I means all animals described in F.S. ch. 379 and listed in Florida Administrative Rule 68A-6.002(1)(a).

Animals, Class II means all animals described in F.S. ch. 379 and listed in Florida Administrative Rule 68A-6.002(1)(b).

Applicant means any individual, firm, association, syndicate, copartnership, corporation, trust or other legal entity, or their duly authorized representative, commencing proceedings under this chapter.

Application, County initiated means any application in which the Board of County Commissioners is designated as the applicant, regardless of whether Lee County is the owner of the subject parcel.

Application, owner-initiated means any application that is not County initiated.

Application or *appeal* means any matter lying within the jurisdiction of the Hearing Examiner and any application for rezoning which will be or is scheduled to be heard by the Board of County Commissioners.

Approved discharge device means a device which is currently listed by the United States Coast Guard as an approved marine sanitation device.

Architect means a professional architect duly registered and licensed by the state.

Artificial light or *artificial lighting* means the light emanating from any manmade device.

Assisted living facilities (ALF) means a residential land use, licensed under chapter 58A-5, Florida Administrative Code, that may be any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, that undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. For purposes of this definition only, the term "personal services" means direct physical assistance with or supervision of the activities of daily living and the self-administration of medication and other similar services that the department may define by rule. "Personal services" will not be construed to mean the provision of medical, nursing, dental, or mental health services.

ATM and *automatic teller machine* mean an unattended banking station located outside of or away from the principal bank building and in operation beyond normal lobby hours, operated by computerized equipment, and capable of carrying out specific banking transactions.

Authorized representative means any person who appears with the permission of and on behalf of another person and who provides legal argument or relevant competent evidence through testimony, submission of documents or otherwise.

Auto parts store means establishments primarily engaged in the retail sale of new or used automobile, truck, trailer or motorcycle parts and accessories. The term does not include auto wrecking yards.

Auto wrecking yard means the dismantling, crushing, shredding or disassembling of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts. See *Junkyard*.

Automobile service station means an establishment primarily engaged in the retail sale of motor fuel or lubricants, but which may also include facilities for washing, polishing, waxing, greasing, tire repair (with no recapping or vulcanizing) and other minor incidental repairs, and emergency road service, including towing and emergency repairs and services; provided, however, such establishment is not primarily engaged in work or services listed as "automotive repair and service" (see section 34-622(c)(2)). See *Convenience food and beverage store.*

Average lighting means the sum of the calculated illuminance points on the photometric plan divided by the total number of calculated illuminance points within the site boundary. Sub-area averages, such as canopies, fuel pumps, telephone, drive thru, ATM, and the like, shall only include points within that sub-area. Illuminance levels will be computed over developed portions of each site and specified adjacent land and do not include enclosed building pad areas. Time-averaged or other alternative methods of computing illuminance levels are not be permitted.

Back-lighting means the illumination of an awning, canopy or building roof, fascia, facade or through similar area by any type of lighting source from behind the fascia, facade or roof in order to be seen through those structures.

Bar and *cocktail lounge* mean any establishment devoted primarily to the retailing and on-premises drinking of malt, vinous or other alcoholic beverages.

Bed and breakfast establishment means an owner-occupied conventional single-family residence that accommodates lodgers. Bed and breakfast establishments are permitted in any district permitting boardinghouses. See section 34-1494(b) for calculating density equivalents. Bed and breakfast establishments approved as part of a Private Recreational Facilities Planned Development (PRFPD) are not required to be owner occupied.

Board means the Board of County Commissioners of Lee County, Florida.

Boarding house means an establishment with lodging facilities for more than four but less than ten persons, where meals are regularly prepared and served for compensation, and where food is placed upon the table family style, without service or ordering of individual portions from a menu. See *Rooming house*.

Boat means any vessel, watercraft or other artificial contrivance used, or which is capable of being used, as a means of transportation, as a mode of habitation, or as a place of business, professional or social association on waters of the County, including:

(1) Foreign and domestic watercraft engaged in commerce;

(2) Passenger or other cargo-carrying watercraft;

(3) Privately owned recreational watercraft;

(4) Airboats and seaplanes; and

(5) Houseboats or other floating homes.

Boat parts store means establishments primarily engaged in the retail sale of watercraft parts and accessories, excluding trailers, but not providing installation service. Establishments which provide installation service are listed as "boat repair and service."

Boat repair and service means establishments primarily engaged in minor repair service to small watercraft, including the sale and installation of accessories.

Boatyard means a boating or harbor facility located on or having direct access to navigable water for building, maintaining and performing extensive repair on boats and small ships, marine engines and equipment. A boatyard shall be distinguished from a marina by the larger scale and greater extent of work done in a boatyard and by the use of dry dock, marine railway or large capacity lifts used to haul out boats for maintenance or repair. See *Marina.*

Building means a structure, either temporary or permanent, with a roof intended to be impervious to weather, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This definition includes tents, awnings, cabanas or vehicles situated on private property and serving the function of a building, but does not include screened enclosures not having a roof impervious to weather.

Building or structure, accessory means a building or structure which is customarily incidental and subordinate to a principal building or to the principal use of the premises, and located on the same premises. See *Building, principal*.

Building, conventional means:

(1) A building, built upon the site and upon its own permanent foundation, constructed of basic materials such as wood, masonry or metal or minimally prefabricated components such as roof trusses, wall panels and bathroom/kitchen modules, and conformable to the locally adopted building, electrical, plumbing and other related codes; or

(2) A building manufactured off the site in conformance with F.S. ch. 553, pt. IV (or chapter 9B-1, Florida Administrative Code), subsequently transported to its site complete or in modules and fixed to its own foundation with no intention to relocate.

Building, height of means the vertical distance measured from grade to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. Where minimum floor elevations in floodprone areas have been established by law, the building height will be measured from required minimum floor elevations (see article VII, division 30, subdivision II, of this chapter).

Building official means the Director of the Division of Code Enforcement or his designee.

Building, principal means a building in which is conducted the main or primary use of the premises on which the building is situated.

Bulb means the source of electric light. To be distinguished from the whole assembly (See luminaire).

Bus station/depot means a location where buses may stop to load or unload passengers, luggage or packages and where the sale of bus tickets may occur. Bus passengers, luggage or packages are not transferred to other buses from this location. A bus station/depot is not synonymous with a bus terminal and is not a bus stop.

Bus stop means a designated area where local buses stop to load and unload passengers along locally designated routes.

Bus terminal means any premises for the transient housing or parking of buses and where the loading and unloading of passengers, luggage or packages or the transfer of passengers, luggage or packages to other buses may occur.

Business office means office space for the conduct of commercial activities, excluding retail sales.

Cabana means a structure that must be used for recreational purposes only, and may not be used by unit owners, their guests or invitees for occupancy as a rooming unit, housing unit, accessory apartment, guest unit or dwelling unit, as those terms are defined by this Code. Overnight sleeping is prohibited in a cabana. Stoves, with either a cook top range or an oven, are prohibited. Lease of the cabana structure for use by someone other than the unit owner is prohibited. This recorded covenant must be consistent with

section 34-1182 and may not be amended without the written consent of the Director of Lee County Community Development.

Camera shop means an establishment primarily engaged in the retail sale of cameras, film and other photographic supplies and equipment. Establishments primarily engaged in finishing films are listed as photofinishing laboratories.

Candela or *cd* means the fundamental photometric quantity, luminous intensity, as defined in The International System of Units (SI).

Canopy means any raised, protective cover such as, but not limited to, awnings, marquees, overhangs, porte cochere, and drive-thru's.

Car wash means establishments primarily engaged in washing cars or in furnishing facilities for the self-service washing of cars.

Caretaker's residence means the living unit of the person taking care of property and its use. A caretaker's residence is measured as intensity (not density) when located in non-residential zoning districts.

Carnival means an enterprise which travels from community to community, generally staying for ten days or less in any one location, and which offers one or more amusement devices or attractions.

Carport means a freestanding or attached structure, consisting of a roof and supporting members such as columns or beams, unenclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

Cemetery means an area of land set apart for the sole purpose of the burial of bodies of dead persons or animals and for the erection of customary markers, monuments and mausoleums.

Change of occupancy means the discontinuance of an existing use and the substitution of a use of a different kind of class. Change of occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

Clothing stores, general means establishments primarily engaged in selling a variety of new clothing, shoes, hats, underwear and related articles for personal wear and adornment.

Clubs.

(1) *Club, commercial* means clubs which are owned by individuals and operated for a profit, such as tennis and racquetball clubs, golf clubs, etc.

(2) *Club, country* means a building and associated recreational facilities constructed in conjunction with a golf course (but not including the golf course itself), open only to members and their guests for a membership fee. Occasionally such facilities may be leased to outsiders for banquets, weddings, etc.

(3) *Club, fraternal* means a group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal membership requirements, such as Knights of Columbus, Masons, Moose, Elks, etc.

(4) *Club, membership organization* means an organization operating on a membership basis with preestablished formal membership requirements and with the intent to promote the interests of its members, and includes trade associations, professional organizations, unions and similar political and religious organizations.

(5) *Club, private* means a group of people such as a homeowners' or condominium association organized for a common purpose to pursue common goals, interests or activities.

Cluster development means a site planning technique that concentrates two or more principal buildings, and land uses or intensities, in specific areas of a development in order to provide area for open space and buffering, for recreation and other common facilities, for surface water management, for the

protection of environmentally sensitive land and water and other valuable natural resources, and to reduce the cost of roads and infrastructure.

Commercial fishery means land or structures used as a commercial establishment for the receiving, processing, packaging, storage and wholesale or retail distribution and sale of food products of the sea. Such land or structures may include facilities for the docking, loading and unloading, fueling, icing and provisioning of vessels and for the drying and maintenance and storage of nets, traps and buoys.

Community garden means an area of land managed and maintained by a community or subdivision to grow and harvest food crops and non-food, ornamental crops, such as flowers. Community gardens may be divided into separate plots for cultivation by one or more individuals, or may be farmed collectively by members of a group, and may include common areas maintained and used by group members.

Community residential home means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services or licensed by the Agency for Health Care Administration which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

Compatible means, in describing the relation between two land uses, buildings or structures, or zoning districts, the state wherein those two things exhibit either a positive relationship based on fit, similarity or reciprocity of characteristics, or a neutral relationship based on a relative lack of conflict (actual or potential) or on a failure to communicate negative or harmful influences one to another.

Comprehensive plan means the document, and its amendments, adopted by the Board of County Commissioners pursuant to F.S. ch. 163, for the orderly and balanced future economic, social, physical, environmental and fiscal development of the County. The terms "comprehensive plan" and "the Lee Plan" are synonymous.

Condominium means that form of ownership of property under which units or improvements are subject to ownership by one or more owners, and there is appurtenant to each unit or part thereof an undivided share in common elements.

Consultant means an architect, attorney, engineer, environmentalist, landscape architect, planner, surveyor or other person engaged by the developer or applicant.

Continuing care facility (CCF) means a facility, licensed under F.S. ch. 651, which must be developed as a planned development (PD), which undertakes through its ownership or management to provide housing and food service to adult residents. The facility must meet the criteria for exemption from the Fair Housing Act Amendments of 1988, title VII USC.

Controlled water depth means the vertical distance measured from the waterbody control elevation to the deepest point of the proposed waterbody.

Convenience food and beverage store means a store that specializes in sale of convenience products and other commodities intended primarily to serve the day-to-day needs of residents in the immediate neighborhood, or the traveling public, which is typically or generally open to the public beyond the normal sales hours of other retail stores. Fuel pumps (see definition) may accompany the store.

Conversion means the changing of use or density.

Corner lot. See *Lot, corner.*

Correctional facility, County means a County-operated facility for incarceration of offenders, including detention centers and jails.

County coastal construction control line or zones. The County coastal construction control line or zones landward of the mean high water along the Gulf of Mexico are identified on the County coastal construction setback map which is on file at the Department of Community Development.

Cumulatively illuminated means illuminated by numerous artificial light sources.

Current assessed value means the value of a building as shown in the most recent property tax records of the County. The property owner, at his cost, has the option of providing an independent appraisal to the County. The appraiser will be selected by the County. If this method is used, the determination will be binding on the property owner and the County, and at the option of the County property appraiser may be used as his official record for the valuation of the building.

Day care center, adult means a facility or establishment that provides basic services such as, but not limited to, a protective setting, social or leisure time activities, self-care training or nutritional services to three or more adults not related by blood or marriage to the owner or operator, who require services. This definition will not be interpreted to include overnight care.

Day care center, child means a facility or establishment that provides care, protection and supervision for six or more children unrelated to the operator and that receives a payment, fee or grant for the children receiving care, whether or not operated for profit. This definition does not include public or nonpublic schools that are in compliance with the Compulsory School Attendance Law, F.S. ch. 232. The term "child day care center" is synonymous with the terms "preschool" and "nursery school."

Denial with prejudice means an action taken by a hearing board indicating that the request is formally denied and may not be resubmitted, except as provided for in section 34-211(a).

Denial without prejudice means an action taken by a hearing board indicating that the specific request being acted upon is formally denied but that the hearing board is willing to consider a modification of the request as set forth in section 34-211(b).

Density means an existing or projected relationship between numbers of dwelling or housing units and land area. Refer to article VII, division 12, subdivision II, of this chapter, and article VII, division 19, of this chapter.

Department means the Department of Community Development charged with the planning and administration of zoning for the unincorporated area of the County. As used in this chapter, the terms "Department" and "Division" are synonymous.

Department store means a departmentalized retail store, generally offering in one establishment, within each department, several lines and price and quality ranges of goods and services. Such an establishment is usually part of a chain store system, and may occupy a freestanding structure or occupy a space in a shopping center within which it usually functions as an attractor or anchor store.

Detrimental uses means the use of property for adult bookstores, adult exhibitions or massage parlors, defined in article VII, division 3, of this chapter.

Developer means any individual, firm, association, syndicate, copartnership, corporation, trust or other legal entity commencing development.

Development and *to develop.* Development means the construction of new buildings or other structures on a lot, the relocation of existing buildings, or the use of a tract of land for new uses. To develop means to create a development.

Development of County Impact (DCI) means a development which, because of its character, magnitude, location, size, timing, density or intensity would have a substantial effect upon the health, safety and welfare of the citizens of the County or upon its natural resources.

Development of regional impact (DRI) means any development which, because of its character, magnitude or location, would have a substantial effect upon the health, safety or welfare of citizens of more than one county.

Development parcel means a parcel divided from an original (parent) development tract, defined by metes and bounds or by a subdivision plat, intended for conveyance to a party (developer) subsequent to the original developer, or withheld by the developer for development separately from other development

parcels or the remainder of the original development tract being the principal product, together with some infrastructural support, of the original development activity.

Development perimeter means the exterior lot or property lines of the original (parent) tract of any development consisting of subdivided parcels or lots.

Deviation means a departure from a specific regulation of this chapter, as well as from any separate land development regulation or code, when requested as part of the application for a planned development in accordance with section 34-373(a)(9) and approved by the Board of County Commissioners based on the findings established in section 34-377(b)(4). Deviations to approved master concept plans may be reviewed pursuant to section 34-380.

Dewater has the same meaning given it in section 10-1.

Direct light means light emitted directly from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Director means the Director of the Department of Community Development or his designee. As used in this chapter, the terms "Division Director," "Department Director" and "Director" are synonymous.

District means any certain described area of the County to which this chapter applies and within which the zoning regulations are uniform.

Domestic tropical birds means birds not indigenous to the state or the United States that are commonly kept as pets in a home, including but not limited to canaries, finches, lovebirds, parrots, parakeets, cockatiels and mynah birds.

Dormitory includes residence halls, and means those facilities, used for housing students, which are owned and controlled by a public college or university and which are to be distinguished from hotels, motels, rooming houses and boarding houses.

DR/GR (density reduction/groundwater resource) means those upland areas identified in the Lee Plan as DR/GR Land Use category.

Drive-in theater means a place of outdoor assembly used for the showing of plays, operas, motion pictures and similar forms of entertainment which is designed to permit the audiences to view the performance from vehicles parked on the theater property.

Drive-through facility means an establishment where a patron is provided products or services without departing from his automotive vehicle or in which the patron may temporarily depart from his vehicle in a nonparking space while servicing it, such as a do-it-yourself car wash or fuel pump. The terms "drive-through," "drive-in" and "drive-up" are synonymous.

Drugstore means an establishment wherein the principal use is the dispensing of prescription and patent medicines and drugs and related products, but where nonmedical products such as greeting cards, magazines, cosmetics and photographic supplies may also be sold. The term "drugstore" includes the term "pharmacy."

Duplex. See *Dwelling unit, types*.

Dwelling unit means a room or rooms connected together, which could constitute a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units that may be in the same structure, and containing sleeping and sanitary facilities and one kitchen. The term "dwelling unit" does not include rooms in hotels, motels or institutional facilities. See *Housing unit* and *Living unit.*

Dwelling unit, types.

(1) *Duplex* means a single, freestanding, conventional building on a single lot, designed for two dwelling units under single ownership, or wherein each dwelling unit is separately owned or leased but the lot is held under common ownership.

(2) *Single-family residence* means a single, freestanding, conventional building designed for one dwelling unit and which could be used for occupancy by one family.

(3) *Two-family attached* means a single, freestanding, conventional building designed as two dwelling units attached by a common wall or roof, but wherein each unit is located on a separate lot under separate ownership.

(4) *Townhouse* means a group of three or more dwelling units attached to each other by a common wall or roof wherein each unit has direct exterior access and no unit is located above another, and each unit is completely separated from any others by a rated firewall or a fire and sound resistant enclosed separation or space, and wherein each dwelling unit is on a separate lot under separate ownership.

(5) *Mobile home* means a building, manufactured off the site in conformance with the Federal Mobile Home Construction and Safety Standards (24 CFR 3280 et seq.), subsequently transported to a site complete or in sections where it is emplaced and tied down in accordance with chapter 15C-1, Florida Administrative Code, with the distinct possibility of being relocated at a later date.

(6) *Multiple-family building* means a group of three or more dwelling units within a single conventional building, attached side by side, or one above another, or both, and wherein each dwelling unit may be individually owned or leased but the land on which the building is located is under common or single ownership. Dwelling units, other than caretaker's quarters, which are included in a building that also contains permitted commercial uses will also be deemed to be multiple-family dwelling units.

(7) *Zero lot line* means a dwelling unit with at least one wall of a building on a side or rear line of the lot on which it stands.

(8) *Live-work unit* means a dwelling unit comprised of a living unit and work unit. The work unit is an area that is designed or equipped exclusively or principally for the conduct of commercial activities and is to be regularly used for such commercial activities by one or more occupants of the living unit. See *living unit.*

Easement means a grant of a right to use land for specified purposes. It is a nonpossessory interest in land granted for limited use purposes.

Engineer means a professional engineer duly registered and licensed by the state.

Enlargement and *to enlarge* means an addition to the floor area or volume of an existing building, or an increase in that portion of a tract of land occupied by an existing use.

Entrance gate means a mechanized control device which is located near the point of access to a development which serves to regulate the ingress of vehicles to the interior of the development for the purpose of security and privacy.

Environmental quality means the character or degree of excellence or degradation in the total essential natural resources of the area as measured by the findings and standards of the physical, natural and social sciences, the arts and technology, and the quantitative guidelines of federal, state and county governments.

Environmentally sensitive land means any lands or waters, the development or alteration of which creates or has the potential to create a harm to the public interest due to their value as sources of biological productivity, as indispensable components of various hydrologic regimes, as irreplaceable and critical habitat for native species of flora and fauna, or as objects of scenic splendor and natural beauty. Among these types of land are those designated wetlands.

Equivalent means the state of correspondence or virtual identity of two land uses or zoning districts that exhibit similar levels of effects on each other and the community at large as defined by such factors as their intensities and schedules of use and activity, their demands for services and infrastructure such as roads and water and sewer systems, their impacts on natural resources and other similar parameters. The term "equivalent" is not synonymous with the term "compatible."

Essential services means the erection, construction, alteration or maintenance, by a public or private utility company for the purpose of furnishing adequate service by such company for the public health, safety or general welfare, of electrical and communication cables, poles and wires, and water and sewer collection, transmission or distribution mains, drains and pipes, including fire hydrants. This definition includes necessary transformers, switching equipment, meters, pumps and similar equipment which is less than 27 cubic feet in size, but does not include communication towers, telephone booths or pay telephone stations. This definition does not include buildings, structures or uses listed as "essential service facilities" (see section 34-622(c)(13)).

Excavation means the stripping, grading or removal by any process of natural minerals or deposits, including but not limited to peat, sand, rock, shell, soil, fill dirt or other extractive materials, from their natural state and location.

Excavation, depth means the vertical distance measured from the lowest existing natural grade along the bank of the proposed excavation to the deepest point of the proposed excavation.

Existing only. The use is permitted only if it lawfully existed on September 27, 1993 or was granted a special exception within two years prior to that date and commenced the approved construction within two years after that date. A use that qualifies as "existing only" will not be classified as a nonconforming use. It will be afforded the same privileges as a permitted use and may be expanded or reconstructed, in accordance with all applicable current regulations, but only on the specific parcel on which it is located, as that parcel was legally described on September 27, 1993. Where the use of a structure or building is discontinued or abandoned for 12 months or more, the use no longer qualifies as "existing only", see section 34-621.

Existing outdoor lighting means a light fixture and support installed, or approved by the County to be installed on or before June 24, 2003.

Exotic animals means animals not indigenous to the state or the United States and large native animals not customarily kept in captivity outside zoological gardens.

Exterior lighting means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside or act to draw attention are considered exterior lighting.

Fair means a gathering held at a specified time and place for the buying and selling of goods; a market. The term includes an exhibition, as of farm products or manufactured goods, usually accompanied by one or more competitions, entertainments, amusement attractions or devices.

Family means one or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit, provided that a group of five or more adults who are not related by blood, marriage or adoption will not be deemed to constitute a family. The term "family" does not include a fraternity, sorority, club, monastery, convent or institutional group.

Farm labor housing means residential buildings located near actively farmed land and occupied exclusively by farm workers as defined in F.S. § 420.503. However, housing that meets the density and occupancy limitations that apply to all other housing may not be considered farm labor housing.

Fixture means the assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

Flea market, indoor means a market held within a building where groups of individual sellers offer goods for sale to the public. A major distinction between an indoor flea market and a multiple-occupancy complex is that most leases between the sellers and the operators of the flea market are short term.

Flea market, open means a market held in an open or roofed area (not within a building) where groups of individual sellers offer goods for sale to the public.

Flood or *spot light* means any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.

Floor area means the total area of each story of a building, or portion thereof, within the surrounding exterior walls of the building or structure.

Florist shop means establishments primarily engaged in the retail sale of cut flowers and growing plants. Stores primarily engaged in selling seeds, bulbs and nursery stock are classified as garden and lawn supply stores, and greenhouses and nurseries primarily engaged in growing are listed as plant nurseries.

Food and beverage service, limited means the provision of food or beverages for members and guests of a private club or recreational center but not available to the general public. See the provisions of article VII, division 5, of this chapter relating to on-premises consumption of alcoholic beverages.

Foodcart means a foodstand operated out of a vehicle or some wheeled or skid-mounted structure, generally mobile or at a specific location temporarily.

Footcandle means illuminance produced on a surface one foot from a uniform point source of one candela. Measured by a light meter.

Fractional ownership dwelling unit means any unit for which the ownership interest in the property or dwelling unit is divided among multiple entities and/or individuals for the primary purpose of creating short-term residential use or rental units, rather than full time residential units.

Fraternity house means a dwelling used and occupied by a fraternity or sorority composed of college or university students and containing and providing domestic and social facilities and services thereto. See *Group quarters*.

Fuel pump means a vehicle fuel dispensing device, other than a portable fuel container or fuel dispensing vehicle, which can be self-service or full-service. A single fuel pump is a fuel pump that can serve only one vehicle at-a-time. Vehicle fuel dispensing devices that can service more than one vehicle at-a-time consists of multiple fuel pumps. The number of pumps is determined by the maximum number of vehicles that can be serviced at the same time. For example, a fuel dispensing device that can fuel two vehicles at once is considered two fuel pumps, and a fuel dispensing device that can fuel three vehicles at once is considered three fuel pumps, and so on.

Fuel pump, full service means a fuel pump where an employee of the business operates the fuel pump and dispenses fuel for each customer (not self-service). The business may include other minor vehicle services such as washing the windows, checking tire pressure, checking oil level, and checking the windshield washer fluid level, but does not include other services typically associated with an automobile service station or automobile repair and service.

Fuel pump, self-service means a fuel pump that requires the consumer to operate the pump and no other vehicle service is provided

Fuel pump station. See *fuel pump.*

Full cutoff means that a light fixture in its installed position does not emit any light, either directly or by reflection or diffusion, above a horizontal plane running through the lowest light-emitting part of the fixture. Additionally, the fixture in its installed position does not emit more than ten percent of its total light output in the zone between (a) the horizontal plane through the lowest light-emitting part of the fixture; and (b) ten degrees below the horizontal plane (80 degrees above the vertical plane).

Fully shielded means that a light fixture is constructed so that in its installed position all of the light emitted by the fixture is projected below the horizontal plane passing through the lowest light-emitting part of the fixture.

Garage means a building or structure for the parking or storage of motor vehicles.

Garage, private means a garage that is provided for the parking of motor vehicles owned by the occupants of the principal building.

Garage, public means any garage that is available to the public, whether or not a fee is collected. Such garages may not involve the repair or servicing of any motor vehicles.

Garage sale and *yard sale* mean an informal sale of used household or personal articles, such as furniture, tools or clothing, held on the seller's own premises, or conducted by several people on one of the sellers' own premises.

Gasoline dispensing system, special means a gasoline dispensing system which is card-operated for governmental or commercial entities only in accordance with the provisions of the Florida Administrative Code.

Gasparilla Island conservation district means all of Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key and Loomis Island, situated in the County, including all adjacent submerged lands, tidal lands, overflow lands and tidal ponds.

Gatehouse means a structure which is located near the point of access to a development in which an individual controls access to that development for the purpose of security and privacy.

General mining permit means the approval, granted by the Board of County Commissioners or the Hearing Examiner, indicating that a proposed mining development or a specific phase of a mining development has received all necessary zoning approvals.

Glare means bright or brilliant light emitting from a point source of light, or reflected or refracted from a point source of light, with an intensity great enough to:

(1) Reduce an observer's ability to see;

(2) Cause an observer to experience momentary blindness, or a temporary loss of visual performance or ability; or

(3) Cause an observer with normal sensory perception annoyance or discomfort to the degree which constitutes a nuisance.

Government agency means any department, commission, independent agency or instrumentality of the United States, the state, the County, or an unincorporated authority, district or other governmental unit.

Greater Pine Island means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 33-1002.

Greenhouse means a building made of glass, plastic, or fiberglass, etc., where plants are cultivated.

Grocery means a retail market for general food items, often, but not necessarily, self-service, smaller than a supermarket and with a far smaller range of nonfood items. See *Supermarket* and *Convenience food and beverage store*.

Group quarters means a building in which a number of unrelated individuals that do not constitute a family live and share various spaces and facilities for, for example, cooking, eating, sanitation, relaxation, study and recreation. Examples of group quarters include fraternity and sorority houses, boarding houses, adult congregate living facilities, dormitories, rooming houses and other similar uses.

Guest house means an accessory building located on the same premises as the principal building and used exclusively for housing members of the family occupying the principal building, or other nonpaying guests, is not occupied year round, can have kitchen facilities, and is not rented or used as a separate dwelling. A guest house must not be occupied by more than one family at any time, and only one guest house is permitted for each main dwelling.

Hardship means an unreasonable burden that is unique to a parcel of property, such as peculiar physical characteristics. Economic problems may be considered but may not be the sole basis for finding the existence of a hardship.

Hardware store means establishments primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and small household appliances and cutlery.

Hearing Board means the Hearing Examiner, Board of County Commissioners or Local Planning Agency, whichever is applicable, responsible for conducting a public hearing.

Hearing Examiner means the officer appointed by the Board of County Commissioners, including Hearing Examiners pro tempore, to hear matters and exercise duties set out in article II of this chapter. For purposes of prohibiting unauthorized communication, the term "Hearing Examiner" includes members of the Hearing Examiner's staff.

Heliport means an area, either at ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Helistop means a heliport, but without auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

High Pressure Sodium or *HPS* means a bulb that is filled with high pressure sodium vapor. HPS emits a yellow/orange light but color correct lamps are available.

Home care facility means a conventional residence in which up to three unrelated individuals are cared for, but without provision for routine nursing or medical care.

Home occupation means an occupation customarily carried on by an occupant of a dwelling unit as an accessory use which is clearly incidental to the use of the dwelling unit for residential purposes and operated in accordance with the application provisions of article VII, division 18, of this chapter.

Hoophouse means a structure made of PVC piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape.

Hospice means a facility designed to provide comfort and relief for the emotional and physical needs of the terminally ill.

Hotel/motel. See article VII, division 19, of this chapter.

Housing unit means a house, apartment, mobile home or trailer, group of rooms or single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with any other person in the structure and which have direct access from the outside of the building or through a common hall. See *Dwelling unit* and *Living unit*.

Illuminance means density of luminous flux incident on a surface. Unit is footcandle.

Illuminating Engineering Society of North America or *IESNA* means the professional society of lighting engineers, including those from manufacturing companies, and others professionally involved in lighting.

Impound yard means a facility used for the temporary storage of vehicles or other personal property legally removed or impounded from public or private property that is not awaiting immediate repair pursuant to an agreement by the vehicle owner or property owner.

Increase nonconformity means any one of an infinite number of differing combinations of change which, in effect, would make a use of land or structures already not in conformance with this chapter, less in compliance with this chapter after the change than the use or structure was prior to the change. See article VIII of this chapter.

Independent living unit means a unit which is authorized only as a part of a licensed continuing care facility (CCF), which may be equipped with a kitchen.

Indirect light means direct light that has been reflected or has scattered off of other surfaces.

Infill development means the development, redevelopment or reuse of vacant and underutilized sites surrounded by existing development and where street access is available.

Intensity means a measurement of the degree of customarily nonresidential uses based on use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation or floor area ratios.

Junkyard means any use on streets or private property involving the parking, storage or disassembly of junked vehicles, or wrecked or non-operable vehicles, or storage, baling or otherwise dealing in wastepaper, rags, scrap metal, used building materials, old household appliances and other similar matter. These uses will be considered junkyards regardless of whether operations are conducted within a building or in conjunction with, in addition to or accessory to other uses of the premises. This definition does not include pawnshops and establishments for the sale, purchase or storage of usable secondhand cars, used furniture or similar household goods and appliances.

Lamp means the source of electric light; the component of a luminaire that produces the actual light; the bulb and its housing. This is to be distinguished from the whole assembly. (See luminaire).

Land means earth, water and air above, below or on the surface, and includes any improvements or structures customarily regarded as land.

Land use means the development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under the Lee Plan or an element or portion thereof, land development regulations, or a land development code, as the context may indicate.

Landscape architect means a professional landscape architect duly registered and licensed by the state.

Laundromat means a business that provides washing, drying, dry cleaning or ironing machines for hire for customers to use on the premises.

Lawfully means a building or use which was permitted by right, special exception, special permit or other action approving the use or placement of a structure by the Board of County Commissioners or Zoning Board (such as by variance), at the time it was built or occupied, and such building or use was located in compliance with the zoning regulations for the district in which located, or in accordance with the terms of the variance.

Lawn and garden supply stores means establishments primarily engaged in selling trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools and other garden supplies to the general public. These establishments primarily sell products, purchased from others, but may sell some plants which they grow themselves. Establishments primarily engaged in growing are classified as plant nurseries.

Lee Plan means the current County Comprehensive Plan, as adopted by Ordinance No. 89-02, and any amendments thereto or succeeding comprehensive plan which is in effect at the time a decision of any decision-maker described in this chapter is taken or rendered.

Light Loss Factor or *LLF* means a percentage applied to the actual anticipated foot-candle levels of a fixture, that reduces the calculated light level output on the photometric plan to account for lower light level output from a fixture due to the age of the bulb, and dirt that occurs over time.

Light pollution means any adverse effect of artificial light emitted into the atmosphere, either directly or indirectly by reflection, including, but not limited to, light trespass, uplighting, the uncomfortable distraction to the eye, night blindness, or any manmade light that diminishes the ability to view the night sky or interferes with the natural functioning of nocturnal native wildlife.

Light trespass means light emitting from a point source of light that falls outside the boundaries of the property on which the point source of light is located and which constitutes a nuisance to a reasonable person of normal sensory perception.

Lighting means any or all parts of a luminaire that function to produce light.

Live-aboard means the use of a boat as a living unit.

Living unit means any temporary or permanent unit used for human habitation. See *Dwelling unit* and *Housing unit*.

Loading space, off-street means a space logically and conveniently located for pickups or deliveries or for loading or unloading, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled.

Local Planning Agency means the County Planning and Zoning Commission performing the functions set forth in F.S. § 163.3174, as well as the functions set forth in section 34-115.

Lock-off accommodations means a single living unit designed in such a manner that at least one room and a bathroom can be physically locked off from the main unit and occupied as a separate living unit. Each portion may have a separate outside entry or share a common foyer with separate lockable interior doors, or share a lockable door or doors separating the two units.

Lot means a parcel of land considered as a unit. See also *Lot, corner*.

Lot area means the total horizontal area within the lot lines.

Lot, corner means:

(1) A lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the two streets is 135 degrees or less; or

(2) A lot abutting a curved street if straight lines drawn between the intersections of the side lot lines and the street right-of-way or easement to the foremost point of the lot form an interior angle of less than 135 degrees.

Lot coverage means that portion of the lot area, expressed as a percentage, occupied by all buildings or structures.

Lot, double-frontage means any lot, not a corner lot, having two or more property lines abutting to a street right-of-way or easement. See section 10-704.

Lot line means a line which delineates the boundary of a lot.

Lot line, front means the lot line which separates the lot from a street right-of-way or easement.

Lot line, rear means that lot line which is parallel to or concentric with and most distant from the front lot line of the lot. In the case of an irregular or triangular lot, a line 20 feet in length, entirely within the lot, parallel to or concentric with and at the maximum possible distance from the front lot line, shall be considered to be the rear lot line. In the case of a through lot, there shall be no rear lot line. In the case of a double-frontage lot, the line directly opposite from the front line shall be designated as either a rear line or a side line depending upon the designation of the adjacent property. In the case of corner lots, the rear lot line shall be the line most nearly parallel to or concentric with and most distant from the front lot line most prevalent along the block.

Lot line, side means any lot line which is not a front or rear lot line.

Lot measurement, depth. See section 10-703.

(1) Lots lawfully created prior to January 28, 1983: Depth of a lot is the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the front and the rearmost points of the side lot lines in the rear.

(2) Lots lawfully created after January 28, 1983: Depth of a lot is the distance between the front lot line and the rear lot line as measured at the midpoint of the front lot line to the midpoint of the rear lot line. To determine the midpoint of a curved line, a straight line is drawn connecting the points of intersection of the curved line with the side lot lines. A line drawn perpendicular to the midpoint of the straight line to the point it intersects the curved line will determine the midpoint of the curved line for purposes of this chapter.

Lot measurement, width.

(1) For lots lawfully created prior to January 28, 1983, width of a lot is considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street line) and the rearmost points of the side lot lines in the rear.

(2) For lots lawfully created after January 28, 1983, width of a lot is considered to be the distance between the side lot lines (or a front and side lot line for corner lots) as measured along the minimum required street setback line. See section 34-2221(4) for exceptions.

Lot of record means a lot which is part of a plat which has been lawfully recorded in the plat books in the Office of the Clerk of the Circuit Court of the County, and is in compliance with F.S. ch. 177, or a parcel of land, the deed of which was lawfully recorded in the office of the Clerk of the Circuit Court of the County on or before January 28, 1983.

Lot, through means a lot having two opposite lot lines abutting a street right-of-way or easement. See section 10-704.

Low pressure sodium or *LPS* means a bulb that is filled with low pressure sodium vapor, that has a nearly monochromatic spectrum. LPS emits light that is deep orange in color.

Luminaire means the complete lighting assembly including the lamp, the fixture and other parts, less the support assembly.

Lumen means a unit of light emission. For example, incandescent light bulbs with outputs of 60, 75 and 100 watts emit approximately 840, 1170, and 1690 lumens, respectively.

Manufactured housing. See *Building, conventional*.

Manufacturing means establishments which are primarily engaged in the mechanical or chemical transformation of materials or substances into new products, as well as establishments primarily engaged in assembling component parts of manufactured products if the new product is not a permanent structure or other fixed improvement.

Marina means a commercial or industrial water-dependent use located on property adjacent to water with direct access to a navigable channel. The primary function must be to provide commercial dockage, mooring, storage and service facilities for water craft and land-based facilities and activities necessary to support the water dependent use. The term "marina" does not apply to docks, davits, boathouses and similar docking facilities that are accessory or ancillary and subordinate to: 1) residential buildings that are located on the same premises and under the same ownership or control as the docks, davits, boathouses, boat ramps, and similar docking facilities; and 2) commercial or industrial establishments that are not water-dependent uses.

Marina accessory uses means uses normally ancillary and subordinate to a marina, including but not limited to: sale of marine fuel and lubricants, marine supplies, boats, boat motors, and boat parts; restaurant or refreshment facility, boat rental, minor boat rigging and motor repair. However, no dredge, barge or other work dockage or service is permitted and no boat construction or reconstruction is permitted. See *Boatyard.*

Massage establishment means any shop, establishment or place of business as defined by F.S. § 480.033.

Medical office means standard office space for the dispensing of medical and health-related services, including outpatient clinics incidental to such offices. Users may include medical doctors, osteopaths, chiropractors, naturopaths, nurse practitioners, health maintenance organizations and similar group practices, psychiatrists, clinical psychologists, therapists, counselors and similar licensed or professional practitioners, but does not include small animal hospitals or other veterinary clinics.

Mercury vapor means a bulb that is filled with mercury gas under pressure. Emits a blue/white light. Mercury vapor lamps are now classified as hazardous waste.

Metal Halide or *MH* means a bulb that is filled with metal halides as well as argon gas and mercury vapor. MH emits a light that is white in color.

Mining means an excavation for the primary purpose of removing the extracted material for use off site. This does not include the removal of surplus materials defined in chapter 10.

Mining operation permit means an approval, issued by the Director after staff review, evidencing compliance with all conditions of the general mining permit have been complied with, and providing that mining operations may commence or continue in accordance with all applicable regulations.

Mini-warehouse means any building designed or used to provide individual storage units with separate exterior doors as the primary means of access, to individuals or businesses for a fee. The storage units must be used solely as dead storage depositories for personal property, inventory and equipment and not for any other use. See *Warehousing, public* and *Storage, dead.*

Mobile home. See *Dwelling unit, types*.

Model means a residential or commercial structure or part thereof used solely for demonstration purposes or sales promotion, not occupied as a dwelling unit, and open to the public for inspection.

Modular home. See *Building, conventional*.

Moor means to secure a vessel with lines.

Multiple-family building. See *Dwelling unit, types*.

Multiple-occupancy complex means a parcel of property under one ownership or singular control, or developed as a unified or coordinated project, with a building or buildings housing more than five occupants conducting a business operation of any kind.

Multi-slip docking facility means two or more docks that provide vessel mooring slips to unrelated individuals, either for rent or for sale. A multi-slip docking facility is distinguished from a marina in that it has no commercial activity associated with it, including boat rentals or those uses or activities listed under transportation services group I (see section 34-622(c)(53)). The term "multi-slip docking facility" does not include boat ramps.

Music store means establishments primarily engaged in the retail sale of musical instruments, phonograph records, sheet music and similar musical supplies.

Newsstand means establishments primarily engaged in the retail sales of newspapers, magazines and other periodicals, including home delivery.

Nightclub means a bar or cocktail lounge or other similar establishment primarily engaged in serving or selling alcoholic beverages to customers wherein paid floor shows or other forms of paid entertainment are provided for customers as a part of the commercial enterprise.

Nonconforming building or *structure, lot or use* means an existing building or structure, lot or use, lawful when established, which fails to comply with any provisions of this chapter, or which fails to comply as the result of subsequent amendments. See article VIII of this chapter.

Non-essential lighting means lighting that is not necessary for an intended purpose after the purpose has been served. For example, lighting for a business sign, architectural accent lighting, and parking lot lighting, may be considered essential during business or activity hours, but is considered non-essential once the activity or business day has concluded.

Non-transient park means a recreational vehicle development designed, intended or used for long term (six months or longer) emplacement of a recreational vehicle on recreational vehicle sites that are lawfully subdivided, platted, recorded or otherwise approved by the Board of County Commissioners. Individual sites may be rented or leased, owned by individuals, or part of a condominium, cooperative or other similar arrangement.

North American Vertical Datum of 1988 (NAVD88) means the vertical control used as a reference for establishing varying elevations within the floodplain.

Nursery school. See *Day care center, child*.

Oil or *gas exploration wells* means the sinking or driving of wells for the purpose of oil or gas exploration.

Oil or *gas extraction wells* means the sinking or driving of wells for the purpose of oil or gas extraction.

Outdoor lighting means any outdoor artificial lighting device, fixture, lamp, or other similar device, permanently installed or portable, that is intended to provide illumination for either visibility or decorative effects. Vehicle lights and flashlights are not included in this definition.

Outparcel means a parcel divided from an original (parent) development tract, defined by metes and bounds or by a subdivision plat depicting it as an undivided tract, and intended for conveyance or conveyed to a party (developer) subsequent to the original developer, or withheld by the developer for development separately from the majority of the original development tract.

Package store means a place where alcoholic beverages are dispensed or sold in factory sealed containers for consumption off the premises.

Paint ball range, outdoor means a simulated exercise conducted outdoors in which players use paint-shooting guns to engage their opponents.

Paint, glass and wallpaper store means establishments engaged in selling primarily paint, glass and wallpaper, or any combination of these lines, to the general public.

Park-trailer. See *Recreational vehicle*.

Parking lot, accessory means an area of land set aside for the temporary parking of vehicles owned or leased by the owner of the premises, guests, employees or customers of the principal use.

Parking lot, commercial means a parking lot which constitutes the principal use of the property and which is available to the public for a fee, or which may be leased to individual persons.

Parking lot, park-and-ride means a parking lot that constitutes the principal use of the property and serves a bus station/depot or a bus stop on a transit route whereby a user leaves their vehicle and travels via bus, carpool, vanpool or bike. Park-and-ride lots must obtain designation by Lee County Transit (LeeTran).

Parking lot, temporary means an area of land set aside to provide overflow parking (seasonal) as set forth in section 34-2022.

Partially shielded means that the outdoor lighting fixture is constructed so that at least 90 percent of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture.

Participant means any person who appears at a Hearing Examiner proceeding, in person or through counsel or authorized representative and provides legal argument, testimony, or other evidence. A participant is entitled to receive a written notice of the Hearing Examiner's decision or recommendation. This term includes County staff and the applicant where appropriate.

Permanent resident is defined as provided in F.S. § 196.012.

Permanent unit means any recreational vehicle (df) that is intended to be left emplaced on a recreational vehicle site for six months or longer.

Pet services means establishments primarily engaged in providing grooming, obedience training and other services for pets not requiring the services of a veterinarian, not including animal clinics or kennels.

Pet shop means establishments primarily engaged in the retail sale of pets and pet supplies.

Pharmacy means an establishment strictly for the preparation or dispensing of prescription drugs and medicines and related products.

Photofinishing laboratories means establishments primarily engaged in developing film and in making photographic prints and enlargements for the trade.

Photometrics means the display of the measurement of the quantities associated with light.

Piped music means recorded background music transmitted by radio, telephone, or satellite to built-in sets in offices, restaurants, waiting rooms, etc.

Place of worship means a structure or structures designed primarily for accommodating an assembly of people for the purpose of religious worship, including related religious instruction, church or synagogue ministries involving classes for 100 or less children during the week, and other church or synagogue sponsored functions which do not exceed the occupancy limits of the building.

Planned development means a development that is designed and developed as a cohesive, integrated unit under unified control that permits flexibility in building siting, mixture of housing types or land uses, clustering, common functional open space, the sharing of services, facilities and utilities and protection of environmental and natural resources.

Planned unit development (PUD). See article VI, division 10, subdivision IV, of this chapter.

Plant nursery means any lot, structure or premises used as an enterprise for the purpose of growing or keeping of plants for sale or resale.

Plat means a subdivision of land as defined by F.S. ch. 177.

Player development academy means a facility ancillary to a County owned or operated stadium with exercise, training, rehabilitation and nutritional programs and subordinate amenities such as housing, kitchen, dining hall, theater, classrooms, and multi-purpose and recreation rooms.

Point source of light means a manmade source emanating light, including, but not limited to: incandescent, tungsten-iodine (quartz), mercury vapor, fluorescent, metal halide, neon, halogen, high-pressure sodium and low-pressure sodium light sources, as well as, torches, camp and bonfires.

Premises means any lot, area or tract of land.

Premises, on the same means being on the same lot or building parcel or on an abutting lot or adjacent building in the same ownership.

Principal building. See *Building, principal*.

Prison means a state or federally operated facility for incarcerating criminal offenders.

Private recreational facilities includes nature trails, tent camping areas, boardwalks, play areas (as defined in "Park Planning Guidelines, 3rd Edition"), horse stables and riding areas, golf courses, and other uses as set forth in section 34-941(c).

Processing and warehousing means the storage of materials in a warehouse or terminal and where materials may be combined, broken down or aggregated for transshipment or storage purposes where the original material is not chemically or physically changed. The term "processing and warehousing" means an establishment for storage and shipment as opposed to a manufacturing establishment.

Produce stand means structures, vehicles, trailers or other contrivances that are erected, emplaced or parked and that are used for the display or sale of agricultural products grown or produced on the same premises, or agricultural products grown or produced on other farms if the farms are located within the County and are under the control of the operator of the produce stand. Nonagricultural products must not be displayed or sold from produce stands. See section 34-1713 for applicable regulations.

Property line. See *Lot line*.

Quarter section line is synonymous with half section line and will mean either of two lines which, used in combination, divide a section of land into four quarters.

Recessed means a lamp built into a horizontal fixture or portion of a fixture, or into an outdoor ceiling or canopy so that the lamp is fully cut-off and no part of the lamp extends or protrudes beyond the underside of a fixture or portion of a fixture or structure.

Recreation hall means a building owned or operated by a condominium or homeowners' association for a social or recreational purpose, but not for profit or to render a service which is customarily carried on as a business. This definition does not include fraternities or sororities.

Recreation facilities. The following definitions do not apply to the PRFPD district.

(1) *Recreation facilities, commercial* means recreation equipment or facilities not classified as a park (34-622(c)(32)), or as personal, private-on-site, or private-off-site facility, but instead operated as a business and open to the public for a fee. See section 34-622(c)(38).

(2) Recreation facilities, personal means recreation equipment or facilities such as swimming pools, tennis, shuffleboard, handball or racquetball courts, swings, slides and other playground equipment and an open, roofed picnic pavilion. These uses must be an accessory use on the same premises and in the same zoning district as the principal permitted use, with the exception of the picnic pavilion and designed to be used primarily by the owners, tenants, or employees of the principal use and their guests.

(3) *Recreation facilities, private on-site* means recreation equipment or facilities such as residential multi-slip docking facilities; community horse stables, arenas, riding paths, paddocks or similar facilities; swimming pools, tennis, shuffleboard, handball or racquetball courts; or swings, slides, and other playground equipment that is owned, leased or operated by a homeowners', co-op, or condominium association and located in the development or neighborhood controlled by the association.

(4) *Recreation facilities, private off-site* means recreation equipment or facilities such as, but not limited to, swimming pools, tennis, shuffleboard, handball or racquetball courts, picnic facilities, swings, slides and other playground equipment owned, leased or operated by a homeowners', co-op, or condominium association for use by the association's members and guests, but which are not located in the development or neighborhood controlled by the association.

Recreational vehicle means a recreational vehicle type unit defined in F.S. § 320.01(1)(b). It is primarily designed as temporary living unit for recreational, camping or travel use, and has its own motive power or is mounted on or drawn by another vehicle. This definition will change to be consistent with changes to state law without amendment to this chapter. Types of recreational vehicles are:

(1) *Travel trailer* means a vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living unit for recreational, camping or travel use. It has a body width of no more than 8½ feet and an overall body length of no more than 40 feet when factory-equipped for the road.

(2) *Camping trailer* means a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

(3) *Truck-camper* means a truck equipped with a portable unit designed to be loaded onto or affixed to the bed or chassis of the truck and constructed to provide temporary living quarters for recreational, camping or travel use.

(4) *Motor home* means a vehicular unit which does not exceed the length and width limitations provided in F.S. § 316.515, is built on a self-propelled motor vehicle chassis, and is primarily designed to provide temporary living quarters for recreational, camping or travel use.

(5) *Van conversion* means a vehicular unit which does not exceed the length and width limitations provided in F.S. § 316.515, is built on a self-propelled motor vehicle chassis, and is designed for recreational, camping or travel use.

(6) *Park-trailer* means a transportable unit which has a body width not exceeding 14 feet, is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for the operation of installed fixtures and appliances. The total area of the

unit in setup mode, when measured from the exterior surface of the exterior walls at the level of maximum dimensions and including any bay window that extends to the floor line, does not exceed 400 square feet when constructed to ANSI A-119.5 standards, or 500 square feet if constructed to the U.S. Department of Housing and Urban Development standards. The length of a park-trailer means the distance from the exterior of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions. For purposes of this chapter, the terms "park-trailer," "park model" and "park model trailer" are synonymous.

(7) *Private motor coach* means a vehicular unit which does not exceed the length, width, and height limitations provided in F.S. § 316.515(9), is built on a self-propelled bus type chassis having no fewer than three load-bearing axles, and is primarily designed to provide temporary living unit for recreational, camping, or travel use.

(8) *Fifth-wheel trailer* means a vehicular unit mounted on wheels, designed to provide a temporary living unit for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed 400 square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

Recreational vehicle park, existing means a parcel (or portion thereof) or abutting parcels of land, with conventional recreational vehicle district zoning, designed, used or intended to be used to accommodate two or more occupied recreational vehicles, and in which necessary utilities and streets and the final site grading or paving of concrete pads or vehicle stands was completed prior to September 16, 1985.

Recreational vehicle park, expansion to an existing means the preparation of additional sites, by the construction of facilities for servicing the sites on which the recreational vehicles are located (including the installation of utilities, final site grading, pouring of concrete pads or the construction of streets), for which a preliminary development order was not issued by the County prior to September 16, 1985. This does not include pads for utility rooms, enclosures or storage sheds where permitted.

Recreational vehicle park resident, permanent means any person who currently owns and has resided at a specific address within a recreational vehicle park for a continuous period of over 12 months prior to September 16, 1985 and who filed an affidavit with the County by October 31, 1985.

Recycling facility means a building within which sorting, separating, baling or crushing of materials such as glass, aluminum or paper products is conducted prior to being transported to another location for recycling into usable products. The term "recycling facility" may not be interpreted to include auto wrecking or salvage yards, junkyards, trash or refuse dumps, incinerators, wood chipping, or shredding and composting of vegetative matter.

Redevelopment means development characterized by renovation or replacement of existing structures.

Religious facilities means religious-related facilities and activities, which may include but are not limited to places of worship, bus storage facilities or areas, convents, monasteries, retreats, church or synagogue ministries involving classes for more than 100 children during the week, and homes for the aged.

Residence. See *Dwelling unit*, *Living unit* and *Housing unit*.

Resource recovery means various techniques of recovering reusable or recyclable materials or energy from garbage and trash.

Restaurant, fast food means an establishment whose principal business is the sale of food or beverages in a ready-to-consume state primarily for off-site consumption, and that may contain drive-through facilities.

Restaurant, standard means an establishment whose principal business is the sale of food or beverages to customers in a ready-to-consume state, and principal method of operation includes one or both of the following characteristics:

(1) Customers are served their foods and beverages by a restaurant employee at the same table or counter where food and beverages are consumed.

(2) A cafeteria-type operation is conducted where food and beverages generally are consumed within the restaurant building.

Retaining wall means a vertical bulkhead located above mean high water and landward of any existing wetland vegetation or littoral zone characterized by the presence of intertidal fauna. See *Vertical seawall*.

Right-of-way line. See *Street right-of-way line*.

Rooming house means a residential building used, or intended to be used, as a place where sleeping or housekeeping accommodations are furnished or provided for pay to transient or permanent guests or tenants in which less than ten and more than three rooms are used for the accommodation of such guests or tenants, but which does not maintain a public dining room in the same building or in any accessory building.

Rooming unit means a room or group of rooms used, or designed and intended to be used, as a living facility for a single family, and which contains provisions for living, sleeping and sanitation but does not provide cooking or eating facilities.

Setback means the minimum horizontal distance required between a specified line and the nearest point of a building or structure.

(1) *Street setback* means the setback extending across the front of a lot measured from the edge of an existing or proposed street right-of-way or street easement. See section 34-2192 for requirements. Whenever this chapter refers to street setback it means existing or proposed street right-of-way or street easement, whichever is greater.

(2) *Side setback* means the setback, extending from the required street setback to the required rear lot line, or opposing street setback in the case of a double-frontage lot, measured from the side lot line.

(3) *Rear setback* means the setback, extending across the rear of a lot, measured from the rear lot line.

(4) *Waterbody setback* means the setback measured from the mean high water line (MHWL), or the control elevation line, if applicable, of a water body. See section 34-2194 for requirements.

Shield means to establish a visual and sound barrier by the use of a berm, wall, screening or other methods that will not permit the sound or sight of the facility in question to be apparent from adjoining property.

Shoreline means a straight or smoothly curved line which, on tidal waters, follows the general configuration of the mean high-water line, and which on nontidal waters is determined by the annual average waterline. Boat slips and other manmade or minor indentations will be construed as lying landward of the shoreline and are considered upland when computing the lot area of waterfront property.

SIC code means a two-, three- or four-digit numeric code that identifies commercial or industrial activities and classifies firms according to standards set down in the Standard Industrial Classification Manual, 1972 (Washington: GPO, 1972).

Single-family residence. See *Dwelling unit, types*.

Single management means that a single entity is responsible for the daily management and operation of the establishment or place of business.

Skyglow means illumination of the sky from artificial sources.

Southeast Lee County means the land designated as Planning Community #18 on Lee Plan Map 16.

Special exception means a certain specified departure from the regulations of this chapter for a use that is not permitted generally within a zoning district, but which, may be permitted when controlled under

specified conditions designed to promote the public health, safety, welfare, order, comfort, convenience, appearance or prosperity, and may be permitted, in accordance with other applicable regulations.

Stable, boarding means any location where horses are kept for a fee, which is not a private or commercial recreation stable. Dressage and riding lessons may occur for the boarders only.

Stable, commercial means any location where horses are kept principally for sale or hire and where the following activities may occur: horse training, dressage, riding lessons, trail riding, grooming and ancillary uses required to conduct these activities.

Stable, private means any premises where horses are kept which are owned by and solely for the use of the occupants of the premises.

Storage means the safekeeping of goods, wares, products or other commodities in an area for more than 48 hours for later use or disposal. The term "storage" includes the keeping of boats, cars, recreational vehicles, etc., for others, whether or not compensation is made to the property owner. The term does not include animals, nor does it apply to the outdoor display of products for sale by boat, mobile home, construction equipment or vehicle dealers, or landscaping materials, or customary and usual activities accessory to agricultural or residential dwellings.

Storage, dead means the storage of goods, wares, products or other commodities, with no sales, conferences or other human activity other than the placement, removal or sorting of stored items.

Storage, indoor means storage accessory to a permitted use contained wholly within a building. When listed as a permitted or permissible use in the zoning district regulations, it will not be construed to mean a warehouse or a mini-warehouse.

Storage, open means any storage not defined as indoor storage.

Story (floor) means that portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

STRAP number is a means of property identification which consists of the section, township, range, area and parcel numbers.

Street means a public or private thoroughfare which affords vehicle access to the principal means of ingress or egress to a lot. The term "street" is synonymous with the terms "avenue," "boulevard," "drive," "lane," "place," "road" and "way," or similar terms.

Street right-of-way, existing is a general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes, which has been dedicated to the public and accepted by the Board of County Commissioners.

Street right-of-way or street easement line means an imaginary line delineating the boundary of an existing or proposed street right-of-way or street easement.

Street right-of-way, proposed is a general term denoting land or property, usually in a strip, identified on Lee Plan Map 3A, as land to be used in the future for transportation purposes.

Structure means that which is built or constructed. The term "structure" will be construed as if followed by the words "or part thereof."

Sufficiency means that the application is not only complete but that all sections are sufficient in the comprehensiveness of data or in the quality of information provided to allow the County to determine whether the application affords the reviewing agencies adequate information to prepare the reports required.

Supermarket means a retail establishment which is principally for the sale of general food items on a cash and carry basis, generally self-service in arrangement, and frequently with a wide range of nonfood items, including sundries, package sale of alcoholic beverages, hardware and the like, and frequently housing discrete but subordinate commercial operations such as bakeries, restaurants, pharmacies and

package stores. A supermarket is to be distinguished from a grocery store on the basis of scale, being usually 25,000 square feet or larger in size, and the broader mix of goods and services.

Surplus material means material that absolutely must be excavated in order to comply with permit requirements and which cannot reasonably be expected to be used on the same premises for any purpose.

Surveyor or *professional surveyor* means a professional surveyor and mapper (PSM) duly registered and licensed by the state.

Tactical training facility means a venue that provides facilities for the practical training of government funded law enforcement, fire, emergency medical and emergency management personnel. Such venues may include indoor and outdoor facilities, and may incorporate the use of vehicles and equipment relating to the performance of these jobs. Practical Training Facilities may include: shooting ranges, Military Operations on Urban Terrain (MOUT) sites, explosives handling, chemical munitions handling, hazardous materials handling, riot control training, K-9 training, mounted patrol training, obstacle courses, physical conditioning courses, rappelling towers, driving courses, emergency response training, fire training, confined space training, police and fire academy training, storage, classroom and other ancillary facilities necessary and related to these activities.

Theater, indoor means a building or part thereof devoted to showing motion pictures, or for dramatic, musical or live entertainment, but not including nightclubs.

Through lot. See *Lot, through.*

Timeshare unit means any dwelling unit for which a timesharing plan, as defined in F.S. ch. 721, has been established and documented. See section 34-1494 for determining density of timeshare units that include "lock-off accommodations."

Townhouse. See *Dwelling unit, types*.

Transient guest means a guest that registers, rents, leases, or lets a living unit or accommodations for six months or less.

Transient park means a recreational vehicle development designed or used for short term (less than six months) emplacement of a recreational vehicle on recreational vehicle sites that are lawfully subdivided, platted, recorded or otherwise approved by the Board of County Commissioners. Individual sites may be rented or leased, owned by individuals, or part of a condominium, cooperative or other similar arrangement.

Transient unit means a recreational vehicle which is brought to the recreational vehicle park by the user, and is removed from the park at the end of the user's visit.

Transportation Department means the County Department of Transportation.

Travel trailer. See *Recreational vehicle*.

Truck farm means the horticultural practice of growing one or more vegetable crops on a large scale for shipment to distant markets.

Truck stop means an establishment where the principal use is primarily the refueling and servicing of trucks and tractor-trailer rigs. Such establishments may have restaurants or snack bars and sleeping accommodations for the drivers of such over-the-road equipment and may provide facilities for the repair and maintenance of such equipment.

Trucking terminal means an area or building where cargo is stored and where trucks load and unload cargo on a regular basis. Ancillary facilities may provide for parking, storing or servicing of trucks.

Two-family. See *Dwelling unit, types*.

Unauthorized communication means any direct or indirect communication, in any form, whether written, verbal or graphic, with the Hearing Examiner or the Hearing Examiner's staff, by any person outside of a public hearing and not on the record, concerning substantive issues in any proposed or pending matter relating to appeals, variances, special permits, rezonings, special exceptions, or any other matter assigned

by statute, ordinance or administrative code to the Hearing Examiner for decision or recommendation, except as permitted in the County Administrative Code.

Unified control means that a single property owner or entity has been authorized by all owners of the property to represent them and to encumber the parcel with covenants and restrictions applicable to development of the property as approved by the County.

Uplighting means lighting that directly or indirectly projects light in such a manner as to shine light rays above the horizontal plane passing through the lowest point of a luminaire.

Use means any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Use, accessory means a use of a structure or premises located on the same premises as the principal use and is customarily incidental and subordinate to the principal use of the structure or premises. See *Use, principal.*

Use, mixed means the development of land or building or structure with two or more different but compatible uses, such as but not limited to residential, office, industrial and technological, retail, commercial, public, entertainment or recreation uses, in a compact urban form.

Use permitted by right means a use or uses which, by their very nature, are allowed within the specified zoning district provided all applicable regulations of the County are met. Permitted use includes the principal use of the land or structure as well as accessory uses, unless specifically stated to the contrary.

Use, principal means the primary purpose for which land or a structure or building is used.

Use, public means the use of any land, water or building by a public agency for a public service or purpose.

Use, special permit. See *Special exception.*

Use, temporary means an outdoor use or activity which is permitted only for a limited time such as promotional events, tent sales, charity events, craft or art fairs, car shows, retail stands, food stands, or other similar uses deemed appropriate by the Director. Temporary uses are subject to specific regulations and permitting procedures.

Variance means a departure from the provisions of this chapter or from any County ordinance (excluding building codes) relating to building and other structural setbacks, lot dimensions such as width, depth or area, structure or building height, open space, buffers, parking or loading requirements, lot coverage, impervious areas, landscaping and similar type regulations. Variances must be approved by the Hearing Examiner based on the findings established in section 34-145(b)(3). If authorized by section 34-268, the Director may administratively approve variances based on the criteria established in section 34-268(b).

Variance, use means any departure from the provisions of this chapter and not specifically included in the definition set forth under *Variance* or *Variance, procedural*. The term "use variance" also means any attempt to vary any one or more of the definitions set forth in this chapter, either directly or indirectly. Use variances are never permitted.

Variety store means a retail store offering a broad mix of generally nondurable goods, notions and sundries, also generally of moderate price. Durable goods, such as furniture, large appliances and the like, are seldom offered in a variety store.

Vertical seawall means a vertical bulkhead located at or below mean high water, built to withstand wave force and erosion. See *Retaining wall*.

Warehouse, high cube means large warehouses and distribution centers with a high level of mechanization and low level of on-site employment located within a building with a minimum gross floor area of 100,000 square feet, a minimum ceiling height of 24 feet, dock-high loading bays at a minimum

ratio of one door per 10,000 square feet of high cube warehouse floor area, and a maximum accessory office floor area of five percent of the overall building. High-cube warehouses may only be located within IPD and MPD and may not be used for manufacturing or labor-intensive purposes.

Warehouse, private means indoor terminal facilities operated primarily for a specific commercial establishment or group of establishments in a particular industrial or economic field, such as moving companies, transfer companies, freight delivery, specific retail store storage or beverage distribution, but not generally accessible to the public.

Warehouse, public means indoor storage units available to the general public at a fee for the dead storage of farm products, furniture and other household goods or commercial or private goods of any nature. Access to the storage units is from interior door(s) and individual exterior overhead doors are not provided. See also *Mini-warehouse.*

Water, body of.

(1) *Artificial body of water* means a depression or concavity in the surface of the earth, other than a swimming pool, created by human artifice, or that portion of a natural body of water extended or expanded by human artifice, and in which water stands or flows for more than three months of the year.

(2) *Natural body of water* means a depression or concavity in the part of the surface of the earth lying landward of the line of mean sea level (NAVD) which was created by natural geophysical forces and in which water stands or flows for more than three months of the year; also, the bays and estuaries lying between the County mainland and the barrier islands (Gasparilla Island, Cayo Costa, North Captiva Island, Captiva Island, Sanibel Island, Estero Island, Lovers Key, Big Hickory Island and Little Hickory Island and Bonita Beach) with the outermost boundary defined by a series of short straight lines that can be drawn connecting these islands.

Water-dependent uses means land uses for which water access is essential and which could not exist without water access.

Water-related uses means land uses that might be enhanced by proximity to the water but for which water access is not essential.

Waterway means any bay, river, lake, canal or artificial or natural body of water connected to navigable waters of the United States.

Wetlands, consistent with F.S. § 373.019(17), means those areas inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptions, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

(Zoning Ord. 1993, § 1000; Ord. No. 93-14, § 8, 4-21-93; Ord. No. 93-24, § 20, 9-15-93; Ord. No. 94-02, § 5, 1-19-94; Ord. No. 94-24, § 3, 8-31-94; Ord. No. 95-07, § 9, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 98-28, § 5, 12-8-98; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 99-22, § 3, 12-14-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-15, § 2, 4-9-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 04-05, § 1, 4-27-04; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 06-06 , § 1, 4-11-06; Ord. No. 07-19 , § 6, 5-29-07; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 10-25 , § 4, 6-8-

10; Ord. No. 11-01 , § 5, 3-8-11; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-19 , § 3, 9-11-12; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-3. Rules of construction.

The following rules of construction apply to the text of this chapter:

(1) Where the term "ordinance," "law," "statute" or "map" is referred to in the text, it is meant to include the phrase "as adopted and as amended from time to time" unless specifically stated to the contrary in the text.

(2) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table or illustrative table, the text will control.

(3) Where this chapter refers to a specific federal, state or county agency, department or division, it will be interpreted to mean "or any succeeding agency authorized to perform similar functions or duties."

(Zoning Ord. 1993, § 200; Ord. No. 94-24, § 4, 8-31-94)

Sec. 34-4. Applicability of chapter; deed restrictions and vested rights.

(a) *Scope of chapter.* The provisions of this chapter shall apply uniformly to all land, water, buildings and structures now or hereafter located in the unincorporated areas of the County.

(b) *Deed restrictions.* The provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and welfare. It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants or other agreement between the parties; provided, however, that, where this chapter imposes a greater restriction upon the uses of structures, land and water, or requires more open space, than is required by other rules or regulations, or by easements, covenants or agreements, by recorded deed, plat or otherwise, the provisions of this chapter shall govern. The County shall not be responsible for the enforcement of private deed restrictions.

(c) *Vested rights.* Nothing in this chapter is to be interpreted or construed to give rise to any vested right in the continuation of any particular use, district or zoning classification or any permissible activities therein; and such use, district, zoning classification and permissible activities are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the protection of public health, safety and welfare.

(d) *Special regulations for Gasparilla Island conservation district.* Gasparilla Island, Boca Grande Isles, Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key and Loomis Island are subject to special regulations as set forth in Laws of Fla. chs. 80-473, 83-385 and 86-341.

(Zoning Ord. 1993, § 201)

Sec. 34-5. Interpretation and regulatory intent of chapter.

(a) The interpretation and application of the provisions of this chapter will be reasonably and uniformly applied to all property within the unincorporated area of the County. The provisions of this chapter are regulatory.

(b) The provisions of this chapter will be held to be the minimum requirements adopted for the protection and promotion of the public health, safety, comfort, convenience, order, appearance, prosperity or

general welfare, and for securing safety from fire and other dangers, providing adequate light and air, and preventing excessive concentration of population.

(c) Whenever the regulations and requirements of this chapter are at variance with the requirements of any other lawfully enacted and adopted rules, regulations, ordinances or laws, the most restrictive will apply.

(Zoning Ord. 1993, § 905.03; Ord. No. 01-18, § 5, 11-13-01)

Sec. 34-6. Compliance with specific planning community requirements.

If the subject property is located in one of the following communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in Chapter 33.

(1) Estero Planning Community.

(2) Greater Pine Island.

(3) Page Park.

(4) Caloosahatchee Shores.

(5) Lehigh Acres.

(6) North Fort Myers.

(7) Matlacha.

(8) Upper Captiva.

(9) North Olga.

(Ord. No. 07-19 , § 6, 5-29-07; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-01 , § 6, 1-10-12; Ord. No. 12-14 , § 4, 6-12-12; Ord. No. 14-13 , § 7, 6-17-14; Ord. No. 14-20 , § 4, 10-21-14)

Secs. 34-7—34-50. Reserved.

ARTICLE II. ADMINISTRATION [2]

DIVISION 1. - GENERALLY

DIVISION 2. - BOARD OF COUNTY COMMISSIONERS

DIVISION 3. - LOCAL PLANNING AGENCY

DIVISION 4. - HEARING EXAMINER

DIVISION 5. - DEPARTMENT OF COMMUNITY DEVELOPMENT

DIVISION 6. - APPLICATIONS AND PROCEDURES FOR CHANGES,PERMITS, INTERPRETATIONS AND APPROVALS

DIVISION 7. - PUBLIC HEARINGS AND REVIEW

DIVISION 8. - ENFORCEMENT

FOOTNOTE(S):

--- (2) ---

Cross reference— Administration generally, ch. 2. (Back)

DIVISION 1. GENERALLY

Sec. 34-51. Notice of public hearings required.

No public hearing required by this chapter shall be held by the Hearing Examiner, Local Planning Agency or Board of County Commissioners until notice of the public hearing has been provided in accordance with the requirements set forth in this article.

(Zoning Ord. 1993, § 904)

Sec. 34-52. Unauthorized communications.

Communication with individual County Commissioners, commissioner's assistants, a Hearing Examiner, or the Hearing Examiner's staff regarding the substance (non-procedural aspects) of pending zoning applications or pending zoning related appeals are subject to section 2-191.

(Zoning Ord. 1993, § 906; Ord. No. 10-28 , § 2, 6-22-10)

Cross reference— Administrative hearings, § 2-191 et seq.

Sec. 34-53. Fees and charges.

(a) The schedule of fees and charges for matters pertaining to this chapter shall be posted in the office of the Department of Community Development. The charges listed may be changed by resolution of the Board of County Commissioners.

(b) No permit shall be issued and no inspection, public notice or other action relative to a zoning matter shall be instituted until after such fees and charges have been paid.

(Zoning Ord. 1993, ch. XI)

Secs. 34-54—34-80. Reserved.

DIVISION 2. BOARD OF COUNTY COMMISSIONERS

Sec. 34-81. Appointment of Local Planning Agency.

The Board of County Commissioners shall appoint the members of the Local Planning Agency.

(Zoning Ord. 1993, § 901.01(A))

Sec. 34-82. Initiation of zoning actions.

The Board of County Commissioners or its designee may initiate rezonings (including use of TDR or affordable housing bonus density units), special exceptions, variances, developments of regional impact and zoning ordinance amendments. See section 34-201.

(Zoning Ord. 1993, § 901.01(B); Ord. No. 96-06, § 5, 3-20-96; Ord. No. 99-22, § 3, 12-14-99)

Sec. 34-83. Functions and authority. [3]

(a) *Land use ordinance amendments or adoption.*

(1) *Function.* The Board of County Commissioners must hold public hearings on all proposed land use ordinance amendments or adoptions.

(2) *Considerations.* When deciding whether to adopt a proposed land use ordinance or amendment, the Board of County Commissioners must consider the same criteria, recommendations and issues as set forth in section 34-115(b)(1), as well as the recommendation of the Local Planning Agency, but are not required to accept these recommendations.

(3) *Decisions and authority.* The decision of the Board of County Commissioners on any proposed land use ordinance amendment or adoption is final.

(4) Appeals of any decision concerning land use ordinance amendments or adoption may be taken in accordance with applicable state law.

(b) *Zoning actions.*

(1) *Function.*

a. The Board of County Commissioners must hold public hearings (see sections 34-231 through 34-236) on the following applications: rezoning, MEPD, extension and reinstatement of master concept plans, the special exceptions that meet the criteria for Developments of County Impact, appeals from decisions of the Hearing Examiner concerning wireless

communications facilities, developments of regional impact, and any other action in conjunction with such applications.

b. All requests for variances, use of TDR or affordable housing bonus density units, and special exceptions which are part of an application for a rezoning must be considered by the Board of County Commissioners with the application for rezoning and heard together with and at the same time as the rezoning.

(2) *Considerations.* In rendering its decision, the Board of County Commissioners must consider the following:

a. The considerations set forth in section 34-145(c)(2) which are applicable to the case.

b. The substantive recommendation of the Hearing Examiner when applicable.

c. Testimony received during public hearing before the Board.

d. The evidence and testimony included with the Hearing Examiner's recommendation.

(3) *Findings.* Before granting any rezoning, special exception, or appeal of a Hearing Examiner decision, the Board of County Commissioners must find that:

a. The applicant has proved entitlement to the rezoning, MEPD, or special exception by demonstrating compliance with the Lee Plan, this land development code, and any other applicable code or regulation; and

b. The request will meet or exceed all performance and locational standards set forth for the potential uses allowed by the request; and

c. The request is consistent with the densities, intensities and general uses set forth in the Lee Plan; and

d. The request is compatible with existing or planned uses in the surrounding area; and

e. Approval of the request will not place an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development; and

f. Where applicable, the request will not adversely affect environmentally critical areas and natural resources.

g. In the case of a planned development rezoning or mine excavation planned development, the decision of the Board of County Commissioners must also be supported by the formal findings required by sections 34-377(a)(2) and (4).

h. Where the change proposed is within a future urban area category, the Board of County Commissioners must also find that urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

i. In the case of an appeal of a Hearing Examiner decision pertaining to wireless communication facilities, the decision of the Board of County Commissioners must also be supported by the formal findings set forth in sections 34-1445(b) and 34-1453, as applicable.

j. If the rezoning is to Compact PD, the decision of the Board of County Commissioners must be supported by the formal finding regarding the provisions set forth in section 32-504(a).

k. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve a proposed land use change, when reviewing a proposed change to a future urban area category.

l. The level of access and traffic flow (i.e. median openings, turning movements etc.) is sufficient to support the proposed development intensity.

m. The request meets the criteria and standards set forth in chapter 12 for approval of a mine excavation planned development.

(4) *Decisions and authority.*

a. In exercising its authority, the Board of County Commissioners:

1. May approve the request, deny the request, or remand case for further proceedings before the Hearing Examiner. In reaching its decision, the Board may, but is not required to, adopt the Hearing Examiner's recommendation, Staff's recommendation, or the Applicant's recommendation. The Board may render its own decision based on competent substantial evidence presented in the Record. Unless otherwise provided by the Board, a decision to adopt the recommendation by the Hearing Examiner, Applicant, or Staff will include the written findings, conclusions, and conditions provided in the applicable recommendation.

2. May not approve a rezoning other than the rezoning published in the newspaper unless the change is more restrictive than the proposed rezoning published.

3. Has the authority to attach such conditions and requirements to any approval of a request for a special exception, development of regional impact, planned development, mine excavation planned development, use of TDR or affordable housing bonus density units in conjunction with a rezoning request, or variance within their purview, deemed necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. These conditions and requirements must be reasonably related to the action requested.

4. In the case of an appeal of a Hearing Examiner decision pertaining to wireless communication facilities, the Board of County Commissioners must consider the decision as a recommendation only and may, in conformity with the provisions of this chapter, reverse, affirm or modify the decision of the Hearing Examiner, or remand the case to the Hearing Examiner.

b. The decision of the Board of County Commissioners on any matter listed in this subsection (b) is final. If there is a tie vote, the matter considered will be continued until the next regularly scheduled meeting for decisions on zoning matters by the Board of County Commissioners, unless a majority of the members present and voting agree by motion, before the next agenda item is called, to take some other action. Such other action may be moved or seconded by any member, regardless of his vote on any earlier motion.

c. Any denial by the Board of County Commissioners is denial with prejudice unless otherwise specified by the Board of County Commissioners.

(5) *Judicial review.* Judicial review of final decisions under this section must be in accordance with section 34-85

(6) *Remand by Board of County Commissioners.* An application remanded for further consideration must be brought to hearing before the Hearing Examiner within six months of the date the remand order is rendered. If the application is not brought forward as ordered within six months, it will be deemed withdrawn. Thereafter, the applicant will be required to file a new application for consideration by the Hearing Examiner and the Board.

(7) In matters that were first heard by the Hearing Examiner, only individuals who participated during the proceedings before the Hearing Examiner will be afforded the right to address the Board of County Commissioners. This prohibition does not apply to the Board's legal counsel, County staff whose sole purpose is to facilitate the zoning hearing, individuals who were represented by legal counsel during the hearing before the Hearing Examiner, or legal counsel representing an individual that testified during the hearing. Notwithstanding, the testimony presented to the Board will be limited to the testimony presented to the Hearing Examiner, testimony concerning the

correctness of the findings of fact or conclusions of law contained in the record, or to allege the discovery of new, relevant information which was not available at the time of the hearing before the Hearing Examiner.

(c) *Appeals of Hearing Examiner decisions on appeals of administrative actions affecting fire impact fee regulation.*

(1) *Function.* The Board of County Commissioners may hear appeals from Hearing Examiner decisions on appeals of an administrative action related to fire impact fee regulation as follows:

a. Any party may file a request to appeal such a decision of the Hearing Examiner within 15 calendar days after the decision is rendered.

b. Requests for appeal must be in writing and state with particularity, the points of law or fact that the Hearing Examiner has overlooked or misunderstood.

c. Requests for appeal must be filed with the Hearing Examiner's office. The appellant must also concurrently provide copies to the County Attorney and all other parties in the case. Any party may file a written response with the Hearing Examiner's office within 15 calendar days after the request for appeal is filed, but not thereafter. The Board of County Commissioners will decide whether to grant or deny the request based exclusively upon the appellant's written request, any response filed by another party and the Hearing Examiner's written decision.

d. The deliberations of the Board of County Commissioners with respect to the question of whether to hear the appeal do not constitute a public hearing, and no oral testimony will be allowed or considered by the Board of County Commissioners in the course of these deliberations.

e. The procedure for handling of such appeals will be specified in the County's Administrative Codes.

(2) *Considerations.*

a. *Relevant matters.* If the Board of County Commissioners decides to accept the appeal of a matter pursuant to section 34-145(a)(5), it will confine its review of the matter exclusively to the written record prepared by the Hearing Examiner and oral argument and discussion that will be limited to identification of errors of fact or law or to allege the discovery of new evidence. The Board will conduct its review as an appellate proceeding, and not as a de novo proceeding. The Board may orally question its staff, its attorneys, and any party about matters contained in the written record and points of law or procedure.

b. *Irrelevant matters.* The Board of County Commissioners will not take testimony from any person or accept into evidence any document that is not in the record provided by the Hearing Examiner.

(3) *Standard of review.* The Board of County Commissioners will uphold the decision of the Hearing Examiner unless it finds that it is not supported by the record, or is incorrect as a matter of law as to any conclusion of law made by the Hearing Examiner.

(4) *Decisions and authority.* In exercising its authority after deciding to hear an appeal, the Board of County Commissioners will consider the decision of the Hearing Examiner but may reverse or affirm in whole or in part, or modify, the decision. The Board of County Commissioners may also remand the case to the Hearing Examiner for additional proceedings if deemed necessary to provide fundamental fairness or prevent injustice. Unless the case is remanded, the decision of the Board of County Commissioners is final. If there is a tie vote, the matter considered will be continued until the next regularly scheduled meeting for decisions on zoning matters by the Board of County Commissioners, unless a majority of the members present and voting agree by motion, before the next agenda item is called, to take some other action. Such other action may be moved or seconded by any member, regardless of his vote on any earlier motion.

(5) *Judicial review.* Judicial review of final decisions under this section will be in accordance with section 34-85

(Zoning Ord. 1993, § 901.02; Ord. No. 94-24, § 5, 8-31-94; Ord. No. 95-07, § 10, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 99-22, § 3, 12-14-99; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-25 , § 4, 6-8-10; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-84. Rehearing of decisions.

(a) Any person who may be aggrieved by a decision of the Board of County Commissioners made pursuant to an application for rezoning, development of regional impact, special exception that meets the criteria of a Development of County Impact, special exceptions or variances heard as part of a rezoning, or an appeal pursuant to section 34-1445(b)(2)b, may file a written request for a public rehearing by the Board of County Commissioners for a modification or rescission of the decision. The request must be filed with the Director of Community Development and the County Attorney's Office within 15 calendar days after the decision. For purposes of computing the 15-day period, the date of the decision is the date of the public hearing at which the Board of County Commissioners made its decision by oral motion.

(b) All requests for a public rehearing must state with particularity the new evidence or the points of law or fact that the aggrieved person argues the Board of County Commissioners has overlooked or misunderstood. The report must include all documentation offered to support the request for rehearing. The Board of County Commissioners will decide whether to grant or deny the request based exclusively upon the aggrieved person's written request and supporting documentation and the administrator's written analysis thereof. In addition, if the request is filed by one other than the original applicant, the County must notify the applicant of the filing of the request for rehearing and the applicant must be allowed 15 days to submit an independent written analysis.

(c) The deliberations of the Board of County Commissioners with respect to the question of whether to grant a rehearing do not constitute a public hearing, and no oral testimony will be allowed or considered by the Board of County Commissioners in the course of these deliberations.

(d) The pursuit of a request for rehearing is not required in order to exhaust administrative remedies as a condition precedent to seeking judicial review in the circuit court. The proper filing of a request for rehearing will not toll the 30-day time limit to file an action seeking judicial review of final decisions. No judicial review is available to review the Board of County Commissioners' decision to deny a rehearing request.

(e) A request for rehearing is not an administrative appeal as that term is used in F.S. § 70.51. Filing of a request for rehearing will not toll the time for filing a request for relief under F.S. § 70.51.

(f) Filing of a request for rehearing will not toll the time for seeking relief under F.S. § 163.3215.

(g) There is no right to apply to court for relief on account of a determination or recommendation of the Hearing Examiner in those actions listed in section 34-83(b)(1) which require public hearing before the Board of County Commissioners.

(Zoning Ord. 1993, § 902.02(A); Ord. No. 94-24, § 6, 8-31-94; Ord. No. 95-07, § 11, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 05-14 , § 6, 8-23-05)

Sec. 34-85. Final decision; judicial review.

(a) Any final decision of the Board of County Commissioners may be reviewed by the circuit court unless otherwise provided in this article. This review may only be obtained through filing a petition for writ of

certiorari pursuant to the Florida Rules of Appellate Procedure. The petition must be filed within 30 calendar days after the decision has been rendered. For the purposes of computing the 30-day period, the date that the decision has been rendered is the date the signed resolution is date stamped received by the Minutes Department of the Clerk of Courts.

(b) The person making application to the Board of County Commissioners for a final decision entitled to judicial review, is a necessary and indispensable party to an action seeking judicial review of that final decision.

(c) This section is not intended to preclude actions pursuant to F.S. § 70.51 or § 163.3215.

(Ord. No. 95-07, § 12, 5-17-95; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-86—34-110. Reserved.

FOOTNOTE(S):

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Note: [Section 34-83(b)(3)j, as adopted in LCO 10-25, will have no force or effect until the date the Lee Plan amendments adopted by ordinances 10-19 and 10-21 become effective in accordance with F.S. ch. 163.] (Back)

DIVISION 3. LOCAL PLANNING AGENCY

Sec. 34-111. Established.

A Local Planning Agency is hereby established having the powers and authority set forth in this division. It is the intent that the Local Planning Agency described herein serve as the Local Planning Agency referenced in Florida Statutes Section 163.3174.

(Zoning Ord. 1993, § 900; Ord. No. 03-16, § 6, 6-24-03)

Sec. 34-112. Membership; term of office.

(a) *Appointment of members.*

(1) All appointments to the Local Planning Agency require an affirmative vote of three members of the Board of County Commissioners at a regularly scheduled meeting. Each term will last for a period of one year. Members may be reappointed.

(2) The Local Planning Agency will be composed of seven voting members, appointed by the Board of County Commissioners. In addition, the Local Planning Agency will also include a representative of the School Board. This representative will be a non-voting member of the Local Planning Agency and will attend those meetings where the Local Planning Agency considers comprehensive plan amendments that would, if approved, increase the potential residential density on the subject property.

(b) *Qualifications of members.* Members of the Local Planning Agency must be knowledgeable in the field of comprehensive planning and familiar with the Lee Plan, this chapter and other applicable regulations.

(c) *Removal of members.* A member of the Local Planning Agency may be removed from his position upon an affirmative vote of three members of the Board of County Commissioners at a regularly scheduled meeting.

(d) *Vacancies.* Vacancies on the Local Planning Agency will be filled, consistent with the procedures for appointment, for the unexpired term of any member whose term becomes vacant.

(Zoning Ord. 1993, § 900(A)1; Ord. No. 03-16, § 6, 6-24-03)

Sec. 34-113. Compensation of members; funding.

(a) The Local Planning Agency will serve without compensation, but members will be paid actual expenses incurred in performance of their duties, which may not exceed allowances as prescribed by state law.

(b) The Board of County Commissioners will appropriate funds for expenses necessary for the conduct of work by the Local Planning Agency. The Local Planning Agency may expend all sums appropriated in order to accomplish the purposes and activities required by this chapter and the Local Government Comprehensive Planning and Land Development Regulation Act.

(Zoning Ord. 1993, § 900(A)2; Ord. No. 03-16, § 6, 6-24-03)

Sec. 34-114. Organization and operation.

(a) *Officers and staff.*

(1) The Local Planning Agency, from among its members, will elect a chairman and such other officers as the members deem necessary. Each officer will serve until his successor is elected.

(2) The Department Director will serve as secretary to the Local Planning Agency, but will not be a voting member.

(b) *Rules of procedure.* The Local Planning Agency will adopt rules for the transaction of its business, and conduct meetings pursuant to the provisions of any resolution, regulation or administrative code of the Board of County Commissioners.

(c) *Meetings.*

(1) The Department Director will set the time and place of the meetings of the Local Planning Agency. However, if a meeting, once started, exceeds the time which has been scheduled for the meeting, it may be continued to a date, time and place certain, as the Local Planning Agency determines. The Local Planning Agency will meet at least once a month, unless no business is pending before

it. Additional meetings will be held at the call of the chairman or secretary and at all such other times as the members may determine.

(2) Any action by the Local Planning Agency requires the presence of a quorum. Four members will constitute a quorum of the Local Planning Agency.

(3) All meetings will be open to the public.

(4) The Local Planning Agency will adopt procedures for public participation. Such procedures will comply with the criteria set forth in F.S. § 163.3181.

(d) *Voting.*

(1) *Generally.*

a. The majority vote of the quorum present will be required to make any recommendation to the Board of County Commissioners.

b. If a majority decision cannot be obtained, or if a tie vote results from a motion to recommend to the Board of County Commissioners that a proposed matter be approved, or to recommend that it be denied, then the matter considered will be deemed to have been denied, unless a majority of the members present and voting agree by motion, before the next agenda item is called, to take some other action in lieu of a denial. Such other action may be moved or seconded by any member, regardless of his vote on any earlier motion. If such other action is not agreed to be taken, the minutes of the Local Planning Agency will show that the motion was called and that the matter voted upon was denied.

(2) *Absenteeism and abstentions.*

a. A member's absence from a meeting will be reflected in the minutes.

b. A member may abstain from a vote only in accordance with F.S. ch. 112 and F.S. § 286.012.

(e) *Records.*

(1) The secretary must record and transcribe minutes of all proceedings. At a minimum, such minutes must summarize testimonies, and reflect the motion and the votes.

(2) The Department staff must keep indexed records of all meetings, agendas, findings, determinations and resolutions. Those records are public records.

(Zoning Ord. 1993, § 900(A)3; Ord. No. 03-16, § 6, 6-24-03)

Sec. 34-115. Functions and authority.

(a) *Functions.* The Local Planning Agency will have the following statutorily prescribed duties and responsibilities:

(1) Have general responsibility for the conduct of the comprehensive planning program.

(2) Be responsible for preparation of the local comprehensive plan and make recommendations to the Board of County Commissioners regarding the adoption of such plan or element or portion thereof.

(3) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the Board of County Commissioners such changes in the comprehensive plan as may be required, including preparation of the periodic reports required by F.S. § 163.3191.

(4) Review proposed land development regulations and land development codes or amendments thereto, and make recommendations to the Board of County Commissioners as to consistency of the proposal with the adopted comprehensive plan or element or portion thereof.

(5) Perform any other functions, duties and responsibilities which may be assigned to it by the Board of County Commissioners or general or special law.

(b) *Considerations.* In preparing its recommendation on any matter as described in subsection (a) of this section, the Local Planning Agency will consider the following, whenever applicable:

(1) Whether there exists an error or ambiguity which must be corrected.

(2) Whether there exist changed or changing conditions which make approval of the matter appropriate.

(3) the testimony of any applicant.

(4) The recommendation of staff.

(5) The testimony of the public.

(6) Whether a proposed matter is consistent with the goals, objectives, policies and intent of the Lee Plan.

(c) *Decisions and authority.* The Local Planning Agency must make recommendations concerning determinations of Lee Plan consistency, as the Lee Plan relates to proposed land development regulations and ordinances, to the Board of County Commissioners.

(Zoning Ord. 1993, § 900.01; Ord. No. 03-16, § 6, 6-24-03)

Secs. 34-116—34-140. Reserved.

DIVISION 4. HEARING EXAMINER

Sec. 34-141. Office established.

The Office of Hearing Examiner is hereby created and established, in accord with the provisions of this Code (See editors note). The Hearing Examiner has the powers set forth in this division, as well as the powers and authority set forth in Chapter 2, Article VII.

(Zoning Ord. 1993, § 900; Ord. No. 09-23 , § 10, 6-23-09)

Editor's note—

The Office of the Hearing Examiner was originally created under Lee County ordinance 88-30, which was codified as part of this Code in 1994. Once codified, ordinance 88-30 was repealed.

Sec. 34-142. Appointment; qualifications.

The Board of County Commissioners shall appoint the Hearing Examiner, and may, as necessary, appoint any deputy Hearing Examiners or Hearing Examiners pro tempore. Such Hearing Examiners shall hold their positions at the pleasure of the Board of County Commissioners. Appointment to, removal from and qualifications for such offices shall be according to the administrative code specifically covering this subject matter.

(Zoning Ord. 1993, § 900(B)1)

Sec. 34-143. Funding.

The Board of County Commissioners shall establish the office of the Hearing Examiner and appropriately budget such office annually.

(Zoning Ord. 1993, § 900(B)2)

Sec. 34-144. Conduct of meetings; reports and records.

(a) *Rules of procedure.* The Board of County Commissioners shall adopt rules for transaction of Hearing Examiner business and the Hearing Examiner shall conduct meetings pursuant to the provisions of applicable regulations and administrative codes of the Board of County Commissioners.

(b) *Meetings.* Meetings for the purpose of holding public hearings shall be scheduled, noticed and conducted pursuant to applicable administrative codes and the provisions contained in this chapter.

(c) *Reports of decisions.* After a public hearing is held, the Hearing Examiner will make a written report of his decision in accordance with the rules and procedures set forth in the applicable administrative code, and provide a copy of the report of decision (by either electronic means or hard copy) to all parties of record, appropriate County staff and the Board of County Commissioners.

(d) *Records.*

(1) The Hearing Examiner will provide for a court reporter at all proceedings under section 34-145. At a minimum, a summary of testimonies will be provided in the report of decision itself or as a separate document in addition thereto. Transcripts will be provided only upon request. Individuals making the request must bear the costs of transcription.

(2) The Hearing Examiner shall keep indexed records of all meetings, agendas, findings, determinations and reports of decision. Such records shall be public records.

(e) *Attendance at hearings.* The Hearing Examiner may request staff members with personal knowledge of relevant facts to attend hearings and produce relevant documents, and may advise the County Administrator of failure to comply with the Hearing Examiner's requests.

(f) In addition to the provisions found within this Code, all hearings before the Hearing Examiner must comply with the procedures established in Administrative Code 2-6.

(Zoning Ord. 1993, § 900(B)3; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-145. Functions and authority. [4]

(a) *Appeals from administrative action.*

(1) *Function.* The Hearing Examiner is authorized to hear and decide appeals where it is alleged that a County administrative official charged with the administration and enforcement of the provisions of this Code (or other ordinance that provides for similar review) erred in issuing or denying any

order, requirement, decision, interpretation, determination or action implementing the provisions of this Code; provided, however, that:

a. The Hearing Examiner is not authorized to hear appeals based on:

1. Acts of administrative officials pursuant to orders, resolutions, or directives of the Board of County Commissioners; or

2. Ordinances or other regulations or provision in this Code that provides a different appellate procedure.

3. Zoning verification letters.

4. An administrative official's determinations or interpretations of the Lee County Comprehensive Plan, State or Federal Statutes, State or Federal Codes, Rules, or Regulations. If the Hearing Examiner must interpret or apply the Lee County Comprehensive Plan, State or Federal Statutes, State or Federal Codes, Rules or Regulations in reaching a decision on an appeal, the Hearing Examiner is not authorized to hear the appeal and the case must be dismissed.

b. An appeal to the Hearing Examiner must be in compliance with the provisions of Administrative Code section 2-6.

c. No appeal may be considered by the Hearing Examiner where it appears to be a circumvention of an established or required procedure. Specifically, in no case may an appeal be heard if the case would be more appropriately addressed as a request for a variance, special exception, or rezoning.

d. Notices of hearings on appeals will be provided in accordance with the provisions of an applicable administrative code adopted by the Board of County Commissioners.

e. The Hearing Examiner will not consider appeals for challenges to a development order controlled by F.S. § 163.3215.

f. Except as provided in subsection g. below, a third party will not have standing to appeal an administrative action to the Hearing Examiner. Only the applicant or his agent will be permitted to appeal such administrative action as set forth in this section.

g. With regard to administrative actions arising out of fire impact fee regulations:

1. The Fire District with jurisdiction over the property affected by the action appealed is a necessary party in any appeal of such actions.

2. A Fire District may appeal such actions under this section, but only if the action by itself, or in conjunction with future actions that will necessarily flow from the decision being appealed, will result in a cumulative reduction of impact fee revenues to the district that exceeds $25,000.00. The appeal filed by the district must contain a clear explanation of how the action appealed will produce the cumulative reduction in revenues. Any dispute over whether the action appealed falls within this subsection will be resolved by the Hearing Examiner before the hearing on the appeal.

3. This subsection does not authorize a Fire District to appeal any permit or other administrative action that falls within the scope of the existing determination of exemption for Timberland and Tiburon DRI; any such appeal is prohibited.

(2) *Considerations.*

a. In reaching a decision, the Hearing Examiner must consider the following criteria, as well as any other issues that are pertinent and reasonable:

1. Whether appeal is of a nature properly brought before the Hearing Examiner for a decision.

2. The plain and ordinary meaning of all applicable ordinance or code provisions, unless the language is unclear or ambiguous then the intent of the ordinance or code provision applied or interpreted may be considered.

b. Staff recommendations, the testimony of the parties and witnesses and testimony of the general public must also be considered.

c. Appeals from administrative actions, with the exception of section 34-145(a)(2)d, are de novo proceedings. All parties may present evidence and testimony as to laws or facts supporting their position in the case.

d. Appeals pursuant to section 22-42, or other provision authorizing the Hearing Examiner to review decisions of a commission or board, are not de novo proceedings and will be limited to a determination of whether the board afforded procedural due process, the Board applied the correct law, and whether the record contains competent and substantial evidence to support the Board's actions.

(3) *Findings.* Before granting an appeal, the Hearing Examiner must determine if an error was made by the administrative official.

(4) *Authority.*

a. The Hearing Examiner has the authority to reverse, affirm or modify the decisions or actions of the administrative official. In appeals pursuant to section 22-42, or other appeals of decisions or actions of any commission or board, the Hearing Examiner may only remand the matter to the Board or Commissioner for further proceedings consistent with the Hearing Examiner's findings and conclusions of law.

b. Subject to the limitations set forth in subsection section 34-145(a)(4)a of this section, the Hearing Examiner may make a decision to take the action that the Hearing Examiner finds the administrative official should have taken. To that end, the Hearing Examiner has the power of the administrative official from whom the appeal is taken. The Hearing Examiner may only take an action that the administrative official is authorized to take under this Code. The Hearing Examiner is not authorized to take an action that requires the approval or authorization of the Board of County Commissioners.

(5) *Review of decisions.* Any party to a fire impact fee regulation case may file a request to appeal a decision made by the Hearing Examiner under this section to the Board of County Commissioners within 15 calendar days after such decision is rendered. (See section 34-83(c).) Judicial review of final decisions of the Hearing Examiner with respect to administrative actions are to the circuit court in accordance with section 34-146

(b) *Variances.*

(1) *Function.* The Hearing Examiner will hear and decide all requests for variances from the terms of the regulations or restrictions of the Land Development Code and such other ordinances as may be assigned to him by the Board of County Commissioners, except that no use variance may be heard or considered.

(2) *Considerations.* In reaching a decision, the Hearing Examiner must consider the following:

a. Staff recommendations, including the staff report and attachments;

b. Testimony from the applicant;

c. Testimony from the public;

d. The Lee Plan;

e. This chapter; and

f. Any other applicable County ordinances or County codes.

(3) *Findings.* Before granting any variance, the Hearing Examiner must find that all of the following criteria are satisfied:

a. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question and whether those exceptional or extraordinary conditions or circumstances create a hardship (as defined in section 34-2) on the property owner.

b. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of the ordinance (any action taken by an applicant pursuant to lawfully adopted regulations preceding the adoption of the ordinance from which this chapter is derived will not be considered self-created).

c. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property.

d. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

e. The condition or situation of the specific piece of property, or the intended use of the property, for which the variance is sought is not of a general or recurrent nature so as to make it more reasonable and practical to amend the ordinance.

f. In the case of wireless communication facilities, the Hearing Examiner must also make the findings required by section 34-1453

g. For variances from the Airport Compatibility District regulations, the Hearing Examiner must also find that the variance can be accommodated in the navigable airspace without an adverse impact to the aviation operation of SWFIA or Page Field.

(4) *Authority.*

a. The Hearing Examiner has the authority to grant, deny, or modify any request for a variance from the regulations or restrictions of this Code; provided, however, that no use variance as defined in this chapter, or any variance from definitions or procedures set forth in any ordinance, may be granted. If the Hearing Examiner determines denial is appropriate, then the decision must include a citation to the specific legal authority for the denial in accord with section 2-4

b. In reaching a decision, the Hearing Examiner may attach conditions necessary for the protection of the health, safety, comfort, convenience and welfare of the general public. The conditions must be rationally related to the variance requested and the potential impacts of the request on surrounding uses.

c. Variances may be reviewed by themselves or as part of a rezoning.

d. All decisions of the Hearing Examiner concerning variances filed as part of a rezoning or from the Airport Compatibility District regulations must be in the form of a recommendation to the Board of County Commissioners. Only a participant or his representative will be afforded the right to address the Board of County Commissioners.

(5) *Judicial review.* Except as provided in section 34-1453(b) for wireless communication facilities, judicial review of final decisions of the Hearing Examiner with respect to variances are to the circuit court in accordance with section 34-146

(6) *Variances from Airport Compatibility District Regulations.* The Hearing Examiner will issue a recommendation to the Board of County Commissioners for a final decision in all cases seeking a variance from the Airport Compatibility District regulations.

(7) *Effective Date.* Final decisions in a variance case, including attached conditions, become effective and enforceable on the date the final decision is issued by the Hearing Examiner.

(c) *Special exceptions.*

(1) *Function.* The Hearing Examiner will hear and decide all applications for special exceptions permitted by the district use regulations.

(2) *Considerations.* In reaching a decision, the Hearing Examiner must consider the following:

a. Staff recommendations, including the staff report and attachments;

b. Testimony from the applicant;

c. Testimony from the public;

d. The Lee Plan;

e. This chapter; and

f. Any other applicable County ordinances or County codes.

(3) *Findings.* Before granting any special exceptions, the Hearing Examiner must find that the applicant has proved entitlement to the special exception by demonstrating:

a. That the request is consistent with the goals, objectives, policies and intent of the Lee Plan;

b. That, when applicable, the request will protect, conserve or preserve environmentally critical areas and natural resources;

c. That the request will be compatible with existing or planned uses;

d. That the request will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and,

e. That the requested use will be in compliance with all zoning provisions pertaining to the use set forth in this chapter and any other applicable County ordinances or codes.

f. In the case of wireless communication facilities the Hearing Examiner must also make the findings required by section 34-1445(b).

(4) *Authority.*

a. The Hearing Examiner must grant the special exception unless he finds the request is contrary to the public interest and the health, safety, comfort, convenience and welfare of the citizens of the County, or that the request is in conflict with subsection (c)(3) of this section. If the Hearing Examiner determines denial is appropriate, then the decision must include a citation to the specific legal authority for the denial in accord with section 2-4

b. In reaching a decision, the Hearing Examiner may attach conditions necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. The conditions must be rationally related to the special exception requested and the potential impacts of the request on surrounding uses.

c. Special exceptions may be reviewed by themselves or as a part of a rezoning.

d. All decisions of the Hearing Examiner concerning special exceptions filed as part of a rezoning or from the Airport Compatibility District regulations must be in the form of a recommendation to the Board of County Commissioners. Only a participant or his representative will be afforded the right to address the Board of County Commissioners.

(5) *Judicial review.* Except as provided in section 34-1445(b) for wireless communication facilities, judicial review of final decisions of the Hearing Examiner with respect to special exceptions will be in circuit court in accordance with section 34-146

(6) Final decisions in a special exception case, including attached conditions, become effective and enforceable on the date the final decision is issued by the Hearing Examiner.

(d) *Zoning matters.*

(1) *Functions.* Regarding zoning matters, the Hearing Examiner has the following prescribed duties and responsibilities:

a. Prepare recommendations to the Board of County Commissioners for changes or amendments relating to the boundaries of the various zoning districts or to the regulations applicable to those districts.

b. Make recommendations to the Board of County Commissioners on applications relating to the following:

1. Rezonings, including Developments of County Impact, planned unit developments and planned developments, and any accompanying request to use TDR or affordable housing bonus density.

2. Developments of regional impact and Florida Quality Developments approval, which may or may not include a request for rezoning.

3. Special exceptions that meet the criteria for a Development of County Impact, as set forth in section 34-203(b).

4. Other special exceptions and variances which are submitted simultaneously with and are heard in conjunction with a rezoning.

5. Variances from any County ordinance which specifies that variances from the ordinance may only be granted by the Board of County Commissioners.

6. Applications to increase density above the Lee Plan standard density range through the use of affordable housing bonus density units.

7. Applications for mine excavation development planned approval under chapter 12

c. Certain amendments to development of regional impact development orders do not require a public hearing. After staff review and recommendation, proposed amendments of this type will proceed directly to the Board of County Commissioners and will be scheduled on the administrative agenda of a regular weekly meeting. The Board will vote on the following types of amendments based upon the recommendation of staff without review by the Hearing Examiner:

1. Amendments that incorporate the terms of a settlement agreement designed to resolve pending administrative litigation or judicial proceedings; or

2. Any amendment contemplated under F.S. § 380.06(19)(e)2.

(2) *Considerations.* In preparing a recommendation on a zoning matter, the Hearing Examiner must consider the considerations set forth in section 34-145(c)(2).

(3) *Findings.* Before preparing a recommendation to the Board of County Commissioners on a zoning matter, the Hearing Examiner must find that:

a. The applicant has proved entitlement to the rezoning by demonstrating compliance with the Lee Plan, this land development code, and any other applicable code or regulation; and

b. The request, including the use of TDR or affordable housing bonus density units, is consistent with the densities, intensities and general uses set forth in the Lee Plan; and

c. The request is compatible with existing or planned uses in the surrounding area; and

d. Approval of the request will not place an undue burden upon existing transportation or planned infrastructure facilities and will be served by streets with the capacity to carry traffic generated by the development; and

e. Where applicable, the request will not adversely affect environmentally critical areas and natural resources.

f. In the case of a planned development rezoning or mine excavation planned development, the decision of the Hearing Examiner must also be supported by the formal findings required by sections 34-377(a)(2) and (4).

g. Where the change proposed is within a future urban area category, the Hearing Examiner must also find that urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve the proposed land use.

h. If the rezoning is to Compact PD, the recommendation of the Hearing Examiner must also include findings regarding the provisions set forth in section 32-504(a).

i. That the level of access and traffic flow (i.e. median openings, turning movements etc.) is sufficient to support the proposed development intensity.

j. If the hearing concerns a mine excavation planned development, that the request meets the criteria and standards set forth in chapter 12

(4) *Authority.*

a. The Hearing Examiner serves in an advisory capacity to the Board of County Commissioners with respect to zoning matters as set forth in subsection (d)(1) of this section, and in such capacity, may not make final determinations.

b. The Hearing Examiner may not recommend the approval of a rezoning, and the Board of County Commissioners may not approve a rezoning, other than the request published in the newspaper pursuant to section 34-236(b), unless the zoning district proposed by the Hearing Examiner is more restrictive and permitted within the land use classification set forth in the Lee Plan.

c. The Hearing Examiner has the authority to recommend conditions and requirements to be attached to any request for a special exception or variance included under subsection (d)(1)b.3., 4. or 5. of this section.

(5) *Decisions.* All decisions of the Hearing Examiner concerning zoning matters under this subsection (d) will be in the form of a recommendation to the Board of County Commissioners.

(e) *Notice of intent to deny based on insufficient information.*

(1) If the Hearing Examiner intends to deny or recommend denial of an application described in subsections (a) through (d) of this section based on the applicant's failure to provide information adequate in scope and detail to address particular issues, he may, in his discretion, send a notice of intent to deny based on insufficient information to all participants in lieu of a denial or a recommendation to deny the application. The notice must state the issues on which additional information is necessary and must direct the applicant to indicate within ten working days whether he intends to provide the information and the date upon which the information will be provided (not to exceed 30 working days).

(2) If the applicant does not respond affirmatively within ten working days of the date of the notice, the Hearing Examiner must prepare and submit a recommendation or decision, whichever is applicable, denying the application to the Board of County Commissioners and all participants. If the applicant does respond affirmatively, the Hearing Examiner must send a copy of the response to all participants of record along with a notice of a new hearing date, at which time the new evidence will be considered.

(3) The applicant must submit all of the new evidence provided in accordance with this section to the zoning staff, who will review it and prepare a supplementary staff report addressing only those issues to which the new evidence is relevant.

(4) The hearing following the receipt of the new evidence will be limited to those issues to which the new evidence is relevant.

(5) No applicant will be entitled to more than one notice of intent to deny based on insufficient information.

(f) *Equitable jurisdiction.* Unless specifically provided, the Hearing Examiner does not have the authority to render decisions based on equitable law in any proceeding under section 34-145(a) through (d).

(g) In reaching a decision or preparing a recommendation, the Hearing Examiner is limited to the authority granted within County regulations. The Hearing Examiner is not authorized to render legal declarations regarding state or federal statutes, this includes, but is not limited to, the ability for the Hearing Examiner to render decisions regarding the effect of state or federal law on County regulations.

(h) Deviations or variances from procedural requirements of this chapter, chapter 10 or any other ordinance, definitions, or the actual use of land or structures are prohibited. This does not prohibit the granting of special exceptions as provided for in this Code.

(Zoning Ord. 1993, § 900.02; Ord. No. 93-14, § 6, 4-21-93; Ord. No. 94-24, §§ 7—11, 8-31-94; Ord. No. 95-07, § 13, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 99-22, § 3, 12-14-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-25 , § 4, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-146. Final decision; judicial review.

(a) The decision of the Hearing Examiner will be final on applications for administrative appeals that are not appealed to and decided by the Board of County Commissioners, variances, and special exceptions, when such variances or special exceptions are not part of a rezoning or Development of County Impact request that requires final decision by the Board of County Commissioners. Judicial review of a final decision of the Hearing Examiner concerning an administrative appeal, variance or special exception will be in circuit court. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. The petition must be filed within 30 calendar days after the decision has been rendered.

Appeals from Hearing Examiner decisions concerning wireless communication facilities must be to the Board of County Commissioners pursuant to sections 34-1445(b) and 34-1453, as applicable.

(b) For the purposes of this subsection, a decision is "rendered" as of the date when it is reduced to writing, signed and dated by the Hearing Examiner. Decisions will be delivered or mailed by the Hearing Examiner to parties of record and each individual County Commissioner on the date it is rendered or on the next regular working day thereafter. In some cases, notice of the decision may be provided pursuant to applicable administrative codes.

(c) The person making application to the Hearing Examiner for a final decision that is entitled to judicial review, is a necessary and indispensable party to an action seeking judicial review.

(d) This section is not intended to preclude actions pursuant to F.S. § 70.51 or § 163.3215.

(Zoning Ord. 1993, § 902.02(B); Ord. No. 94-24, § 12, 8-31-94; Ord. No. 95-07, § 14, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03)

Secs. 34-147—34-170. Reserved.

FOOTNOTE(S):

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Note: [Section 34-145(d)(3)i, as adopted in LCO 10-25, will have no force or effect until the date the Lee Plan amendments adopted by ordinances 10-19 and 10-21 become effective in accordance with F.S. ch. 163.] (Back)

DIVISION 5. DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 34-171. Appointment of Director.

The County Administrator shall appoint the Director of the Department of Community Development. He shall hold this position at the pleasure of the County Administrator.

(Zoning Ord. 1993, § 905.01)

Sec. 34-172. Powers and duties.

(a) *Administration of zoning regulations.* The administration of this chapter and chapter 12 is maintained in the Department of Community Development. The Director is hereby authorized, empowered and directed to administer all the provisions of this chapter and any subsequent amendments thereto.

(b) *Authority to interpret provisions.* The Director, in conjunction with the County Attorney's Office as necessary, has the discretion consistent with this chapter and accepted rules of statutory construction to interpret and apply these provisions.

(c) *Application of zoning regulations.* No building or structure, or part thereof, may be erected, constructed, reconstructed or altered, and no existing use, new use or change of use of any building, structure or land, or part thereof, may be made or continued except in conformity with the provisions of this chapter.

(d) *Issuance of permits.* When a permit application furnishes all of the information and fulfills all of the requirements that are conditions precedent to the granting of the permit, the Director may issue the permit.

(e) *Authority to issue stop work orders.* The Director, after consultation with the County Attorney's Office, has the authority to issue a stop work order on property that is the subject of a violation of the provisions of this Code. The stop work order may continue until the violation is resolved to the satisfaction of the County.

(Zoning Ord. 1993, § 905.02; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 09-23 , § 10, 6-23-09)

Secs. 34-173—34-200. Reserved.

DIVISION 6. APPLICATIONS AND PROCEDURES FOR CHANGES, PERMITS, INTERPRETATIONS AND APPROVALS

Sec. 34-201. General procedure for applications requiring public hearing.

(a) *Initiation of application.* An application for a rezoning, mine excavation planned development under chapter 12, special exception, or variance may be initiated by:

(1) A landowner, or his authorized agent, for his own property; provided, however, that:

a. Except as provided in subsections (a)(1)b. and c. of this section, where there is more than one owner, either legal or equitable, then all owners must jointly initiate the application or petition.

1. This does not mean that both a husband and wife must initiate the application on private real property which is owned by them.

2. Where the property is subject to a land trust agreement, the trustee may initiate the application.

3. Where the fee owner is a corporation, any duly authorized corporate official may initiate the application.

4. Where the fee owner is a partnership, a general partner may initiate the application.

5. Where the fee owner is an association, the association or its governing body may appoint an agent to initiate the application on behalf of the association.

b. Where the property is a condominium or a timeshare condominium, as defined and regulated in F.S. chs. 718 and 721, respectively, an application or petition may be initiated by both the condominium association and no less than 75 percent of the total number of condominium unit owners, or by both the owners' association and no less than 75 percent of timeshare condominium unit owners.

1. For purposes of this subsection, each individually owned condominium unit within the condominium complex and each individually owned timeshare unit as defined by F.S. ch. 721 counts as one unit, regardless of the number of individuals who jointly own the unit.

2. In order to verify ownership, the applicants must furnish the County, as part of their application, a complete list of all unit owners, identified by unit number and timeshare period, as applicable, along with proof that all unit owners who did not join in the application were given actual written notice thereof by the applicants, who must verify the list and fact of notice by sworn affidavit.

3. So as to protect the legal rights of nonparticipating unit owners, the application must be accompanied by a letter of opinion from a licensed Florida attorney, who must attest that he has examined the declaration of condominium, the bylaws of the condominium association, and all other relevant legal documents or timeshare documents, as applicable, and concluded that the act of applying or petitioning to the County violates none of the provisions therein, or any federal or state law regulating condominiums or timeshare plans, or the rights of any of the nonparticipating unit owners, as derived from such documents and laws, and that approval of the requested act by the County would violate no such rights.

c. Where the property is a subdivision, an application or petition may be initiated by no less than 75 percent of the total number of lot or parcel owners and the homeowners' association, if applicable.

1. For purposes of this subsection, a subdivision is an area of property defined by a specific boundary in which lot divisions have been established on a plat that has been recorded in either a plat book or official records book whereby legal descriptions are referred to by lot or parcel number. This term may include any unit or phase of the subdivision and not the entire subdivision.

2. In order to verify ownership, the applicants must furnish the County, as part of their application, a complete list of all lot owners, identified by lot number, along with proof that all lot owners who did not join in the application were given actual written notice thereof by the applicants, who must verify the list and fact of notice by sworn affidavit.

(2) The County, which for purposes of this section means the Board of County Commissioners.

(b) *Application submittal and official receipt procedure.* The application procedure and requirements in this section apply to all applications for rezoning, special exceptions, and variances, except mine excavation planned developments under chapter 12

(1) All properties within a single application must be abutting. The Director may, at his discretion, allow a single application to cover non-abutting properties where it is in the public interest due to the size or scope and nature of the request, and there is a rational continuity to the properties in question.

(2) No application may be accepted unless it is presented on the official forms provided by the Department, or on County approved forms containing the same information.

(3) Before an application may be accepted, it must fully comply with all information requirements enumerated in section 34-202, unless specifically stated otherwise in this chapter.

(4) The applicant must ensure that an application is accurate and complete. Any additional expenses necessitated because of inaccurate or incomplete information will be borne by the applicant.

(5) Upon receipt of the completed application form, all required documents and the filing fee, the Department will begin reviewing the application for completeness or, in the case of planned development applications, begin reviewing the application for sufficiency pursuant to section 34-373(d).

(Zoning Ord. 1993, § 800; Ord. No. 95-07, § 15, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-202. General submittal requirements for applications requiring public hearing.

(a) *All applications.* Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the Director prior to submitting the application. A copy of the request and the Director's written response must accompany the application and will become a part of the permanent file.

(1) *Legal description and sketch to accompany legal description.* A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with Florida Statutes, Ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. A sketch of the undivided, platted lots to be rezoned is not required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

(2) *Boundary survey.* A boundary survey of the subject property must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. The survey must be based upon the title certification submitted in accord with section 34-202(a)(3) and certified to the present owner as reflected in the title documentation submitted in accordance with section 34-202(a)(3). The boundary survey must identify and depict all easements affecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection.

All boundary surveys must meet the minimum technical standards for land surveying in the state, as set out in chapter 5J-17, F.A.C. The survey must be tied to the state plane coordinate system for the Florida West Zone (the most current adjustment is required) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner. The perimeter boundary must be clearly marked with a heavy line and must include the entire area to be developed.

If the subject property consists of one or more undivided lots within a subdivision, then a copy of the subdivision plat may be submitted in lieu of the boundary survey. However, if the dimensions of the subject property differ from those in the original plat, then a boundary survey, including a metes and bounds legal description, will be required.

(3) *Certification of title and encumbrances.* Certification of title and encumbrances submitted for property subject to zoning approval must meet the following criteria:

a. *Form.* The certification of title must be in one of the following forms:

i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.

ii. Ownership and encumbrance report, no greater than 30 days old at the time of the initial development order submittal.

iii. Title Insurance Policy with appropriate schedules, no greater than five years old at the time of the initial development order submittal and an affidavit of no change covering the period of time between issuance of the policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate, title opinion or ownership and encumbrance report must be submitted in the alternative.

b. *Content.* The certification of title must include, at a minimum, the following:

i. The name of the owner or owners of the fee title;

ii. All mortgages secured by the property;

iii. All easements encumbering the property;

iv. The legal description of the property; and

v. The certification of title documentation must be unequivocal.

(4) *Reserved.*

(5) *Property owners list.* A complete list of all owners of the property subject to this request, and their mailing addresses. If multiple parcels are involved, a map showing the owners interest must be provided. The applicant is responsible for the accuracy of the list and map. For County-initiated actions only, names and addresses of property owners will be deemed to be those appearing on the latest tax rolls of the County.

(6) *Surrounding property owners list.* A complete list, and one set of mailing labels, of all property owners, and their mailing addresses, for all property within 500* feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request. For the purpose of this subsection, names and addresses of property owners will be deemed to be those appearing on the latest tax rolls of the County at the time of application. The applicant is responsible for the accuracy of such list. When the application is found complete, or in the case of a planned development, sufficient, the applicant is required to submit a new list and mailing labels.

Applications for wireless communication facilities under section 34-1441, et seq. must include all property within 1,000 feet of the perimeter of the subject parcel.

*NOTE: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet and 1,250 feet for wireless communication facilities.

(7) *Surrounding property owners map.* A map displaying all parcels of property within 500* feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request. This map must reference by number or other symbol the names on the surrounding property owners list. The applicant is responsible for the accuracy of the map.

**NOTE:* In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet.

(8) *Additional material.* Additional material, depending on the specific type of action requested, may be required as set forth in section 34-202(b) and 34-203

(9) *Filing fee.* All fees, in accordance with the duly adopted fee schedule (see section 34-53), must be paid at the time the application is submitted.

(10) *Compliance with specific planning community requirements*. If the subject property is located in a planning community, the applicant will be required to demonstrate compliance with the requirements applicable to the specific community provided in chapter 33

(b) Additional submittal requirements for owner-initiated applications. In addition to the submittal requirements set forth in (a), every application initiated by a property owner involving a change in the zoning district boundaries, or a request for special exception, deviation or variance, applicable to the property owner's land must include the following:

(1) *Authority.*

a. *Ownership interests.* An affidavit, signed by the property owner or specified contract purchaser, must be submitted stating whether a Lee County Employee, County Commissioner, or Hearing Examiner has an ownership interest in the property or any legal entity (corporation, company, partnership, limited partnership, trust, etc.) that has an ownership interest in the property or that has contracted to purchase the property. Disclosure with respect to a beneficial ownership interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public, is exempt from the provision of this subsection.

b. *Applicant's statement.* Notwithstanding the requirements of section 34-201(a)(1)a., the applicant for any action requiring a public hearing must sign a statement, under oath, that he is the owner or the authorized representative of the owner of the property and that he has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the action approved by the County in accordance with this Code. This must also include a statement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed by the approved action.

c. *Agent authorization.* The applicant may authorize agents to assist in the preparation and presentation of the application. The County will presume that any agent authorized by the applicant has the authority to bind the property with respect to conditions.

(2) *Reserved.*

(3) *Reserved.*

(4) *Hazardous materials emergency plan for port facilities.* Any applicant seeking a rezoning for a private port facility must submit a hazardous materials emergency plan, which will be subject to the approval of the County Divisions of Emergency Management, Water Resources and Planning, and of the appropriate fire district. The plan must provide for annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan must comply with the spill prevention control and countermeasure plan (SPCC) called for in the Federal Oil Pollution Prevention Regulations, 40 CFR 112, as amended.

(5) *Bonus density.* When applicable, the number of bonus density units requested, the source of the bonus density units (TDR's, housing density bonus, etc.), and the resulting gross residential density of the proposal. A copy of the bonus density application must also be included as an attachment to the zoning application.

(6) *Information regarding proposed blasting.* If blasting is proposed to excavate lakes or other site elements, the applicant must provide information and data with the application showing the location of the proposed blasting and demonstrating what measures will be implemented to ameliorate the potential negative impacts. This information must include soil borings that demonstrate the necessity for blasting, drawings showing the location of proposed blasting, and other information deemed necessary by the Director to allow full and complete analysis of compatibility issues associated with the proposed blasting activity.

(7) *Existing agricultural use affidavit.* If the property is located in an agricultural zoning district at the time the request is filed, the application must include an agricultural use affidavit. The affidavit must identify the subject property with specificity and indicate whether or not a bona fide agricultural use existed at the time the application was filed.

If the property owner intends to continue an existing agricultural use subsequent to the zoning approval, an affidavit signed by the property owner and sworn before a notary must be submitted. The property owner affidavit must consist of: (1) a statement as to the specific type and location of the agricultural uses existing on the property at the time of the application; and, (2) a map or sketch of the property, preferably in metes and bounds, identifying with specificity the location and type of ongoing agricultural use as stated in the affidavit. The exhibit should be entitled "Agricultural Uses at time of Zoning Application."

(8) *Potable water and sanitary sewer connection.* A letter from the appropriate utility entity indicating the utility entity's name and ability to provide service to support the proposed development. If the project does not propose to connect to the potable water and central sewer system, a written explanation as to the reasons why connection will not be made must be submitted along with an explanation as to the means proposed to meet the water and sewer needs for the project.

(Zoning Ord. 1993, § 800.01; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 99-22, § 3, 12-14-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 05-29 , § 3, 12-13-05; Ord. No. 07-19 , § 6, 5-29-07; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-01 , § 6, 1-10-12; Ord. No. 12-14 , § 4, 6-12-12; Ord. No. 13-01 , § 6, 2-12-13; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-203. Additional requirements for applications requiring public hearing.

(a) *Developments of regional impact.* Developments of regional impact must comply with the information submittal and procedural requirements of F.S. ch. 380. If the development of regional impact requires specific zoning actions (i.e., rezoning), the procedures and requirements of this section and article IV of this chapter must be met. Additionally, even if the development of regional impact does not require specific zoning action, the applicant must submit a traffic impact statement, as described in section 34-373(a)(7), and detailed in section 10-286. Thresholds for developments of regional impact are stated in Florida Administrative Code chapter 28-24.

(b) *Planned developments.* All planned developments, except mine excavation planned developments, must comply with the additional information submittal and procedural requirements set forth in section 34-373

(c) *Rezonings other than planned developments and developments of regional impact.* A statement explaining the nature of the request, how the property qualifies for the rezoning, and how the request meets the applicable required findings set forth in section 34-145(d)(3). This statement may be utilized by the Board of County Commissioners, Hearing Examiner and staff in establishing a factual basis for the granting or denial of the rezoning.

(d) *Rezoning of mobile home parks.* If the proposed rezoning of an existing mobile home park as defined in F.S. § 723.003, would result in the removal or relocation of mobile home owners, then the application must include facts sufficient to allow staff to conclude that adequate mobile home parks or other suitable facilities exist for the relocation of displaced owners. The facts to be provided are intended to meet the requirements of F.S. § 723.083 (1995). Therefore, the statutory definitions will prevail to the extent there is conflict with terms of this Code.

(1) Facts to be provided may typically include: STRAP number and street addresses of properties where mobile homes are to be removed from, and relocated to (i.e., the "relocation site"); and any building permit numbers issued for placement of the mobile home on the relocation site.

(2) If the relocation site is not within the legal description of the subject rezoning, then the property owner of property proposed for relocation must submit an affidavit stating that suitable facilities exist at the relocation site to accommodate the mobile home proposed to be relocated there.

(e) *Special exceptions.* Except for special exceptions that are developments of County impact (see section 34-341), all applications for a special exception must, in addition to the requirements of sections 34-202(a) and (b), include the following:

(1) A statement explaining the nature of the request, how the property qualifies for the special exception, and how the request meets the applicable required findings set forth in section 34-145(c)(3). This statement may be utilized by the Hearing Examiner and staff in establishing a factual basis for granting or denial of the special exception.

(2) A traffic impact analysis of projected trip generation for the development and a site plan, drawn to scale, detailing the following:

a. The location and current use of all existing structures on the site.

b. All proposed structures and uses to be developed on the site.

c. Any existing public streets, easements or land reservations within the site, and the proposed means of vehicular access to and from the site.

d. Any other reasonable information which may be required by the Director which is commensurate with the intent and purpose of this chapter.

(3) *Solar or wind energy modifications.* If the request is to modify property development regulations for the purposes of using solar or wind energy, evidence must be submitted that the proposed modifications are the minimum necessary to provide for the solar or wind energy proposal and that the proposed modifications will not adversely affect adjacent properties. (See section 34-2196

(4) *Reserved.*

(5) *On-premises consumption of alcoholic beverages.* If the request is for a consumption on premises special exception, the application must include the following:

a. The property owners list and map (see section 34-202(a)(6) and (7)) must be modified to include all property within 500 feet of the perimeter of the subject property.

b. Additional material is required as set forth in section 34-1264(c)(1) and (2).

c. A traffic impact analysis of projected trip generation for the development is not required for special exceptions for consumption on premises.

(6) *Harvesting of cypress (Taxodium spp.*). An application for a special exception to harvest cypress must include:

a. An aerial photograph with vegetation associations mapped as listed in the Florida Land Use, Cover, and Forms Classification System (FLUCCS).

b. A forest management plan for the proposed harvesting site.

c. Steps which will be taken to ensure that the proposed activity will not have an adverse affect on the environmental sensitivity of the area.

(7) *Private aircraft landing facilities.* Applications for private aircraft landing facilities must:

a. Indicate the type of facility, as set forth in Florida Administrative Code chapter 14-60.

b. Indicate on the site plan the proposed location and length of the effective landing length, as well as the area included in the approach zone.

c. Submit a certified list of all airports and municipalities within 15 miles of the proposed site and all property owners within 1,000 feet of the property or within the minimum required approach zone, whichever is greater.

The Department of Community Development will forward a copy of the application to the Department of Airports for comment prior to any public hearings. No proposed airport will be granted a special exception if the Department of Airports finds that the proposed site would interfere with any other lawfully existing aircraft landing facility, airport or heliport.

All property owners listed in subsection (e)(7)c. of this section will be sent written notice by certified mail, return receipt requested, of the date, time and place of any public hearing. The applicant will bear the cost of the notification.

(8) *Wireless communication facilities.* (Refer to section 34-1441 et seq.)

(f) *Variances.* Every application for a variance from the terms of this chapter must, in addition to the requirements of section 34-202(a) and (b), include the following:

(1) A statement that includes the section number and particular regulation from which a variance is requested, how the property qualifies for the variance, and how the request meets the applicable required findings set forth in section 34-145(b)(3).

(2) A site plan, drawn to scale, detailing:

a. Existing public streets, easements or other reservations of land within the site;

b. All existing and proposed structures on the site; and

c. The location of the proposed variance.

(3) Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.

(4) *Street setbacks on collector and arterial roads.* In the case of a variance from required street setbacks on collector and arterial roads, the applicant:

1. May modify the property owners list and property owners map (see section 34-202(a)(6) and (7)) to show only the names and locations of property owners that abut the perimeter of the subject property.

2. Must submit a site plan, drawn to scale, showing:

i. The location of all proposed structures, easements, rights-of-way and vehicular access onto the property, including entrance gates or gatehouses; and

ii. The extent of modification from street setbacks requested.

iii. Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.

(5) *Wireless communication facilities.* In the case of variances concerning wireless communication facilities, refer to section 34-1453

(g) *Use variance.* Use variances are not legally permissible, and no application for a use variance will be processed. Department staff will notify the applicant when a more appropriate procedure, e.g., rezoning or special exception, is required.

(h) *Modifications to submittal requirements.* Upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section, and for those specifically eligible for waiver in section 34-373, where it can be clearly demonstrated by the applicant that the submission will have no bearing on the review and processing of the application. The request and the Director's written response must accompany the application submitted and will become a part of the permanent file. The decision of the Director is discretionary and may not be appealed.

(Zoning Ord. 1993, § 800.02; Ord. No. 93-14, § 4, 4-21-93; Ord. No. 93-24, § 18, 9-15-93; Ord. No. 94-24, § 13, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, §

5, 1-13-98; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-204. Submittal requirements for Administrative Action applications.

(a) *All applications.* Every request for Administrative actions not requiring a public hearing under this chapter must include the following. Upon written request, on a form prepared by the County, the Director may modify the submittal requirements as set forth in section 34-203(h).

(1) *Legal description and sketch to accompany legal description.* A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

(2) *The STRAP (Section, Township, Range, Area, Parcel) number for the subject property.* This number is used by the Property Appraiser to identify the subject property.

(3) *Reserved.*

(4) *Reserved.*

(5) *Additional material.* Depending on the specific type of action requested, additional material may be required as set forth in section 34-203

(6) *Compliance with specific planning community requirements.* If the subject property is located in a planning community, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community in chapter 33

(7) *On-premises consumption of alcoholic beverages.* If the request is for a consumption on premises permit, additional material is required as set forth in section 34-1264(c)(1).

(8) *Filing fee.* All fees, in accordance with the duly adopted fee schedule (see section 34-53), must be paid at the time the application is submitted.

(9) *Parking reduction.* If the request is for a parking reduction, additional material is required as set forth in section 34-2020(e).

(Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-205. Development of regional impact essentially built-out determination.

(a) A development of regional impact may be determined to be "essentially built-out" if the applicant shows that the development of regional impact meets the criteria under subsections (a)(1) (Option I) or (a)(2) (Option II).

(1) *Essentially built-out determination—Option I.* To be qualified as essentially built-out under Option I, the project must meet the following

a. The project has been determined to be an essentially built-out DRI through an agreement executed by the developer, the state land planning agency, and the County, in accordance

with F.S. § 380.032, establishing the terms and conditions under which the development may be continued; and

1. The developers are in compliance with the terms and conditions of the development order except the buildout date; and
2. The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph F.S. § 380.06(19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or
3. The state land planning agency and the County have agreed in writing that the amount of development to be built does not create the likelihood of additional regional impacts not previously reviewed.

b. If the project is determined to be essentially built-out under Option I, development may proceed pursuant to the agreement after the termination or expiration date in the development order without further DRI review subject to any modified DRI analysis created under the agreement, the Lee Plan, and LDC.

c. The single-family residential portions of a development may be considered "essentially built-out" under Option I if:

i. All of the workforce housing obligations and all of the infrastructure and horizontal development is complete;

ii. At least 50 percent of the dwelling units have been completed; and

iii. More than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination.

d. The mobile home park portions of a development may be considered "essentially built-out" under Option I if:

i. All the infrastructure and horizontal development is complete; and

ii. At least 50 percent of the lots are leased to individual mobile home owners.

(2) *Essentially built-out determination—Option II.* To qualify as "essentially built-out" under Option II, the project must meet the following

a. The developers are in compliance with the terms and conditions of the development order except the build out date;

b. All the mitigation requirements in the development order have been satisfied; and

c. The amount of proposed development that remains to be built is less than 40 percent of the applicable DRI threshold for the remaining portions to be built.

(b) An applicant seeking an essentially built-out determination must submit three hard copies and one electronic copy of the following:

(1) A list of each development order condition and each developer commitment contained in the DO and a statement demonstrating how and when each condition/commitment was fulfilled.

(2) A summary of the total development built and total development remaining for each land use category. Identify the geographic location of parcels with remaining unbuilt development entitlements and the nature of those entitlements.

(3) Variance report and mailing labels for all property owners within the DRI.

(4) The most recent Master Plan (Map H).

(5) Legal description and sketch of the entire DRI.

(6) A draft resolution to be executed by the Board which sets forth the following information:

a. The history of development within the DRI, including amendments to the DRI DO, and the current status of development within the DRI;

b. A statement confirming the public notice that was provided for consideration of the EBO determination;

c. A statement regarding compliance with F.S. ch. 380 and other applicable Florida Statutes, local development regulations, and Lee Plan provisions, including findings that the requirements of subsections (a) and (b) above have been met; and

d. A provision incorporating and adopting the proposed amendments to the DRI DO consistent with the EBO determination, including all DRI DO conditions to remain in effect (if any) after adoption of the EBO determination and agreement.

(7) Draft amendment to the DRI DO in strike-through and underline format incorporating the EBO determination and findings of compliance with applicable Florida Statutes, including F.S. § 380.06(15)(g), local development regulations, and Lee Plan provisions, as well as the conditions that remain applicable to future development within the DRI.

(8) In addition, for Option I Determinations, a draft agreement to be executed by the developer, the state land planning agency, and the County, in accordance with F.S. § 380.032, establishing the terms and conditions under which the development may be continued pursuant to the agreement after the termination or expiration date contained in the development order.

(c) Once the request is found sufficient, County staff will prepare a report evaluating the application. The report will be available to the public within 14 days before the scheduled hearing.

(d) Applications for determinations of essentially built-out will not be considered by the Board of County Commissioners until the application is found sufficient by DCD Staff. Applications for determinations of essentially built-out will not be considered by the Board of County Commissioners if any of the parcels located within the DRI DO contains unabated code enforcement violations. The application will be placed on hold until such time as the violation has been abated.

(e) Applications for determinations of essentially built-out will proceed directly to the Board of County Commissioners and will be heard at a publicly advertised Board zoning hearing.

(Ord. No. 13-10 , § 10, 5-28-13)

Editor's note—

Prior to the reenactment of §§ 34-205 and 34-206 by Ord. No. 13-10, adopted May 28, 2013, Ord. No. 96-06, § 5, adopted Mar. 20, 1996, repealed §§ 34-204—34-206, which pertained to applications for development approval, applications for building permits and grading permits.

Sec. 34-206. Family day care home exemption request.

The operation of a family day care home exempt under F.S. § 125.0109 does not require a special exception. Evidence of an exemption for a family day care home must include:

(a) A sworn statement establishing that the family day care home will operate:

(1) In the applicant's residence; and

(2) On property owned by the applicant; or

(3) On property covered by a lease to the applicant for residential purposes, including the right to operate a family day care home.

(b) A copy of the applicant's state family day care home license or registration issued in accordance with F.S. § 402.313.

(c) A special processing fee in accordance with the External Fees and Charges Manual in lieu of the application fee for a special exception.

(d) A plan demonstrating required parking in compliance with section 34-2020(b).

(Ord. No. 13-10 , § 10, 5-28-13)

Note—See the editor's note to § 34-205

Sec. 34-207. Excavations.

(a) Grading or excavation activities intended primarily to provide for the retention or detention of stormwater runoff must obtain a development order in compliance with procedures set forth in chapter 10

(b) *Regulations.* Commercial mining excavations must comply with the requirements and procedures set forth in chapter 12

(Zoning Ord. 1993, § 802(D); Ord. No. 96-06, § 5, 3-20-96; Ord. No. 08-21 , § 3, 9-9-08)

Sec. 34-208. Reserved.

Editor's note—

Ordinance No. 98-03, § 5, adopted January 13, 1998, repealed § 34-208. Formerly, such section pertained to requests for interpretation of zoning regulations and derived from Zoning Ord. 1993, § 802(E).

Sec. 34-209. Building relocation permit.

(a) *Compliance with applicable regulations; time limit for leaving buildings on street.*

(1) When a building is moved to any location within the unincorporated area of the County, the building or part thereof shall immediately be made to conform to all the provisions of the latest adopted zoning ordinance and other applicable County regulations.

(2) Any building being moved for which a permit was granted may not remain in or on the streets for more than 48 hours.

(b) *Contents of application.* Any person desiring to relocate or move a building must first file with the Director of the Division of Codes and Building Services a written application on an official form provided by the Division. The application must include the following information furnished by the applicant and must be accompanied by the required application fee:

(1) The present use of the building.

(2) The proposed use of the building.

(3) The building's present location and proposed new location by STRAP number, as well as by street numbers.

(4) Certified survey of the proposed site with ground elevations, flood zone and required elevation, if in a V or A flood zone area.

(5) Plot plan showing lot dimensions, setbacks, location of existing structures and location of building drawn to scale no more than ½-inch equals one inch and no less than one inch equals 50 feet. The plot plan should depict the roof overhang as well as the foundation.

(6) Construction details, drawn to a scale of no larger than one-half inch equals one foot and no smaller than one-eighth inch equals one foot, including the following:

a. Foundation layout with connection details.

b. Floor plan, existing and proposed.

c. Mechanical plans, including air conditioning, electric system and plumbing plans.

d. Elevations, front, side and rear.

e. Flood elevation, if applicable.

(7) Current termite inspection by licensed pest controller.

(8) Water and sewer approvals from appropriate agencies.

(9) Photographs showing all sides of the building and the site where the building is proposed to be located.

(10) Proof of notice to all owners of property abutting or across the street from the site where the building is proposed to be located.

(c) *Inspection of building.* The Director of the Division of Codes and Building Services will have the building inspected to determine:

(1) If the building can be brought into compliance in all respects with this chapter and other County regulations pertaining to the area to which the building is to be moved.

(2) If the building is structurally sound and either complies with the Standard Building Code and other codes adopted by the County or can be brought into compliance with such codes.

(d) *Rejection of application.* The Director of the Division of Codes and Building Services must reject any application if:

(1) The building fails to meet the inspection criteria detailed in subsection (c) of this section;

(2) In the opinion of the Director, the moving of any building will cause serious injury to persons or property;

(3) The building to be moved has deteriorated due to fire or other element to more than 50 percent of its assessed value; or

(4) The moving of the building will violate any of the requirements of the Standard Building Code, this chapter or other applicable County regulations. Such decisions are administrative decisions which may be appealed in accordance with section 34-145(a).

(e) *Approval of application.*

(1) Upon approval of the application for building relocation, a licensed building relocation contractor representing the applicant must:

a. Apply for and receive all required permits from the Department of Transportation, County or state;

b. Pay the required fees and obtain the building relocation permit and appropriate sub-permits.

(Zoning Ord. 1993, § 802(F); Ord. No. 94-24, § 14, 8-31-94; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-210. Temporary use permits.

(a) *Applicability.* The County, or any person desiring to conduct any of the uses described in article VII, division 37, subdivision II, of this chapter shall be required to submit an application for a temporary use permit.

(b) *Initiation of application.* An application for a temporary use permit may be initiated by the County or any individual authorized in accordance with section 34-201(a).

(c) *Submission of application.*

(1) No application shall be accepted unless it is presented on the official forms provided by the Department.

(2) Before an application may be accepted, it must fully comply with all information requirements enumerated in the application form as well as the requirements set forth in subsection (d) of this section.

(3) The applicant shall ensure that an application is accurate and complete. Any additional expenses necessitated because of any inaccurate or incomplete information submitted shall be borne by the applicant.

(d) *Additional required information.* In addition to the application information, the applicant shall submit satisfactory evidence of the following:

(1) Evidence shall be submitted that adequate sanitary facilities meeting the approval of the County Health Department are provided.

(2) Evidence shall be submitted that sounds emanating from the temporary use shall not adversely affect any surrounding property.

(3) Evidence shall be submitted that all requirements as to providing sufficient parking and loading space are assured.

(4) When deemed necessary, a bond shall be posted, in addition to an agreement with a responsible person sufficient to guarantee that the ground area used during the conduct of the activity is restored to a condition acceptable to the Department.

(5) All applications for temporary permits, excluding those for mobile homes during construction of a residence, shall provide public liability and property damage insurance. This requirement may be waived by the Board of County Commissioners at a regular meeting, after advertisement on the agenda.

(6) Evidence shall be submitted that, where applicable, the applicant for a proposed use has complied with Ordinance No. 91-26 of the County, pertaining to special events.

(7) Evidence shall be submitted that the law enforcement and fire agencies who will be coordinating traffic control or emergency services have been advised of the plans for a temporary use and that they are satisfied with all aspects under their jurisdiction.

(e) *Inspection following expiration of permit; refund of bonds.* Upon expiration of the temporary permit, the Department shall inspect the premises to ensure that the grounds have been cleared of all signs and debris resulting from the temporary use and shall inspect the public right-of-way for damages caused by the temporary use. Within 45 days after a satisfactory inspection report is filed, the Department shall process a refund of the bonds. An unsatisfactory inspection report shall be sufficient grounds for the County to retain all or part of the bonds posted to cover the costs which the County would incur for cleanup or repairs.

(Zoning Ord. 1993, § 803)

Sec. 34-211. Denials and resubmission of applications.

(a) *Denial with prejudice.*

(1) Except when specifically stated otherwise, a denial by the Hearing Examiner or Board of County Commissioners is a denial with prejudice.

(2) If an application is denied, no similar application for rezoning, mine excavation planned development, special exception or variance covering the same property, or portion of the property, shall be resubmitted or initiated for a period of 12 months from the date of denial. However, this shall not preclude the application for a different rezoning, special exception or variance which in the opinion of the administrative official is substantially different from the request originally denied.

(b) *Denial without prejudice.*

(1) When the Hearing Examiner or Board of County Commissioners denies without prejudice any application, it is an indication that, although the specifically requested action is denied, the Hearing Examiner or Board is willing to consider the same request after modifications have been made, or an application for other action, without the applicant having to wait 12 months before applying for consideration of the modified request or other action.

(2) Any resubmitted application shall clearly state the modifications which have been made to the original request or other changes made in the application.

(Zoning Ord. 1993, § 902.01; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 08-21 , § 3, 9-9-08)

Secs. 34-212—34-230. Reserved.

DIVISION 7. PUBLIC HEARINGS AND REVIEW

Sec. 34-231. Definitions.

For purposes of this division only, certain terms are defined as follows:

Continuance means an action initiated by the applicant, staff or a Hearing Examiner or the Board of County Commissioners to postpone, to a later time or date, a public hearing after the notice of the public hearing has been submitted to the newspaper for publication as required in section 34-236.

Deferral means an action initiated by the applicant or staff to postpone, to a later time or date, a public hearing prior to the notice of the public hearing being submitted to the newspaper for publication.

(Zoning Ord. 1993, § 903.01; Ord. No. 98-11, § 5, 6-23-98)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-232. Required hearings.

(a) Amendment or adoption of land use ordinances.

(1) Any proposed amendment to this chapter or to any land use ordinance, or adoption of any new land use ordinance, must be enacted pursuant to the requirements set forth in F.S. § 125.66.

(2) Prior to a final required hearing by the Board of County Commissioners, the Local Planning Agency must review the amendment at a public hearing.

(b) Board of County Commissioner initiated rezoning of private property including ancillary variances, special exceptions.

(1) Applications for less than ten contiguous acres of land will require one public hearing before the Hearing Examiner and one public hearing before the Board of County Commissioners.

(2) Applications for ten or more contiguous acres of privately owned property will require one public hearing before the Hearing Examiner and two public hearings before the Board of County Commissioners. The public hearings before the Board of County Commissioners must be in accordance with F.S. § 125.66(4)(b).

(c) Privately initiated requests for developments of regional impact, rezonings, and ancillary variances and special exceptions, require one public hearing before the Hearing Examiner and one public hearing before the Board of County Commissioners.

(d) Variances and special exceptions that are not ancillary to an application for rezoning or a development of regional impact and all administrative appeals of decisions of the Director pertaining to the interpretation of the Land Development Code require one public hearing before the Hearing Examiner.

(e) Applications for mining excavation planned development (MEPD) require one public hearing before the Hearing Examiner and one public hearing before the Board of County Commissioners.

(Zoning Ord. 1993, § 903.02; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 08-21 , § 3, 9-9-08)

Sec. 34-233. Preliminary review and notice certification.

(a) *Staff review.*

(1) No application for an action required by this chapter or chapter 12 to proceed through the public hearing process may be placed on a schedule to be heard by the Hearing Examiner until:

a. If a planned development, after the Department has finalized a written staff report on the requested action OR 60 days after the Department finds the application sufficient, whichever comes first.

b. For other than a planned development, after the Department has finalized a written staff report OR 60 days after submittal of the complete application, whichever comes first.

The Department will produce a written (staff) report summarizing the County staff's position regarding the subject application. In the case of a conventional or planned development zoning, the staff report must be available at least 14 days prior to the public hearing. In the case of a special exception or a variance the staff report must be available at least seven days prior to the public hearing. Once submitted, the staff report may not be modified or amended except by the Department staff.

(2) No application for an action required by this chapter or chapter 12 may be scheduled for a public hearing before the Board of County Commissioners until after the Hearing Examiner has rendered a recommendation.

(3) All staff comments will be forwarded to the Hearing Examiner or Board of County Commissioners prior to the scheduled public hearing.

(Zoning Ord. 1993, § 903.03; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-234. Public participation.

(a) *Participation before Hearing Examiner or Local Planning Agency.* At a public hearing before the Hearing Examiner or Local Planning Agency, all persons will be heard. However, the Hearing Examiner or Local Planning Agency has the right to refuse to hear testimony which is irrelevant, repetitive, defamatory or spurious, and to establish reasonable time limits on testimony.

(b) *Participation before Board of County Commissioners; zoning matters.* At public hearings of zoning matters, only a participant or his representative at the proceeding before the Hearing Examiner will be afforded the right to address the Board of County Commissioners, but only as to the correctness of findings of fact or conclusions of law contained in the record, or to allege the discovery of relevant new evidence which was not known by the speaker at the time of the hearing before the Hearing Examiner and not otherwise disclosed in the record. The Board of County Commissioners may orally question its staff, its attorneys and any participant who is present about matters contained in the written record and points of law or procedure.

(Zoning Ord. 1993, § 903.04; Ord. No. 93-14, § 7, 4-21-93; Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-235. Deferral or continuance of public hearing.

The following procedures and regulations for deferring or continuing a public hearing apply for the Hearing Examiner, Local Planning Agency and Board of County Commissioners:

(1) *Deferral.* A scheduled but not yet advertised public hearing may be deferred by the Division staff or by the applicant as follows:

a. *County-initiated deferral.* The Division of Zoning and Development Services may defer a scheduled public hearing prior to advertising, if additional or corrected information is required to permit staff to properly or adequately review a requested application provided notice is mailed to the applicant stating the reason for the deferral and what additional information is required to complete staff review.

b. *Applicant-initiated deferral.* An applicant may request a deferral of the public hearing if the request is in writing and received by the Division of Zoning and Development Services prior to the Division submitting notice of the hearing to the newspaper for publication.

c. *Fee.* There will be no additional fee for either a staff-initiated or applicant-initiated deferral. However, the applicant must obtain corrected zoning notice posters from the Division and post the signs on-site.

d. Applicant-initiated deferral requests meeting the requirements of this section may be deferred by the Director without any further action by the Hearing Examiner, Local Planning Agency, or Board of County Commissioners (as applicable).

If the hearing has already been advertised, the applicant, or his authorized agent, may appear at the hearing and orally request a continuance to a date certain (see subsection (2)b.).

(2) *Continuance.* A scheduled, advertised public hearing may be continued by the County or by the applicant as follows:

a. *County-initiated continuance.*

1. The Hearing Examiner, Local Planning Agency or Board of County Commissioners, upon staff request, or upon its own initiative, may continue a public hearing when it is necessary to require additional information, public testimony or time to render an appropriate recommendation. Any County initiated request to continue a public hearing must be in accordance with the rules set forth in AC 1-3

2. The hearing must be continued to a date certain, and the Hearing Examiner, Local Planning Agency or Board of County Commissioners must continue its consideration on the hearing matter on that date certain. Any hearing not continued to a date certain is deemed to be withdrawn.

3. County staff is entitled to one continuance as a matter of right. Each decision-making body has the authority to grant additional continuances upon a showing of good cause. There are no limitations to the number of County-initiated continuances.

4. The County must bear all renotification costs of a County-initiated continuance.

b. *Applicant-initiated continuance.*

1. The applicant may appear before the Hearing Examiner, Local Planning Agency or Board of County Commissioners at the beginning of its scheduled agenda and request the continuance.

2. The applicant is entitled to one continuance before each decision-making body as a matter of right. A request for continuance by the applicant for a case scheduled before the Board of County Commissioners must be submitted to the Department of Community Development no later than five calendar days before the scheduled hearing. Each decision-making body has the authority to grant additional continuances upon a showing of good cause.

i. If the additional request for continuance is denied, the hearing will proceed in accordance with the published agenda.

ii. If the request for continuance is approved, the Hearing Examiner, Local Planning Agency or Board of County Commissioners may set a date certain for hearing the application. Any hearing not continued to a date certain is deemed to be withdrawn.

3. A fee, in accordance with a duly adopted fee schedule, will be charged for any applicant-initiated continuance to cover the costs of renotification. The applicant must bear all renotification costs of an applicant-initiated continuance.

(Zoning Ord. 1993, § 903.05; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 05-14 , § 6, 8-23-05)

Sec. 34-236. Notices.

(a) *Minimum required information.* A notice of public hearing under this chapter must contain the following minimum required information:

(1) *Action proposed.*

a. *Land use ordinance amendments or adoption.* The notice must describe the chapter or section of the land use ordinance to be amended, or the subject of a new ordinance, with sufficient clarity so as to advise the public of the subject to be amended or adopted, but need not describe the exact wording or change.

b. *Rezoning and developments of regional impact.* All required notices must indicate the existing zoning of the property, the proposed zoning and where applicable, the number of TDR and affordable housing bonus density units requested, and the general location of the property by reference to common street names and addresses, with sufficient clarity so as to advise the public, but need not describe the proposed plans or details thereof, or the specific legal description of the property.

c. *Special exceptions and variances.* All required notices must indicate the existing zoning of the property; the proposed use by special exception, or the requirement from which the variance is requested and the actual degree of variance requested; and the location of the property, by reference to common street names and addresses, with sufficient clarity so as to advise the public, but need not describe the proposed plans or details thereof or the specific legal description of the property.

d. *Appeals.* The notice must summarize the decision or action upon which the appeal is based with sufficient clarity so as to advise the public of the subject matter.

(2) *Time and place of hearing.* The notice must specify the date, time and place that the public hearing will be held by the Hearing Examiner, the Local Planning Agency or the Board of County Commissioners, as applicable.

(3) *Public availability of information.* The notice must indicate where copies of the proposed amendment may be obtained or reviewed, or where the application for public hearing may be reviewed.

(4) *Location of record of notice.*

a. The copy of notices for the adoption or amendment of land use ordinances will be kept available for public inspection during regular business hours at the Minutes Department in the Office of the Clerk of the Board of County Commissioners.

b. Copies of all other notices will be kept available for public inspection during regular business hours at the office of the Department of Community Development or Hearing Examiner, as appropriate.

(b) *Method of providing notice.* Notices of hearings before the Board of County Commissioners, the Hearing Examiner and the Local Planning Agency will be provided in accordance with applicable statutes and the County Administrative Code. The "surrounding property owners list and map" required by section 34-202(a) is for the purpose of mailing notice to property owners within 500* feet of the property described. The notice is a courtesy only and is not jurisdictional. Accordingly, the County's failure to mail or to timely mail the notice or failure of an affected property owner to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.

*NOTE: in those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet and 1,250 feet for wireless communication facilities.

(Zoning Ord. 1993, §§ 904.01, 904.02; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 99-22, § 3, 12-14-99; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 11-08 , § 10, 8-9-11)

Secs. 34-237—34-260. Reserved.

DIVISION 8. ENFORCEMENT

Secs. 34-261—34-264. Reserved.

Sec. 34-265. Compliance.

Sec. 34-266. Cease and desist orders.

Secs. 34-261—34-264. Reserved.

Editor's note—

Ordinance No. 98-11, § 5, adopted June 23, 1998, repealed §§ 34-261—34-264. Formerly, such sections pertained to generally, complaints, penalties, persons who may be charged with violations, additional remedies and derived from § 905.04(A), (B)1—4 of the 1993 Zoning Ord.

Sec. 34-265. Compliance.

Failure to comply, or remain in compliance, with the provisions of this Code and conditions of approval under this chapter constitutes a violation of this Code.

(Ord. No. 09-23 , § 10, 6-23-09)

Sec. 34-266. Cease and desist orders.

The Director has the authority to issue cease and desist orders in the form of written official notices.

(Zoning Ord. 1993, § 905.04(B)5; Ord. No. 98-11, § 5, 6-23-98)

Sec. 34-267. Authority to permit uses pending a zoning action.

(a) The Director is authorized to permit proposed uses that are not permitted on a subject parcel for a period of not more than 180 days under the following circumstances:

(1) The property owner, contract purchaser or other authorized person has filed an application for a rezoning or a special exception for the subject parcel that would, if approved, make the requested use a permitted use;

(2) The requested rezoning or special exception, in the opinion of the Director, is clearly compatible with the neighboring uses and zoning and is consistent with the Lee Plan;

(3) The proposed use of the property is a business that is being relocated due to the County's economic development efforts or as the result of threatened or ongoing condemnation proceedings;

(4) No new principal structures are to be constructed on the subject property; and

(5) The applicant agrees in writing that the proposed use will cease within 180 days of the date of the administrative approval unless the Board of County Commissioners or Hearing Examiner, whichever is applicable, has rendered a final decision approving the requested rezoning or special exception. Upon execution, the agreement must be recorded in the public records of the County.

(b) Decisions by the Director pursuant to this section are discretionary and may not be appealed pursuant to subsection 34-145(a).

(c) The Director may extend the effective date of the approval up to an additional 90 days upon good cause shown.

(d) No approval issued pursuant to this section will excuse any property owner from compliance with any County regulation except the list of permitted uses in the zoning district in question.

(Ord. No. 94-02, § 4, 1-19-94; Ord. No. 98-11, § 5, 6-23-98)

Sec. 34-268. Administrative variances.

(a) The Director is authorized to administratively approve variances of the following:

(1) Street, rear, side, or waterbody setbacks to allow:

a. Remodeling of or additions to existing structures that are nonconforming with regard to a specific setback so long as the remodeling or addition will not result in:

i. An increase in the height of the structure; or

ii. A further diminution of the setback. The Director may approve bay windows, chimneys and similar architectural features that may encroach further into the setback provided the encroachment does not protrude beyond the existing overhang of the building.

b. Construction of access appurtenant to an existing structure for disabled persons.

c. Replacement of stairs or decking that provides access into an existing dwelling unit.

d. Minor errors that occurred at the time of construction to be legitimized.

e. Construction of a single-family dwelling unit so long as the proposed lot coverage does not exceed 45 percent for lots that qualify for a single-family determination, pursuant to the Lee Plan.

f. Buildings or structures that are not in compliance with current setback regulations and which can be proven to have been permitted.

(2) Sign, landscaping, buffer widths, and open space requirements on property affected by eminent domain proceedings, as well as property affected by voluntary sale under threat of condemnation by the sovereign.

(3) Setbacks in conventional zoning districts, not covered by section 34-268(a)(1), where the encroachment is:

a. 10% or less of the minimum required setback for proposed buildings; or

b. 20% or less of the minimum required setback for existing buildings.

(4) Chapter 34 requirements that are necessary to facilitate development of existing nonconforming buildings or structures that have lost their nonconforming status pursuant to section 34-3242(2). Chapter 30 requirements for signs that have lost their nonconforming status pursuant to section 30-55(b)(2). Administrative variances granted pursuant to this section may only be granted to the extent that the variance is the minimum that will bring the site more into compliance with this Code given the existing site constraints. Nonconforming open space, buffering and landscaping are subject to the regulations of section 10-416 and, as required, must be brought into conformance to the maximum extent possible.

(5) Landscaping required by section 34-1743(b)(3) to allow existing, required or optional nonconforming residential project walls to be repaired or replaced.

(6) Property development regulations for all religious facilities and places of worship provided in section 34-2051(a) for properties zoned residential and located in a platted subdivision.

(7) Requirements not listed above that are found by the Director to be similar in nature.

(b) Before approving any administrative variance, the Director must find that all of the following exist:

(1) There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;

(2) The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and

(3) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(c) Applicants seeking an administrative variance must submit the following:

(1) A written request on a form prepared by the County which includes the submittal requirements set forth in section 34-204 and, as applicable, sections 34-202 and 34-203

The applicant must demonstrate that the variance request meets the criteria for granting an administrative variance set forth in section 34-268(b).

(2) A detailed site plan of the overall development which indicates existing and proposed lot lines, buildings and uses, streets and accessways, off-street parking, water management facilities, buffering and open space.

(3) A detailed listing of the section number(s) and the specific regulation(s) of chapter 34, chapter 10 and/or chapter 30, if applicable, from which relief is sought. This information must also be shown on the site plan.

(4) Pertinent calculations which demonstrate that the overall development complies with zoning and development standards.

(5) Letters of no objection from all adjacent property owners, including those which may be separated from the subject property by any right-of-way or easement, or as required by the Director.

(d) Upon completion of the review of documents submitted, the Director may approve the request with or without conditions to ensure that the overall development complies with the development standards.

(e) Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a) of this chapter. If a request for an administrative deviation is denied, or the applicant disapproves of the conditions imposed, the applicant may seek a variance through the normal public hearing process provided under section 34-145

(Ord. No. 94-24, § 15, 8-31-94; Ord. No. 95-07, § 16, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 06-25 , § 2, 11-28-06; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-269—34-300. Reserved.

Editor's note—

Ordinance No. 98-03, § 5, adopted January 13, 1998, repealed § 34-269. Formerly, such section pertained to compliance agreements and derived from Ord. No. 95-07, § 17, 5-17-95.

ARTICLE III. RESERVED

Secs. 34-301—34-340. Reserved.

Secs. 34-301—34-340. Reserved.

ARTICLE IV. PLANNED DEVELOPMENTS

DIVISION 1. - GENERALLY

DIVISION 2. - APPLICATION AND PROCEDURE FOR APPROVAL

DIVISION 3. - DESIGN STANDARDS

DIVISION 4. - RESERVED

DIVISION 1. GENERALLY

Sec. 34-341. Employment of planned development designation. [5]

(a) The Lee Plan requires Developments of County Impact to be developed as planned developments. These Developments of County Impact, defined in subsection (b) of this section, if not already zoned for the use desired, must be rezoned only to the most applicable planned development category. Other proposed developments, regardless of size, may seek a planned development designation where the developer desires and the Division Director determines that it is in the public interest to do so.

Development of private recreational facilities in Southeast Lee County requires private recreational facility planned development (PRFPD) district zoning, which must comply with the special regulations set forth in section 34-941 as well as the other requirements set forth in this article.

Development of Mixed-Use Communities in Southeast Lee County that do not qualify for administrative approval in accordance with chapter 32, article IV, may request compact planned development (Compact PD) district zoning as set forth in chapter 32.*

Development of a mining excavation requires mining excavation planned development (MEPD) district zoning, which must comply with the process and regulations set forth in chapter 12.

(b) The Lee Plan provides that certain owner-initiated rezonings and special exceptions meeting specified thresholds will be reviewed as Developments of County Impact. The Development of County Impact thresholds are further categorized as major or minor planned developments as follows:

(1) *Major planned developments.*

a. A PRFPD or Compact PD in Southeast Lee County;

b. A residential development of 500 or more dwelling units;

c. A commercial development or activity on 15 or more acres or that includes 150,000 square feet or more of floor area;

d. An industrial development or activity on 20 or more acres or that includes 200,000 square feet or more of floor area;

e. Any mining excavation;

f. Non-commercial schools (except Lee County School District and religious facility schools) proposed to have over 100 students;

g. Any cultural facility (section 34-622(c)(10)), recreational facility, commercial (section 34-622(c)(38)), or park, group II (34-622(c)(32)) on ten or more acres of land;

h. A health care facility, Group IV (hospital) that is not a part of a commercial or community facility planned development;

i Residential uses within the Mixed Use interchange area as specified by Lee Plan Policy 1.3.6;

j. Any combination (mixed use) of the above-listed land uses where the sum of the percentages of each applicable individual threshold is equal to or greater than:

1. 100 percent for two land uses; or

2. 125 percent for three or more land uses;

k. Any development of regional impact not included in subsections (b)(1)(b) through (j) of this section;

l. Any development which includes the above ground storage of more than 40,000 gallons of petroleum;

m. Any development proposed under the New Community land use element of the Lee Plan;

n. Any proposed hotel/motel that will contain more than 200 rental units.

(2) *Minor planned developments.*

a. Any proposed planned development that does not meet or exceed the thresholds in section 34-341(b)(1) for a major planned development.

b. Any proposed industrial development on less than 20 acres or with less than 200,000 square feet of floor area, which requires a rezoning, and which meets or exceeds one or more of the following criteria, must be rezoned only to an industrial planned development:

1. Any development involving the manufacturing of the following products, regardless of the land area involved:

(a) Chemicals and allied products groups I and II (excluding cosmetics, perfumes, etc.) (section 34-622(c)(6)).

(b) Fabricated metal products group I (section 34-622(c)(14)).

(c) Lumber and wood products groups V and VI (section 34-622(c)(26)).

(d) Paper and allied products group I (section 34-622(c)(31)).

(e) Petroleum manufacturing (section 34-622(c)(34)).

(f) Primary metal industries (section 34-622(c)(35)).

(g) Research and development laboratories group III (section 34-622(c)(41)).

(h) Rubber and plastic products group I (section 34-622(c)(44)).

(i) Stone, clay, glass and concrete products group IV (section 34-622(c)(48)).

(j) Textile mill products group III (section 34-622(c)(50)).

2. Refuse and trash dumps.

3. Sanitary landfills.

4. Salvage yards or junkyards.

5. Auto wrecking yards.
6. Resource recovery facilities to produce energy.
7. Impound yards.

c. An existing development, such as a mobile home development, that has already been developed but does not conform to the regulations for a conventional district, that requests a rezoning to a planned development classification, will be reviewed in the same manner as a minor planned development except that a traffic impact statement will not be required.

d. Amendments to an approved major or minor master concept plan or its attendant documentation will be treated procedurally as minor planned developments. These applications will require only as much information, as deemed necessary by the Director, needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in development, environment and background (surrounding land use, traffic volumes, water, wastewater and other service availability, etc.), that have occurred since the original application.

(c) *Determination of Development of County Impact status.*

(1) Any owner wishing a determination of the Development of County Impact status of his property may apply to the Director and pay a fee to cover administrative costs.

(2) Any development which is less than 80 percent of the thresholds listed in section 34-341(b)(1) is conclusively presumed not to be a Development of County Impact. Any development which is more than 80 percent but less than 100 percent of the appropriate threshold is rebuttably presumed not to be a Development of County Impact. Any development which is more than 100 percent but less than 120 percent of any threshold is rebuttably presumed to be a Development of County Impact. Any development which exceeds 120 percent of any threshold is conclusively presumed to be a Development of County Impact.

(3) The Director will consider the following items in determining the Development of County Impact status of a proposed rezoning or special exception:

a. The compatibility of the proposed zoning district with neighboring zoning districts and uses;

b. The impact of the proposed zoning change on existing and proposed transportation facilities;

c. The impact of the proposed zoning change on other urban services, as defined in the Lee Plan; and

d. The impact of the proposed zoning change on environmentally critical areas.

(4) For the purpose of determining whether a parcel is a Development of County Impact, all abutting parcels which are in common ownership or control may be identified and taken into account in both determining Development of County Impact status and estimating the impacts of any proposed development.

(5) The Director's decision is an administrative decision which may be appealed in accordance with the procedure in this article.

(Zoning Ord. 1993, §§ 800.02(B)1, 804.01; Ord. No. 94-24, § 17, 8-31-94; Ord. No. 95-07, § 18, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 10-25 , § 4, 6-8-10; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Secs. 34-342—34-370. Reserved.

FOOTNOTE(S):

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Note: [The third paragraph in § 34-341(a), as adopted in LCO 10-25, will have no force or effect until the date the Lee Plan amendments adopted by ordinances 10-19 and 10-21 become effective in accordance with F.S. ch. 163.] (Back)

DIVISION 2. APPLICATION AND PROCEDURE FOR APPROVAL

Sec. 34-371. Generally.

All applications for planned development zoning or master concept plan approval must follow the requirements detailed in sections 34-201, 34-202 and 34-203 and the requirements set out in this division.

(Zoning Ord. 1993, § 804.03; Ord. No. 94-24, § 17, 8-31-94; Ord. No. 98-11, § 5, 6-23-98)

Sec. 34-372. Preapplication conference.

The applicant may initiate the planned development process by requesting an optional preapplication conference with the Department staff. In this request, the applicant shall provide a description of the property in question, the location of the property, the existing use, special features and the use proposed. Through this meeting, the applicant may avail himself of staff in order to be oriented to the planned development process, to determine what application materials are required (if a minor planned

development), and to be advised of the impacts of the Lee Plan, surrounding development and zoning, and other public policy on the development proposal.

A mandatory preapplication conference is required in accord with 12-108 for mine excavation planned development applications.

(Zoning Ord. 1993, § 804.03(B); Ord. No. 08-21 , § 3, 9-9-08)

Sec. 34-373. Application.

(a) *Minimum required information for planned development zoning applications.* Rezoning applications for all planned developments, with the sole exception of mine excavation planned developments (MEPD) under chapter 12, must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. A MEPD application must be submitted in accord with section 12-110 and is subject to the sufficiency timing provisions outlined in section 34-372(d).

Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

(1) *General application.* A general application for public hearing in accordance with the requirements set forth in sections 34-201, 34-202 and 34-203. Two or more planned development categories may be combined in one application under the following circumstances:

a. The subject property is divided into development areas, each of which corresponds to a different planned development category; and

b. Each development area is identified by a separate sealed legal description and sketch of description.

(2) *Filing fee.* The filing fee in accordance with the duly adopted fee schedule. (See section 34-53.)

(3) *Legal description and accompanying sketch.* A legal description and sketch meeting the requirements of section 34-202(a) is required. If the proposed planned development will encompass more than one zoning district (i.e. RPD/CPD), then a legal description and sketch for each separate zoning district will be required in addition to the legal description and accompanying sketch of the overall planned development boundary. The boundary survey may not be used to satisfy this requirement.

(4) *Description of existing conditions.* The application for a planned development must be accompanied by:

a. A boundary survey, prepared and sealed by a professional surveyor, that meets the minimum technical standards set forth in chapter 5J-17, F.A.C. The boundary survey must identify and depict all easements effecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection. On applications seeking to amend an approved planned development, the Director may waive certain requirements for the survey on a case by case basis through the formal request process set forth in section 34-202(a).

b. Maps drawn at the same scale as the master concept plan marked or overprinted to show:

i. Soils, classified in accordance with the USDA/SCS System;

ii. Vegetation and ground cover, classified in accordance with the Florida Land Use and Cover Classification system;

iii. Significant areas of rare and unique upland habitats as defined in the Lee Plan; and

iv. A County topographic map (required if available) or a USGS quadrangle map showing the subject property; and

v. Existing and historic flow-ways.

c. A Florida Land Use, Cover and Classification System (FLUCCS) map at the same scale as the Master Concept Plan, prepared by an environmental consultant. The FLUCCS map must clearly delineate any federal and state jurisdictional wetlands and other surface waters, including the total acreage of federal and state wetlands.

d. The nature and location of any known or recorded historical or archaeological sites as listed on the Florida Master Site File or the Lee County Historical Site Survey, and the location of any part of the property that is located within level 1 or level 2 zones of archaeological sensitivity pursuant to chapter 22. The plan must show the outline of historic buildings and approximate extent of archaeological sites. A description of proposed improvements that may impact archaeological or historical resources must also be provided.

e. Additional submittal requirements for PRFPD district applications are set forth in section 34-941

f. Additional submittal requirements for Compact PD district applications are set forth in section 34-931 et seq. and chapter 32

(5) A single narrative explaining the nature of the request and how the property qualifies for the rezoning to a planned development. This narrative should include how the proposed development complies with the Lee Plan and the Land Development Code. This narrative may be utilized by the Board of County Commissioners, Hearing Examiner and staff in establishing a factual basis for the granting or denial of the rezoning.

(6) *Master concept plan.* All applications must be accompanied by a graphic illustration (master concept plan) of the proposed development. PRFPDs must comply with section 34-941. Compact PDs must comply with chapter 32

If blasting is proposed to be conducted on the property in order to excavate lakes or other site elements, the location of all proposed blasting must be shown. See section 34-202(b)(6) for other required information.

Copies of the master concept plan must be provided in two sizes, 24 inches by 36 inches, and 11 inches by 17 inches in size. Both sizes of the master concept plan must be clearly legible, depict the correct scale for the size drawing and be drawn at a scale sufficient to adequately show and identify the following information:

a. The location and explanation of all existing easements, whether or not those easements are recorded. If an easement is based upon a recorded document, the official records book reference must be stated.

b. The location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development. If a subdivision, the plan must also show the general location of all proposed internal street rights-of-way or easements and the general location of all points of vehicular ingress and egress from the proposed internal rights-of-way or easements into multiple-family, commercial, or industrial use lots.

c. Where the subject property will be divided into lots or parcels, the plan must indicate the general location, configuration, and approximate dimensions of the lots or parcels (including outparcels) as well as lot coverage, and the minimum proposed setbacks for principal structures. The proposed use of the lots or parcels must be keyed to the list of proposed uses submitted with the application. If the property development regulations for a specific zoning district will be used, then reference to the specific district will be sufficient.

d. Individual development areas (i.e. residential, retail, office, manufacturing, mixed use-listed, etc.) with detail showing the boundary of each development area within which buildings, parking or other uses will be located.

e. The general location of service areas for delivery of goods or services must be shown for all developments that are not residential subdivisions.

f. The general location of proposed parks and recreation areas and facilities, as well as indigenous areas and flow-ways to be preserved, restored or created.

g. Open space design plan delineating the indigenous preserves and/or native tree preservation areas as required per LDC section 10-415(b). Adjustments and field corrections to the plan can be done administratively at the time of development order review provided the minimum commitments made as part of zoning approval are maintained. No changes to a indigenous or native tree preserve area can be made administratively that would negatively effect screening or buffering to an adjacent property.

h. The percentage of open space, unless the proposed development consists solely of conventional single-family dwelling units on lots of no less than 6,500 square feet. For commercial and industrial developments, the percentage of open space within each lot or outparcel must be as set forth in section 34-414(c);

i. The minimum width and composition of all proposed buffers along the perimeter of the subject property, as well as between the individual uses, if the types of proposed uses require buffer separations. References to types of buffers as described in chapter 10 are acceptable;

j. Proposed access and facilities for public transit in accordance with sections 34-411(e) and 10-442

k. The general location of excavations for on-site fill and wet retention. If the applicant proposes to remove excavated material from the property a planned development for mining and a general mining permit may be required.

If the development is located within a floodplain or flow way, it is the applicant's responsibility at the time of local development order or district permitting to compensate for impacts to flood storage capacity or flow ways due to filling of the site.

l. The location of any requested deviations, keyed to the schedule of deviations, including drawings demonstrating the effect the requested deviations will have on the site plan.

(7) *Traffic impact statement.* A traffic impact statement in a format and to the degree of detail required by a form furnished by the County and in conformance with the adopted County Administrative Code. Upon written request, the Director may waive this requirement for minor planned developments.

(8) A schedule of uses keyed to the master concept plan as well as a summary for the entire property including the following information:

a. The types of uses proposed for the entire site. For projects with residential uses, the summary must include the types of proposed dwelling units;

b. The number of units for each proposed use:

i. For residential uses provide the maximum number of dwelling units by type.

ii. For a hotel or motel provide the number of rooms.

iii. For the following facilities provide the number of beds and unit types: health care, social service, assisted living, continuing care, and other "group quarters".

iv. For commercial, office, retail, and industrial uses provide the type(s) and the total floor area of each type.

c. The proposed percentage of open space for the entire site.

d. The maximum height, in feet, in each individual development area. If parking under buildings is proposed, it must be indicated and included in the total maximum height of the building.

(9) *Deviations.* A schedule of deviations and a written justification for each deviation requested as part of the master concept plan accompanied by documentation including sample detail drawings illustrating how each deviation would enhance the achievement of the objectives of the planned development and will not cause a detriment to public interests. The location of each requested deviation must be indicated on the master concept plan, or, for Compact PDs, on the regulating plan.

(b) *Additional required information for all major planned development zoning.* PRFPDs must also comply with the additional requirements contained in section 34-941. Compact PDs must also comply with the additional requirements contained in chapter 32

(1) A written description of the surface water management plan that includes:

a. The runoff characteristics of the property in its existing state;

b. In general terms, the drainage concept proposed, including the outfall to canals or natural water bodies including how drainage flow from adjacent properties will be maintained;

c. The retention features (including existing natural features) that will be incorporated into the drainage system and the legal mechanism which will guarantee their maintenance;

d. How existing natural features will be preserved. Include an estimate of the ranges of existing and post development water table elevations, where appropriate;

e. If the property is subject to seasonal inundation or subject to inundation by a stream swollen by the rains of a 100-year storm event, indicate the measures that will be taken to mitigate the effects of expectable flooding.

(2) For large developments (defined in Chapter 10-1), a protected species survey as required by section 10-473

(3) If the development is to be constructed in phases or if the traffic impact statement utilized phasing, then a description of the phasing program must be submitted.

(4) *Developments of regional impact.* The contents of a complete and sufficient application for development approval (ADA) per F.S. ch. 380 may substitute for required submittals to the extent they duplicate or exceed the submittal requirements of this chapter.

(c) *Amendments to built planned developments (PD).* Any part or all of a planned development that is built may be the subject of an application for a variance or other approval covered by this chapter wherein the subject property is the only part of the original planned development that will be affected by the requested approval. The application may include a legal description and sketch of the portion of the overall planned development that will be directly affected by the rezoning request. The application must include a legal description and sketch of the entire planned development boundary.

If the subject property meets the threshold for a Development of County Impact, it will be reviewed in accordance with the provisions in this chapter that apply to Developments of County Impact. If the subject property is not a Development of County Impact, it will be reviewed in accordance with the provisions in this chapter that apply to conventional zoning districts. In either case, the applicant will be the owner of the subject property and the consent of the owners of the remainder of the original planned development will be unnecessary. However, these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property.

For purposes of this subsection, the term "built" means that all of the roads, utilities, buffering, open space, surface water management features and structures, common space, common amenities, common landscaping, gatehouses, entrance signs, entrance ways and other similar items identified as part of the final approved master concept plan have been constructed and acknowledged by the County as complete.

In the case of residential planned developments or mixed developments that include residential structures, the term "built" does not mean that all residential structures must have been constructed on individual platted lots.

(d) *Sufficiency.*

(1) Upon initial submission of application information for applications for planned developments, the County will have up to 20 business days to review the application to determine if the required materials, in the required form, have been included in the application or resubmission.

(2) If the required materials have been properly submitted, the application will be found sufficient for review.

(3) If the required materials have not been properly submitted or resubmitted, the County must provide the applicant a letter with a brief explanation as to why the application is not complete for review and request the necessary additional information within 20 business days of the date the application is initially submitted or additional information is resubmitted.

(4) After notice of insufficiency, the applicant has 60 days to submit supplemental or corrected documents, unless a longer time is agreed to in writing by the Director and the applicant prior to the expiration of the 60 days. If the supplement or corrections are not submitted within the 60 days (or other time period agreed to) the application will be deemed withdrawn.

(5) If the County does not provide the applicant written notice of the insufficiencies within 20 business days of the date the application is initially submitted or additional information resubmitted, the application will be deemed sufficient and ready for substantive review.

(6) Insufficiency issues not raised during the initial sufficiency review may not serve as the basis for a finding of insufficiency during subsequent rounds of sufficiency review. Notwithstanding, this provision is not intended to restrict new insufficiency comments generated from documents or information submitted by the applicant in response to a prior insufficiency comment.

(7) A waiver of the time frames may be voluntarily agreed to by the applicant and the County. The County may request, but not require, a waiver of the time frames by an applicant, except that, with respect to a specific application, a waiver may be required in the case of a declared local, state or federal emergency that directly affects the administration of all permitting activities of the County.

(8) If the applicant has made no less than two bona fide attempts to submit supplemental or corrected documents in response to the County's insufficiency notices and the applicant disputes that additional supplemental documents or information is required, the applicant may submit a written notice seeking to terminate the sufficiency review process. At that time, the County must proceed with its substantive review of the application as it exists on that date. However, if the additional information requested by County Staff is needed to find the application consistent with the Code or Lee Plan, the failure to provide the additional information requested may affect the County's ability to find the application consistent with County regulations. Termination of the sufficiency review process will not terminate the need for the applicant to meet its burden to prove that the application is consistent with County regulations.

(9) Where a proposed planned development is identified by staff as a possible development of regional impact, the applicant will be notified that the application will be deemed sufficient only when accompanied by either a binding letter of interpretation from DCA or a complete and sufficient ADA. Failure by the County to notify the applicant in a timely manner (within 30 days of the application) will nullify any finding of insufficiency based on this requirement. Assuming the application is sufficient in all other respects, staff will commence its review of the planned development. However, there will be no hearing held before the Hearing Examiner until the applicant submits a binding letter of interpretation from DCA or a complete and sufficient ADA.

(Zoning Ord. 1993, § 804.03(C); Ord. No. 93-14, § 5, 4-21-93; Ord. No. 93-24, § 19, 9-15-93; Ord. No. 94-24, § 18, 8-31-94; Ord. No. 95-07, § 19, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 05-29 , § 3, 12-13-05; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-25 , § 4, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-01 , § 6, 2-12-13; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-374. Reserved.

Editor's note—

Ord. No. 03-16, § 6, adopted June 24, 2003, repealed § 34-374, which pertained to covenant of unified control. See the Land Development Code Comparative Table.

Sec. 34-375. Prehearing conference.

Prior to the public hearing by the Hearing Examiner on an application under this division, the Department may schedule and conduct a conference to facilitate a meeting of the applicant and staff persons from all relevant County, state, sub-state regional and federal agencies and special use districts. The purpose of this meeting is to identify, discuss and resolve various issues and to advise the applicant of staff concerns and potential recommendations. The product of this conference will include the staff's recommendations based upon the original or an amended application, and the applicant's written objections, if any.

(Zoning Ord. 1993, § 804.03(D); Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-376. Prehearing stipulation.

(a) If the applicant wishes to enter a stipulation under this division he must file a stipulation setting out the issues on which he and the staff do not agree, with the Hearing Examiner no less than two working days prior to the date of the hearing. The stipulation must be signed by the applicant or his representative and, if there are any disputed issues, by the County Planner responsible for the preparation of the staff report. Neither the staff nor the applicant may alter their positions on issues that were not listed as disputed on the stipulation at the hearing without the consent of the other party or the Hearing Examiner.

(b) The prehearing stipulation will not be construed to limit the issues that may be raised by the Hearing Examiner or members of the general public. Neither the applicant nor the staff will be bound by the terms of the stipulation to the extent that new issues may be raised by the general public or the Hearing Examiner.

(c) If the stipulation is not filed by the date required in subsection (a) of this section, the hearing must be continued unless the Hearing Examiner determines that the absence of the stipulation will not materially impair his abilities to understand the case.

(Zoning Ord. 1993, § 804.03(E); Ord. No. 96-06, § 5, 3-20-96; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-377. Public hearing.

(a) *Hearing before Hearing Examiner.* After the staff prehearing conference required by this division, the application will be scheduled for a public hearing before the Hearing Examiner.

(1) At the public hearing the Hearing Examiner will consider the application in accordance with article II of this chapter.

(2) The recommendation made to the Board of County Commissioners must be supported by formal findings that address the guidelines set forth in section 34-145(d)(3) of this chapter. In addition, the findings must address whether the following criteria can be satisfied:

a. The proposed use or mix of uses is appropriate at the subject location;

b. The recommended conditions to the concept plan and other applicable regulations provide sufficient safeguards to the public interest.

c. The recommended conditions are reasonably related to the impacts on the public's interest created by or expected from the proposed development.

(3) If the Hearing Examiner determines that a recommended condition is insufficient, he may recommend an alternate condition for consideration by the Board of County Commissioners.

(4) If the application includes a schedule of deviations pursuant to section 34-373(a)(9), the Hearing Examiner's recommendation must approve, approve with modification or reject each requested deviation based upon a finding that each item:

a. Enhances the achievement of the objectives of the planned development; and

b. Preserves and promotes the general intent of this chapter to protect the public health, safety and welfare.

If the Hearing Examiner concludes that the application omits necessary deviations, those omitted deviations may be included in the recommendation without an additional hearing.

(5) As a condition of approval of a deviation, the Hearing Examiner may recommend that the applicant receive administrative approval of a more detailed development plan for each affected development area. Applications for administrative approval will be processed as administrative amendments in accordance with section 34-380 of this chapter and may be granted by the Director upon a finding that public health, safety, and welfare will not be adversely affected by the request.

(6) The Hearing Examiner recommendation must consider whether the proposed development intensity is supported by sufficient vehicular access and traffic flow from the County street system. However, the Hearing Examiner may not recommend a condition that appears to guarantee or approve a temporary or permanent median opening, turning movement or traffic control device in order to address any deficiency.

(b) *Hearing before Board of County Commissioners.*

(1) After the Hearing Examiner's hearing, an application for a planned development, together with all attendant information, staff reports and the Hearing Examiner minutes and resolution of recommendation, will be forwarded to the Board of County Commissioners. The Board will consider the application in public hearing in accordance with article II of this chapter. After reviewing all the identified information, the Board of County Commissioners may either:

a. Continue further consideration until additional information is provided by applicant or staff or until the applicant makes changes in the application, subject to re-review by staff and the Hearing Examiner as required; or

b. Formally approve, approve with modification, or deny the application.

If the Board of County Commissioners denies the application without prejudice, it may remand the proposal to staff with directions to bring the application back to the Hearing Examiner once the application is amended. If new or additional information, not previously provided to staff or the Hearing Examiner is supplied by the applicant subsequent to the Hearing Examiner hearing the Board of County Commissioners may remand the application to the Hearing Examiner for rehearing.

(2) The decision of the Board of County Commissioners must be supported by a formal finding, that, in addition to the guidelines set forth in article II of this chapter, the criteria set forth in subsection (a)(2) of this section have or have not been satisfied.

(3) In addition to adopting a master concept plan for the planned development, the Board of County Commissioners may adopt any special conditions necessary to address unique aspects of the subject property in the interest of protecting the public health, safety and welfare. If any recommended special condition is found to be insufficient, the Board of County Commissioners may substitute its own language for such special condition in the final resolution.

(4) If a schedule of deviations is a part of the planned development application, the Board of County Commissioners may approve, approve with modification, or reject the entire schedule or specific items based upon their finding that each item:

a. Enhances the achievement of the objectives of the planned development; and

b. Preserves and promotes the general intent of this chapter to protect the public health, safety and welfare.

(5) The Board of County Commissioners may require, as a condition of approval of the deviation, that the applicant receive administrative approval of a more specific development plan for each affected development area or parcel. Applications for administrative approval will be processed as administrative amendments in accordance with section 34-380 of this chapter and may be granted by the Director only upon a finding that public health, safety, and welfare will not be adversely affected by the request.

(6) If the Board of County Commissioners denies or modifies the requested use(s), deviation(s), or other information shown on the master concept plan, a revised master concept plan must be submitted to the Director reflecting the substance of the approved resolution prior to execution of the resolution. Legible copies of the revised master concept plan must be provided in two sizes, 24 inches by 36 inches, and 11 inches by 17 inches in size.

(7) No development order(s) may be issued until the approved resolution has been signed by the chairman.

(8) An application remanded for further consideration must be brought to hearing before the Hearing Examiner within six months of the date the remand order is rendered. If the application is not brought forward as ordered within six months, it will be deemed withdrawn. Thereafter, the applicant will be required to file a new application for consideration by the Hearing Examiner and the Board.

(Zoning Ord. 1993, § 804.03(F); Ord. No. 94-24, § 19, 8-31-94; Ord. No. 95-07, § 20, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-378. Effect of planned development zoning.

(a) *Compliance with applicable regulations.* After the adoption of the master concept plan and the conditions and auxiliary documentation that govern it, any and all development and subsequent use of land, water and structures within the planned development must be in compliance with the following, in order of precedence:

(1) The Lee Plan.

(2) Divisions 1, 2 and 3 of this article.

(3) The master concept plan and attendant conditions and auxiliary documentation.

(4) Applicable County development regulations in force at the time of submission of the application for a development order.

(5) The general provisions of this chapter, unless otherwise excepted by an approved schedule of deviations.

(b) *Applicability of development regulations.* The master concept plan (see section 34-373(a)(6)) is conceptual only, and development pursuant to the master concept plan is subject to all development regulations established to protect health, safety and welfare that are in force at the time of submission of the application for a development order. This section (section 34-378) must be interpreted and applied such that no approved use will be vested as to density or intensity unless the proposed density or intensity is specifically reviewed and approved during the planned development process.

(c) *Recording of notice.* The Department must record a notice of master concept plan approval in the official records of the County. The notice should include a statement which explains that the master concept plan approval is an encumbrance on the real estate described in the plan.

(d) *Prohibitions.*

(1) The introduction of a use of land or water not provided for on the master concept plan or attendant documentation thereto.

(2) Creation of a development parcel or outparcel not specified on the master concept plan.

(3) No development parcel or outparcel may be created that is not of sufficient size and configuration to support the principal use proposed together with all accessory land and water uses, such as open space, parking, surface water management and the like, or that does not have permanent and irrevocable rights to such space or use on adjacent and abutting property.

(e) The terms and conditions of the zoning approval (other than the master concept plan as set forth in section 34-381) run with the land and remain effective in perpetuity or until a new zoning action is approved by the Board of County Commissioners. All developments must remain in compliance with the terms and conditions of the zoning approval.

(f) If the County discovers noncompliance with the regulations or the master concept plan and its attachments, the County may withhold any permit, certificate or license to construct, occupy or use any part of the planned development. This will not be construed to injure the rights of tenants of previously completed and properly occupied phases

(g) Access points (e.g. driveway) directly onto the County street system must be in substantial compliance with the approved MCP. Turning movements other than right-in right-out at approved locations shown on the MCP, median openings and traffic control devices depicted on a MCP are not guaranteed or vested.

Approval for construction of access points, median openings, turning movements and traffic control devices (e.g. traffic lights) is reserved to the County. County approval will be based upon facts and circumstances applicable to the request at the time the application for development or permit approval is submitted.

(Zoning Ord. 1993, § 804.03(G); Ord. No. 96-06, § 5, 3-20-96; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 03-16, § 6, 6-24-03)

Sec. 34-379. Binding nature of approval of master concept plan.

All terms, conditions, safeguards and stipulations made at the time of the approval of a master concept plan are binding upon the applicant or any successor in title or interest to all or part of the planned development. Departure from the approved plans or failure to comply with any requirement, condition or safeguard constitutes a violation of this chapter.

(Zoning Ord. 1993, § 804.03(H); Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-380. Amendments to approved master concept plan.

(a) Amendments to an approved master concept plan or its attendant documentation may be requested at any time during the development of or useful life of a planned development.

(b) The Director may approve any change to the development that does not increase height, density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area). The Director may not approve a change that will:

(1) Result in the substantial underutilization of public resources and public infrastructure committed to the support of the development;

(2) Result in a reduction of total open space provided on the master concept plan by more than ten percent or that would decrease the amount of indigenous native vegetation or open space required by the Code;

(3) Decrease preservation areas. Changes to buffer or landscaping areas are permitted but must provide equivalent or better (by comparison with the approved Master concept plan) landscaping or buffering; or

(4) Adversely impact surrounding land uses.

If the County determines that an approved administrative amendment was based on inaccurate or misleading information or if the approval did not comply with this Code when the decision was rendered, then, at any time, the Director may issue a modified approval that complies with the Code or revoke the approved administrative amendment.

If the approval is revoked, the applicant may acquire the necessary approvals by filing an application for public hearing in accordance with section 34-373 of this chapter. Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a) of this chapter.

(c) If a proposed amendment to an approved planned development would, if taken by itself, constitute a major planned development (Development of County Impact - see section 34-341(b)(1)) then the application to amend must proceed as a new and separate major planned development.

(d) All other requests for amendments to a master concept plan or its auxiliary documentation will be treated procedurally as minor planned developments, but with application information and materials specified by section 34-373(a).

(e) Notice of an amendment to a master concept plan must be recorded in the same manner as the approved master concept plan itself.

(f) An updated master concept plan of the entire planned development boundary must be submitted for attachment to the resolution adopting the amendment. This is required whether or not the amendment will affect the entire planned development project or just one parcel.

(Zoning Ord. 1993, § 804.03(I); Ord. No. 96-06, § 5, 3-20-96; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-01 , § 6, 2-12-13; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-381. Duration of rights conferred by an approved planned development.

Development rights conferred by an approved planned development, including Zoning Resolution and Master Concept Plan, will remain valid until vacated by operation of Florida law or in accordance with Chapter XIII, (Procedures and Administration), of the Lee Plan, as amended. The duration of approved planned developments issued for mining excavation are subject to Chapter 12. Planned development approvals issued for mining excavation before September 1, 2008, are subject to sections 12-109 and 12-121.

(Zoning Ord. 1993, § 804.03(J); Ord. No. 94-24, § 23, 8-31-94; Ord. No. 95-07, § 21, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-28, § 5, 12-8-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-01 , § 6, 2-12-13)

Editor's note—

The amendment to the duration of approved planned developments applies retroactively to all master concept plans. See Ord. No. 13-01, § 10, adopted Feb. 12, 2013.

Secs. 34-382—34-410. Reserved.

DIVISION 3. DESIGN STANDARDS

Sec. 34-411. General standards.

(a) All planned developments must be consistent with the provisions of the Lee Plan.

(b) Except where specifically suspended or preempted by alternative regulations in this article, or by special conditions adopted to the master concept plan, all general provisions of this chapter apply to all planned developments. All planned developments must be designed and constructed in accordance with the provisions of all applicable County development regulations in force at that time. Deviations from the general provisions of this chapter, as well as from any separate land development regulation or code, may be permitted if requested as part of the application for a planned development in accordance with section 34-373(a)(9) and approved by the Board of County Commissioners based on the findings established in section 34-377(b)(4). Amendments to approved master concept plans may be reviewed pursuant to section 34-380

(c) The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties and the public interest generally, and must be of such size, configuration and dimension as to adequately accommodate the proposed structures, all required open space, including private recreational facilities and parkland, bikeways,

pedestrian ways, buffers, parking, access, on-site utilities, including wet or dry runoff retention, and reservations of environmentally sensitive land or water.

(d) The tract or parcel shall have access to existing or proposed roads:

(1) In accordance with chapter 10 and as specified in the Lee Plan transportation element;

(2) That have either sufficient existing capacity or the potential for expanded capacity to accommodate both the traffic generated by the proposed land use and that traffic expected from the background (through traffic plus that generated by surrounding land uses) at a level of service D or better on an annual average basis and level of service E or better during the peak season, except where higher levels of service on specific roads have been established in the Lee Plan; and

(3) That provide ingress and egress without requiring site-related industrial traffic to move through predominantly residential areas.

(e) If within the Lee Tran public transit service area, the development shall be designed to facilitate the use of the transit system.

(f) Development and subsequent use of the planned development shall not create or increase hazards to persons or property, whether on or off the site, by increasing the probability or degree of flood, erosion or other danger, nor shall it impose a nuisance on surrounding land uses or the public's interest generally through emissions of noise, glare, dust, odor, air or water pollutants.

(g) Every effort shall be made in the planning, design and execution of a planned development to protect, preserve or to not unnecessarily destroy or alter natural, historic or archaeological features of the site, particularly mature native trees and other threatened or endangered native vegetation. Alteration of the vegetation or topography that unnecessarily disrupts the surface water or groundwater hydrology, increases erosion of the land, or destroys significant wildlife habitat is prohibited. That habitat is significant that is critical for the survival of rare, threatened or endangered species of flora or fauna.

(h) A fundamental principle of planned development design is the creative use of the open space requirement to produce an architecturally integrated human environment. This shall be coordinated with the achievement of other goals, e.g., the preservation or conservation of environmentally sensitive land and waters or archaeological sites.

(i) Site planning and design shall minimize any negative impacts of the planned development on surrounding land and land uses.

(j) Where a proposed planned development is surrounded by existing development or land use with which it is compatible and of an equivalent intensity of use, the design emphasis shall be on the integration of this development with the existing development, in a manner consistent with current regulation.

(k) Where the proposed planned development is surrounded by existing development or land use with which it is not compatible or which is of a significant higher or lower intensity of use (plus or minus ten percent of the gross floor area per acre if a commercial or industrial land use, or plus or minus 20 percent of the residential density), or is surrounded by undeveloped land or water, the design emphasis will be to separate and mutually protect the planned development and its environs.

(l) In large residential or commercial planned developments, the site planner is encouraged to create subunits, neighborhoods or internal communities which promote pedestrian activity and community interaction.

(m) In order to enhance the viability and value of the resulting development, the designer shall ensure the internal buffering and separation of potentially conflicting uses within the planned development.

(n) Density or type of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter, or,

conversely, to permit the concentration of intensity where it is desirable, e.g., on a major road frontage or at an intersection.

(o) Minimum parking and loading requirements are set forth in article VII, divisions 25 and 26, of this chapter. Where land uses are generators of occasional peak demand for parking space, a portion of the required parking may be pervious or semi-pervious surfaces, subject to the condition that the parking area is constructed and maintained so as to prevent erosion of soil. In all cases, sufficient parking must be provided to prevent the spilling over of parking demand onto adjacent properties or rights-of-way at times of peak demand.

(p) Internal consistency through sign control, architectural controls, uniform planting schedules and other similar controls is encouraged.

(Zoning Ord. 1993, § 804.02(A); Ord. No. 95-12, § 8, 7-12-95; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-412. Reserved.

Editor's note—

Ord. No. 13-10, § 10, adopted May 28, 2013, repealed § 34-412 which pertained to deviations from general zoning regulations and derived from § 804.02(E) of the 1993 Zoning Ordinance, and Ord. No. 94-24, § 20, adopted Aug. 31, 1994.

Sec. 34-413. Density or intensity of use.

Density or intensity of use permitted in any planned development shall be determined on a case-by-case basis in accordance with the following:

(1) The range of density or the uses permitted or encouraged under the Lee Plan at that location;

(2) The availability of adequate capacity of all public facilities and services (in order of precedence, roads, water, sewer, surface water management, public safety, schools and other public services);

(3) The level of public services to be provided by the development; and

(4) The nature of and the density and intensity of existing development surrounding the project.

In no case, however, shall the density of a planned development be permitted to exceed six units per acre in areas designated as rural or open lands by the Lee Plan.

(Zoning Ord. 1993, § 804.02(B))

Sec. 34-414. Open space.

(a) For the purpose of calculating requirements for planned developments, the term "open space" is defined as follows:

(1) Open space has the meaning given such term in chapter 10

(2) Common open space means open space that is physically accessible to all residents of the development.

(3) Private open space means open space that is physically separated from the common open space and is accessible primarily from a building or unit to which it is appurtenant.

(b) Open space should be reasonably accessible to all dwelling units.

(c) Each lot, tract or outparcel must meet or exceed the minimum open space percentage and size requirements of chapter 10. The minimum amount of open space for the total development area may be no less than the minimum percentage required in chapter 10 for large projects, including indigenous vegetation preservation. A request may be made to assign minimum open space percentages to individual lots, tracts or outparcels that are different than those required by the chapter 10, provided that:

(1) The sum of open space allocated to the individual lots, tracts, or outparcels may be no less than the minimum percentage required in chapter 10 for the entire development area, including indigenous vegetation preservation.

(2) An open space table must be inserted as part of the master concept plan or mine site plan set that indicates the minimum amount of open space which each lot, tract or outparcel will provide.

(3) Open space areas must meet at a minimum the dimensional size requirements for open space as set forth for small or large projects, as applicable, in chapter 10

(4) No lot, tract or outparcel may provide less than ten percent open space.

All such requests must be approved by the Board of County Commissioners as part of the planned development rezoning.

(d) Unimproved open space, e.g., reserved conservation or preservation areas such as wetlands (see the County comprehensive plan adopted by Ordinance No. 89-02, as amended, or as further amended, renumbered or replaced), must be committed at the completion of the first phase.

(e) With respect to design standards applicable to mine excavation planned developments, the standards set forth in chapter 12 control.

(Zoning Ord. 1993, § 804.02(C); Ord. No. 96-17, § 5, 9-18-96; Ord. No. 08-21 , § 3, 9-9-08)

Sec. 34-415. Provision of public facilities and services.

(a) If, at the time of rezoning or final plan review, a proposed planned development is found to require the creation, enlargement or extension of any road or street, any public utility system or other public service provision:

(1) Notwithstanding concept plan approval, no permits for occupancy or use of the development, or phase thereof, shall be issued until such additional infrastructure is in place, or the service is available;

(2) The developer shall make provisions acceptable to the appropriate agency, utility or other service provider for offsetting any incremental increase in net cost of or premature and unprogrammed commitment of capital necessitated by the act or timing of the development; or

(3) The developer shall provide the necessary capital facilities and services in such a manner as to ensure their continuous operation and maintenance for the near and long term, in accordance with the standards set by the appropriate local, regional, state and federal agencies.

(b) The requirements set forth in subsection (a) of this section shall be subject to credits or additional conditions as specified in other County ordinances.

(c) Each and every planned development approved after, December 3, 1990 and all previous planned developments with resolutions containing a condition requiring payment of road impact fees, are subject to the following standard: If chapter 2, article VI, division 2, pertaining to road impact fees, is ever repealed or rescinded or otherwise becomes of no force and effect, the developer or property owner or successor of the developer or property owner must pay an amount of road impact fees equivalent to that required by chapter 2, article VI, division 2, or the specific amount of mitigation

required by the resolution, or provide alternative mitigation acceptable to the Director. The amount of the fee will be determined as of the date chapter 2, article VI, division 2, is repealed or rescinded or otherwise becomes of no force and effect.

(Zoning Ord. 1993, § 804.02(D); Ord. No. 00-14, § 5, 6-27-00)

Secs. 34-416—34-440. Reserved.

DIVISION 4. RESERVED [6]

Secs. 34-441—34-490. Reserved.

Secs. 34-441—34-490. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 02-20, § 5, adopted June 25, 2002, repealed Div. 4, §§ 34-441, 34-442, which pertained to residential planned developments in rural or outer islands. See the Land Development Code Comparative Table. (Back)

ARTICLE V. COMPREHENSIVE PLANNING; THE LEE PLAN [7]

Sec. 34-491. The Lee Plan.

Secs. 34-492—34-610. Reserved.

Sec. 34-491. The Lee Plan.

(a) The Lee Plan is the document adopted by the Lee County Board of County Commissioners in accordance with F.S. ch. 163 to guide and regulate all land development activities within Lee County. All development orders (including rezonings), as defined in F.S. § 163.3164(7) shall be consistent with the goals, objectives, polices and standards in the Lee Plan. Where there are apparent conflicts between the Lee Plan and any regulations in the chapter, the Lee Plan will prevail.

(b) The Lee Plan contains a future land use map which divides the County into future urban, nonurban, and environmentally sensitive areas. All development must be consistent with the future land use map, the definitions of the land use categories in the text of the plan, and the remainder of the text of the Lee Plan.

(c) This chapter includes a list of zoning districts. Some of these zoning districts permit uses, densities, or intensities that are not permitted in particular future land use map categories. Property may not be

rezoned to a district that is inconsistent with the applicable future land use map category or with the remainder of the text of the Lee Plan.

(Ord. No. 94-24, § 21, 8-31-94)

Secs. 34-492—34-610. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 94-24, § 21, adopted Aug. 31, 1994, repealed former art. V, §§ 34-491—34-494, which pertained to similar subject matter, and added a new art. V, § 34-491, to read as herein set out. (Back)

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 34-611. Districts established.

In order to classify, regulate and restrict the location of buildings erected or structurally altered for specific uses, to regulate the use of land, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and determine the area of yards and other open space about buildings, to regulate the intensity of land use and to promote the orderly growth of the County, in compliance with the goals, objectives and policies set forth in the Lee Plan, the unincorporated area is divided into zoning districts as set forth in this article and chapter 12.

(Ord. No. 93-24, § 7(400.01), 9-15-93; Ord. No. 08-21 , § 3, 9-9-08)

Sec. 34-612. Types and general purpose of districts.

There are two basic types of zoning districts provided for in this article: conventional zoning districts and planned development districts. The general purpose of both types of zoning districts is to implement the goals, objectives and policies of the Lee Plan, as well as to provide protection to the public health, safety and welfare through the regulation of land use.

(1) *Conventional districts.* Conventional zoning districts are districts within the unincorporated areas of the County within which land use is controlled through the regulation of the height and bulk of buildings and structures, the minimum area and dimensions of lots, the percentage of lot coverage, minimum open space and yard areas, through the use of setback requirements, the density of population, and the type and intensity of use of the land and buildings. Use and development regulations for the conventional districts are provided in divisions 2 through 8 of this article.

(2) *PD, planned development districts.* The purpose and intent of the various planned development districts is to further implement the goals, objectives and policies of the Lee Plan while providing some degree of flexibility in planning and designing developments by:

a. Facilitating state of the art site planning in order to improve the quality of the built environment and to ensure the most economical use of land and public resources;

b. Stimulating, where appropriate, the integration of new development with surrounding land uses, providing for consistency and visual harmony through various techniques, including screening and buffering, sign control, architectural controls and landscape design;

c. Encouraging multiple or mixed use development strategies, including the use of several housing types, the provision of several uses in combination such as residential and neighborhood commercial, office and light industry, and other analogous combinations;

d. Promoting improved and unifying design techniques that reduce dependence on vehicular movement within the development, encourage the use of joint parking and loading facilities, provide for joint access, and generally maintain adequate service and facilities while avoiding negative impacts on surrounding land use and traffic circulation;

e. Encouraging patterns of land use that support more economical provision of infrastructure;

f. Providing a mechanism by which the preservation or conservation of historic or natural resources and environmental amenities, including open space, may be ensured;

g. Providing a mechanism for offsetting any increased cost of the premature commitment of capital by any public utility or service provider through developer donations and dedications of capital, through private provisions and operation of services and facilities, or through a system of impact fees;

h. Providing a process and record on which developers, public officials, the general public and the consumers of development may rely; and

i. Providing for the protection and preservation of historic resources through reuse, sensitive adaptive use, compatible design and rehabilitation.

Use and development regulations for planned development districts are provided in division 9 of this article.

(Ord. No. 93-24, § 7(400.02), 9-15-93)

Sec. 34-613. Zoning maps.

(1) *Public availability.* The official and current zoning maps are part of the public records. The Department of Community Development will retain a copy of the these zoning maps consistent with statutory record-keeping requirements.

(2) *Unauthorized changes to zoning maps.* No one may acquire any interest or right in property or personalty from an unauthorized change in the official zoning map.

(3) *Vested rights.* There is no right to rely on either the official or current zoning maps to vest development or private rights. Staff members and members of the public must consult the pertinent zoning resolutions, Hearing Examiner decisions for special exceptions or variances, and administrative approvals or deviations to determine the parameters and conditions affecting the subject property.

(4) Both the official zoning map and the current zoning map are a part of this chapter as if fully described in this chapter.

(Ord. No. 93-24, § 7(400.03), 9-15-93; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-614. Official zoning map.

(a) *Description.* The boundaries of each zoning district as they were officially adopted from 1991 thru 1994 by Resolutions 91-09-42, 92-03-11, 93-01-17 and 94-03-27 are designated and established on the

"official zoning map" of the County. Amendments approved by the Board of County Commissioners since the adoption of the official zoning maps are shown on the "current zoning map" described below.

(b) *Replacement pages and new official zoning maps.* If a page of the official zoning map becomes damaged, destroyed, lost, or it is determined an error exists in the official zoning map the current zoning map will control.

(Zoning Ord. 1993, § 700, 702, 703; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-615. Current zoning maps.

(a) *Description.* The current zoning maps of the County consist of section maps depicting the same information on the official zoning map as it may be subsequently modified by zoning amendments, special exceptions, variance or administrative deviations, etc. and mapping corrections since the adoption of the official zoning maps. For purposes of this section the term "mapping corrections" means corrections applied to the current zoning map to provide an accurate reflection of the legal description attached to a duly adopted zoning resolution.

(b) *Preparation.*

(1) Current zoning maps are scaled, computer-generated maps.

(2) Printed copies of the current zoning map that are provided as part of a public records or zoning verification letter request must contain the following statement: "This map represents the official zoning map and all district boundary changes, special exceptions, zoning variances and administrative amendments approved as of (date) _____/_____/_____, _____".

(3) The boundaries of each district will be shown on the current zoning map, and the district symbols will be used to designate each district.

(4) For mapping purposes only, a zoning district boundary line may be drawn to the centerline of a street, stream or river, or to the shoreline of a stream, river or other body of water, and all existing streets or bodies of water within such district may be included within such district without delineation of the streets or bodies of water.

(5) Official changes to the current zoning map will be entered into the computer data base in the following manner:

a. The district boundary change will be entered into the data base and will indicate the new district designation, as well as a symbol referencing additional zoning information.

b. The additional zoning information may include the Board of County Commissioner's resolution number, what the change of districts was and any special conditions.

(6) All approved special exceptions or variances and all appropriate administrative approvals and deviations will be noted as follows:

a. The property in question will be marked with a reference symbol directing the reader to additional zoning information;

b. The additional information may include the Hearing Examiner case number, type of action taken (i.e., special exception or variance) and special conditions and the administrative approval or deviation reference number.

(Zoning Ord. 1993, § 701; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-616. Rules for interpretation of district boundaries.

(a) When uncertainty exists as to the boundaries of districts of the official or current zoning map, the following rules apply:

(1) *Boundaries following centerlines.* Boundaries indicated as approximately following the centerlines of streets, highways or alleys will be construed to follow such centerlines.

(2) *Boundaries following lot, section or tract lines.* Boundaries indicated as approximately following lot lines, section lines or tract lines will be construed as following such lot lines.

(3) *Boundaries following municipal boundaries.* Boundaries indicated as approximately following municipal boundaries will be construed as following such municipal boundaries.

(4) *Boundaries following railroad lines.* Boundaries indicated as approximately following railroad lines will be construed to be the centerline of the railroad right-of-way.

(5) *Boundaries following shorelines.* Boundaries indicated as approximately following the centerlines of streams, rivers or canals will be construed to follow such centerlines. Boundaries indicated as following shorelines will be construed to follow such shorelines as indicated on the aerial photography flown for the County in 1984. In the event of change in the shoreline due to natural causes, land created through accretion will automatically be classified as EC until and unless a zoning district change is applied for and approved in accordance with procedures set forth in this chapter; provided, however, that the burden of proving the extent of any accreted property will rest with the County, not the landowner.

(6) *Parallel lines.* Boundaries that are approximately parallel to the center-lines or street lines of streets, the centerlines or alley lines of alleys, or the centerline or right-of-way lines of highways will be construed as being parallel thereto and at such distance therefrom as indicated on the zoning maps. If no distance is given, such dimension will be determined by the use of the scale shown on the zoning maps.

(7) *Vacated lands.* Where a public road, street, alley or other form of right-of-way is officially vacated the regulations applicable to the property to which the vacated lands attach will also apply to such vacated lands.

(8) *Excluded areas.*

a. Where parcels of land and water areas have been excluded or deannexed from incorporated areas or revert to the County in any manner, such parcels will be classified as an AG-2 zoning district unless or until rezoned pursuant to current regulations.

b. Where land accretes through natural processes, the land will be classified as an EC zoning district unless or until rezoned pursuant to current regulations.

(9) *Uncertainties.* Where physical or cultural features existing on the ground are at variance with those shown on the official or current zoning map, or in case any other uncertainty exists as to the proper location of district boundaries, the Director will interpret the intent of the official or current zoning map as to the proper location of the district boundaries.

(b) When a lot is split by two or more zoning districts, the property development regulations for the largest proportional district prevail. However, permitted uses and accessory uses are restricted to the uses permitted in the respective districts.

(Zoning Ord. 1993, § 704; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 00-14, § 5, 6-27-00)

Secs. 34-617, 34-618. Reserved.

Sec. 34-619. District conversions.

(a) The 1986 zoning ordinance effective on August 1, 1986, contained a chart (section 400.04) which converted existing zoning districts and some select areas to the new districts incorporated in the revised ordinance. For historical purposes only, this conversion chart is retained as subsection (d) of this section.

(b) Upon the effective date of Ordinance No. 93-24 (September 27, 1993), all land currently zoned RM-14 was converted to RM-2.

(c) Upon the effective date of Ordinance No. 96-17, (September 27, 1996), the following described land will be converted from MH-1 to MHC-2.

Area	Recorded In
Block B	O.R. Book 497, Page 4
Block C	O.R. Book 576, Page 462
Block D	O.R. Book 687, Page 853
Islands I, II and III	Plat Book 29, Page 57
Islands IV, V and VI	Plat Book 29, Page 58
Islands VII and VIII	Plat Book 29, Page 59

(d) 1986 zoning district conversions.

From Zoning District		Zoning District (converted to)	
RE	(601.1)	410.01	AG-1
AG	(601)	410.02	AG-2
AGR	(602)	410.03	AG-3
RPD (1)	(626.1)	431	RPD

None (1)		431	MHPD
None		432	RSC-1
Select areas (2)		433	RSC-2
RS	(603)	434	RS
None		434 and 434.01	RSA
RS-1	(603.1)	434 and 434.02	RS-1
RS-2	(603.2)	434 and 434.03	RS-2
RS-3	(603.3)	434 and 434.04	RS-3
RS-4	(603.4)	434 and 434.05	RS-4
None		434 and 434.06	RS-5
None		435 and 435.01	TFC-1
RM-1	(604)	435 and 435.02	TFC-2
None		436	TF-1
RM-2	(605)	437 and 437.01	RM-2
RM-5	(605)	437 and 437.02	RM-6
RM-8	(605)	437 and 437.03	RM-8
RM-10	(605)	437 and 437.03	RM-10
RM-14	(605)	437 and 437.03	RM-14
None		437 and 437.04	RM-3

None		438 and 438.01	MHC-1
None		438 and 438.02	MHC-2
MH-1	(607)	439 and 439.01	MH-1
MH-2	(608)	439 and 439.02	MH-2
MH-3	(608.1)	439 and 439.03	MH-3
MH-4	(608.2)	439 and 439.04	MH-4
None		440 and 441	RVPD
None		440 and 442	RV-1
None		440 and 442	RV-2
RV	(609)	440 and 442	RV-3
None		440 and 442	RV-4
None		451	CFPD
None	(625)	452.01	CF-1
None	(625)	452.02	CF-2
CF	(625)	452.03	CF-3
None	(625)	452.04	CF-4
CPD	(626.2)	461	CPD
C-1A	(610)	462.01	C-1A
C-1	(611)	462.02	C-1

C-2	(612)	462.03	C-2
C-2 (3)	(612)	462.035	C-2A
CN	(613)	462.04	CN-1
None		462.05	CN-2
CC	(614)	462.06	CC
CG	(615)	462.07	CG
CS	(616)	462.08	CS-1
None		462.085	CS-2
None		462.09	CH
CT	(617)	462.10	CT
None		462.11	CP
None		462.12	CA
CM-1	(618)	462.13	CM
None		462.14	CI
None		462.15	CR
IPD	(626.3)	471	IPD
None		472.01	IS
IL	(620)	472.02	IL
IG	(621)	472.03	IG

None		472.04	IT
CM-2	(619)	472.05	IM
None		472.06	RI
PORT	(624)	472.07	PORT
PR	(622)	481	EC
None		482	AOPD
AH	(623)	483	AH
PUD	(606)	484	PUD

Notes:

(1) The following developments, legally described in the indicated zoning resolution, and currently zoned RPD, will be converted to MHPD:

a. Del Tura, Phase II, Zoning Resolution No. ZAB 86-17.

b. Southern Pines, Phase II, Zoning Resolution No. ZAB 86-64.

c. Port Carlos Cove, Zoning Resolution No. ZAB 86-15.

d. Forest Creek, Zoning Resolution No. ZAB 86-63.

(2) Certain areas currently zoned RS-2 on Captiva Island. See division 3, subdivision 2, of this article.

(3) Those lands, presently zoned C-2, which are located on Gasparilla Island between Fifth Street to the north, and Third Street to the south, and the west side of Palm Avenue to the east, and the east side of a platted alley in the center of the blocks between Gilchrist Boulevard and Park Avenue to the west.

(Ord. No. 93-24, §§ 7(400.04), 22, 9-15-93; Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-620. Uses not specifically listed.

The Director is authorized to determine that uses that are not specifically listed in the use activity groups or in any of the use regulation tables are permitted by right or by special exception in a particular zoning district based upon the placement of similar listed uses in the various districts.

(Ord. No. 93-24, § 7(400.05), 9-15-93; Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-621. Use and development regulations for conventional districts.

(a) *Applicability.* No land, body of water or structure shall be used or permitted to be used and no structure shall hereafter be erected, constructed, moved, altered or maintained in any conventional zoning district for any purpose other than as provided in the use regulation tables and in accordance with the property development regulations tables set forth in this article for the zoning district in which the property is located, except as may be specifically provided for in article VIII of this chapter, pertaining to nonconforming uses, or in section 34-620

(1) All uses of land, water and structures in the conventional zoning districts are subject to the County Comprehensive Plan (the Lee Plan) and the County Future Land Use Plan Map, and therefore may not be permitted in all land use categories.

(2) All uses of land, water and structures in the conventional zoning districts are subject to the specific use and property development regulations set forth for the district in which located, as well as all general provisions and all applicable supplemental regulations set forth in this chapter. Except as may be specifically provided for elsewhere in this chapter, deviations from the property development regulations may only be granted in accordance with the procedures established in sections 34-203(e) and (f) and 34-145(b) for variances.

(b) *Use regulations tables.* Divisions 2 through 9 of this article contain use regulations tables that list specific uses or use activity groups followed by a symbol indicating whether the use is permitted by right (P), special exception (SE) or by administrative approval (AA), or not permitted at all. In all instances, unless specifically noted to the contrary, the symbols used in the use regulations tables have the following meaning:

AA	Administrative approval required. The Director has the authority to approve the use when in compliance with the referenced sections of this chapter.
EO	Existing only. The use is permitted only if it lawfully existed on September 27, 1993, or was granted a special exception within the two years prior to that date, and commenced the approved construction within two years after that date. A use that qualifies as "existing only" will not be classified as a nonconforming use. It will be afforded the same privileges as a permitted use and may be expanded or reconstructed, in accordance with applicable current regulations, but only on the parcel on which located, as that parcel was legally described on September 27, 1993. If an "existing only" use is discontinued or abandoned, whether intentionally or unintentionally, for a period of 12 months or more, the use will no longer qualify as "existing only"; and, resumption of the use, without first obtaining all required County approvals, will be deemed illegal.
P	Permitted. The use is permitted when in compliance with all applicable regulations.
SE	Special exception required. The Hearing Examiner may approve the use after public hearing upon a finding that the use is consistent with the standards set forth in section 34-145(c), as

	well as all other applicable regulations. The Hearing Examiner may place restrictions on the use as a condition of approval.
TP	Temporary permit. The use may be granted a temporary permit in accordance with section 34-3041
—	Not permitted. The use is not permitted or permissible in the zoning district.
AA/SE	The use is permissible either through administrative approval or special exception, subject to the regulations set forth in the specified section.
EO/SE	Lawfully existing uses are permitted, but new uses are permissible only by special exception.
(1)	Parenthesized number. The use is limited as set forth in the referenced footnote.

Note (1) The use is limited as set forth in the referenced footnote.

(c) *Property development regulations.* Divisions 2 through 9 of this article contain property development regulations tables which set forth the minimum lot size and dimensions, setbacks, lot coverage, maximum building height and similar regulations for development of land within the specified districts.

(Ord. No. 93-24, § 7(401), 9-15-93; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 09-23 , § 10, 6-23-09)

Sec. 34-622. Use activity groups.

(a) *Purpose and intent.* The purpose and intent of this section is to provide a method whereby lengthy lists of use activities can be categorized into simplified groups for insertion and use in the zoning district regulations.

(b) *Applicability; interpretation of schedule.*

(1) When a particular activity group is shown as a permitted or permissible use within the use regulations of a zoning district, it will be interpreted to mean any of the uses listed under that particular use activity group in this section, unless specifically noted to the contrary.

(2) When an individual use that is included within an activity group is listed specifically within the use regulation, it will be interpreted to mean only that use and may not be interpreted to mean other uses within the activity group in which it is located.

(3) When a section, article or division number is indicated in parentheses following a particular activity, it is an indication that supplemental regulations affect the use, and the reader should refer to the indicated provisions.

(4) When a number precedes or follows a use activity, it is a reference to the Standard Industrial Classification Manual, 1987 edition, and all uses listed within the SIC code are permitted unless specifically indicated to the contrary.

(5) Whenever a use group title includes the word "manufacturing," it will be interpreted to also include repair of the type of product contained within the listing. However, this is not to be interpreted as requiring repair establishments to be placed within one of these use groups if:

a. No manufacturing is involved; and

b. The repair establishment qualifies under a different use activity group or defined term.

(c) Use activity groups are as follows:

(1) *Apparel, manufacturing.*

	Marine canvas tops and tents, etc.
231	Men's, youths' and boys' suits, coats, and overcoats
232	Men's, youths' and boys' furnishings, work clothing and allied garments
233	Women's, misses' and juniors' outerwear
234	Women's, misses' children's and infants' undergarments
235	Hats, caps and millinery
236	Girls', children's and infants' outerwear
237	Fur goods
238	Miscellaneous apparel and accessories
239	Miscellaneous fabricated textile products

(2) *Automotive repair and service (article VII, division 8).*

GROUP I	
	Automobile detailing
	Automotive air conditioning equipment, sales and installation

	Automotive interior shops
	Automotive paint shops
	Automotive tops (canvas or plastic) installation or repair, including installation and repair of canvas or plastic truck bedliners.
	Automotive trim shops
	Brake linings, sale and installation
	Brake repairing
	Carburetor repair
	Cellular phone installation
	Diagnostic centers
	Drive-in oil change
	Electrical service, automotive (battery and ignition repair)
	Exhaust system service (muffler shops)
	Fuel system repair, motor vehicle
	Generator and starter repair
	Glass replacement and repair
	Inspection service
	Mufflers, automotive, sale and installation
	Radiator repair shops
	Radio, sales and installation

Tire repair shops, no vulcanizing
Transmission repair
Undercoating cars
Upholstery repair
Wheel alignment
GROUP II
Automotive body shops
Automotive repair shops not listed in group I
Automotive springs, rebuilding and repair
Automotive top (other than canvas or plastic) and body repair
Axle straightening
Bump shops (automotive repair)
Diesel engine repair
Engine repair
Frame repair shops
Front end repair
Garages, general automotive repair and service

	Motor repair
	Rebuilding and retreading tires for the trade
	Retreading tires
	Tire recapping
	Vulcanizing tires and tubes (repair service)

(3) *Banks and financial establishments.*

GROUP I	
	ATM's (automatic teller machines)
602	Commercial and stock savings banks
603	Mutual savings banks
609	Establishments performing functions closely related to banking
603	Savings and loan associations
615	Agricultural credit institutions
614	Personal credit institutions
615	Business credit institutions
616	Mortgage bankers and brokers

GROUP II	
601	Federal reserve banks
609	Trust companies not engaged in deposit banking
611	Rediscount and financing institutions for credit agencies other than banks
621	Security brokers, dealers and flotation companies
622	Commodity contracts brokers and dealers
623	Security and commodity exchanges
628	Services allied with the exchange of securities or commodities
671	Holding offices
672	Investment offices
673	Trusts
679	Miscellaneous investing

(4) *Building materials, sales (article VII, division 36).* This group includes establishments engaged in selling primarily lumber, or lumber and a general line of building materials, to the general public. While these establishments may also sell to contractors, they are known as "retail" in the trade. The lumber which they sell may include rough and dressed lumber, flooring, molding, doors, sashes, frames and other millwork. The building materials may include roofing, siding, shingles, wallboard, paint, brick, tile, cement, sand, gravel and other building materials and supplies. Hardware is often an important line of retail lumber and building materials dealers. Asphalt and concrete batch plants are specifically excluded.

	Brick and tile dealers
	Building materials dealers

	Buildings, prefabricated
	Cabinets, kitchen, to be installed
	Cement dealers
	Concrete and cinderblock dealers
	Fallout shelters
	Fencing dealers
	Flooring, wood
	Garage doors, sale and installation
	Insulation material, building
	Jalousies
	Lime and plaster dealers
	Lumber and building material dealers
	Lumber and planing mill product dealers
	Millwork and lumber dealers
	Roofing material dealers
	Sand and gravel dealers
	Storm windows and sash, wood or metal
	Structural clay products
	Wallboard (composition) dealers

(5) *Business services.* Establishments primarily engaged in providing business services to other businesses or individuals not classified elsewhere in this section.

GROUP I. Business service establishments that customarily occupy standard office space and do not require outdoor storage of supplies or the use of vehicles other than cars or small vans. Establishments of this type include but are not limited to:

Advertising agencies (excluding sign construction)
Appraisers
Attorneys
Auctions, on-site or internet (excluding automotive)
Bail bonding
Blood banks
Blood donor stations
Blueprinting and photocopying services
Business agents and brokers
Caterers
Check exchanges
Clerical services
Collection agencies
Commercial photography, art and graphics
Computer and data programming and other computer related services

	Consulting services such as architects, attorneys, engineers, planners, etc.
	Contractor's office
	Credit reporting services
	Detective agencies and protective services, but not including armored car or animal (guard dog) rental
	Drafting services
	Employment agencies
	Film processing or developing, retail
	Insurance agents (intermediary between the insurance company and the insured)
	Interior decorators (not painters or paperhangers)
	Management, consulting and public relations services
	Map making
	Medical photography and art
	Message answering services
	Microfilm recording and developing services
	Notary publics
	Oxygen tent services
	Personal investigation services
	Real estate agents and brokers
	Sign painting and lettering (not construction)

	Stenographic services
	Tax return preparation services
	Telephone solicitation services including call centers
	Travel agencies
	Visiting nurse associations and home nursing services

GROUP II. Business services which, due to equipment and vehicle storage or to processes used, usually require facilities in addition to standard office space. Included in this group are services similar to:

	Aircraft food services and catering
	Armored car services
	Automobile auctions, on-site or internet
	Automobile claims adjusters, excluding impound yards
	Automobile repossessing services, excluding impound yards
	Automobile towing services, excluding impound yards or junkyards
	Horticultural services
	Lawn and garden services
	Messenger services
	Packaging services
	Parcel and express services

	Pest control (exterminators)
	Swimming pool cleaning and maintenance services
	Water softening services

(6) *Chemicals and allied products, manufacturing.*

GROUP I

283	Drugs
GROUP II	
	Biodiesel Production
281	Industrial inorganic chemicals
282	Plastics materials and synthetic resins, synthetic rubber, and synthetic and other manmade fibers, except glass
284	Soap, detergents and cleaning preparations, and perfumes, cosmetics and other toilet preparations
285	Paints, varnishes, lacquers, enamels and allied products
286	Industrial organic chemicals
287	Agricultural chemicals, excluding 2875, Fertilizers, mixing only
289	Miscellaneous chemical products (including explosives)

(7) *Cleaning and maintenance services (no repairs).* This group includes establishments primarily engaged in providing a service to individual homes or businesses on a contract or fee basis, and wherein the particular service is performed at the individual home or business.

	Building cleaning (interior)
	Carpet cleaning (not laundry)
	Floor waxing
	Housecleaning
	Janitorial services on contract basis
	Office cleaning
	Upholstery cleaning
	Window cleaning

(8) *Reserved.*

(9) *Contractors and builders.* This group includes all general, operative and special trade contractors and builders, including:

	Carpentering and flooring
	Concrete work
	Electrical contractors
	General contractors
	Heavy construction:
	Bridge, tunnel and elevated highway
	Water, sewer, pipelines, communication and power lines

	Other
	Highway and street construction
	Masonry, stone setting and other stonework
	Operative builders
	Painting, paperhanging and decorating
	Plumbing, heating and air conditioning
	Roofing and sheetmetal
	Special trades:
	Structural steel erection
	Class and glazing
	Excavation and foundation
	Wrecking and demolition
	Installation or erection of building equipment
	Other
	Water well drilling

GROUP I. Permits offices and indoor storage facilities but specifically excludes any fabrication work or outdoor storage, other than parking of cars.

GROUP II. Permits offices, indoor storage and light fabrication work. Outdoor storage of materials and equipment is permitted if enclosed. Specifically prohibited is any heavy construction equipment such as cement trucks, cranes, bulldozers, well-drilling trucks and other similar heavy equipment, or wrecking or demolition debris.

GROUP III. Permits offices, storage (indoor or outdoor), fabrication work and outdoor storage of heavy construction equipment. Storage of wrecking debris is prohibited.

(10) *Cultural facilities.* This group includes facilities of historic, educational or cultural interest.

	Animal or reptile exhibits
	Art galleries
	Aquariums
	Botanical or zoological gardens
	Historical sites
	Museums
	Planetaria
	Zoos

(11) *Electrical machinery and equipment manufacturing.*

361	Electric transmission and distribution equipment
362	Electrical industrial apparatus
363	Household appliances
364	Electric lighting and wiring equipment
365	Radio and television receiving equipment, except communication types
366	Communication equipment
367	Electronic components and accessories
369	Miscellaneous electrical machinery, equipment and supplies

(12) *Reserved.*

(13) *Essential service facilities.* Buildings or above-ground structures, exceeding 27 cubic feet in volume, required to provide essential services (defined in section 34-2), including electricity, communications, telephone, cable television, gas, water, sewage, solid waste and resource recovery. This does not include wireless communication facilities which are regulated by section 34-1441 et seq.

GROUP I (section 34-1611 et seq.)
Electric substations
Natural gas or water regulation stations
Pumping stations (excluding above-ground water storage facilities)
Communications, telephone and electrical distribution facilities up to 425 square feet in area and 10 feet in height.
Solar panels
Transmission or metering stations
GROUP II (all new essential service facilities, group II must be approved as a planned development)
Above-ground water storage facilities
Communications, telephone and electrical distribution facilities exceeding 425 square feet in area or 10 feet in height
Sewage disposal or treatment facilities
Solid waste transfer station
Water treatment facilities

GROUP III
Electric power generating plants
Resource recovery facilities such as incinerators or generation of energy from waste materials
Sanitary landfills (section 34-1831 et seq.)

(14) *Fabricated metal products, manufacturing.*

GROUP I	
346	Metal forgings and stampings
347	Coating, engraving and allied services
348	Ordnance and accessories, except vehicles and guided missiles
GROUP II	
341	Metal cans and shipping containers
342	Cutlery, hand tools and general hardware
343	Heating equipment, except electric and warm air; and plumbing fixtures
344	Fabricated structural metal parts, excluding 3444, Sheetmetal work, and 3448, Prefabricated metal buildings and components
345	Screw machine products and bolts, nuts, screws, rivets and washers

349	Miscellaneous fabricated products
GROUP III	
3448	Prefabricated metal buildings and components

(15) *Food and kindred products, manufacturing.*

GROUP I	
2011	Meat packing plants (slaughtering)
2015	Poultry dressing plants (slaughtering)
2015	Poultry and egg processing
2026	Fluid milk (pasteurizing, homogenizing and bottling)
2041	Flour and other grain mill products
2044	Rice milling
2046	Wet corn milling
2047	Dog, cat and other pet food (slaughtering)
2048	Prepared foods and feed ingredients for animals and fowl
2061	Cane sugar, except refining only

2062	Cane sugar, refining
2063	Beet sugar
GROUP II	
2013	Sausages and other prepared meat products
202	Dairy products (excluding 2026, Fluid milk)
203	Canned and preserved fruits and vegetables
2043	Cereal breakfast foods
2045	Blended and prepared flour
207	Fats and oils
2082	Malt beverages
2083	Malt
2084	Wines, brandy, and brandy spirits
2085	Distilled, rectified and blended liquors
2087	Flavoring extracts and flavoring syrups
2091	Canned and cured fish and seafoods
2092	Fresh or frozen packaged fish and seafoods
2098	Macaroni, spaghetti, vermicelli and noodles

2099	Food preparation, not elsewhere classified
GROUP III	
205	Bakery products*
2065	Candy and other confectionery products*
2066	Chocolate and cocoa products
2067	Chewing gum
2086	Bottled and canned soft drinks and carbonated waters
2095	Roasted coffee
2097	Manufactured ice
*Not including establishments manufacturing primarily for direct retail sale on the premises to household consumers.	

(16) *Food stores.* This group includes retail stores primarily engaged in selling food for home preparation and consumption. This group shall not be interpreted to include establishments primarily engaged in selling prepared foods or drinks for consumption on the premises or stores primarily engaged in selling packaged beers, ales or other liquors.

GROUP I
Bakeries, retail, including bakery products prepared on the premises, for sale on the same premises
Confectionery stores, including candy, nuts, sweetmints, popcorn and other confections

	Dairy products, but not including ice cream or frozen custard stands
	Delicatessens
	Fish (seafood) markets, enclosed
	Fruit and vegetable markets, enclosed
	Groceries
	Meat or poultry markets (no slaughtering)
	Produce markets
	Specialty food stores, including specialty food items such as but not limited to health foods, spices, herbs, coffee, tea, vitamins, dietetic foods and mineral water
	Supermarkets

GROUP II. Freezer and locker meat provisioners; primarily the retail sale, on a bulk basis, of meat products for freezer storage

(17) *Freight and cargo handling establishments.* This group includes establishments primarily engaged in undertaking the packaging for, or the transportation of, freight or cargo.

	Agents, shipping
	Brokers, custom house
	Brokers, shipping
	Brokers, transportation
	Cargo checkers and surveyors, marine
	Crating goods for shipping
	Customs clearance of freight

	Domestic forwarding
	Foreign forwarding
	Freight agencies
	Freight consolidation
	Freight forwarding
	Freight rate information services
	Inspection services connected with transportation
	Packing goods for shipping
	Shipping documents preparation
	Transport clearinghouses
	Transportation rate services
	Weighing services connected with transportation

(18) *Furniture and fixtures, manufacturing.*

251	Household furniture
252	Office furniture
253	Public building and related furniture
254	Partitions, shelving, lockers, and office and store fixtures
259	Miscellaneous furniture and fixtures

(19) *Reserved.*

(20) *Health care facilities.* The group includes establishments primarily engaged in furnishing medical, surgical or nursing care to persons, as well as certain related activities.

GROUP I. Nursing and personal care facilities. Establishments primarily engaged in providing some nursing and health-related personal care, but not continuous nursing services. These establishments have at least one shift with a licensed or registered nurse to provide routine health care and observation.

GROUP II. Skilled nursing care facilities, hospices. Establishments primarily engaged in providing care and treatment for patients who require continuous health care, but not hospital services. These establishments have an organized medical staff, including physician and continuous nursing services.

GROUP III. Outpatient care facilities. Establishments primarily engaged in outpatient care with permanent facilities and with medical staff to provide diagnosis or treatment, or both, for patients who are ambulatory and do not require inpatient care.

GROUP IV. Hospitals. Establishments primarily engaged in providing diagnostic services, extensive medical treatment, including surgical services, and other hospital services, as well as continuous nursing services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care.

(21) *Hobby, toy and game shops.* Establishments primarily engaged in the retail sale of toys, games, hobby kits and supplies, artist supplies, collectors items, cameras, sewing and piece goods, etc.

	Architectural supplies
	Art dealers
	Artificial flowers
	Art supplies and materials
	Banner shops
	Coin shops (numismatist)
	Fabric shops
	Flag shops
	Game shops

	Gemstones
	Hobby shops
	Knitting and yarn shops
	Needlework supplies
	Photographic supplies
	Remnant stores
	Rock specimens
	Rubber stamp stores
	Stamp (philatelist) stores
	Stones, crystalline, rough
	Telescopes
	Toy and game stores
	Trophy shops

(22) *Household and office furnishings.* Establishments primarily engaged in the retail sale of household or office furniture, appliances, floor coverings and miscellaneous furnishings.

GROUP I

	Air conditioners
	Appliances

	Audio and video equipment
	Awnings and awning products
	Beds, mattresses and bed springs
	Cabinets
	Carpets and rugs
	Computers
	Counters
	Floor tile
	Furniture
	Linoleum
	Office machines
	Organs and pianos
	Sewing machines
	Sinks
	Televisions
	Vacuum cleaners

GROUP II

	Aluminumware, metalware, enamelware and tinware
	Bedding (sheets, blankets, spreads, pillows, linen, etc.)
	Brooms and brushes
	China, cookware, crockery and pottery
	Curtains and draperies
	Cutlery, glassware and housewares
	Fireplace accessories
	Kitchenware
	Lamps, shades and lights
	Mirrors and pictures
	Slipcovers and upholstery materials
	Window shades
GROUP III (article VII, division 36	
	Hot tubs and spas
	Swimming pools, prefabricated

(23) *Insurance companies.*

631	Life insurance
632	Accident and health insurance and medical services plans
633	Fire, marine and casualty insurance
635	Surety insurance
636	Title insurance
637	Pension, health and welfare funds
639	Insurance carriers, not elsewhere classified

(24) *Laundry or dry cleaning.* This group includes establishments primarily engaged in laundering or dry cleaning on the premises. It does not include laundry agents or coin-operated laundries classified as a personal service group I, nor shall it include agencies which provide pickup and delivery service only, but do not perform the actual laundering or dry cleaning on the same premises.

GROUP I. Enclosed systems. Dry cleaning, laundry and dying establishments employing completely sealed and enclosed systems, providing the following provisions are met: services are limited to individual retail sales on the premises, excluding commercial bulk dry cleaning and laundry services, and use of materials and solvents is limited to those which do not require special fire prevention regulation.

GROUP II. Includes but is not limited to:

	Carpet cleaning
	Diaper services
	Dry cleaning
	Enclosed systems (group I)
	Laundries
	Linen supply

	Uniform supply
	Upholstery cleaning

(25) *Leather and leather products, manufacturing.*

GROUP I	
311	Leather tanning and finishing
GROUP II	
313	Boot and shoe cut stock and bindings
314	Footwear, except rubber
315	Leather gloves and mittens
316	Luggage
317	Handbags and other personal leather goods
319	Leather goods, not elsewhere classified

(26) *Lumber and wood products, manufacturing.*

GROUP I

	Woodchipping operations
242	Sawmills and planing mills
GROUP II	
2431	Millwork
2434	Wood kitchen cabinets
2499	Wood products, not elsewhere classified
GROUP III	
2435	Hardwood veneer and plywood
2436	Softwood veneer and plywood
2493	Particleboard
GROUP IV	
2439	Structural wood members, not elsewhere classified

244	Wood containers
GROUP V	
2451	Mobile homes
2452	Prefabricated wood buildings and components
GROUP VI	
2491	Wood preserving

(27) *Machinery, manufacturing.*

GROUP I	
3524	Garden tractors and lawn and garden equipment
GROUP II	
3546	Power-driven hand tools

357	Office, computing and accounting machines
GROUP III	
351	Engines and turbines
3523	Farm machinery and equipment
353	Construction, mining and materials handling machinery and equipment
354	Metalworking machinery and equipment, excluding 3546, Power-driven hand tools
355	Special industry machinery, except metalworking machinery, excluding 357, Office, computing and accounting machines
356	General industrial machinery and equipment
358	Refrigeration and service industry machinery
359	Miscellaneous machinery, except electrical

(28) *Measuring, analyzing and controlling instruments, manufacturing.*

381	Engineering, laboratory, scientific and research instruments and associated equipment
382	Measuring and controlling instruments
382	Optical instruments and lenses
384	Surgical, medical and dental instruments and supplies
385	Ophthalmic goods

386	Photographic equipment and supplies
387	Watches, clocks and clockwork operated devices, and parts

(29) *Novelties, jewelry, toys and signs, manufacturing.*

GROUP I	
391	Jewelry, silverware and plated ware
3961	Costume jewelry and costume novelties, except precious metal
GROUP II	
393	Musical instruments
394	Toys and amusements, and sporting and athletic goods
3993	Signs and advertising displays
GROUP III	
395	Pens, pencils and other office and artists materials
3999	Feathers, plumes and artificial trees and flowers

3965	Buttons
3965	Needles, pins, hooks and eyes, and similar notions
3991	Brooms and brushes

(30) *Nonstore retailers.*

GROUP I. Establishments primarily engaged in the retail sale of products by catalog, mail order, or internet.

GROUP II. Automatic merchandising machine operators. Office or storage facilities for establishments primarily engaged in the retail sale, or rental, of products by automatic merchandising units, also referred to as vending machines.

GROUP III. Direct selling establishments. Offices or storage facilities for establishments primarily engaged in the retail sale of merchandise by telephone, internet, or house-to-house canvass. Included are individuals who sell products by this method and who are not employees of the organization they represent, and establishments that are retail sales offices from which employees operate to sell merchandise from door to door.

(31) *Paper and allied products, manufacturing.*

GROUP I	
261	Pulp mills
262	Paper mills, except building paper mills
263	Paperboard mills
266	Building paper and building paper mills
GROUP II	

2677	Envelopes
2674	Bags, except textile bags
2676	Sanitary paper products
2678	Stationery, tablets and related products
GROUP III	
2671	Paper coating and glazing
2675	Die-cut paper and paperboard and cardboard
2679	Pressed and molded pulp goods
2679	Converted paper and paperboard products, not elsewhere classified
265	Paperboard containers and boxes

(32) *Parks.* A tract of land (including customarily associated buildings and structures), designated and used for recreational purposes by the public, and which is owned or operated by the County, state or federal government.

GROUP I
Beach access
Beaches
Community gardens

Fishing piers
Highway rest stops
Nature or wildlife preserves
Neighborhood parks
Passive and active recreational and educational activities including but not limited to, hiking, nature trails and similar activities which require few or no on-site facilities or capital investment and which utilize the natural environment with little or no alteration of the natural landscape.
GROUP II
Arenas
Boat ramps
Civic center
Community gardens
Community parks
Fairgrounds
Nature centers
Regional parks
Stadiums
State or federal parks

(33) *Personal services.* This major group includes establishments primarily engaged in providing services generally involving the care of the person or his apparel.

GROUP I
ATM's (automatic teller machines)
Barbershops or beauty shops
Clothing alterations and repair, including dressmakers, seamstresses and tailors
Coin-operated laundries wherein coin-operated or other facilities are provided for self-service laundering or dry cleaning
Laundromats
Laundry agents wherein the establishment may do its own pressing and finish work but the laundering or dry cleaning is performed elsewhere
Massage establishments
Photo agents wherein dropoff and pickup film processing services are provided but the actual processing and developing is done elsewhere
Shoe repair services wherein shoe repair or shoeshining for individual customers is performed

GROUP II. The following uses are permitted provided that lodging facilities or resorts are not included:

	Beauty spas
	Health clubs or spas
	Massage establishments

	Massage parlors (article VII, division 3)
	Reducing or slenderizing salons

GROUP III. Establishments primarily engaged in the sale, rental or service of health-related devices such as:

	Artificial limbs
	Crutches
	Hearing aids
	Hospital beds
	Optical supplies
	Orthopedic supplies
	Wheelchairs

GROUP IV. Personal service agencies. Establishments primarily engaged in providing a personal service not classified elsewhere, including but not limited to:

	Babysitting bureaus
	Dating services
	Debt counseling or adjustment service to individuals

	Escort services
	Palm readers, fortunetellers or card readers
	Portrait copying
	Shopping services
	Tattoo parlors

(34) *Petroleum manufacturing.*

291	Petroleum refining
295	Paving and roofing materials, not including asphalt batch plants
299	Miscellaneous products of petroleum and coal

(35) *Primary metal industries, manufacturing.*

331	Blast furnaces, steel works, and rolling and finishing mills
332	Iron and steel foundries
333	Primary smelting and refining of nonferrous metals
334	Secondary smelting and refining of nonferrous metals
335	Rolling, drawing and extending of nonferrous metals
336	Nonferrous foundries (castings)
339	Miscellaneous primary metal products

(36) *Printing and publishing.*

	Blankbooks, looseleaf binders, and bookbinding and related work
	Books
	Commercial printing
	Greeting card publishing
	Manifold business forms
	Miscellaneous publishing
	Newspapers: publishing, publishing and printing
	Periodicals: publishing, publishing and printing
	Service industries for the printing trade

(37) *Racetracks (article VII, division 35).*

GROUP I. Auto-oriented.	
	Dragstrips
	Go-cart tracks
	Motorcycle racing
	Racetracks
	Speedways

GROUP II. Nonauto-oriented.	
	Dog tracks
	Horse racing

(38) *Recreation facilities, commercial.* Recreational facilities, not specifically regulated elsewhere in this Code, operated as a business and open to the public for a fee. This does not include facilities owned or operated by a government unit.

GROUP I
Billiard halls or pool halls
Coin-operated amusement establishments that primarily provide coin-operated amusement devices; coin-operated includes coins, tokens or other similar devices
Indoor model car racecourses
GROUP II - RESERVED
GROUP III. Outdoor facilities.
With the exception of water slides, Group III does not include amusement devices, amusement attractions or structures regulated by F.S. ch. 616 and the State Department of Agriculture and Consumer Services.
Any outdoor cultural facility operated as a commercial establishment

	Golf courses, miniature
	Golf driving ranges (article VII, division 35
	Passive and active recreational and educational activities including but not limited to, hiking and nature trails, paintball and gun ranges, zip lining, paragliding, and similar activities where little or no on-site facilities or capital investment are required and the natural environment, with little or no alteration of the natural landscape, is utilized.
	Swimming pools, tennis courts and other similar outdoor activities not grouped elsewhere
	Water slides, aquatic centers
GROUP IV. Indoor facilities.	
	Bingo halls
	Bowling alleys
	Convention or exhibition halls
	Gymnasiums
	Health clubs
	Indoor cultural facilities operated as a commercial establishment
	Racquetball, handball, squash or tennis courts
	Skating rinks
	Swimming pools or aquatic centers
	Theaters, indoor

GROUP V. Large recreation facilities not owned or operated by a government agency, including but not limited to:

	Arenas
	Convention or exhibition halls
	Fairgrounds
	Stadiums

(39) *Rental or leasing establishments (section 34-1352, section 34-3151 and article VII, division 36).* This group includes establishments primarily engaged in renting or leasing machinery, tools and other equipment and supplies to individuals or businesses for use off the premises. This shall not include businesses which rent items for use in conjunction with an on-premises activity such as golf carts, clubs, etc.

GROUP I	
	Beach chairs, umbrellas and similar facilities
	Bicycles
	Mopeds and scooters
	Passenger car pickup and dropoff (no maintenance or repairs, limited storage only)
GROUP II. Household.	

	Appliances
	Bicycles
	Costumes
	Furniture
	Garden equipment
	Movies, videotapes and similar home entertainment
	Party or banquet supplies
	Tools and equipment primarily for home use
GROUP III. Automotive.	
	Passenger cars
	Small vans or trucks
	Recreation vehicles
	Utility trailers
GROUP IV. Construction equipment and trucks.	
	Construction equipment (cranes, bulldozers, etc.)

Portable toilets
Trucks, truck tractors and semitrailers

(40) *Repair shops.* This group includes establishments primarily engaged in performing miscellaneous repair work not elsewhere grouped.

GROUP I. Establishments primarily engaged in repairing small household appliances and equipment, excluding furniture and gasoline-driven motorized items. This group includes but is not limited to the following:

Bicycles (nonmotorized)
Clocks, watches or jewelry
Hand tools, motorized and other, excluding gasoline-driven equipment
Key duplicating (not locksmiths)
Miscellaneous repairs such as fountain pens, luggage, leather goods, mirrors, pocketbooks, umbrellas and venetian blinds
Musical instruments, including piano or organ tuning
Picture framing
Sharpening and repair of knives, saws or tools
Small appliances such as radios, televisions, stereos, video equipment, electric razors, microwave ovens, sewing machines, typewriters, home computers, etc.

GROUP II. Establishments primarily engaged in repairing laboratory, office and other precision instruments and equipment, excluding furniture. This group includes but is not limited to:

Calculators, adding machines and typewriters
Cameras and photographic equipment
Computers
Gunsmiths
Locksmiths
Mechanical instruments
Optical devices and instruments such as binoculars, microscopes, telescopes, etc.
Precision instruments such as drafting, laboratory, measuring and control, navigational, nautical, scientific, surgical, surveying and thermostat instruments
Taxidermists
Window shades, etc.

GROUP III. Establishments primarily engaged in repairing household appliances and furniture, office furniture and other similar equipment not elsewhere classified. This group includes but is not limited to:

Air conditioning and heating
Antique repair and refurbishing
Furniture repair or refinishing
Large appliances such as refrigerators, stoves, washers and dryers

	Reupholstering, including mattress renovating

GROUP IV. Establishments primarily engaged in repairing gasoline-driven motorized equipment (not automotive) or which are engaged in welding, electric motor rewinding or other similar major repair work.

	Armature rewinding
	Blacksmith shops
	Coppersmithing (other than construction)
	Engine repair, except automotive
	Gasoline-driven motorized tools or equipment such as lawnmowers, motorcycles, dune buggies, etc.
	Tinsmithing (other than construction)
	Welding repair (not automotive)

GROUP V. Establishments primarily engaged in repair or services not elsewhere classified, such as:

	Boiler repair
	Bowling pin refinishing or repair
	Brick cleaning
	Farm machinery

	Mirror resilvering
	Replating ships
	Septic tank cleaning services
	Sewer cleaning and rodding
	Tank and boiler cleaning
	Tank truck cleaning
	Tractor repair

(41) *Research and development laboratories.* This group includes establishments or other facilities primarily engaged in laboratory or field research and development in the natural, physical or social sciences, or engineering and development as an extension of investigation.

GROUP I. Agricultural research. Establishments primarily concerned with improving soil, crops, livestock or other agricultural products.

GROUP II. Medical and dental laboratories. Establishments primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient on prescription of a physician, or in making dentures and artificial teeth for the dental profession.

	Bacteriological laboratories (not manufacturing)
	Biological laboratories (not manufacturing)
	Biological laboratories of chemists (not manufacturing)
	Biotechnological laboratories (not manufacturing)
	Dental laboratories
	Dentures, made in dental laboratories to order for the dental profession

	Medical laboratories (clinical)
	Pathological laboratories
	Teeth, artificial, made in dental laboratories to order for the profession
	X-ray laboratories (not manufacturing)

GROUP III. Chemical. Establishments primarily concerned with research and development of chemicals or other hazardous materials.

GROUP IV. General. Establishments primarily concerned with research and development of computer, engineering, food, general industry, biotechnological and other type projects, excluding those listed in group III.

(42) Residential accessory uses (article VII, division 2). This group includes uses customarily accessory to residences provided all property development regulations of the zoning district in which located are complied with.

	Carports and garages
	Decks, gazebos, patios and screen enclosures
	Docks, personal (section 34-1863
	Excavations for ponds that are accessory to a single-family residence are permitted subject to the regulations set forth in section 10-329(c).
	Fences (section 34-1741 et seq.)
	Garage or yard sales, limited to not more than one week in duration, with sales limited to two garage or yard sales per year
	Garden sheds
	Recreational facilities, personal, such as pools, spas, jacuzzis, hot tubs, swings, sand boxes and similar equipment
	Seawalls

(43) *Restaurants.* Establishments primarily engaged in the retail sale of prepared food and drinks for consumption on the premises.

GROUP I. Refreshment stands. Establishments that do not normally provide indoor seating, such as:

	Box lunch stands
	Dairy bars
	Frozen custard stands
	Hot dog stands
	Ice cream stands
	Soft drink stands

GROUP II. Convenience restaurants. Establishments primarily pedestrian-oriented. These facilities are usually located in business or recreational areas for the convenience of walk-in customers.

	Automats (eating)
	Bakeries
	Beaneries
	Cafes
	Cafeterias
	Commissaries

	Diners
	Foodstands
	Grills
	Ice cream shops
	Lunch bars
	Lunchcounters
	Luncheonettes
	Lunchrooms
	Oyster bars
	Pizzerias
	Sandwich bars or shops
	Soda fountains
	Tearooms
	Yogurt shops

GROUP III. Standard restaurants. Establishments wherein customers usually arrive via automobile and are seated within the establishment. Service may be provided or may be by the customer himself.

	Buffets
	Restaurants, standard

GROUP IV. Dinner theaters. Establishments that provide paid entertainment, such as singers, dancers, comedians or theater plays, along with food service.

(44) *Rubber and plastics products, manufacturing.*

GROUP I	
301	Tires and inner tubes
302	Rubber and plastics footwear
3069	Reclaimed rubber
3052	Rubber and plastics hose and belting
306	Fabricated rubber products, not elsewhere classified
GROUP II	
308	Miscellaneous plastics products
	Hot tubs and swimming pools, plastic or fiberglass

(45) *Schools, commercial.*

	Art schools
	Aviation, ground school only

	Bartending
	Business, general
	Charter and private schools
	Clerical, including court reporting, secretarial and similar areas
	Computer and data processing
	Crafts
	Dance instruction, including folk, tap, ballet, modern and ballroom
	Driving school (automobile and motorcycle only)
	Gymnastics
	Martial arts
	Law, including paralegal
	Real estate, including appraisal
	Sailing and marine-oriented outdoor lifestyle

(46) *Social services.* Establishments providing social services and rehabilitation services to persons with social or personal problems requiring special services and to the disabled and the disadvantaged.

GROUP I. Establishments primarily engaged in providing counseling and guidance services to individuals or families, but which do not provide resident facilities.

	Adoption services
	Child guidance agencies

	Disaster services
	Family location services
	Family (marriage) counseling services
	Helping hand services, e.g., Big Brother, Big Sister, etc.
	Job counseling
	Public welfare centers (offices)
	Referral services for personal and social problems
	Traveler's aid centers
	Other social services of a similar type, not specifically listed elsewhere

GROUP II. Establishments primarily engaged in providing training or rehabilitation services, such as:

	Job training
	Manpower training
	Offender rehabilitation agencies
	Offender self-help organizations
	Self-help organizations, e.g., Alcoholics Anonymous and Gamblers Anonymous
	Skill training centers
	Vocational rehabilitation agencies and counseling

	Vocational training agencies
	Work experience centers, e.g., Goodwill, Job Corps, Lighthouse for the Blind, etc.

GROUP III. Establishments primarily engaged in providing temporary living facilities for individuals with personal or social problems.

	Child or wife abuse centers
	Halfway homes for delinquents and offenders
	Halfway or self-help group homes for persons with social or personal problems
	Homes for destitute men and women
	Juvenile correctional homes
	Settlement houses
	Social service centers, e.g. Salvation Army, etc.
	Training schools for delinquents

GROUP IV. Establishments primarily engaged in providing longterm living facilities for individuals and in which health care is incidental.

	Homes for children
	Homes for intellectually challenged persons

	Homes for the aged
	Homes for the deaf or blind
	Homes for the emotionally disturbed
	Homes for the physically disabled
	Orphanages
	Rehabilitation centers
	Rest homes

(47) *Specialty retail shops.*

GROUP I	
	Antique or curio shops
	Bookstores (article VII, division 3)
	Cellular phone sales or rentals
	Christian Science reading rooms
	Cigar stores
	Clock or watch shops
	Fishing equipment, excluding boats, motors and trailers
	Florists

	Gift, novelty and souvenir shops
	Gift shops
	Golfing equipment
	Jewelry stores
	Music stores
	Newsstands
	Novelty shops
	Souvenir shops
	Tennis equipment
	Tobacco stores
GROUP II. Clothing and accessory specialty retail shops.	
	Apparel accessory stores, retail
	Bathing suit stores
	Belts, apparel, custom
	Blouse stores
	Bridal shops, except custom
	Clothing, ready to wear, women's

	Corset and lingerie stores
	Cosmetic shops
	Costume jewelry stores
	Custom tailors
	Dress shops
	Dressmakers' shops, custom
	Foundation garments
	Fur apparel made to custom order
	Fur shops
	Furriers
	Glove stores
	Haberdashery stores
	Handbag stores
	Hat stores
	Hosiery stores
	Knit dresses, made to order
	Knitwear stores
	Maternity shops
	Millinery stores

	Raincoat stores
	Riding apparel stores
	Screen painting (T-shirts, etc.)
	Shirts, custom made
	Sports apparel stores
	Tie shops
	Umbrella stores
	Uniforms
	Wig, toupee and wiglet stores, including custom made
GROUP III	
	Ammunition
	Bicycle and bicycle parts, except gasoline motors
	Bowling equipment and supplies
	Camping equipment
	Firearms
	Hunters equipment
	Riding goods and equipment

	Saddlery stores
	Skiing equipment
	Sporting goods, general
	Tent shops
GROUP IV	
	Gymnasium equipment
	Playground equipment
	Pool and billiard tables
	Swimming pool supplies

(48) *Stone, clay, glass and concrete products, manufacturing.*

GROUP I	
323	Glass products, made of purchased glass
GROUP II	

3273	Ready-mix concrete
GROUP III	
3271	Concrete block and brick
3272	Concrete products, except block and brick
GROUP IV	
321	Flat glass
322	Glass and glassware, pressed or blown
324	Cement, hydraulic
325	Structural clay products
326	Pottery and related products, but not to include pouring of molds or firing of greenware which is done ancillary to a hobby shop
3274	Lime
3275	Gypsum products
328	Cut stone and stone products
329	Abrasive, asbestos and miscellaneous nonmetallic mineral products

(49) *Studios.*

	Artists
	Enamalists
	Interior decorators
	Modeling
	Painters
	Photographers
	Potters
	Recording
	Sculptors
	Weavers

(50) *Textile mill products, manufacturing.*

GROUP I	
221	Broad woven fabric mills, cotton
222	Broad woven fabric mills, manmade fiber and silk
224	Narrow fabrics and other small wares mills, cotton, wool, silk and manmade fiber
225	Knitting mills
228	Yarn and thread mills

2258	Lace goods
GROUP II	
223	Broad woven fabric mills, wool (including dyeing and finishing)
226	Dyeing and finishing textiles, except wool fabric and knit goods
GROUP III	
227	Floor covering mills
2299	Felt goods, except woven felts and hats
2299	Paddings and upholstery filling
2299	Processed waste and recovered fibers and flock

(51) *Tobacco manufacturing.*

211	Cigarettes
212	Cigars
213	Tobacco (chewing and smoking) and snuff
214	Tobacco stemming and redrying

(52) *Transportation equipment, manufacturing.*

GROUP I	
3714	Motor vehicle parts and accessories
3724	Aircraft engines and engine parts
3728	Aircraft parts and auxiliary equipment, not elsewhere classified
GROUP II	
3732	Boatbuilding
GROUP III	
3751	Motorcycles, bicycles and parts
3799	Transportation equipment, not elsewhere classified, excluding trailers
GROUP IV	
3711	Motor vehicles and passenger car bodies
3713	Truck and bus bodies

3715	Truck trailers
3721	Aircraft
3731	Shipbuilding
3743	Railroad equipment
376	Guided missiles and space vehicles
3792	Travel trailers and campers
3795	Tanks and tank components
3799	Car or boat trailers

(53) *Transportation services.* This group includes establishments which provide land or water transportation services to individuals and in which the driver or instructor is provided by the leasing agency.

GROUP I - A. Water-oriented - small to moderate-size vessels.
Airboats
Boat charter
Boats, party fishing
Excursion rides
Fishing charter
Sailing or boating classes
Sightseeing boats

Water taxis
GROUP I - B. Water-oriented - larger vessels
Local cruise ships: Ships that usually leave port and return in less than 24 hours and that usually provide at least one meal, gambling or other entertainment for customers.
International cruise ships: Ships that usually leave port for 24 hours or more and that provide meals, sleeping accommodations, gambling or other entertainment for customers.
GROUP II. Automobile.
Ambulances (nonemergency transport)
Automobile rental with driver provided
Cabs
Hearses or limousines with driver provided
Taxicabs
GROUP III. Bus.
Bus stations/depots (article VII, division 9)
Bus terminals (article VII, division 9):
Charter buses Interstate buses

Sightseeing buses Local or other buses
GROUP IV. Trucking.
Interstate trucking, without storage facilities
Local trucking, without storage facilities
Truck driving school

(54) *Used merchandise stores.* This group includes establishments primarily engaged in the retail sale of used merchandise, antiques and secondhand goods such as clothing and shoes or furniture, musical instruments, office furniture or equipment, store fixtures and similar items. This group does not include dealers selling used motor vehicles, trailers, boats or mobile homes, which are separately grouped, nor does it include scrap, waste or junk dealers:

GROUP I. Household.
Antique stores (furniture, glassware, home furnishings or art)
Bookstores
Clothing stores
Home furnishing stores
Musical instrument stores
Pawnshops

	Phonograph and phonograph record stores, secondhand
	Shoe stores
GROUP II. Office and business.	
	Office furniture stores
	Store fixture and equipment stores
GROUP III. Automotive (not junkyard or auto wrecking yard).	
	Automobile accessories and parts
	Batteries, automotive
	Tire (automobile) dealers
GROUP IV. Building materials.	
	Brick
	Building materials
	Lumber

(55) *Vehicle and equipment dealers (section 34-1352).* This group includes establishments primarily involved in the retail sale or storage of motor vehicles, trailers, boats and other similar equipment. Incidental servicing and repairs and the stocking of replacement parts is a normal ancillary function.

GROUP I. Auto and truck dealers. Establishments primarily engaged in the retail sale, storage or leasing of automobiles, small trucks and vans.

GROUP II. Motorcycle and lawnmower dealers. Establishments primarily engaged in the retail sale of new or used lawnmowers, motorcycles, motorbikes, dune buggies, go-carts, golf carts and other similar type small vehicles.

GROUP III. Boat and yacht dealers. Establishments primarily engaged in the retail sale of new or used motorboats, yachts and other watercraft, including boat trailers.

GROUP IV. Recreational vehicle/bus dealers. Establishments primarily engaged in the retail sale of new or used recreational vehicles or campers, or utility trailers.

GROUP V. Construction equipment dealers. Establishments primarily engaged in the retail sale of large trucks, bulldozing cranes, semitrailers, earthmovers and other similar large transportation, construction or hauling equipment.

(56) *Wholesale establishments.* This group includes establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

GROUP I. Farm produce. Establishments primarily engaged in buying or marketing farm produce other than livestock.

GROUP II. Livestock. Establishments primarily engaged in buying or marketing livestock.

GROUP III. Indoor storage. Establishments primarily engaged in buying or selling, on a wholesale basis, durable or nondurable goods and petroleum and petroleum products (SIC 5172), excluding hazardous chemicals, petroleum products not specified herein, or explosives which are stored totally within a building.

GROUP IV. Open storage. Establishments primarily engaged in buying or selling, on a wholesale basis, durable or nondurable goods, excluding hazardous chemicals, petroleum products or explosives, which because of their size are normally stored out-of-doors or under a roofed shed.

(Zoning Ord. 1993, § 1001; Ord. No. 93-24, § 21, 9-15-93; Ord. No. 94-24, § 22, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 04-05, § 1, 4-27-04; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-623. Performance standards, environmental quality.

All uses and activities permitted by right, special exception or temporary permit in any zoning district, including planned development and PUD districts, must be constructed, maintained, placed, conducted, and operated so as to:

(1) Comply with all local, state, and federal air, noise, and water pollution standards, and

(2) Not adversely impact water quality and water needs.

(Zoning Ord. 1993, § 202.17; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 99-22, § 3, 12-14-99)

Sec. 34-624. Performance standards, creation of nuisance.

All uses and activities permitted by right, special exception or temporary permit in any zoning district, including planned development and PUD districts, must be constructed, maintained, placed, conducted, and operated so as to:

(1) Not be injurious or offensive and thereby constitute a nuisance to owners or occupants of adjacent premises, nearby residents, or to the community, by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire or explosive hazard, light pollution, or glare; and

(2) Not cause light from a point source of light to be directed, reflected, or refracted beyond the boundary of the parcel or lot, onto adjacent or nearby residentially zoned or used property or onto any public right-of-way, and thereby constitute a nuisance to owners or occupants of adjacent premises, nearby residents, or to the community; and.

(3) Ensure all point sources of light and all other devices for producing artificial light are shielded, filtered, or directed in such a manner as to not cause light trespass.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 03-16, § 6, 6-24-03)

Sec. 34-625. Outdoor lighting standards.

(a) *Purpose.* The purpose of this provision is to curtail and reverse the degradation of the night time visual environment by minimizing light pollution, glare, and light trespass through regulation of the form and use of outdoor lighting; and to conserve energy and resources while maintaining night-time safety, utility, security and productivity.

(b) *Applicability.* All new luminaires, regardless of whether a development order is required, must comply with the provisions and standards of this section.

(c) *General exemptions.* The following are generally exempt from the provisions of this section:

(1) Emergency lighting required for public safety and hazard warning luminaires required by federal or state regulatory agencies;

(2) Outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene and gasoline;

(3) Low wattage holiday decorative lighting fixtures (comprised by incandescent bulbs of less than 8 watts each or other lamps of output less than 100 lumens each) used for holiday decoration; and

(4) Lighting for public roads except as provided in section 14-77

(d) *Standards and criteria.* In addition to the standards and criteria for outdoor lighting established in this subsection, there are standards for sea turtle lighting in chapter 14, article I, division 2 of this Code and further technical standards are specified in a related County Administrative Code. When specific standards are not addressed in these sources, the standards contained in the Illuminating Engineering Society of North America (IESNA) Handbook, (latest edition) will apply.

(1) *Illuminance.* Table 1 is provided as a general synopsis of the illumination level requirements. These levels are based upon general use or task categories and are measured in footcandles on the task surface (for example the parking lot or area surface) with a light meter held parallel to

the ground or other surface, facing up, unless otherwise specifically stated. Illuminance levels specified in this Code apply to all outdoor lighting.

Table 1. Illumination Level Requirements (1)

Use/Task	Initial Actual Footcandles (2),(4)	Initial Uniformity Avg. (3)
Parking, multi-family		
Low vehicular/pedestrian activity	0.3 min.	4:1
Medium vehicular/pedestrian activity	0.8 min.	4:1
Parking, industrial/commercial/ institutional, municipal		
High activity, e.g.,shopping centers, fast food facilities, major athletic/civic, cultural events.	1.2 min.	4:1
Medium activity, e.g., office parks, hospitals, commuter lots, cultural/civic/recreational events	0.8 min.	4:1
Low activity, e.g., neighborhood shopping, industrial employee parking, school, church parking	0.3 min.	4:1
Non-residential walkways and bikeways	0.3 min.	5:1
Canopy, drive-thru, fuel pumps, overhang	6.0 min	5:1

Notes:

(1) These specified illumination level criteria are the initial actual levels to be measured at the time of final inspection for a certificate of compliance. The outdoor lighting must be maintained so the average illumination levels do not increase above the specified values. The minimum illumination levels may decrease over time consistent with the Light Loss Factor (LLF) associated with the installed fixtures.

(2) In no case may the illumination exceed 0.5 footcandle measured at the property line. The amount of illumination projected onto a residentially zoned property or use from another property, may not exceed 0.2 footcandle measured at 10 feet from the property line onto the adjacent residential property.

(3) Uniformity ratios dictate that the average illumination values may not exceed initial values by more than the product of the initial value and the specific ratio. For example, in the case of commercial parking and high activity, the initial average illuminance may not be in excess of 4.8 footcandles (1.2 x 4).

(4) Where all night safety or security lighting is to be provided, the lighting intensity levels should provide the lowest possible illumination to discourage crime and undesirable activity and to effectively allow surveillance but may not exceed 50 percent of the levels normally permitted for the use as specified in this Code.

(2) *Lamp standards.* Lamp types and colors must be in harmony with the adjacent community, any special circumstances existing on the site, and with surrounding installations. Lamp types must be consistent with the task and setting and should not create a mix of colors unless otherwise specifically approved by the Director for a cause shown. Specifically, mercury vapor lamps are prohibited. The installation, sale, offering for sale, lease or purchase of any mercury vapor light fixture or lamp for use as outdoor lighting in the County is specifically prohibited.

Lighting of outdoor recreational facilities (public or private) such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, etc. are exempt from the lamp type standards provided that all other applicable provisions are met.

(3) *Luminaire standards.* Fully shielded, full cutoff luminaires with recessed bulbs and flat lenses are the only permitted fixtures for outdoor lighting, with the following exceptions.

a. Luminaires that have a maximum output of 260 lumens per fixture (the approximate output of one 20 watt incandescent bulb), regardless of number of bulbs, may be left unshielded provided the fixture has an opaque top to keep light from shining directly up.

b. Luminaires that have a maximum output of 1,000 lumens per fixture (the approximate output of one 60 watt incandescent bulb), regardless of number of bulbs, may be partially shielded, provided the bulb is not visible, and the fixture has an opaque top to keep light from shining directly up.

c. Sensor activated lighting may be unshielded provided it is located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-way, and provided the light is set to only go on when activated and to go off within five minutes after activation has ceased, and the light must not be triggered by activity off the property.

d. Flood or spot luminaires with a lamp or lamps rated at 900 lumens or less may be used except that no spot or flood luminaire may be aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, or directed skyward, or directed towards the shoreline areas, The luminaire must be redirected or aimed so that illumination is directed to the designated areas and its light output controlled as necessary to eliminate such conditions. Illumination resulting from such lighting must be considered as contributing to the illumination levels specified herein.

e. All externally illuminated billboards and signs must be lighted by shielded fixtures mounted at the top of the sign and aimed downward. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding. Dark backgrounds with light lettering or symbols is preferred to minimize detrimental effects. Illumination resulting from sign lighting must be considered as contributing to the illumination levels specified herein.

f. Fixtures used to accent architectural features, materials, colors, style of buildings, landscaping, or art must be located, aimed and shielded so that light is directed only on those features. Such fixtures must be aimed or shielded to minimize light spill onto adjacent properties or into the night sky in conformance with illumination and luminaire standards.

g. All non-essential exterior commercial lighting must be turned off after business hours.

(4) *Luminaire mount standards.* the following standards apply to luminaire mountings.

a. *Free standing luminaires.* Light poles must be placed on the interior of the site. When light poles are proposed to be placed on the perimeter of the site, specific consideration should be addressed to compliance with the illumination standards at the property line and off the property onto adjacent residential property. The maximum height of light poles for parking lots and vehicular use areas may not exceed 25 feet measured from the ground level directly below the luminaire to the bottom of the lamp itself. Light poles located within 50 feet of a residentially zoned property or use may not exceed 15 feet. Poles used to illuminate pedestrian walkways may not exceed 15 feet. Lighting for outdoor recreational facilities (public or private) such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, etc., are exempt from the mounting height standards provided that all other applicable provisions are met.

b. *Building mounted luminaires.* These luminaires may only be attached to the building walls and the top of the fixture may not exceed the height of the parapet, or the roof, or 25 feet, whichever is the lowest.

c. *Canopy lighting.* Light fixtures mounted on the underside of a canopy must be recessed or shielded full cutoff type so that the light is restrained to 85 degrees or less from the vertical. As an alternative (or supplement) to the canopy ceiling lights, indirect lighting may be used where the light is beamed upward and then reflected down from the underside of the canopy. When this method is used, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy. No part of the canopy may be back-lighted. Lights may not be mounted on the top or sides (fascias) of the canopy. The sides (fascias) of the canopy may not be illuminated in any manner.

d. *Trees and landscaping.* To avoid conflicts, locations of all light poles and fixtures must be coordinated with the locations of all trees and landscaping whether existing or shown on the landscaping plan. Vegetation screens may not be employed to serve as the means for controlling glare. Glare control must be achieved through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.

(e) *Development order and permit criteria.* The applicant for any development order or building permit, as applicable under the provisions of this Code involving outdoor lighting fixtures, must submit as part of the application evidence that the proposed work will comply with the outdoor lighting standards of this Code. Specifically the submission must include the following:

1. Plans indicating the location on the premises and the type of illuminating devices, fixtures, lamps, supports, reflectors and other devices.

2. A detailed description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices. The description must include manufacturer's catalogue cuts and drawings, including pictures, sections, and proposed wattages for each fixture.

3. All applications for development orders or building permits, except for single-family and duplex building permits, must provide photometric data, such as that furnished by the manufacturer of the proposed illuminating devices, showing the angle of cut-off and other characteristics of the light emissions including references to the standards contained herein.

4. All applications for development orders or building permits, except for single-family and duplex building permits, must provide photometrics in initial footcandles output for all proposed and existing fixtures on-site shown on a 20-foot by 20-foot grid on an appropriately scaled plan. On-site lighting to be included in the calculations must include, but is not limited to, lighting for parking lot, canopies, and building mounted and recessed lighting along the building facades and overhangs. The photometric plan must include a table showing the average, minimum, and maximum footcandles of illumination on the site and within 50 feet of the site and the calculations deriving the averages. Evidence must be provided demonstrating that the proposed lighting plan will comply with the requirements of this Code. The use of a light loss factor (LLF) is not permitted in these photometrics. This photometric plan must be coordinated with the landscape plan to identify the location of trees and other landscaping features with respect to the lighting devices. Rejection or acceptance of the photometric plan will be based on this Code.

(f) *Compliance.*

1. Prior to the final inspection for a certificate of compliance pursuant to section 10-183, site verified footcandle readings must be provided demonstrating that the outdoor lighting, as installed, conforms with the proposed photometrics and the letter of substantial compliance provided by a registered professional engineer must include a certification that the outdoor lighting is in compliance with this Code.

2. If any outdoor light fixture or the type of light source therein, is changed after the permit or development order has been issued, a change request or development order amendment must be submitted for approval together with adequate information to assure compliance with this Code. This request or amendment must be approved prior to the installation of the proposed change.

3. Outdoor lighting must be maintained in compliance with this Code.

(g) *Existing outdoor lighting.* All applications for development orders or building permits, except for single-family and duplex building permits, for properties with existing outdoor light fixtures must demonstrate compliance with the outdoor lighting standards of this Code. Compliance with light pole height requirements is not required for light poles existing on June 24, 2003. Replacement of fixtures not in conjunction with a development order or building permit, as applicable, requires a Type A limited development order approval issued by Development Services that demonstrates compliance with the outdoor lighting standards for fixtures established herein.

(Ord. No. 03-16, § 6, 6-24-03; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-626. Requests for zoning verification.

(a) *Request.* Zoning verification letters ("ZVL") may be requested from the Director by an individual who is seeking verification of the zoning status of a specific parcel of land. The request must provide sufficient information to identify the property and the information the requestor seeks to verify. The request must be submitted in writing and be accompanied by the required administrative fee. If the request covers multiple parcels, the Director may treat each parcel as a separate request and may result in additional fees. The requestor is solely responsible for the accuracy of the information provided to the County within the request.

(b) *Duration.* There is no specific expiration date for a ZVL. However, County zoning regulations are continually under review and may change at any time. ZVL determinations are subject to changes in County regulations adopted after the issuance of the Letter. Determinations provided in a ZVL may be superseded if not in conformance with the current regulations at the time of permit application. Before relying on a ZVL, an individual must ensure that all applicable rules, regulations, and circumstances have not changed subsequent to the issuance of the ZVL.

(c) *Content.* A ZVL provided by the County may contain the following information:

(1) The future land use designation of the property.

(2) The zoning district of the property.

(3) Verification that a particular use is permitted within the property's zoning district.

(4) A list of permitted uses in the zoning district.

(5) Identification of current zoning resolutions, special exceptions, variances, and deviations that apply to the property.

(6) The development regulations applicable to the property.

(7) Zoning action needed to permit a particular use.

(8) Identification of any current Notice of Violations issued for code enforcement violations on the subject property.

(d) *Limitations.* The ZVL is limited in the following manner:

(1) The determinations set forth in section 34-626(c) are the only information that a ZVL may address.

(2) In preparing a ZVL, the Director must review the request based upon current regulations and the current state of the property. The ZVL may not be based on conjecture, supposition, or speculation.

(3) ZVLs must apply the plain meaning of the applicable regulations.

(4) A ZVL may not address whether existing development on the property conforms to current Code requirements.

(5) ZVLs may not provide legal opinions or advice.

(6) The submission of sample letters with desired format or content is not permitted.

(e) *Errors, misleading information or noncompliance.* If the County determines that a ZVL was based on inaccurate or misleading information or if the ZVL does not comply with this Code, then, at any time, the Director may issue a modified ZVL that complies with the Code or revoke the ZVL. No refunds will be provided.

(f) *Effect of a Zoning Verification Letter.* A ZVL does not authorize development activity.

(g) *Review.* The determinations made within a ZVL are not subject to appeal.

(Ord. No. 11-08 , § 10, 8-9-11)

Secs. 34-627—34-650. Reserved.

DIVISION 2. AGRICULTURAL DISTRICTS

Sec. 34-651. Purpose and intent.

The purpose of the agricultural districts is:

(1) to provide areas for the establishment or continuation of agricultural operations, with residential uses being permitted as ancillary to agricultural uses;

(2) to accommodate those individuals who understand and desire to live in an agricultural environment; and

(3) to accommodate compact communities in Southeast Lee County that protect agricultural or natural lands.

(Ord. No. 93-24, § 7(410.01), 9-15-93; Ord. No. 10-25 , § 4, 6-8-10)

Sec. 34-652. Applicability of use and property development regulations.

No land, body of water or structure may be used or permitted to be used and no structure may hereafter be erected, constructed, moved, altered or maintained in the AG districts for any purpose other than as provided in section 34-653, pertaining to use regulations for agricultural districts, and section 34-654, pertaining to property development regulations for agricultural districts, except as may be specifically provided for in article VIII (nonconformities) of this chapter, or in section 34-620, or chapter 32.

(Ord. No. 93-24, § 7(410.02), 9-15-93; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 10-25 , § 4, 6-8-10)

Sec. 34-653. Use regulation table. [8]

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Accessory uses, buildings, and structures:	34-1171 et seq. and 34-2441 et seq.	P	P	P
Accessory apartments	34-1171 and 34-1180	P	P	P
Accessory uses on tracts encumbered by easements that created TDR credits	Note (26)	P	P	P
Amateur radio antennas and satellite earth stations	34-1175	Refer to 34-1175 for regulations		
Entrance gates, gatehouses	34-1741 et seq.	P	P	P

Residential accessory uses	Note (19), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq., 34-2141 et seq.	P	P	P
Signs in compliance with chapter 30		P	P	P
Administrative offices		P	P	P
Agricultural uses	Note (2), 34-2441 et seq.	P	P	P
Agricultural accessory uses and buildings	Note (3), 34-1171 et seq., 34-2441 et seq.	P	P	P
Aircraft landing facilities, private:				
Lawfully existing:				
Expansion of aircraft landing strip or helistop or heliport landing pad	34-1231 et seq.	SE	SE	SE
New accessory buildings	34-1231 et seq.	P	P	P
New:				
Aircraft landing strip and ancillary hangers, sheds and equipment	34-1231 et seq.	SE	SE	SE
Animals, reptiles, marine life:				
Animals (excluding exotic species)	34-1291 et seq.	P	P	P
Animal clinic (df) or animal kennel (df)	34-1321 et seq.	EO/SE	EO/SE	EO/SE
Keeping, raising or breeding of domestic tropical birds (df) for commercial purposes	Note (12), 34-1291 et seq.	SE	SE	SE

Keeping, raising or breeding of American alligators, venomous reptiles or Class II animals (df)	34-1291 et seq.	SE	SE	SE
Keeping, raising or breeding of marine life which requires the storage of brackish or saline water in man-made ponds	34-1291 et seq.	SE	SE	SE
Assisted living facility	Note (1), (21), 34-1411	EO/SE	EO/SE	EO/SE
Bed and breakfast (df)	Note (16), 34-1494	P	P	—
Boat ramps	Note (14)	EO/SE	EO/SE	EO/SE
Business Services - Group II (limited to Horticultural Services and Lawn and Garden Services	Note (23)	—	SE	—
Caretaker's residence	Note (22) and (25)	P	P	EO/SE
Cemeteries		EO/SE	EO/SE	EO
Communication facility, wireless	34-1441 et seq.	Refer to 34-1441 et seq. for regulations		
Community residential home	Note (21)	P	P	P
Compact community	Note (27)	P	P	P
Consumption on premises	34-1261 et seq., 34-3152	AA/SE	AA/SE	AA/SE
Day care center, adult or child	34-206, Notes (15) & (16)	EO/SE	EO/SE	EO/SE
Dwelling unit:				
Mobile home	Note (4) & (17), 34-1921 et seq.	P	P	P
Single-family residence, conventional	Note (17)	P	P	P

Second conventional single-family residence on lot	Note (5) & (17), 34-1180	P	P	P
EMS, fire or sheriff's station	34-3152	SE	SE	SE
Essential services	34-1611 et seq., 34-1741 et seq.	P	P	P
Essential service facilities (34-622(c)(13)):				
Group I	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P	P	P
Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	EO	EO
Excavation:				
Oil or gas	34-1651	SE	SE	SE
Water retention	34-1651, 10-329(c)	P	P	P
Mining	Note (24)	—	—	—
Farm labor housing	Note (20), 34-1891 et seq.	EO/SE	EO/SE	EO/SE
Feed and supply store		—	SE	—
Forestry tower		SE	SE	SE
Forestry, cypress (Taxodium spp.), for sawtimber use only	34-651 et seq.	SE	SE	SE
Golf course	34-2471 et seq.	EO	EO	EO
Health care facilities (34-622(c)(20)), groups I and II (less than 50 beds)	Note (8), (11) and (16)	EO	EO	EO

Home care facility	Note (16)	P	P	P
Home occupation:	34-1771 et seq.			
No outside help	Note (19)	P	P	P
With outside help	Note (19)	AA	AA	AA
Lawn and garden supply stores	34-2081	SE	SE	SE
Lawn and garden equipment (small engine parts and repairs)		SE	SE	SE
LCDOT maintenance facility	Note (6)	EO	EO	EO
Marina	34-1862	EO	EO	EO
Models:	34-1951 et seq.			
Display center		SE	SE	SE
Model home		AA/SE	AA/SE	AA/SE
Paint ball range, outdoor		SE	SE	SE
Parks (34-622(c)(32))				
Group I	Note (9)	P	P	P
Group II	Note (7)	EO/SE	EO/SE	EO/SE
Place of worship	Note (16), 34-2051 et seq.	P	P	P
Post office	Note (6)	EO	EO	EO
Produce stands:	34-1711 et seq.			
Temporary		P	P	P

Permanent		P	P	P
Recreation facilities:				
Commercial - Group III	34-622(c)(38), Note (10)	SE	SE	SE
Personal	Note (28)	P	P	P
Private-Onsite		P	P	P
Private-Offsite		EO/SE	EO/SE	EO/SE
Religious facilities	Note (7) & (16), 34-2051 et seq.	EO/SE	EO/SE	EO/SE
Research and development laboratories, group I	34-622(c)(41)	P	P	P
Residential subdivision	Notes (17) and (28)	P	P	P
Schools, noncommercial:				
Lee County School District	Note (16), 34-2381	P	P	P
Other	Note (16), 34-2381	EO	EO	EO
Social services (34-622(c)(46)), groups III and IV	Note (8), (11) & (16), 34-3021	EO	EO	EO
Stable:				
Boarding stable or private stable	34-1291 et seq.	P	P	P
Commercial	34-1291 et seq.	SE	SE	SE
Temporary uses	34-3041 et seq.	TP	TP	TP
U-pick operations	34-1711 et seq.	P	P	—

Notes:

(1) Any expansion which will bring the number of beds to 50 or more requires a special exception.

(2) Any lot created in the rural community preserve land use category (as delineated by policy 17.1.3 of the Lee Plan) after July 9, 1991, must have a minimum area of 43,560 square feet excluding all street rights-of-way or easement areas, water management areas, and natural water bodies. Public utility easement areas may be included in the lot size calculation.

(3) Limited to uses and buildings customarily incidental to agricultural uses, including the processing and packaging of agricultural products primarily grown on the premises.

(4) Mobile home permitted provided it is the only residential unit on the property, and provided further that the property meets the same lot area and dimensions, setbacks, height and maximum lot coverage as set forth in table 34-654 for the AG-1 district.

(5) Only permitted in compliance with section 34-1180

(6) Expansion of facility to ten or more acres requires a special exception.

(7) Any new facility of ten or more acres or any expansion of an existing facility to ten or more acres requires a special exception.

(8) Any new facility of 50 or more beds, or any expansion of an existing facility which will bring the number of beds to 50 or more or which changes the use, requires a special exception.

(9) Recreational halls require a special exception approval.

(10) Limited to passive and active recreational and educational activities including, but not limited to, hiking and nature trails, paintball and gun ranges, zip lining, paragliding, and similar activities where little or no on site facilities or capital investment are required, and the natural environment, with little or no alteration of the nature landscape, is utilized.

(11) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

(12) The keeping of ostrich, cassowary, rhea, or emu for the production of meat, skins, or hides, feathers, or the progeny thereof, as part of a bonafide agricultural operation does not require a special exception.

(13) Reserved.

(14) Non-commercial only.

(15) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.

(16) Not permitted in Airport Noise Zone B.

(17) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.

(18) Reserved.

(19) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004

(20) Not permitted in Airport Noise Zone B. Housing units consisting of mobile homes or park trailers are also not permitted in Airport Noise Zone B.

(21) Not permitted in Airport Noise Zone B unless pre-empted by state law.

(22) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.

(23) Minimum of five acres required.

(24) The rights applicable to mining excavations approved prior to September 1, 2008, are set forth in section 12-121

(25) Only in conjunction with a bona fide agricultural use.

(26) Certain additional accessory uses may be allowed by Lee County through formal acceptance of agricultural or conservation easements in exchange for TDR credits as provided in 32-307. These additional accessory uses are allowed on the easement property only to the extent they are specifically set forth in the recorded easement.

(27) Chapter 32, article IV, regulates the potential location and configuration of compact communities on certain agriculturally zoned land in Southeast Lee County. Allowable uses of individual lots within compact communities are set forth in chapter 32, article II.

(28) Subdivision of acreage in Southeast Lee County into

five or more residential lots requires rezoning to a planned development district, except as provided in chapter 32, article IV.

(29) Minimum property size for a picnic pavilion is 10 acres. Structure is limited to 1,000 square feet with less than 100 square feet for an enclosed bathroom.

(Ord. No. 93-24, § 7(table 410.A), 9-15-93; Ord. No. 94-02, § 6, 1-19-94; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 95-07, § 35, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 06-06 , § 1, 4-11-06; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-25 , § 4, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-01 , § 6, 1-10-12; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-654. Property development regulations table. [9]

Property development regulations for agricultural districts are as follows:

TABLE 34-654. PROPERTY DEVELOPMENT REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Minimum lot dimensions and area:	Note (1)			
Minimum lot area:	Notes (2) and (6)			
Interior lot	34-2221, 34-2222	4.7 acres	39,500 sq. ft.	20,000 sq. ft.
Corner lot	34-2221, 34-2222	4.4 acres	33,600 sq. ft.	20,000 sq. ft.
Minimum lot width (feet)		300	100	100
Minimum lot depth (feet)		300	130	130

Minimum setbacks:				
Street (feet)	Notes (3) and (4), 34-2191 et seq., 34-1261 et seq.	Variable according to the functional classification of the street or road (see section 34-2192), but in no case less than 50 feet in the AG-1 district.		
Side yard (feet)		25	15	15
Rear yard (feet)	34-2191 et seq.	25	25	25
Water body (feet):	34-2191 et seq.			
Gulf of Mexico		50	50	50
Other		25	25	25
Special regulations:				
Animals, reptiles, marine life	34-1291 et seq.			
Consumption on premises	34-1261 et seq.			
Docks, seawalls, etc.	34-1863 et seq.			
Essential services	34-1611 et seq.	Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.		
Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142			

	Fences, walls, gatehouses, etc.	34-1741 et seq.			
	Nonroofed accessory structures	34-2194(c)			
	Railroad right-of-way	34-2195			
Maximum height (feet)		34-2171 et seq.	35	35	35
			Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2175).		
Maximum lot coverage (percent of total lot area)			25%	25%(5)	25%

Notes:

(1) Certain projects in agricultural districts may fall within the DR/GR land use category. In such areas, additional density and use restrictions are applicable as provided in the Lee Plan and this Code (e.g., sections 34-653 and chapter 32). New residential uses are limited to a maximum density of one dwelling unit per ten acres except as provided in chapter 32; however, individual residential parcels may contain up to two acres of wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetlands.

(2) Any lot created in the rural community preserve land use category (as delineated by policy 17.1.3 of the Lee Plan) after July 9, 1991, must have a minimum area of 43,560 square feet excluding all street rights-of-way.

(3) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted only by variance. See section 34-2191 et seq.

(4) Special street setback provisions apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b)(3) and (4).

(5) For nonconforming lots, as defined in section 34-3271, the maximum lot coverage will be 40 percent.

(6) All lots in the "Coastal Rural" land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after May 29, 2007 must comply with the additional regulations in section 33-1052. Lots created before that date are not required to comply with the additional regulations in section 33-1052

(Ord. No. 93-24, § 7(table 410.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 95-07, § 36, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 07-19 , § 6, 5-29-07; Ord. No. 10-25 , § 4, 6-8-10)

Secs. 34-655—34-670. Reserved.

FOOTNOTE(S):

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Editor's note— [The amendments to Table 34-653, specifically "accessory uses on tracts encumbered by easements that created TDR credits," "Compact community" and "Residential subdivision" along with Notes 26, 27 and 28, all as adopted in LCO 10-25, will have no force or effect until the date the Lee Plan amendments adopted by ordinances 10-19 and 10-21 become effective in accordance with F.S. ch. 163.] (Back)

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Note: [The amendments to Note 1 pertaining to chapter 32, as adopted in LCO 10-25, will have no force or effect until the date the Lee Plan amendments adopted by ordinances 10-19 and 10-21 become effective in accordance with F.S. ch. 163.] (Back)

DIVISION 3. RESIDENTIAL DISTRICTS

Subdivision I. - In General

Subdivision II. - One- and Two-Family Residential Districts

Subdivision III. - Multiple-Family Districts

Subdivision IV. - Mobile Home Residential Districts

Subdivision I. In General

Sec. 34-671. General purpose and intent.

Secs. 34-672—34-690. Reserved.

Sec. 34-671. General purpose and intent.

The purpose and intent of the residential districts is to permit various types of dwelling units at various densities in the urban service areas where infrastructure exists or can feasibly be extended, and to permit lower-density single-family conventional and mobile home dwelling units in nonurban areas where the services and conveniences of the urban areas are not provided.

(Ord. No. 93-24, § 7(420.01), 9-15-93)

Secs. 34-672—34-690. Reserved.

Subdivision II. One- and Two-Family Residential Districts

Sec. 34-691. Purpose and intent.

(a) *RSC-1 residential single-family conservation district.* The purpose and intent of the RSC-1 residential single-family conservation district is to recognize and protect existing single-family residential developments, lots, structures and uses, previously permitted but not conformable to the regulation for other single-family residential districts set forth in this chapter, and to accommodate residential use of lawfully existing lots nonconforming under previous zoning regulations. This district may be applied to any land use category allowing residential uses set forth under the Lee Plan. This district is not available for new developments, but may be used only by property owners in existing developments that comply with the property development regulations or by the Board of County Commissioners upon its own initiative to achieve the purpose mentioned in this section.

(b) *RS residential single-family districts.* The purpose and intent of the RS residential single-family district is to provide opportunities for the suitable location of detached, conventionally built single-family dwelling units and for facilitation of the proper development and protection of the subsequent use and enjoyment thereof.

(c) *TFC residential two-family conservation district.* The purpose and intent of the TFC residential two-family conservation district is to recognize and protect existing two-family residential developments, lots, structures and uses, previously permitted but not conformable to the regulations for the other two-family residential district set forth in this chapter, and to accommodate residential use of existing lots that were nonconforming under previous zoning regulations. This district is not available for new developments, but may be used only by property owners in existing developments that comply with the property development regulations or by the Board of County Commissioners upon its own initiative to achieve the purpose mentioned in this section.

(d) *TF-1 two-family district.* The purpose and intent of the TF-1 two-family district is to designate suitable locations for residential occupancy of conventionally built duplex, two-family and single-family dwelling units and to facilitate the proper development and to protect the subsequent use and enjoyment

thereof. The TF district is intended for use only within the future urban areas as designated by the Lee Plan and subject to the range of densities for each land use category accommodating residential uses.

(Ord. No. 93-24, § 7(421.01), 9-15-93; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 12-19 , § 3, 9-11-12)

Sec. 34-692. Applicability of use and property development regulations.

No land, body of water or structure may be used or permitted to be used and no structure may hereafter be erected, constructed, moved, altered or maintained in any one-or two-family residential district for any purpose other than as provided in section 34-694, pertaining to use regulations for one-and two-family residential districts, and section 34-695, pertaining to property development regulations for one-and two-family residential districts, except as may be specifically provided for in article VIII (nonconformities) of this chapter, or in section 34-620.

(Ord. No. 93-24, § 7(421.02), 9-15-93; Ord. No. 98-11, § 5, 6-23-98)

Sec. 34-693. Property development regulations for nonresidential uses.

(a) All nonresidential uses in the one- and two-family residential districts shall comply with the minimum lot dimensions, setbacks, maximum lot coverage and height requirements set forth for single-family dwellings in the district in which located, and shall have sufficient lot area to satisfy all open space, buffering, drainage, retention, parking and other development requirements of this chapter and chapter 10

(b) Exceptions and modifications to property development regulations are set forth in article VII, division 30, of this chapter.

(Ord. No. 93-24, § 7(421.03), 9-15-93)

Sec. 34-694. Use regulations table.

Use regulations for one- and two-family residential districts are as follows:

TABLE 34-694. USE REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC-1	TFC-2	TF-1
Accessory uses, buildings and structures:	34-1171 et seq., 34-2441 et seq. 34-3106	P	P	P	P	P	P	P	P	P	P	P
Amateur radio	34-1175	Refer to 34-1175 for regulations.										

antennas and satellite earth stations												
Entrance gate, gatehouses	34-1741 et seq.	P	P	P	P	P	P	P	P	P	P	P
Residential accessory uses	Note (13), 34-622(c)(42), 34-1171 et. seq., 34-1863, 34-1741 et seq., 34-2141 et seq.	P	P(4)	P	P	P	P	P	P	P	P	P
Signs in compliance with chapter 30		P	P	P	P	P	P	P	P	P	P	P
Accessory apartment	Note (1) & (10), 34-1177	—	—	AA	AA	AA	AA	AA	AA	P	P	—
Administrative offices		P	P	P	P	P	P	P	P	P	P	P
Aircraft landing facilities, private:												
Lawfully existing:												

Expansion of aircraft landing strip, or helistop or heliport landing pad	34-1231 et seq.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
New accessory buildings	34-1231 et seq.	P	P	P	P	P	P	P	P	P	P	P
New:												
Helistop	34-1231 et seq.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Animals:	34-1291 et seq.											
Equines		—	—	—	—	—	—	SE	SE	—	—	—
Poultry raising, noncommercial	34-1291 et seq.	—	—	—	—	—	—	SE	SE	—	—	—
Assisted living facility	Notes (2), (14) & (15), 34-1411	—	—	—	—	—	—	—	—	—	—	P
Boat ramps	Note (8)	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE
Clubs, private		P	P	P	P	P	P	P	P	P	P	P

Communication facility, wireless	34-1441 et seq.	Refer to 34-1441 et seq. for regulations										
Community gardens	34-1716	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Community residential home	Note (14)	P	P	P	P	P	P	P	P	P	P	P
Consumption on premises	34-1261 et seq.	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE
Day care center, adult or child	34-206 Notes (9) & (10)	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Dwelling unit:												
Duplex	34-3107 34-3108 Note (10)	—	—	—	—	—	—	—	—	P	P	P
Mobile home	Note (11)	EO	EO	EO	EO	EO	EO	EO	EO	EO	EO	EO
Single-family residence, conventional	Note (11)	P	P	P	P	P	P	P	P	P	P	P
Two-family attached	34-3107 34-3108 Note (10)	—	—	—	—	—	—	—	—	—	—	P
Essential services	34-1611 et seq., 34-1748	P	P	P	P	P	P	P	P	P	P	P

Essential service facilities (34-622(c)(13)):												
Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P	P	P	P	P	P	P	P	P	P
Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	—	—	—	EO	—	—	—	—	—	EO	—
Excavation:												
Oil or gas	34-1651(c)	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Water retention	34-1651(b), 10-329(c)	P	P	P	P	P	P	P	P	P	P	P
Golf course	34-2471 et seq.	EO	EO	EO	EO	EO	EO	EO	EO	EO	EO	EO
Home care facility	Note (10)	P	P	P	P	P	P	P	P	P	P	P
Home occupation:												
No outside help	Note (13), 34-1772(c)	P	P	P	P	P	P	P	P	P	P	P

With outside help	Note (13), 34-1772(c)	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA	AA
Library	Note (10)					EO						
Marina	34-1862	—	—	EO	EO	EO	EO	EO	EO	EO	EO	EO
Models:												
Display center	34-1951 et seq.	—	—	SE	SE	SE	SE	SE	SE	SE	SE	SE
Model home	34-1951 et seq.	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE
Parks, group I	34-622(c)(32)	P	P	P	P	P	P	P	P	P	P	P
Place of worship	Note (10), 34-2051	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE
Real estate sales office	Note (6)	SE	SE	SE	SE	SE	SE	SE	SE	—	—	—
Recreation facilities:												
Personal		P	P	P	P	P	P	P	P	P	P	P
Private—On-site		P	P	P	P	P	P	P	P	P	P	P
Private—Off-site		EO	EO	EO	EO	EO	EO	EO	EO	EO	EO	EO
Religious facilities	Note (3) & (10),	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE

	34-2051 et seq.											
Schools, noncommercial:												
Lee County School District	Note (10), 34-2381	P	P	P	P	P	P	P	P	P	P	P
Other	Note (10), 34-2381	—	—	SE	SE	SE	SE	SE	SE	—	—	SE
Stable, private	34-1292	—	—	—	—	—	—	SE	SE	—	—	—

Notes:

(1) Permitted only when accessory to a lawfully permitted single-family dwelling unit.

(2) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, requires a special exception.

(3) Any new facility of ten or more acres or any expansion of an existing facility to ten or more acres, requires a special exception.

(4) Accessory buildings and uses (to the main building) may be located closer to the front of the property than the main building but must comply with all other setback requirements for accessory buildings and uses.

(5) Reserved.

(6) Real estate sales are limited to sales of lots, homes or units within the development. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding three years from the date the certificate of occupancy for the sales office is issued. The Director may grant one two-year extension. Additional time will require a new special exception approval.

(7) Reserved.

(8) Non-commercial only.

(9) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.

(10) Not permitted in Airport Noise Zone B.

(11) Not permitted in Airport Noise Zone B. See section 34-1006(b)(2) for exceptions.

(12) Reserved.

(13) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004

(14) Not permitted in Airport Noise Zone B unless pre-empted by state law.

(15) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

(Ord. No. 93-24, § 7(table 421.A), 9-15-93; Ord. No. 94-02, § 6, 1-19-94; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 06-10 , § 1, 6-12-06; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-695. Property development regulations table.

Property development regulations for one- and two-family residential districts are as follows:

TABLE 34-695. PROPERTY DEVELOPMENT REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC-1	TFC-2	TF-1
Minimum lot area and dimensions:	34-2221 34-2222 34-2142											
Single-family detached:	Note (5)											
Lot area (square feet)		4,000	43,560	6,500	7,500	12,500	20,000	40,000	2 acres	6,000	7,500	7,500

Lot width (feet)		40	100	65	75	100	100	100	130	50	75	75
Lot depth (feet)		75	200	75	100	100	100	100	130	100	100	100
Duplex:												
Lot area (square feet)		—	—	—	—	—	—	—	—	6,000	7,500	10,000
Lot width (feet)		—	—	—	—	—	—	—	—	50	75	75
Lot depth (feet)		—	—	—	—	—	—	—	—	100	100	100
Two-family attached:												
Lot area (square feet)		—	—	—	—	—	—	—	—	12,000	12,000	12,000
Lot width (feet)		—	—	—	—	—	—	—	—	120	120	120
Lot depth (feet)		—	—	—	—	—	—	—	—	100	100	100
Minimum setbacks:												
Street (feet)	Notes (1) and (2), 34-2191 et seq.	10	50 (3)	Variable according to the functional classification of the street or road (see section 34-2192).								

Side yard (feet):	Notes (1) and (4), 34-2191 et seq.											
Single-family or duplex		5	10	6.5	7.5	10	12	15	15	6	7.5	7.5
Two-family		—	—	—	—	—	—	—	—	10 (3)	10 (3)	10 (3)
Rear yard (feet)	Note (1), 34-2191 et seq.	10	20	20	20	20	20	20	20	20	20	20
Water body (feet):	34-2191 et seq.											
Gulf of Mexico		50	50	50	50	50	50	50	50	50	50	50
Other		10	25	25	25	25	25	25	25	25	25	25
Special regulations:												
Animals, reptiles, marine life	34-1291 et seq.											
Consumption on premises	34-1261 et seq.											
Docks, seawalls, etc.	34-1863 et seq.											

Essential services	34-1611 et seq.											
Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2141 et seq.	Refer to the section specified for exceptions or additions to the minimum setback requirements listed in this table.										
Fences, walls, gatehouses	34-1741 et seq.											
Nonroofed accessory structures	34-2194(c)											
Railroad right-of-way	34-2195											
Maximum height (feet)	34-2171 et seq.	35	35	35	35	35	35	35	35	35	35	35
		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2171 et seq.) .										
Maximum lot coverage (percent of total lot area)		45%	25%	45%	40%	40%	40%	40%	40%	45%	40%	45%

Notes:

(1) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted by variance only. See section 34-2191 et seq.

(2) Special street setbacks apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b).

(3) Accessory buildings and uses can be located closer to the front of the property than the main building, but must comply with all other setback requirements for accessory building uses.

(4) No side yard setback required from common side lot line for two-family attached.

(5) All lots in the "Coastal Rural" land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after May 29, 2007 must comply with the additional regulations in section 33-1052. Lots created before that date are not required to comply with the additional regulations in section 33-1052

(Ord. No. 93-24, § 7(table 421.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 07-19 , § 6, 5-29-07; Orrd. No. 13-10, § 10, 5-28-13)

Secs. 34-696—34-710. Reserved.

Subdivision III. Multiple-Family Districts

Sec. 34-711. Purpose and intent.

(a) The purpose of the RM multiple-family districts is to designate suitable locations for residential occupancy of various types of conventional residential buildings for projects which are not already approved planned unit developments or which fall below the criteria for residential planned developments, and for facilitating the proper development and protecting the subsequent use and enjoyment thereof.

(b) Except for the RM-3 district, which may be permitted in nonurban areas, the RM districts are intended for use only within the future urban areas as designated by the Lee Plan and are subject to the range of densities for each land use category accommodating residential uses.

(c) There are five RM districts: RM-2, RM-3, RM-6, RM-8 and RM-10.

(Ord. No. 93-24, § 7(422.01), 9-15-93)

Sec. 34-712. Applicability of use and property development regulations.

No land, body of water or structure may be used or permitted to be used and no structure may be hereafter be erected, constructed, moved, altered or maintained in the RM districts for any purpose other than as provided in section 34-714, pertaining to use regulations for multiple-family residential districts, and section 34-715, pertaining to property development regulations for multiple-family districts, except as may be specifically provided for in article VIII (nonconformities) of this chapter, or in section 34-620 or section 34-713.

(Ord. No. 93-24, § 7(422.02), 9-15-93; Ord. No. 98-11, § 5, 6-23-98)

Sec. 34-713. Alternate property development regulations for duplex, two-family attached and townhouse units.

As an alternative to developing in accordance with section 34-715, pertaining to property development regulations for multiple-family residential districts, a parcel may be developed with duplexes, two-family attached units and townhouses on lots with a minimum area of 2,400 square feet per unit without compliance with minimum width, depth or side yard setback requirements; provided:

(1) The overall parcel on which the lots are developed shall comply with all lot coverage, area, width and depth requirements for the RM district in which located;

(2) All structures shall comply with setbacks for the RM district in which located, as measured from the boundary of the overall parcel;

(3) All structures shall comply with front and rear and water body setbacks for the RM district in which located, as measured from individual lot lines;

(4) All structures which exceed the maximum height requirements of the RM district in which located shall comply with the additional setbacks specified in article VII, division 30, subdivision II, of this chapter as measured from the overall parcel boundary; and

(5) The applicant shall provide adequate assurance that all areas of the overall parcel which are not developed with individual lots shall remain as open space. Such assurance may be in the form of an easement or other document or combination of documents satisfactory to the County Attorney.

(Ord. No. 93-24, § 7(422.03), 9-15-93)

Sec. 34-714. Use regulations table.

Use regulations for multiple-family districts are as follows:

TABLE 34-714. USE REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

			Special Notes or Regulations	RM-2 (Note 5)	RM-3, RM-6, RM-8, RM-10 (Note 5)

Accessory uses, buildings, and structures:	34-1171 et seq., 34-2441 et seq., 34-3106	P	P
Amateur radio antennas and satellite earth stations	34-1175	Refer to 34-1175 for regulations.	
Entrance gate, gatehouses	34-1741 et seq.	P	P
Residential accessory uses	Note (13), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq., 34-2141 et seq.	P	P
Signs in compliance with chapter 30		P	P
Accessory apartment	Note (1) & (10), 34-1177	P	P
Administrative offices		P	P
Aircraft landing facilities, private:			
Lawfully existing:			
Expansion of aircraft landing strip or helistop landing pad	34-1231 et seq.	SE	SE
New accessory buildings	34-1231 et seq.	P	P
New:			
Helistop	34-1231 et seq.	SE	SE
Assisted living facility	Note (2), (14), & (16) 34-1493, 34-1411	P	P
Bed and Breakfast (df)	Note (10), 34-1494	P	P

Boarding house	Note (10)	P	P
Boat ramps	Note (7)	EO/SE	EO/SE
Clubs:			
Country		EO	EO
Private		P	P
Communication facility, wireless	34-1441 et seq.	Refer to 34-1441, et seq. for regulations.	
Community residential home	Note (14)	P	P
Community gardens	34-1716	AA	AA
Consumption on premises	34-1261 et seq.	AA/SE	AA/SE
Day care center:			
Adult	Note (10)	SE	SE
Child	34-206, Notes (9) & (10)	SE	SE
Dormitory	Note (10)	SE	SE
Dwelling unit:	34-1493, 34-1494		
Duplex	34-3107, 34-3108, Note (10)	P	P
Mobile home	Note (11)	EO	EO
Multiple-family building	Note (10), 34-3021	P	P
Single-family residence, conventional	Note (11)	P	P
Two-family attached	34-3107, 34-3108, Note (10)	P	P

Townhouse	Note (10)	P	P
Essential services	34-1611 et seq., 34-1748	P	P
Essential service facilities:	34-622(c)(13)		
Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P
Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	—
Excavation:			
Oil or gas	34-1651(c)	SE	SE
Water retention	34-1651(b), 10-329(c)	P	P
Fraternity house	Note (10)	SE	SE
Golf course	Note (5), 34-2471 et seq.	EO	EO
Health care facilities, groups I and II (less than 50 beds)	34-622(c)(20), Note (2), (10) & (16)	P	P
Home care facility	Note (10)	P	P
Home occupation:			
No outside help	Note (13), 34-1772(c)	P	P
With outside help	Note (13), 34-1772(c)	AA	AA
Hotels/motels	Note (15), 34-1801 et seq.	EO	—
Marina	34-1862	EO	EO

Models:			
Display center	34-1951 et seq.	AA/SE	AA/SE
Model home	34-1951 et seq.	AA/SE	AA/SE
Model unit	34-1951 et seq.	P	P
Parks, group I	34-622(c)(32), Note (8)	P	P
Personal services, groups I and II (ancillary use only)	34-622(c)(33), 34-3021	P	P
Place of worship	Note (10), 34-2051 et seq.	P	P
Real estate sales office	Note (4), 34-1951 et seq.	P	P
Recreation facilities:			
Personal		P	P
Private—On-site		P	P
Private—Off-site		EO/SE	EO/SE
Religious facilities	Note (3) & (10), 34-2051 et seq.	SE	SE
Rooming house	Note (10)	P	P
Schools, noncommercial:			
Lee County School District	Note (10), 34-2381	P	P
Other	Note (3) & (10), 34-2381	SE	SE
Specialty retail store (34-622(c)(47)), group I (ancillary use only)	34-3021	P	P

Temporary uses	34-3041 et seq.	TP	TP
Timeshare units	Note (10), 34-1494, 34-2020(a)	P	—

Notes:

(1) Permitted only when accessory to a lawfully permitted single-family dwelling unit.

(2) New facilities of 50 or more beds, or the expansion of an existing facility to 50 or more beds, requires a special exception.

(3) Expansion of a facility to ten or more acres requires a special exception.

(4) Real estate sales are limited to sales of lots, homes or units within the development, except as may be permitted in section 34-1951 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding three years from the date the certificate of occupancy for the sales office is issued. The Director may grant one two-year extension. Additional time will require a new special exception approval.

(5) Redevelopment of an "existing only" golf course with residential buildings or structures requires a special exception.

(6) Reserved.

(7) Non-commercial only.

(8) Reserved.

(9) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.

(10) Not permitted in Airport Noise Zone B.

(11) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.

(12) Reserved.

(13) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004

(14) Not permitted in Airport Noise Zone B unless pre-empted by state law.

(15) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.

(16) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

(Ord. No. 93-24, § 7(table 422.A), 9-15-93; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord.

No. 99-05, § 9, 6-29-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 06-10 , § 1, 6-12-06; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-715. Property development regulations table.

Property development regulations for multiple-family districts are as follows:

TABLE 34-715. PROPERTY DEVELOPMENT REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RM-2	RM-3	RM-6	RM-8	RM-10
Minimum lot area and dimensions:	34-1493, 34-1494, 34-2221, 34-2222, 34-2142					
Single-family detached:	Note (7)					
Minimum lot size (square feet)		6,500 (1)	14,500	7,500	6,500	6,500
Lot area per unit (square feet)		6,500 (1)	14,500	7,500	6,500	6,500
Lot width (feet)		65	75	75	65	65
Lot depth (feet)		100	100	100	75	75
Duplex, two-family, townhouse:	Note (7)					
Minimum lot size (square feet)	34-713	7,500 (2)	29,000	14,000	10,000	10,000
Lot area per unit (square feet)		3,750	14,500	7,000	5,000	5,000

	Lot width per unit (feet)		37.5	50	50	40	40
	Lot depth (feet)		100	100	100	100	100
Multiple-family:		Note (7)					
	Minimum lot size (square feet)		10,000	43,500	20,500 (3)	15,000	12,000
	Lot area per unit (square feet)		3,000	14,500	6,500 (3)	5,000	4,000
	Lot width (feet)		100	100	100	100	100
	Lot depth (feet)		100	120	120	120	120
Nonresidential uses:							
	Lot area (square feet)		10,000	20,000	10,000	10,000	10,000
	Lot width (feet)		75	100	75	100	100
	Lot depth (feet)		100	100	100	100	100
Minimum setbacks:							
Street (feet)		Notes (4) and (5), 34-2191 et seq.	Variable according to the functional classification of the street or road (see section 34-2192).				
Side yard (feet):		Notes (4) and (6), 34-2191 et seq.					
	Single-family, duplex, two-family		7	7	7	7	7

	attached, townhouse						
	Multiple-family and all other uses		20	20	20	20	20
Rear yard (feet)		34-2191 et seq.	20	20	20	20	20
Water body (feet):		34-2191 et seq.					
	Gulf of Mexico		50	50	50	50	50
	Other		25	25	25	25	25
Special regulations:							
	Animals, reptiles, marine life	34-1291 et seq.					
	Consumption on premises	34-1261 et seq.					
	Docks, seawalls, etc.	34-1863					
	Essential services	34-1611 et seq.					
	Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142	Refer to the sections specified for exceptions or additions to the minimum setback requirements listed in this table.				
	Fences, walls, gatehouses, etc.	34-1741 et seq.					
	Hotel/motel	34-1801 et seq.					
	Nonroofed accessory structures	34-2194(c)					

Railroad right-of-way	34-2195					
Maximum height (feet)	34-2171 et seq.	35	35	35	35	35
		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2171 et seq.).				
Maximum lot coverage (percent of total lot area)		45%	45%	45%	45%	45%

Notes:

(1) Minimum lot size is 6,500 square feet. However, the maximum permitted density shall not exceed the density permitted for the land use category in which the property is located.

(2) Minimum lot size is 7,500 square feet. However, the maximum permitted density shall not exceed the density permitted for the land use category in which the property is located.

(3) 14,000 square feet for the first two dwelling units plus 6,500 square feet for each additional dwelling unit in the same building.

(4) Modifications to required setbacks for arterial or collector streets, or for solar or wind energy purposes, are permitted only by variance. See section 34-2191 et seq.

(5) Special street setbacks apply to portions of Colonial Boulevard and Daniels Road. Refer to section 34-2192(b).

(6) No side setback is required from common lot line for two-family attached or townhouse.

(7) All lots in the "Coastal Rural" land use category in Greater Pine Island (as delineated by policies 1.4.7 and 14.1.8 of the Lee Plan) that are created after May 29, 2007 must comply with the additional regulations in section 33-1052. Lots created before that date are not required to comply with the additional regulations in section 33-1052

(Ord. No. 93-24, § 7(table 422.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 07-19 , § 6, 5-29-07; Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-716—34-730. Reserved.

Subdivision IV. Mobile Home Residential Districts [10]

Sec. 34-731. Purpose and intent.

(a) *MHC mobile home conservation residential district.*

(1) The purpose and intent of the MHC mobile home conservation residential district is to recognize and protect existing mobile home developments lawfully developed under either the 1962 zoning regulations (MHC-1) or the 1968 zoning regulations (MHC-2) that do not conform to the regulations set forth in this chapter for modern mobile home residential districts. It is intended through these mobile home conservation residential districts to accommodate lots, structures and residential uses which were legal under the previous zoning regulations but are nonconforming under the present regulations. This district is not available for new developments, but may be used only by property owners in existing developments that comply with the property development regulations or by the Board of County Commissioners upon its own initiative to achieve the purpose mentioned in this section.

(2) Mobile home developments constructed prior to the 1962 zoning regulations are required to apply for and be approved as a mobile home planned development (MHPD) district designation if owners do not want to be designated as nonconforming uses. Procedures for the MHPD designation for existing developments are set forth in section 34-373(b)(3).

(b) *MH-1 and MH-2 mobile home residential districts.* The purpose and intent of the MH-1 and MH-2 mobile home residential districts is to accommodate the housing needs of those residents who prefer mobile home living and of those who desire an alternative to conventional dwellings, and to provide for properly located, equipped and designed mobile home residential developments within the future urban areas.

(c) *MH-3 and MH-4 mobile home residential districts.* The purpose and intent of the MH-3 and MH-4 mobile home residential districts is to accommodate the housing needs of those residents who desire mobile home living as an alternative to conventional dwellings and who prefer a community with larger lot sizes, to provide for other compatible uses, and to provide amenities and living conditions comparable to those of conventional residential neighborhoods.

(Ord. No. 93-24, § 7(423.01), 9-15-93; Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-732. Applicability of use and property development regulations.

No land, body of water or structure may be used or permitted to be used and no structure may hereafter be erected, constructed, moved, altered or maintained in the mobile home districts for any purpose other than as provided in section 34-735, pertaining to use regulations for mobile home districts, and section 34-736, pertaining to property development regulations for mobile home districts, except as may be specifically provided for in article VIII (nonconformities) of this chapter, or in section 34-620.

(Ord. No. 93-24, § 7(423.02), 9-15-93; Ord. No. 98-11, § 5, 6-23-98)

Sec. 34-733. Special requirements for certain developments in MH-2 district.

The following general requirements shall apply to all mobile home residential developments zoned MH-2 developed after January 5, 1978, and prior to August 1, 1986:

(1) *Open space area.* All MH-2 mobile home residential developments shall be required to have an open space area at least 40 feet wide and adjacent to and completely around the boundary of the development.

(2) *Maximum area for residential and commercial uses.* Pursuant to more specific requirements and regulations as prescribed in this chapter, the following percentages express the maximum land area of a mobile home residential development. The specific land uses may occupy:

   a. Residential: 80 percent of total area.

   b. Commercial: Two percent of the residential (80 percent) area as prescribed in subsection (2)a of this section.

(3) *Minimum open space and recreation area.* Minimum area limitations are as follows:

   a. Open space: 15 percent of total area.

   b. Private recreation: Five percent of total area.

(Ord. No. 93-24, § 7(423.03(A)), 9-15-93)

Sec. 34-734. Emergency shelters.

Mobile home residential developments commenced after August 1, 1986, will be required to provide emergency shelters in accordance with the provisions of section 10-258.

(Ord. No. 93-24, § 7(423.03(B)), 9-15-93; Ord. No. 97-10, § 6, 6-10-97)

Sec. 34-735. Use regulations table.

Use regulations for mobile home districts are as follows:

TABLE 34-735. USE REGULATIONS FOR MOBILE HOME DISTRICTS

			Special Notes or Regulations	MHC-1, MHC-2	MH-1	MH-2	MH-3	MH-4

Accessory uses, buildings, and structures:	34-1171 et seq., 34-2441 et seq., 34-3106	P	P	P	P	P
Amateur radio antennas and satellite earth stations	34-1175	Refer to 34-1175 for regulations.				
Entrance gates, gatehouses	34-1741 et seq.	P	P	P	P	P
Residential accessory uses	Note (12), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq., 34-2141 et seq.	P	P	P	P	P
Signs in compliance with chapter 30		P	P	P	P	P
Storage, open	34-3005(b), Notes (3) & (6)	SE	SE	SE	SE	SE
Administrative offices		P	P	P	P	P
Aircraft landing facilities, private:						
Lawfully existing:						
Expansion of aircraft landing strip or helistop landing pad	34-1231 et seq.	SE	SE	SE	SE	SE
New accessory buildings	34-1231 et seq.	P	P	P	P	P
New:						
Helistop	34-1231 et seq.	SE	SE	SE	SE	SE
Animals and reptiles:						
Equines	34-1291 et seq.	—	—	—	—	SE

Keeping, raising or breeding of American alligators or venomous reptiles	34-1291 et seq.	SE	SE	SE	SE	SE
Boat ramps	Note (6)	—	EO/SE	EO/SE	EO/SE	EO/SE
Clubs, private		P	P	P	P	P
Communication facility, wireless	34-1441 et seq.	Refer to 34-1441 et seq. for regulations.				
Community gardens	34-1716	AA	AA	AA	AA	AA
Community residential home	Note (13)	P	P	P	P	P
Consumption on premises	34-1261 et seq.	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE
Day care center, adult or child:						
Adult	Note (7)	SE	SE	SE	SE	SE
Child	34-206 Notes (7) & (8)	SE	SE	SE	SE	SE
Dwelling unit:						
Mobile home	Note (10), 34-1921 et seq.	P	P	P	P	P
Single-family residence, conventional	Note (10)	P	P	P	P	P
Essential services	34-1611 et seq.	P	P	P	P	P
Essential service facilities (34-622(c)(13)):						

Group I	34-1611 et seq., 34-1741 et seq., 34-2142 et seq.	P	P	P	P	P
Excavation:						
Oil or gas	34-1651(c)	SE	SE	SE	SE	SE
Water retention	34-1651(b), 10-329(c)	P	P	P	P	P
Golf course	34-2471 et seq.	EO	EO	EO	EO	EO
Home care facility	Note (8)	P	P	P	P	P
Home occupation:						
No outside help	Note (12)	P	P	P	P	P
With outside help	Note (12), 34-1772(c)	AA	AA	AA	AA	AA
Laundromat	34-3021	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE
Models:						
Display center	34-1951 et seq.	SE	SE	SE	SE	SE
Model home	34-1951 et seq.	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE
Parks, group I	34-622(c)(32),	P	P	P	P	P
Park trailer	Note (8)	—	—	P	—	—
Place of worship	Note (8), 34-2051 et seq.	—	EO/SE	EO/SE	EO/SE	EO/SE
Real estate sales office	Note (2), 34-1951 et seq., 34-3021	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE

Recreation facilities:						
Personal		P	P	P	P	P
Private—On-site		P	P	P	P	P
Private—Off-site		EO	EO	EO	EO	EO
Religious facilities	Note (1) & (8), 34-2051 et seq.	—	SE	SE	SE	SE
Stable, private	34-1292	—	—	—	—	SE
Subordinate commercial uses	34-3021	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE
Temporary uses	34-3041 et seq.	TP	TP	TP	TP	TP

Notes:

(1) Expansion of facility to ten or more acres requires a special exception.

(2) Real estate sales are limited to sales of lots, homes or units within the development, except as may be permitted in section 34-1951 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding three years from the date the certificate of occupancy for the sales office is issued. The Director may grant one two-year extension. Additional time will require a new special exception approval.

(3) Open storage must be in conjunction with a mobile home development and comply with the fencing and screening requirements of section 34-3005(b).

(4) Reserved.

(5) Reserved.

(6) Non-commercial only.

(7) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.

(8) Not permitted in Airport Noise Zone B.

(9) Reserved.

(10) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.

(11) Reserved.

(12) Not permitted in Airport Noise Zone unless accessory to a lawful mobile home or single-family residence. See section 34-1004

(13) Not permitted in Airport Noise Zone B unless pre-empted by state law.

(Ord. No. 93-24, § 7(table 423.A), 9-15-93; Ord. No. 94-02, § 6, 1-19-94; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-736. Property development regulations table.

Property development regulations for mobile home districts are as follows:

TABLE 34-736. PROPERTY DEVELOPMENT REGULATIONS FOR MOBILE HOME RESIDENTIAL DISTRICTS

	Special Notes or Regulations	MHC-1	MHC-2	MH-1 (2)	MH-2 (1), (2)	MH-3 (2)	MH-4 (2)
Nonresidential uses:							
Minimum lot area and dimensions:							
Lot area (square feet)		—	—	10,000	10,000	10,000	10,000
Lot width (feet)		—	—	100	100	100	100
Lot depth (feet)		—	—	100	100	100	100
Minimum setbacks:							
Side yard (feet)	Note (3), 34-2191 et seq.	—	—	15	15	15	15

Rear yard (feet)	Note (3), 34-2191 et seq.	—	—	20	20	20	20
Residential uses:							
Minimum lot area and dimensions:	34-2221 34-2222 34-2142						
Lot area (square feet)		2,800	7,500 (4)	7,500	5,000	21,000	40,000
Lot width (feet)		40	40	75	50	80	100
Lot depth (feet)		—	—	100	100	150	200
Minimum setbacks:							
Side yard (feet):	Note (3), 34-2191 et seq.						
Internal park lot		5	5	7.5	7	10	15
Park perimeter		25 (5)	25 (5)	7.5	7	10	15
Rear yard (feet):	Note (3), 34-2191 et seq.						
Internal park lot		5	10	20	15	20	20
Park perimeter		25 (5)	25 (5)	20	15	20	20

All uses:							
Setbacks:							
Street (feet):	Notes (3) and (6), 34-2191 et seq.			Variable according to the functional classification of the street or road (see section 34-2192).			
Internal park street (feet)		5	10				
Off-site street		30	15				
Water body (feet):	34-2191 et seq.						
Gulf of Mexico		50	50	50	50	50	50
Other		5	10	25	25	25	25
Maximum height (feet)	34-2171 et seq.	25	25	35	35	35	35
		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special height limitations (see section 34-2175).					
Maximum lot coverage (percent of total lot area)		65% (7)	60% (7)	40%	40%	40%	40%
Special regulations:							
Animals, reptiles, marine life	34-1291 et seq.						

	Consumption on premises	34-1261 et seq.	
	Docks, seawalls, etc.	34-1863 et seq.	
	Essential services	34-1611 et seq.	Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.
	Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142	
	Fences, walls, gatehouses, etc.	34-1741 et seq.	
	Nonroofed accessory structures	34-2194(c)	
	Railroad right-of-way	34-2195	

Notes:

(1) Developments built between January 5, 1978, and July 31, 1986, see section 34-733 for minimum and maximum area requirements.

(2) For developments built after August 1, 1986, see section 34-734 for emergency shelter requirements.

(3) Modifications to required setbacks for collector or arterial streets, or for solar or wind energy purposes, are permitted only by variance. See section 34-2191 et seq.

(4) May be reduced to 3,750 square feet if on a central sewage system.

(5) If adjacent to another mobile home or recreational vehicle park or to a commercial or industrial use, setback may be reduced to 15 feet.

(6) Special street setbacks apply to portions of Colonial Boulevard and Daniels Road. See section 34-2192(b).

(7) Lot coverage includes parking spaces unless off-street parking is provided elsewhere.

(Ord. No. 93-24, § 7(table 423.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 96-06, § 5, 3-20-96)

Secs. 34-737—34-760. Reserved.

FOOTNOTE(S):

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Cross reference— Emergency shelter for mobile home and recreational vehicle developments, § 10-258; mobile homes, § 34-1921 et seq. (Back)

DIVISION 4. RECREATIONAL VEHICLE PARK DISTRICTS [11]

Sec. 34-761. Applicability.

(a) The recreational vehicle park districts apply to all existing recreational vehicle parks (df).

(b) All new recreational vehicle development and all expansions to existing (df) recreational vehicle developments will be permitted only as a planned development (see division 9 of this article).

(c) Any lawfully existing recreational vehicle development that cannot conform to any of the conventional recreational vehicle districts set forth in this division may apply for a recreational vehicle planned development so as to resolve issues of nonconformity on a development-wide rather than on an individual basis.

(Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-762. Recreational vehicles as permanent residences.

The use of a recreational vehicle type unit by a permanent resident as a permanent residence, as the terms are defined in F.S. ch. 196, is expressly prohibited. Persons who have established permanent residency within a recreational vehicle park as of September 16, 1985, are exempt from the residency provisions of this section, provided that the proof of residency was established by an affidavit filed with the County prior to October 31, 1985.

(Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-763. Tiedowns and emergency shelters.

(a) *Tiedowns.*

(1) The following recreational vehicles must be properly tied down in accordance with the standards set forth in Florida Administrative Code 15C-1, as amended, or Chapter 6, Article IV, whichever is applicable, as follows:

a. All permanent units (df).

b. All travel trailers, motor homes or camping trailers left unattended for more than two weeks during the months of June through December. For purposes of this section only, the term "unattended" will be interpreted to mean that the owner of the unit has not provided for a person to be responsible for the unit in the event of a hurricane watch alert as set forth in subsection (a)(2) of this section.

(2) All travel trailers, motor homes or camping trailers must be tied down within 48 hours of the issuance of a hurricane watch for the County by the National Hurricane Center. Travel trailers, motor homes or camping trailers not tied down will be removed from the County within 48 hours of such a hurricane watch, or placed within an approved off-lot storage area.

(b) *Emergency shelters.* New or phased recreational vehicle developments will be required to provide an emergency shelter in accordance with the provisions of section 10-258

(Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-764. Additions to recreational vehicles.

Additions to recreational vehicles, including utility rooms and enclosures, may be permitted in non-transient parks on permanent units provided:

(1) The individual recreational vehicle site meets or exceeds the minimum required lot size set forth in this division.

(2) The total floor area of additions, excluding open decks and stair landings, does not exceed the total floor area of the recreational vehicle.

(3) The maximum height of additions does not exceed one story or the height of the recreational vehicle, whichever is less.

(4) Open decks, up to 120 square feet in area, may be permitted provided all setback requirements are met. Stair landings incorporated into a deck must be included in the square footage of the deck. The deck may be enclosed with screen (no other material) and covered with a metal pan roof.

(5) Stair or stair landings attached to an addition and not incorporated into an open deck may be permitted to encroach three feet into the side and rear setbacks. Stair landings may not exceed 18 square feet in area.

(6) Utility rooms and enclosures must be in compliance with the regulations set forth in section 34-768 and be no closer than ten feet to another recreational vehicle, utility room or enclosure.

(Ord. No. 93-24, § 7(431.04(E)), 9-15-93; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-765. Storage facilities for unoccupied recreational vehicles.

Off-lot storage facilities for recreational vehicles from within the development will be allowed for periods of non-occupancy in recreational vehicle developments. All off-lot storage facilities must comply with the following:

a. A continuous visual screen of at least eight feet in height along any lot line abutting a residential use under separate ownership, and along any street right-of-way must be provided.

b. The area of the off-lot storage is limited to ten percent of the total area of the recreational vehicle park.

c. All other applicable regulations contained in this chapter.

(Ord. No. 93-24, § 7(431.04(F)), 9-15-93; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-766. Camping cabins.

(a) *Excluded areas.* Camping cabins are not permitted on barrier islands or in coastal high-hazard areas (V zones) as designated on the adopted flood insurance rate maps (FIRM) for the County.

(b) *Development standards.* To further promote recreational camping within recreational vehicle zoned districts, the development of camping cabins is permitted subject to the following:

(1) One camping cabin is permitted per recreational vehicle lot or site;

(2) The maximum number of camping cabins permitted in a recreational vehicle park shall be ten percent of the total approved recreational vehicle lots or sites or 20 cabins, whichever is less;

(3) The maximum floor area is 350 square feet, including any open decks or screened enclosures;

(4) Camping cabins must be constructed to resemble natural wood materials, such as logs;

(5) If electrical fixtures and receptacles are required, they shall be limited to a maximum of two 110/115 volt receptacles, one overhead light per room and one porch light;

(6) No internal water, cooking or bathroom facilities are permitted;

(7) Camping cabins shall be located in a compliance with the property development regulations for the conventional or recreational vehicle planned development district in which they are located;

(8) Camping cabins, where permitted, shall comply with all applicable County building code regulations; and

(9) Occupancy by the same party is limited to a maximum of 30 consecutive days.

(Ord. No. 93-24, § 7(431.04(G)), 9-15-93; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-767. Use regulations table.

Use regulations for recreational vehicle districts are as follows:

TABLE 34-767. USE REGULATIONS FOR RECREATIONAL VEHICLE DISTRICTS

	Special Notes or Regulations	RV-2	RV-3
Accessory uses, buildings, and structures:	34-1171 et seq., 34-2441 et seq.	P	P
Amateur radio antennas and satellite earth stations		Refer to 34-1175 for regulations.	
Carports	34-1179	P	P
Docks, seawalls	34-1863	P	P
Enclosures, utility rooms	34-764	P	P
Entrance gates, gatehouses	34-1741 et seq.	P	P
Fences, walls	34-1741 et seq.	P	P
Nonroofed accessory structures	34-2194(c)	P	P
Signs in accordance with chapter 30		P	P
Storage facility for unoccupied RV's	34-765	P	P
Storage sheds, unattached	34-1179	P	P
Administrative office or caretaker residence	Note (5)	P	P
Boat ramps, non-commercial		EO/SE	EO/SE
Camping cabins, transient parks only	Note (5), 34-766	P	P
Consumption on premises	34-1261 et seq.	AA/SE	AA/SE
Commercial uses:	Note (1)		

Sale or rental of recreational vehicle units		P	P
Laundromat	Note (2)	P	P
Store for the sale of convenience items for park residents, including groceries, tobacco products, novelties, sundries, and parts and supplies for recreational vehicles	Note (2)	P	P
Communication facility, wireless		Refer to 34-1441 et seq. for regulations.	
Community gardens	34-1716	AA	AA
Day care center, adult or child:			
Adult	Note (5)	EO/SE	EO/SE
Child	34-206 Note (4) & (5)	EO/SE	EO/SE
Dwelling Unit:			
Single-family residence, conventional		—	EO
Essential services	34-1611 et seq.	P	P
Essential service facilities (34-622(c)(13)):			
Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P
Excavation:			
Oil or gas	34-1651(c)	SE	SE

Water retention	34-1651(b), 10-329(c)	P	P
Models:			
Display center	34-1951 et seq.	SE	SE
Model home	34-1951 et seq.	AA/SE	AA/SE
Parks, group I	34-622(c)(32)	P	P
Real estate sale office	Note (3), 34-1951 et seq., 34-3021	EO/SE	EO/SE
Recreation facilities:			
Personal		P	P
Private—On-site		P	P
Private—Off-site		EO	EO
Recreational vehicle, transient	Note (5)	P	P
Recreational vehicle, permanent	Note (5)	P	P
Service building		P	P
Tents, transient parks only	Note (5)	P	P

Notes:

(1) The listed commercial uses are limited to the extent that they are designed and intended primarily for the use of those staying at the RV park. The total land area for all commercial uses shall not exceed ten percent of the total land area of the RV park.

(2) Use is permitted only when within a conventional building.

(3) Real estate sales are limited to sales of lots or units within the development, except as may be permitted in section 34-1951 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding three years from the date the certificate of occupancy for the sales office is issued. The Director may grant one two-year extension. Additional time will require a new special exception approval.

(4) A day care center, owned by the entity with title to the place of worship that is operated within the building housing the place of worship, is not required to obtain special exception approval.

(5) Not permitted in Airport Noise Zone B.

(Ord. No. 93-24, § 7(table 431.A), 9-15-93; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-768. Property development regulations table.

Property development regulations for recreational vehicle districts are as follows:

TABLE 34-768. PROPERTY DEVELOPMENT REGULATIONS FOR RECREATIONAL VEHICLE DISTRICTS

	Special Notes or Regulations	RV-2	RV-3
Minimum lot area and dimensions:	34-2221 34-2222 34-2142		
Lot area (square feet)		1,200 (1)	2,000
Lot width (feet)		30	30
Lot depth (feet)		—	55
Minimum setbacks:	Notes (2) and (3)		
Between recreational vehicles (feet)		10 (6), (11)	10 (5), (4)
From park perimeter boundary (feet)		15 (7)	40 (8), (13)

	Street (feet):			
	Internal park street		10 (9)	—
	Off-site street		Variable according to the functional classification of the street or road (section 34-2192	
	Water body (feet):	34-2191 et seq.		
	Gulf of Mexico		50	50
	Other		25	25
	Side yard (feet)		5 (6), (11)	5
	Rear yard (feet)	34-2191 et seq.	10	(4), (5), (6)
Maximum height (feet)		Note (12), 34-2171 et seq.	35	35
Maximum lot coverage (percent of total lot area)		Note (10)	50%	40%

Notes:

(1) The lot area may include one-half of the abutting internal access road.

(2) Modifications to required setbacks for collector or arterial streets are permitted only by variance. See section 34-2191 et seq.

(3) Modifications to setbacks for solar or wind energy purposes are permitted only by special exception. See section 34-2196

(4) No recreational vehicle or enclosed appurtenance thereto shall be placed closer than 25 feet to any common use accessory building.

(5) No recreational vehicle or enclosed appurtenance shall be placed closer to a park perimeter boundary, or to a park building, or to another recreational vehicle or enclosed appurtenance thereto under separate ownership, than ten feet.

(6) A roof overhang or eave may encroach into the required ten-foot separation provided the encroachment is 12 inches or less.

(7) Minimum setback is 15 feet unless adjacent to another park, in which case the setbacks for side, rear or street setback will apply as applicable.

(8) All parks must provide an open space not less than 40 feet wide adjacent to and completely around the boundary of the site except for portions abutting land zoned RV, RVPD or MH. No roads shall be placed within the 40-foot open space.

(9) Internal streets are required to provide a minimum paved width of 20 feet. Setback shall be measured from the edge of the 20-foot pavement.

(10) Maximum lot coverage for a recreation vehicle and appurtenances thereto, including any carport and/or storage shed, may not exceed the maximum coverage permitted in the district in which the site is located.

(11) Minimum separation of ten feet between units in situations where units are not centered on lots.

(12) Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special height limitations (see section 34-2175).

(13) All parks must provide a vegetative visual screen within a minimum height of eight feet within the 40-foot open space completely around the site of a park or any addition thereto developed after 1978.

(Ord. No. 93-24, § 7(table 431.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 14-13 , § 7, 6-17-14)

Secs. 34-769—34-812. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 14-13, § 7, adopted June 17, 2014, repealed the former §§ 34-761, 34-762 and 34-781—34-787 of Div. 4 and enacted new §§ 34-761—34-763 as set out herein. The former sections pertained to recreational vehicle park districts and derived from Ord. No. 93-24, § 7(430.01—430.04), adopted Sept. 15, 1993; Ord. No. 96-17, § 5, adopted Sept. 18, 1996; Ord. No. 97-10, § 6, adopted June 10, 1997; Ord. No. 98-11, § 5, adopted June 23, 1998; and Ord. No. 99-05, § 9, adopted June 29, 1999. Ord. No. 14-13 renumbered the former §§ 34-788—34-792 as §§ 34-764—34-768. The historical notation has been retained with the amended provisions for reference purposes. (Back)

Cross reference— Emergency shelter for mobile home and recreational vehicle developments, § 10-258; recreational vehicles, § 34-2351 et seq. (Back)

DIVISION 5. COMMUNITY FACILITIES DISTRICTS [12]

Secs. 34-815—34-840. Reserved.

Sec. 34-813. Use regulations table.

Use regulations for the community facilities districts are as follows:

TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

	Special Notes or Regulations	CF
Administrative offices		P
Accessory uses, buildings and structures	34-1171 et seq., 34-2441 et seq., 34-2141 et seq.	P
Assisted living facility	Notes (1), (11), & (10) 34-1411	P/SE
Boat ramps, noncommercial		EO/SE
Bus station/depot	34-1381 et seq.	P
Caretaker's residence	Note (9)	P
Cemetery, columbarium, mausoleum		P
Clubs:		
Country		P
Fraternal		P
Private		P

Communication facility, wireless		Refer to 34-1441 et seq. for regulations.
Consumption on premises	34-1261 et seq.	AA/SE
Cultural facilities	Note (5), 34-622(c)(10), 34-1297	P/SE
Day care center:		
Adult	Note (7)	P
Child	34-206, Notes (6) & (7)	SE
Emergency operations center	Note (2)	P
EMS, fire or sheriff's station		P
Entrance gates and gatehouse	34-1741 et seq.	P
Essential services		P
Essential service facilities:	34-622(c)(13)	
Group I	34-1611 et seq., 34-1741 et seq., 34-2142 et seq.	P
Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO
Excavation:		
Oil or gas		SE
Water retention	34-1651 et seq.	P
Golf driving range		P

Government agencies, offices only		P
Gun range	Note (12)	SE/EO
Health care facilities (34-622(c)(20)):		
Group I (less than 50 beds)	34-1411 et seq., Notes (1), (7) & (10)	P/SE
Group II (less than 50 beds)	34-1411 et seq., Notes (1), (7) & (10)	P/SE
Helistop	34-1231 et seq.	SE
Library	Note (7)	P
Parking lot:		
Accessory		P
Garage, public		P
Park-and-ride	34-1388	P
Temporary		P
Parks (34-622(c)(32)):		
Group I	Note (2)	P
Group II	Note (2)	P
Place of worship	Note (7), 34-2051 et seq.	P
Post office	Note (2)	P
Recreation facilities:		

Personal		P
Private—On-site		EO/SE
Private—Off-site		EO/SE
Religious facility	Note (2) & (7), 34-2051 et seq.	P
Restaurants, group II	Note (3), 34-622(c)(43)	P
Sanitary landfill	IPD only, 34-1831 et seq.	EO
Schools, noncommercial:		
Lee County School District	Note (7), 34-2381	P
Other	Note (2) & (7), 34-2381	P
Signs in accordance with chapter 30		P
Social services (34-622(c)(46)):		
Group III	Note (1), (7) & (10)	P
Group IV	Note (1), (7) & (10)	P
Specialty retail shops, group I	Note (3), 34-622(c)(47)	P
Storage, indoor only		P
Tactical training (df)		SE/EO
Temporary uses	Note (8)	TP

Notes:

(1) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, or which changes the use, must request a special exception.

(2) Except for government owned and operated parks (section 34-622(c)(32)), facilities proposed for ten or more acres or the expansion of an existing facility that will bring the number of acres to ten or more acres or that changes the use, must request a special exception.

(3) Permitted only when clearly subordinate to the permitted use of the property and when conducted wholly within the principal building.

(4) Reserved.

(5) Art galleries are permitted as noncommercial only. Animal or reptile exhibits, aquariums, planetaria, and zoos require approval by special exception.

(6) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.

(7) Not permitted in Airport Noise Zone B.

(8) Temporary use permits are not required when the temporary use is accessory to the principal use of the structure or premises. See Use, accessory definition (section 34-2).

(9) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1006(b)(2) as applicable.

(10) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

(11) Not permitted in Airport Noise Zone B unless pre-empted by state law.

(12) Limited to indoor gun range owned or operated by a government agency.

(Ord. No. 93-24, § 7(table 440.A), 9-15-93; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-814. Property development regulations table.

Property development regulations for the community facilities districts are as follows:

TABLE 34-814. PROPERTY DEVELOPMENT REGULATIONS
FOR COMMUNITY FACILITIES DISTRICTS

	Special Notes or Regulations	CF
Minimum lot dimensions and area:		
Minimum lot area:	34-2051 et seq. 34-2051 et seq.	Except as may be set forth in the referenced sections for specific uses, there are no minimum lot area or dimensions required, provided that the area is of sufficient size to accommodate the proposed use as well as all setbacks, parking, open space, drainage and buffering requirements of this chapter and any other applicable County development regulations.
Place of worship		
Religious facility		
All other		
Minimum lot width (feet)		
Minimum lot depth (feet)		
Minimum setbacks:		
Street (feet)	Notes (1) and (2), 34-2191 et seq., 34-1261 et seq.	Variable according to the functional classification of the street or road (see section 34-2192).
Side yard (feet)		15

Rear yard (feet)	34-2191 et seq.	25
Water body (feet):	34-2191 et seq.	
Gulf of Mexico		50
Other		25
Maximum height (feet)	Note (3), 34-2171 et seq.	35
Maximum lot coverage (percent of total lot area)		35%

Notes:

(1) Modifications to required setbacks for collector or arterial streets is permitted only by variance. Modifications for solar or wind energy purposes, are permitted only by special exception. See section 34-2196

(2) Special street setback provisions apply to portions of Colonial Boulevard and Daniels Parkway. Refer to section 34-2192(b)(3) and (4).

(3) Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2175).

(Ord. No. 93-24, § 7(table 440.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 14-13 , § 7, 6-17-14)

Secs. 34-815—34-840. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 14-13, § 7, adopted June 17, 2014, repealed §§ 34-811 and 34-812 of Div. 5, which pertained to purpose and intent, and applicability of use and property development regulations, respectively, and derived from Ord. No. 93-24, § 7(440.01 and 440.02), adopted Sept. 15, 1993, and Ord. No. 98-11, § 5, adopted June 23, 1998. (Back)

DIVISION 6. COMMERCIAL DISTRICTS

Sec. 34-841. Purpose and intent.

(a) *Generally.* The purpose and intent of the conventional commercial districts is to regulate the continuance of certain land uses and structures lawfully existing as of August 1, 1986, which were originally permitted by the County Zoning Regulations of 1962, as amended, or 1978, as amended, and to encourage and guide new commercial development in accordance with the goals, objectives and policies set forth in the Lee Plan. Commercial development shall be permitted primarily in the future urban areas where requisite infrastructure exists or can feasibly be extended. Some limited commercial activities will be permitted in the nonurban areas to serve rural residents. Subsequent to August 1, 1986, with the exception of rezonings to recognize and accommodate existing developments, no parcel of land of ten or more acres in size shall be rezoned to any of the conventional commercial districts.

(b) *C-1A, C-1 and C-2 commercial districts.* The purpose and intent of the C-1A, C-1 and C-2 districts is to regulate the continuance of commercial and select residential land uses and structures lawfully existing in the C-1A, C-1 and C-2 districts as of August 1, 1986, and as originally permitted by the County Zoning Regulations of 1962, as amended, and 1978, as amended, respectively. Subsequent to February 4, 1978, no land or water shall be rezoned into the C-1A, C-1 or C-2 districts. In no case shall new development be permitted in any existing C-1A, C-1 or C-2 district which is not consistent with the Lee Plan.

(c) *C-2A commercial district.* The purpose and intent of the C-2A district is to recognize and provide for the continuation of most commercial and residential uses as set forth in the C-2 zoning district use regulations but prohibiting the industrial and manufacturing uses permitted by the C-2 district. This district is not available to landowners through normal procedures, but shall be used only by the Board of County Commissioners on its own initiative to achieve the purpose stated in this subsection.

(d) *CN-1 neighborhood commercial district.* The purpose and intent of the CN-1 district is to permit the designation of suitable locations for small-scale commercial facilities within or adjacent to areas or

neighborhoods which are essentially residential in nature, and to facilitate their proper development and use. It is anticipated that locating small retail and service establishments in close proximity to low- to moderate-density residential land uses will encourage pedestrian activity and otherwise reduce the number and length of automobile trips, as well as providing increased convenience to all users. It is further intended that substantial buffering and other design techniques will be used to prevent negative impacts on nearby or adjacent residential or lower-intensity land uses.

(e) *CN-2 neighborhood commercial district.* The purpose and intent of the CN-2 district is to permit the designation of suitable locations for consumer-oriented commercial facilities of moderate scale, including neighborhood shopping centers, and to facilitate their proper development and use. The facilities include the functions of CN-1 commercial places, but the greater floor area and the broader mix of goods and services available results in a wider market or service area, a larger population served, and a greater impact on surrounding land uses. The primary uses provided for include retail trade in food, drugs, sundries, hardware and similar items, and the provision of personal services.

(f) *CN-3 neighborhood commercial district.* The purpose and intent of the CN-3 district is to permit the designation of suitable intersection locations for a broad range of small-scale retail, office and personal service facilities adjacent to and within future residential neighborhoods without the need to obtain CPD (Commercial Planned Development) zoning. This district is especially suited to those portions of Lehigh Acres that meet the criteria found in Lee Plan Policy 1.8.3(2). To protect the residential character of adjoining neighborhoods, certain potentially incompatible uses such as, but not limited to, convenience stores and fuel pumps are prohibited in the CN-3 district. Hours of operation for permitted uses are restricted to minimize night-time operations.

(g) *CC community commercial district.* The purpose and intent of the CC district is to permit the designation of suitable locations for medium- to large-scale consumer-oriented commercial facilities, particularly for multiple-occupancy complexes known as community or regional shopping centers, and to facilitate their proper development and use. In addition to the retail sale of consumer goods, this district is intended to permit a wide range of services, financial and other, including business and professional offices, all arranged in discrete commercial centers or evolving business districts. Such centers or districts differ from neighborhood commercial facilities in concentrating a greater floor area of use and a broader mix of goods and services in order to serve a wider market or service area and a larger population. This is expected to create greater impact on surrounding land uses and therefore require buffering and designed gradients of intensity adjacent to less intense uses.

(h) *CG general commercial district.* The purpose and intent of the CG district is to permit the designation of suitable locations for and to facilitate the proper development and use of consumer-oriented commercial facilities which are of a type or scale which are not suited for and do not generally seek locations in neighborhood, community or regional shopping centers. Such uses frequently consist of a single principal building containing sales, administration, repair services or manufacture; often rely on large ground areas for storage or display of goods; and are relatively insensitive to the impacts of adjacent land uses while generating substantial impacts on their neighbors. High visual exposure and easy accessibility, usually from arterial roads or suburban highways, are important.

(i) *CS-1 special commercial office district.* The purpose and intent of the CS-1 district is to permit the designation of suitable locations for and to facilitate the proper development and use of land for standard office space for various purposes, and a minimum level of retail sales and personal services required to provide convenient access to goods and services for the workforce and clientage. While it is recognized that such uses will demand easy access from arterial or high-volume collector roads, this district is intended to be used to separate and buffer residential and other low- or medium-intensity land uses, such as schools or parks, from higher-intensity commercial and light industrial land uses.

(j) *CS-2 special commercial office district.* The purpose and intent of the CS-2 district is to permit the designation of suitable locations for the proper development of standard office space for various purposes, as well as a number of other low-impact uses that can be allowed by special exception in particular circumstances. This district is intended to be used to separate and buffer residential and

other low- or medium-intensity land uses, such as schools or parks, from higher-intensity commercial and light industrial land uses.

(k) *CH highway commercial district.* The purpose and intent of the CH district is to permit the designation of suitable locations for and to facilitate the proper development and use of land for the commercial provision of services and goods to the public using the major through highways of the County. Such uses require high visual exposure and ready access from major roads. The market of such uses is presumed to be made up of transient visitors rather than residents or longterm visitors to the County.

(l) *CT tourist commercial district.* The purpose and intent of the CT district is to permit the designation of suitable locations for and to facilitate the proper development and use of land for the commercial provision of accommodations and services for tourists and other visitors and shortterm or seasonal residents. The term "accommodations," as used in this subsection, is intended to include housing, various amenities including recreational facilities, and local retail trade in goods and service, both general and specific to the locality or attractor or principal activities. Areas designated tourist commercial are expected to be located near or adjacent to an attractor of tourism such as gulf beach frontage, theme parks, major public or private parks and other recreational or scenic resources.

(m) *CP commercial parking district.* The purpose and intent of the CP district is to facilitate the provision of automobile parking subordinate to other land uses on other parcels of land where it is not appropriate to permit the full range of uses allowed by the zoning district under which the principal use is allowed.

(n) *CI intensive commercial district.* The purpose and intent of the CI district is to permit the designation of suitable locations for and to facilitate the proper development and use of land for those commercial activities which are like or which have many of the same needs as industrial land uses. Intensive commercial land uses are generally services, particularly warehousing, distribution and transportation of goods. However, in type and size of buildings, relation to modes of transportation, and demands on various services, they are often indistinguishable from industrial land uses. The CI district is and is intended to be intermediate between consumer-oriented commercial and light industrial uses.

(o) *CR rural commercial district.* The purpose and intent of the CR district is to designate and to facilitate the proper development and use of land for limited commercial purposes in the nonurban areas of the County. In addition to the neighborhood scale provision of basic goods and services, it is the intent that the rural commercial district be used to provide other goods and services, specific to rural productive activities, such as farming or ranching, and for the rural lifestyle in general. The standard of physical development must be or closely approximate that of a minor commercial development as set forth in standard 6.1.2.1 of the Lee Plan.

(Ord. No. 93-24, § 7(450.01), 9-15-93; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 09-23 , § 10, 6-23-09)

Sec. 34-842. Alternative property development regulations for duplex, two-family attached, and townhouse units in C-1A, C-1, and C-2 districts.

As an alternative to developing in accordance with section 34-845, property zoned C-1A, C-1, and C-2, may be developed with duplexes, two-family attached units (where permitted by section 34-844), and townhouses on lots with a minimum lot area of 2,400 square feet per lot without compliance with minimum lot width, lot depth, side setback requirements or the requirement that lots must abut streets in section 10-291(2); provided the following conditions are met:

(1) The overall parcel on which the lots are developed must comply with all lot coverage, area, width, and depth requirements for the district in which located;

(2) The overall parcel on which the lots are developed complies with section 10-291

(3) All structures must comply with setbacks for the district in which located, as measured from the boundary of the overall parcel;

(4) All structures must comply with street, rear, and water body setbacks for the district in which located, with the rear setback measured from individual lot lines;

(5) All structures which exceed the maximum height requirements of the district in which located must comply with the additional setbacks specified in article VII, division 30, subdivision II, of this chapter as measured from the overall parcel boundary;

(6) The applicant must provide adequate assurance that all areas of the overall parcel which are not developed as individual lots will remain and be maintained as common areas by an appropriate property owners' association. Such assurance may be provided in the form of maintenance and access easements or other documents or combination of documents satisfactory to the County Attorney to ensure the common areas are perpetually maintained and the common infrastructure is available for the property owners within the development; and

(7) This section may not be utilized to authorize the subdivision of a parent parcel. Subdivision of a parent parcel must meet the requirements of chapter 10 (either through an approved lot split, plat, or replat).

(Ord. No. 13-10 , § 10, 5-28-13)

Editor's note—

Ord. No. 13-10, § 10, adopted May 28, 2013, renumbered the former §§ 34-842—34-844 as §§ 34-843—34-845 and enacted a new § 34-842 as set out herein. The historical notation has been retained with the amended provisions for reference purposes.

Sec. 34-843. Applicability of use and property development regulations.

No land, body of water or structure may be used or permitted to be used and no structure may hereafter be erected, constructed, moved, altered or maintained in any conventional commercial district for any purpose other than as provided in section 34-844, pertaining to use regulations for conventional commercial districts, and section 34-845, pertaining to property development regulations for conventional commercial districts, except as may be specifically provided for in article VIII (nonconformities) of this chapter, or in section 34-620.

(Ord. No. 93-24, § 7(450.02), 9-15-93; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 13-10 , § 10, 5-28-13)

Note—See the editor's note to § 34-842

Sec. 34-844. Use regulations table.

Use regulations for conventional commercial districts are as follows:

TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

			Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21, 23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP

Accessory apartment	Note (1) & (25), 34-1177	P	P	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Administrative offices		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—
Aircraft landing facilities, private:																	
Lawfully existing:																	
Expansion of aircraft landing strip, helistop or heliport landing pad	34-1231 et seq.	SE	SE	SE	SE	SE	SE	—	SE	SE	SE	SE	SE	SE	SE	SE	—
New accessory buildings	34-1231 et seq.	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	—
New:																	
Helistop	34-1231 et seq.	SE	SE	SE	SE	SE	SE	—	SE	SE	SE	SE	SE	SE	SE	SE	—

Amateur radio antennas and satellite earth stations when accessory to an existing principal use	34-1175	Refer to 34-1175 for regulations.															
Animals:																	
Clinic	34-1321 et seq.	—	P	P	P	—	—	—	P	P	—	—	—	—	P	—	—
Keeping and breeding of Class I or Class II(df)	34-1291 et seq.	—	SE	SE	SE	—	—	—	—	—	—	—	—	SE	—	—	—
Kennel	34-1321 et seq.	—	—	P (3)	—	—	—	—	—	P (3)	—	—	—	—	P	—	—
Control center (including Humane Society)		P	P	P	P	—	—	—	—	P	P	SE	—	—	—	P	—

Assisted living facility	Note (9), (29), 34-1411 et seq.	—	P	P	—	—	—	P	—	—	—	—	—	P(13)	—	—	—
ATM (automatic teller machine)		P	P	P	P	P	P	P(16)	P	P	P	SE	—	P	P	—	—
Auto parts store	34-1351, 34-1353	P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	—
Automobile repair and service (34-622(c)(2)):																	
Group I	34-1351, 34-1353	—	P	P	P	—	—	—	P	P	—	—	—	—	—	P	—
Group II	34-1351, 34-1353	—	—	P	P	—	—	—	—	P	—	—	—	—	—	P	—
Automobile service station	Note (34), 34-1351,	—	P	P	P	—	P	—	P	P	—	—	P	SE	P	P	—

	34-1353																
Bait and tackle shop	Note (33)	P	P	P	P	P	P	P	P	P	—	SE (5)	—	P	P	—	—
Banks and financial establishments (34-622(c)(3)):																	
Group I		P	P	P	P	—	P	P(16)	P	P	P	P(16)	—	P	—	—	—
Group II		—	P	P	P	—	—	—	P	P	P	P(16)	—	—	—	—	—
	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21, 23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
Bar or cocktail lounge	34-1201 et seq. 34-1261 et seq.	—	AA/SE	AA/SE	AA/SE	—	—	—	AA/SE	AA/SE	—	—	AA/SE (6)	AA/SE	AA/SE	—	—
Bed and breakfast (df)	Note (25), 34-1494	—	P	P	P	—	—	—	—	—	—	SE	—	P	—	—	—
Boarding house	Note (25)	—	P	P	P	—	—	—	—	—	—	SE	—	P	—	—	—

Boats:																	
Boat parts store		P	P	P	P	—	P	P(2, 4)	P	P	—	—	—	—	—	—	—
Boat ramp		EO/SE	EO/SE	P	P	—	—	—	P	P	—	—	—	P	P	—	—
Boat rental		P	P	P	P	—	P	—	P	EO	—	—	P	P (7)	—	—	—
Boat repair and service	34-1352 34-3001 et seq.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Boat sales		—	P	P	P	—	—	—	—	P	—	—	—	—	—	—	—
Boat storage, dry, not exceeding 18 feet above grade	Note (32)	—	P	P	P	—	—	—	—	P	—	—	—	—	—	—	—
Boat storage, dry, exceeding 18 feet above grade	Note (32)	—	SE	SE	SE	—	—	—	—	SE	—	—	—	—	—	—	—

Broadcast studio, commercial radio and television	34-1441 et seq.	—	—	P	P	—	—	—	P	P	—	—	—	—	—	—	—
Building materials sales (34-622(c)(4))		—	—	P	P	—	—	—	—	P	—	—	—	—	—	P	—
Business services (34-622(c)(5)):																	
Group I		P	P	P	P	P	P	P	P	P	P	P (8)	—	P	P	P	—
Group II	Note (34), 34-1352	—	P	P	P	—	—	SE	—	P	—	—	—	—	—	P	—
Bus station/depot	34-1381 et seq.	—	—	P	P	—	—	—	SE	P	—	—	P	—	—	P	—
Caretaker's residence	Note (30)	—	P	P	SE	P	P	P	P	P	—	—	—	—	P	—	—
Car wash	34-1353	—	P	P	P	—	—	—	P	P	—	—	P	—	—	—	—
Cleaning and		P	P	P	P	—	—	SE	P	P	P	P	—	—	—	—	—

maintenance services (34-622(c)(7))																	
Clothing stores, general (34-622(c)(8))		P	P	P	P	—	—	—	P	P	—	—	—	P	—	—	—
Clubs:																	
Commercial		—	—	P	P	—	—	—	P	EO	—	SE	—	—	—	—	—
Fraternal	34-2111	—	P	P	P	—	—	—	P	EO	—	SE	—	P	—	—	—
Membership organization	34-2111	—	P	P	P	—	—	—	P	EO	—	—	—	—	—	—	—
Private		—	—	—	—	P	P	—	P	—	—	SE	—	P	P	—	—
Cold storage warehouse and processing plant (including precooling)		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Commercial fishery		—	—	EO	—	—	—	—	—	—	—	—	—	—	—	—	—

Commercial use of beachfront seaward of the water body setback line	34-3151	SE (7)	SE (7)	SE (7)	SE (7)	—	—	—	SE (7)	SE (7)	—	—	—	SE (7)	—	—	—
Communication facility, wireless	34-1441 et seq.	Refer to 34-1441 et seq. for regulations.															
Community residential home	Note (29)	P	P	P	P	—	—	P	—	—	—	—	—	—	—	—	—
Consumption on premises	34-1261 et seq., Note (33)	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE (22)	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	—	—
Contractors and builders (34-622(c)(9)):																	
Group I		P	P	P	P	—	—	P	P	P	—	—	—	—	—	—	—
Group II		—	P	P	P	—	—	—	P	P	—	—	—	—	—	—	—
Group III		—	—	—	—	—	—	—	—	P	—	—	—	—	—	—	—
Convenience food	34-1353	P(19)	P(19)	P(19)	P(19)	—	SE(19)	—	P	P	—	—	P	SE(19)	P	P	—

and beverage store																	
Cultural facilities (34-622(c)(10))		—	P	P	P	—	—	—	—	—	—	—	—	P	—	—	—
Day care center, adult, child	34-206, Note (25)	P	P	P	P	P	P	P	P	P	—	—	—	P	P	—	—
Departme nt store		P	P	P	P	—	—	—	P	P	—	—	—	—	—	—	—
Dormitory	Note (25)	—	—	—	—	—	—	—	—	—	—	—	—	P	—	—	—
Drive-through facility for any permitted use		P	P	P	P	—	SE	—	P	P	SE	SE	P	P	P	P	—
Drugstore, pharmacy		P	P	P	P	—	P	P	P	P	—	—	—	—	P	—	—
Dwelling unit:																	
Duplex	34-3107 34-3108 Note (25)	P	P	P	P	—	—	—	—	—	—	P	—	—	—	—	—

Single-family	Note (26)	P	P	P	P	—	—	—	—	—	—	P	—	—	—	—	—
Two-family attached	34-3107 34-3108 Note (25)	P	P	P	P	—	—	—	—	—	—	—	—	—	—	—	—
Townhouse	Note (25)	EO	P	P	EO	—	—	—	—	—	—	—	—	—	—	—	—
Live-work	34-1773	—	P	P	P	SE	SE	—	—	—	SE	SE	—	—	—	—	—
Multiple-family building	Note (25)	EO	P	P	EO	SE (10)	SE (10)	SE (10)	—	—	SE (10)	SE (10)	—	P	—	—	—
Entrance gates and gatehouse	34-1748	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Emergency operations center		P	P	P	P	—	—	—	—	P	P	SE	—	—	P	P	—
EMS, fire or sheriff's station	34-3152	P	P	P	P	—	—	—	P	P	P	—	—	—	P	P	—
Essential services	34-1611 et seq.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Essential service facilities:	34-622(c)(13)																
Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	—	—	—	—	—	—	EO	—	—	—	—	—	—	—	—
Excavation:																	
Water retention	34-1651 et seq.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Oil or gas		SE	SE	SE	SE	SE	SE	—	SE	SE	SE	—	SE	SE	SE	SE	—
Farm equipment, sales, storage, rental or service		—	—	—	—	—	—	—	—	P	—	—	—	—	P	—	—

Feed or fertilizer, mixing and sales		—	—	—	—	—	—	—	—	—	—	—	—	—	P	—	—
Fish house, wholesale		—	—	P (11)	—	—	—	—	—	—	—	—	—	—	—	—	—
Flea market:																	
Open		—	—	SE	SE	—	—	—	—	SE	—	—	—	—	—	—	—
Indoor		—	P	P	P	—	—	—	P	P	—	—	—	—	—	—	—
Food and beverage service, limited		SE	SE	SE	SE	SE	SE	SE	SE	SE	—	SE	—	—	—	—	—
Food stores (34-622(c)(16)):																	
Group I	34-3152	P	P	P	P	P (12)	P	P (12)	P	P	—	—	—	P	P	—	—
Group II		P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	—
Fraternity house	Note (25)	—	—	—	—	—	—	—	—	—	—	—	—	P	—	—	—
Freight and cargo handling establishm		—	—	—	—	—	—	—	—	—	—	—	—	—	—	P	

ents (34-622(c)(17))																	
Funeral home or mortuary:																	
No cremation		P	P	P	P	—	—	—	P	P	P	SE	—	—	—	—	—
With cremation		SE	SE	SE	SE	—	—	—	SE	P	P	SE	—	—	—	—	—
Gasoline dispensing system, special		—	—	—	—	—	—	—	—	—	—	—	—	—	—	P	—
Hardware store		P	P	P	P	P	P	P	P	P	—	—	—	—	P	—	—
Health care facility (34-622(c)(20)):																	
Group I (less than 50 beds)	Note (9) & (25)	—	—	—	—	—	—	—	—	—	P (13)	SE (13)	—	—	—	—	—
Group II (less than 50 beds)	Note (9) & (25)	—	—	—	—	—	—	—	—	—	P (13)	SE (13)	—	—	—	—	—

Group III		P	P	P	P	—	P	P	P	P	P	SE(13)	—	—	P	—	—
Group IV	Note (9) & (25)	—	—	—	—	—	—	—	—	—	P (13)	SE (13)	—	—	—	—	—
Hobby, toy and game shops (34-622(c)(21))		P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	—
Home care facility	Note (25)	P	P	P	P	SE	SE	—	—	—	SE	SE	—	P	—	—	—
Home occupation:																	
No outside help	Note (27), 34-1771 et seq.	P	P	P	P	P	P	P	—	—	P	P	—	P	—	—	—
With outside help	Note (27), 34-1771 et seq.	AA	AA	AA	AA	AA	AA	AA	—	—	AA	AA	—	AA	—	—	—
Hotel/motel	Note (31), 34-1801 et seq.	—	P	P	P	—	—	—	—	—	—	SE	P	P	—	—	—

Household and office furnishings (34-622(c)(22)):																	
Group I		P	P	P	P	—	—	P	P	P	—	—	—	—	—	—	—
Group II		P	P	P	P	—	—	P	P	P	—	—	—	—	—	—	—
Group III		—	—	—	—	—	—	—	—	P	—	—	—	—	—	—	—
Impound yard	34-3152	—	EO	EO	—	—	—	—	EO	EO	—	—	—	—	—	—	—
Insurance companies (34-622(c)(23))		P	P	P	P	—	—	—	—	—	P	—	—	—	—	—	—
Laundromat		P	P	P	P	P	P	P	P	P	—	SE (5)	—	P	P	—	—
Laundry or dry cleaning (34-622(c)(24)):																	
Group I		P	P	P	P	—	P	P	P	P	—	—	—	P	P	—	—
Group II		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Lawn and garden supply store	34-2081	P	P	P	P	—	—	—	P	P	—	—	—	—	P	—	—

Library	Note (25)	P	P	P	P	—	P	P	P	P	—	—	P	P	—	—	—
Maintenance facility (government)		P	P	P	P	—	—	—	—	P	P	SE	—	—	—	P	—
Manufacturing of:																	
Apparel products (34-622(c)(1))		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Dairy products (SIC 202 only)		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Electrical machinery and equipment (34-622(c)(11))		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Fabricated metal products (34-622(c)(14)), group III		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—

Food and kindred products (34-622(c)(15)), group III		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Leather products (34-622(c)(25)), group II		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Lumber and wood products (34-622(c)(26)), group II		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Measuring, analyzing and controlling instruments (34-622(c)(28))		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Novelties, jewelry, toys and signs (34-		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—

622(c)(29)), all groups																	
Rubber and plastic products (34-622(c)(44)), group II		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Marina	34-1862	EO	EO	EO	EO	—	—	—	—	EO	—	—	—	EO	—	—	—
Marina, ancillary uses		EO	EO	EO	EO	—	—	—	—	EO	—	—	—	EO	—	—	—
Mass transit depot or maintenance facility (government-operated)		P	P	P	P	—	—	—	—	P	P	SE	—	—	—	P	—
Medical office		P	P	P	P	—	P	P	P	P	P	P	—	P	P	—	—
Mobile home dealers	34-1352	—	—	P	—	—	—	—	—	SE	—	—	—	—	—	—	—
Model:																	

Home	34-1951 et seq.	P	P	P	P	—	—	—	—	—	—	—	—	SE	—	—	—
Unit	34-1951 et seq.	P	P	P	P	—	—	—	—	—	—	—	—	SE	—	—	—
Display center	34-1951 et seq.	—	P	P	P	—	—	—	P	P	—	—	—	SE	—	—	—
Multislip docking facility		—	P	P	P	—	—	—	—	—	—	—	—	P	—	—	—
Nightclubs	34-1201 et seq. 34-1261 et seq.	—	AA/SE	AA/SE	AA/SE	—	—	—	AA/SE	AA/SE	—	—	AA/SE(6)	AA/SE	AA/SE	—	—
Nonstore retailers (34-622(c)(30)), all groups		P	P	P	P	—	—	—	P	—	—	—	—	—	—	—	—
Package store	34-1261 et seq.	P	P	P	P	P	P	P	P	P	—	—	—	P	P	—	—
Paint, glass and wallpaper		P	P	P	P	—	—	P	P	P	—	—	—	—	—	—	—
Parks (34-622(c)(32))																	

Group I		P	P	P	P	—	—	—	P	P	—	—	—	P	—	—	—
Group II		SE	SE	P	P	—	—	—	—	P	—	—	—	P	—	—	—
Parking lot:																	
Accessory		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Commercial		—	SE	SE	SE	—	—	—	SE	SE	—	—	—	—	—	—	—
Garage, public parking		—	SE	SE	P	—	—	—	SE	SE	—	—	—	—	—	—	—
Park-and-ride	34-1388	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Temporary	Note (14), 34-3049	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P
Personal services (34-622(c)(33)):																	
Group I		P	P	P	P	P	P	P	P	P	—	SE (5)	—	P	—	—	—
Group II		P	P	P	P	—	—	P	P	P	—	—	—	P	—	—	—
Group III		P	P	P	P	—	—	P	P	P	SE	SE (5)	—	P	—	—	—

Group IV		P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	—
Pet services		P	P	P	P	—	—	—	P	P	—	—	—	—	—	—	—
Pet shop		P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	—
Pharmacy		P	P	P	P	P	P	P	P	P	—	—	—	—	P	—	—
Place of worship	Note (25), 34-2051	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—
Plant nursery	34-2081	P	P	P	P	—	—	—	—	P	—	—	—	—	P	—	—
Post office		P	P	P	P	—	—	—	—	P	P	SE	—	—	—	P	—
Printing and publishing (34-622(c)(36))		—	—	P	—	—	—	—	—	EO	—	—	—	—	—	—	—
Processing and warehousing		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Produce stand	34-1713	—	—	—	—	—	—	—	—	—	—	—	—	—	P	—	—
Recreation, facilities:																	
Commercial (34-																	

622(c)(38))																	
Group I		P	P	P	P	—	—	P	P	P	—	—	—	P	—	—	—
Group III	Note(20)	—	P/SE	P/SE	P/SE	—	—	—	—	—	—	—	—	P/SE	—	—	—
Group IV	Note(20)	—	—	—	—	—	—	—	P/SE	P/SE	—	—	—	P/SE	—	—	—
Personal		P	P	P	P	P	P	P	—	—	—	—	—	—	—	—	—
Private:																	
On-site		P	P	P	P	—	—	—	P	—	—	—	—	P	—	—	—
Off-site		SE	P	P	P	—	—	—	—	—	—	—	—	P	—	—	—
Recycling facility		—	—	SE	—	—	—	—	—	SE	—	—	—	—	—	—	—
Religious facilities	Note (25), 34-2051 et seq.	—	—	P	—	—	P	P	P	P	P	SE	—	SE	—	—	—
Rental or leasing establishments (34-622(c)(39)):																	
Group I	34-1352 34-	P	P	P	P	—	P	P	P	P	—	—	P	P	—	—	—

		3001 et seq., 34-3152															
	Group II	34-1352 34-3001 et seq.	P	P	P	P	—	P	P	P	P	—	—	P	P	P	—	—
	Group III	34-1352 34-3001 et seq.	—	P	P	P	—	—	—	P	P	—	—	P	P(17)	—	—	—
	Group IV	34-1352 34-3001 et seq.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Repair shops (34-622(c)(40)):																		
	Group I		P	P	P	P	P	P	P	P	P	—	—	—	P	P	P	—
	Group II		P	P	P	P	—	—	P	P	P	—	—	—	—	P	P	—
	Group III		—	—	P	P	—	—	—	—	P	—	—	—	—	—	P	—
	Group IV		—	—	P	—	—	—	—	—	P	—	—	—	—	P	P	—
	Group V		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Research and development laboratories (34-622(c)(41)):																	
Group II		P	P	P	—	—	—	—	P	P	P	SE	—	—	—	—	—
Group IV		—	—	P	—	—	—	—	—	—	—	—	—	—	—	—	—
Residential accessory uses (34-622(c)(42))	Note (27)	P	P	P	P	P	P	P	—	P	P	P	—	P	—	—	—
Restaurant, fast food	34-1353	—	P	P	P	—	—	—	P	P	—	—	P	P	SE	—	—
Restaurants (34-622(c)(43)):																	
Group I	34-3152	P	P	P	P	—	P	P	P	P	—	SE (5)	P	P	P	—	—
Group II	34-3152	P	P	P	P	—	P	P (24)	P	P	SE	SE (5)	P	P	—	—	—
Group III	34-3152	P	P	P	P	—	P	P (24)	P	P	—	SE (5)	P	P	P	—	—
Group IV		—	P	P	P	—	—	—	P	P	—	SE (5)	P	P	—	—	—

Rooming house	Note (25)	—	—	—	—	—	—	—	—	—	—	SE	—	P	—	—	—
Schools:																	
Commercial (34-622(c)(45))	34-2381	P	P	P	P	—	—	—	P	P	P	SE	—	—	—	—	—
Non-commercial	Note (25), 34-2381	P	P	P	P	—	—	—	P	P	P	SE	—	—	—	—	—
Self-service fuel pumps	Note (18)	SE	SE	SE	SE	—	SE	—	P	P	—	—	SE	SE	SE	P	—
Signs in accordance with chapter 30		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

			Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21, 23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
Social services, group I			34-622(c)(46)	P	P	P	P	—	—	—	P	P	P	—	—	—	—	—	—

Specialty retail shop (34-622(c)(47)):																		
	Group I		P	P	P	P	P	P	P	P	P	SE	SE (5)	P	P	P	—	—
	Group II		P	P	P	P	—	P	P	P	P	—	SE (5)	—	P	—	—	—
	Group III		P	P	P	P	—	—	P (2)	P	P	—	—	—	—	—	—	—
	Group IV		P	P	P	P	—	—	—	P	P	—	—	—	—	—	—	—
Stable, commercial		34-1291 et seq.	—	—	—	—	—	—	—	—	—	—	—	—	—	SE	—	—
Storage:																		
	Indoor only	34-3001 et seq.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—
	Storage, open	34-3001 et seq., 34-1352	—	P	P	P	—	—	—	P	P	—	—	—	—	—	P	—
Studios (34-622(c)(49))			P	P	P	P	—	—	P	P	EO	—	SE	—	P	—	—	—
Supermarket			P	P	P	P	—	P	—	P	P	—	—	—	P	—	—	—
Temporary uses		34-3041 et seq.	TP	TP	TP	TP	—	TP	TP	TP	TP	TP	—	TP	TP	TP	TP	TP
Theater:																		

	Indoor	34-2471 et seq.	—	EO	EO	—	—	—	—	P	P	—	—	—	P	—	—	—
	Drive-in	Note (25), CPD or MPD only 34-2471 et seq.	—	—	EO	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Timeshare units		Note (25)	EO	SE	SE	SE	—	—	—	—	—	—	—	—	P	—	—	—
Transportation services (34-622(c)(53)):																		
	Group I		—	—	P	P	—	—	—	—	—	—	—	—	—	—	—	—
	Group II		—	—	P	P	—	—	—	P	P	—	—	—	—	—	P	—
	Group III		—	—	P	P	—	—	—	—	P	—	—	P	—	—	P	—
	Group IV		—	—	P	P	—	—	—	—	—	—	—	—	—	—	P	—
Truck stop			—	—	—	—	—	—	—	—	P	—	—	P	—	—	P	—
Trucking terminal, motor, rail, air, including warehousing of goods awaiting shipment, parking, and storage of rolling stock			—	—	—	—	—	—	—	—	—	—	—	—	—	—	P	—

Used merchandise stores (34-622(c)(54)):																		
	Group I		—	P	P	P	—	P	—	P	P	—	—	—	—	—	—	—
	Group I, limited to indoor display only,		P	—	—	—	—	—	P	—	—	—	—	—	—	—	—	—
	Group II		—	P	P	P	—	—	P (2)	P	P	—	—	—	—	—	—	—
	Group III		—	P	P	P	—	—	—	P	P	—	—	—	—	—	—	—
	Group IV		—	—	P	P	—	—	—	—	P	—	—	—	—	—	—	—
Variety store			P	P	P	P	—	P	P	P	—	—	—	—	—	—	—	—
Vehicle and equipment dealers (34-622(c)(55)):																		
	Group I	34-1352	—	P	P	P	—	—	—	—	P	—	—	—	—	—	—	—
	Group II	34-1352	—	P	P	P	—	—	—	P	P	—	—	—	—	—	—	—
	Group III	34-1352	—	P	P	P	—	—	—	—	P	—	—	—	—	—	—	—
	Group IV	34-1352	—	P	P	P	—	—	—	—	P	—	—	—	—	—	—	—
	Group V	34-1352	—	—	—	—	—	—	—	—	P	—	—	—	—	—	—	—

Warehouse:																		
	Mini-warehouse		—	—	P	—	—	SE	—	SE	SE	—	—	—	—	—	P	—
	Private		—	—	P	—	—	—	—	—	—	—	—	—	—	—	P	—
	Public		—	—	P	—	—	—	—	—	—	—	—	—	—	—	P	—
Wholesale establishment (34-622(c)(56)):																		
	Group I		—	P(15)	P	P	—	—	—	P(15)	P(15)	P(15)	P(15)	—	P(15)	P(15)	P	—
	Group III		—	P (15)	P	P	—	—	—	P (15)	P (15)	P (15)	P (15)	—	P (15)	P (15)	P	—
	Group IV		—	P (15)	P (15)	P (15)	—	—	—	P (15)	P (15)	—	—	—	—	—	P	—

Notes:

(1) Permitted only when accessory to a lawfully permitted single-family dwelling unit.

(2) No outdoor display of merchandise permitted.

(3) Permitted only if completely enclosed within a building.

(4) No installation service permitted.

(5) Limited to 500 square feet when in conjunction with one dwelling unit on the same premises.

(6) Use only permitted when clearly incidental to a hotel or motel.

(7) The following uses may be permissible seaward of the water body setback line only by special exception: boat rentals (inflatables, sailboats, jet skis, windsurfers and the like), foodstands, rental of cabanas and beach furniture, outdoor amusements including boat balloonist, and seaplane rides, water ski tows, parasail tows and similar activities, fishing and sightseeing piers and towers.

(8) Bail bonding, blood banks, blood donor stations and caterers permitted only by special exception.

(9) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

(10) The total square footage of the residential uses shall not exceed the total square footage of all existing and proposed commercial uses on the subject property, and the total number of residential units shall not exceed the number of units permitted by the Lee Plan, whichever is less.

(11) Not permitted within 500 feet of the nearest residence.

(12) Excluding supermarkets.

(13) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, requires a special exception.

(14) Use not permitted on Captiva Island or within the Gasparilla Island conservation district.

(15) Limited to those commodities and products which are permitted to be sold at retail, provided that parking meets the requirements for retail sales.

(16) ATM's that are to be available to the public 24 hours a day, must be approved by Special Exception and located so that their uses will not cause a disturbance to adjacent property owners. ATM's located within a building housing a permitted use and available to the public only during normal working hours do not require a Special Exception.

(17) Limited to rental of passenger cars, vans, and pick-up trucks less than three-quarter ton capacity. Maintenance activities limited to washing, waxing, vacuuming and minor repairs but excluding activities classified as Automotive Repair and Service-Groups I and II. See section 34-622(c)(2).

(18) Two pumps are permissible as an accessory use to businesses (other than a convenience food and beverage store which is listed separately) to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.

(19) Limited to eight pumps unless a greater number is approved as part of a special exception or as specifically approved in the master concept plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998 will not be considered non-conforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.

(20) Facilities proposed for ten or more acres or the expansion of an existing facility that will bring the number of acres to ten or more acres must request and be approved as a special exception.

(21) Regular business hours limited to 7:00 a.m. to 9:00 p.m. unless extended hours are approved by Special Exception for a specific use.

(22) Use may only be approved when clearly incidental to a permitted restaurant.

(23) Total floor area of a single use building may not exceed 5,000 square feet. A multi-use building may not exceed 7,500 square feet. If more than one building is in a development, there must be a minimum separation between buildings of fifteen feet.

(24) No outdoor seating.

(25) Not permitted in Airport Noise Zone B.

(26) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.

(27) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004

(28) Limited to active recreation only (ball fields and tennis courts, for example) in Airport Noise Zone B.

(29) Not permitted in Airport Noise Zone B unless pre-empted by state law.

(30) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.

(31) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.

(32) For purposes of this use only, grade is the average elevation of the street or streets abutting the property measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage.

(33) Limited to four pumps, unless a greater number is approved as part of a special exception.

(34) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352

(Ord. No. 93-24, § 7(table 450.A), 9-15-93; Ord. No. 94-02, § 16, 1-10-94; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 95-07, § 35, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 04-05, § 1, 4-27-04; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 06-10 , § 1, 6-12-06; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Note—See the editor's note to § 34-842

Sec. 34-845. Property development regulations table.

Property development regulations for conventional commercial districts are as follows:

TABLE 34-845. PROPERTY DEVELOPMENT REGULATIONS FOR COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2, C-2A	CN-1	CN-2	CN-3	CC, CG	CS-1	CS-2	CH	CT	CR	CI	CP
Maximum density	Note (1)				(2)	(2)	(2)		(2)	(2)					
Minimum lot area and dimensions:	34-2221, 34-2222, 34-2142														
Minimum lot size:															
Residential uses															

(square feet):																
First two units in same building		7,500	7,500	7,500	—	—	7,500	—	—	5,000	—	7,500	—	—	—
Each additional unit in same building		—	3,000	2,000	—	—	2,000	—	—	—	—	2,000	—	—	—
Nonresidential uses (square feet):																
Corner lot		7,500	7,500	10,000	10,000	10,000	10,000	20,000	20,000	5,000	10,000	20,000	39,500	2 acres	None
Interior lot		7,500	7,500	10,000	10,000	10,000	7,500	20,000	20,000	5,000	10,000	20,000	33,600	2 acres	None
Lot width (feet)		75	75	75	75	100	75	100	100	50	100	100	100	150	—
Lot depth (feet)		100	100	100	100	100	100	100	100	100	100	100	100	150	—
Minimum setbacks:	34-1174 et seq. & 34-2191 et seq.												(10)		

Street (feet)	Notes (3) and (4)	Variable according to the functional classification of the street or road (see section 34-2192).														
Side yard (feet)	Notes (3) and (5)	15	15	15	15	15	10	15	20	10	15	20	15	15(10)	Note (6)	
Rear yard (feet)		25	25	25	20	20	20	25	20	20	20	25	20	25(10)	Note (7)	
Water body (feet):	34-2191 et seq.															
Gulf of Mexico		In accordance with chapter 6, article III, or 50 feet from mean high water, whichever is the most restrictive.														
Other		25	25	25	25	25	25	25	25	25	25	25	25	25	25	
Special regulations:		Refer to the sections specified for exceptions or additions to the minimum setback requirements listed in this table.														
Animals, reptiles, marine life	34-1291 et seq.															
Consumption on premises	34-1261 et seq.															
Dairy products (sic 202)	34-2443															
Docks, seawalls, etc.	34-1863															

	Essential services	34-1611 et seq.														
	Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142														
	Fences, walls, gatehouses, etc.	34-1741 et seq.														
	Fertilizer mixing	34-2443														
	Hotel/motel	34-1801 et seq.														
	Nonroofed accessory structures	34-2194(c)														
	Railroad right-of-way	34-2195														
	Outdoor storage or display of merchandise	34-3001 et seq. Note (8)														
Maximum height (feet)		34-2171 et seq.	35	35	35	35	35	35	35	35	35	35	35	35	35	35

		Note: Bonita Beach, Captiva, San Carlos Islands, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special height limitations (see section 34-2175).													
Maximum lot coverage (percent of total lot area)		40 %	40 %	40%	40%	40%	40%	40%	40%	50 %	40%	40%	40%	40%	40 % (9)

Notes:

(1) Residential development shall not exceed that density permitted by the Lee Plan for the land use category in which the property is located.

(2) The minimum lot area required for nonresidential uses shall be applicable to combined commercial and residential living units approved by special exception in the same manner as if the residential use did not exist.

(3) Modifications to required setbacks for arterial or collector streets are permitted only by variance. Modifications for solar or wind energy purposes, are permitted only by special exception. See section 34-2191 et seq.

(4) Special street setbacks apply to portions of Colonial Boulevard and Daniels Road. See section 34-2192(b).

(5) No side yard setback is required from common lot line for two-family attached or townhouse.

(6) Parking areas shall be ten feet from any residential land use and five feet from any other. Any structure in the CP district shall be set back a minimum of 15 feet from any side lot line and 25 feet from any rear lot line.

(7) Where a parking lot permitted under CP zoning is adjacent to a residential land use, an opaque fence shall be erected and maintained to protect the latter from noise, glare and intrusion.

(8) No outdoor display or storage of merchandise is permitted in the CN-1, CN-2, or CN-3 district.

(9) Lot coverage applies to structures only.

(10) Truck terminals shall be required to comply with the setback requirements as set forth in table 34-904

(Ord. No. 93-24, § 7(table 450.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 13-10 , § 10, 5-28-13)

Note—See the editor's note to § 34-842

Secs. 34-846—34-870. Reserved.

DIVISION 7. MARINE-ORIENTED DISTRICTS

Sec. 34-871. Purpose and intent.

(a) *CM marine commercial district.* The purpose and intent of the CM district is to permit the designation of suitable locations for, and to ensure the proper development and use of, land and adjacent waters for commercial marinas and other uses incidental to those facilities. The principal uses of land are limited to waterfront-dependent uses required for the support of recreational boating and fishing. The marina siting and design criteria are set forth under objectives 128.5 and 128.6 of the Lee Plan and in the Manatee Protection Plan.

(b) *IM marine industrial district.* The purpose and intent of the IM district is to permit the designation of suitable locations for, and to ensure the proper development and use of, land and adjacent waters for commercial and industrial waterfront-dependent land uses. These uses are more intense than those normally encountered in a recreational marina, yet fall short of the intensity of use represented by the storage and commodity handling facilities and equipment attendant to the waterborne commerce movement facilities that are the principal focus of the PORT district. The marine industrial district is intended to accommodate uses such as boatbuilding, major hull and engine maintenance and repair, landing, icing and shipping of fish and seafood (fish and seafood processing requires a special exception), and other uses of similar scope and scale. The marina siting and design criteria are set forth under objectives 128.5 and 128.6 of the Lee Plan and in the Manatee Protection Plan.

(c) *PORT district.* The purpose and intent of the PORT district is to designate and facilitate the proper development and use of land and adjacent waters in a suitable location and of appropriate characteristics for use in support of waterborne commerce movement, including, but not limited to wharfs and docks for sea- and river-going bulk carriers (ships and barges), bulk storage of commodities, warehousing for goods received or awaiting shipment and other uses of similar scope and scale, including accessory uses necessary for the competent administration of a port facility.

(Ord. No. 93-24, § 7(460.01), 9-15-93; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09)

Sec. 34-872. Applicability of use and property development regulations.

No land, body of water or structure may be used or permitted to be used and no structure may hereafter be erected, constructed, moved, altered or maintained in the marine-oriented districts for any purpose other than as provided in section 34-873, pertaining to use regulations for marine-oriented districts, and section 34-874, pertaining to property development regulations for marine-oriented districts, except as may be specifically provided for in article VIII (nonconformities) of this chapter, or in section 34-620.

(Ord. No. 93-24, § 7(460.02), 9-15-93; Ord. No. 98-11, § 5, 6-23-98)

Cross reference— Marine facilities generally, ch. 26; supplementary regulations pertaining to marine facilities, § 34-1861 et seq.

Sec. 34-873. Use regulations table.

Use regulations for marine-oriented districts are as follows:

TABLE 34-873. USE REGULATIONS FOR MARINE-ORIENTED DISTRICTS

	Special Notes or Regulations	CM	IM	PORT
Administrative offices		P	P	P
Amateur radio antennas and satellite earth stations when accessory to an existing principal use	34-1175	Refer to 34-1175 for regulations.		
Bait and tackle shop	Note (13)	P	P	—
Bar or cocktail lounge	34-1261 et seq.	AA/SE	—	—
Boat parts store		P	P	—
Boat ramps		P	P	P
Boat rental		P	P	—
Boat repair and service	34-1352 34-3001 et seq.	P (1)	P	—
Boat storage:				
Dry: Not exceeding 18 feet above grade	Note (12)	P	P	P
Dry: Exceeding 18 feet above grade	Note (12)	SE	SE	SE
Boatyard		—	P	P
Bulk storage for on-site consumption (use) or distribution of explosives, corrosives, liquid or liquefied gaseous fuels, or toxic materials		—	—	SE

Clubs, private		P (2)	—	—
Commercial fishery, including land support		—	P	SE
Communication facility, wireless	34-1441 et seq.	Refer to 34-1441 et seq. for regulations.		
Consumption on premises	34-1261 et seq., Note (13)	AA/SE	AA/SE	AA/SE
Cultural facilities	34-622(c)(10)	P	P	P
Docking or mooring facilities	34-1863	P	P	P
Entrance gates and gatehouse	34-1741 et seq.	P	P	P
Essential services	34-1611 et seq.	P	P	P
Essential service facilities (34-622(c)(13)):				
Group I	34-1611 et seq.	P	P	P
Excavation:				
Water retention	34-1651	P	P	—
Oil or gas		SE	SE	—
Fire station	Note (13)	—	—	P
Fish market, enclosed	Note (13)	EO	SE	—
Freight and cargo handling establishments (34-622(c)(17))		—	P	P
Gift and souvenir shop	Note (13)	P	—	—
Heliport for emergency medical services		—	—	P

Hotel/motel:	Note (11), 34-1801 et seq.	EO/SE	—	—
Laundromat		P	—	—
Marina	34-1862	P	P	P
Offices, marine-oriented government		—	P (3)	—
Offices and commercial activities directly related to port activities and port personnel		—	—	P
Parks (34-622(c)(32)): Groups I & II		P	P	P
Parking lot:				
Accessory		P	P	P
Temporary	34-2022	P (5)	P (5)	P (5)
Place of worship	Note (8), 34-2051 et seq.	P	P	SE
Recreation facilities				
Commercial (34-622(c)(38))		—	—	—
Personal		P	P	P
Private—On-site		P	P	P
Private—Off-site		—	—	—
Rental establishments, group I (34-622(c)(39))	Note (13)	P	—	—
Research and development laboratories, group IV	34-622(c)(41)	P	P	—
Residential uses	Note (9)	P (6)	P (6)	SE (6)

Residential accessory uses (34-622(c)(42))	Note (10)	P (7)	P (7)	P (7)
Restaurant (34-622(c)(43)):				
Group I	Note (13)	P	P	P
Group II	Note (13)	P	SE	—
Group III	Note (13)	P	—	—
Sale of fuel and lubricants		P	P	P
Sanitary facilities (restrooms and showers for transient persons; pump-out facilities for onboard sanitation, wastewater holding pretreatment or treatment)		P	P	P
School, commercial (34-622(c)(45))	34-2381	P (4)	P (4)	—
Signs in accordance with chapter 30		P	P	P
Storage:				
Indoor only	34-3001 et seq.	P	P	P
Open	34-3001 et seq. 34-1352	P	P	P
Temporary uses	34-3041 et seq.	P	—	—
Transportation equipment, manufacturing (34-622(c)(52)), group II		—	P	P
Transportation services (34-622(c)(53)), group I		P	P	—
Vehicle and equipment dealers (34-622(c)(55)), group III	34-1352	P	P	—
Warehouse, private		—	—	P

Notes:

(1) Minor boat repair only.

(2) Limited to yacht or sailing clubs, youth-oriented boating clubs, and U.S. Coast Guard power squadrons.

(3) Mainly the U.S. Navy, Coast Guard, Army Corps of Engineers, State Department of Environmental Protection and Marine Patrol.

(4) Limited to marine-oriented schools.

(5) Not permitted on Captiva Island or within the Gasparilla Island conservation district.

(6) Limited to caretaker's residence only. This limitation shall not apply to the Boca Bay Project as may be amended, which shall remain a permitted residential development in the PORT district located at Boca Grande.

(7) In conjunction with approved caretaker's residence only (see note (6)).

(8) Not permitted in Airport Noise Zone B.

(9) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.

(10) Permitted in Airport Noise Zone B only when ancillary to lawful mobile home or single-family residence. See section 34-1004

(11) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.

(12) For purposes of this use only, grade is the average elevation of the street or streets abutting the property. Average elevation of the street is measured along the centerline of the streets, at the points of intersection of the streets with the lot lines (as extended) and the midpoint of the lot frontage.

(13) See section 34-3152

(Ord. No. 93-24, § 7(table 460.A), 9-15-93; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-874. Property development regulations table.

Property development regulations for marine-oriented districts are as follows:

TABLE 34-874. PROPERTY DEVELOPMENT REGULATIONS FOR MARINE-ORIENTED DISTRICTS

	Special Notes or Regulations	CM	IM	PORT
Minimum lot area and dimensions:	34-2221, 34-2222 34-2142			
Lot area (square feet)		20,000	20,000	20,000
Lot width (feet)		100	100	100
Lot depth (feet)		100	100	100
Minimum setbacks:				
Side yard (feet)	34-2191 et seq.	20	20	Note (1)
Rear yard (feet)	34-2191 et seq.	20	20	25
Street (feet)	Note (2), 34-2191 et seq.	Variable according to the functional classification of the street or road (see section 34-2193(b)).		
Water body (feet):	Note (3), 34-2191 et seq.			
Gulf of Mexico		50	50	50
Other		25	25	25
From residential property line (feet)		—	—	100

Maximum height (feet)	34-2171 et seq.	35	35	35
		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2175).		
Maximum lot coverage (percent of total lot area)		40%	40%	40%
Special regulations:		Refer to the section specified for exceptions to the minimum setback requirements listed in this table.		
Animals, reptiles, marine life	34-1291 et seq.			
Consumption on premises	34-1261 et seq.			
Docks, seawalls, etc.	34-1863			
Essential services	34-1611 et seq.			
Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142			
Fences, walls, gatehouses, etc.	34-1741 et seq.			
Hotel/motel	34-1801 et seq.			
Nonroofed accessory structures	34-2194(c)			

	Railroad right-of-way	34-2195	

Notes:

(1) Side yard setbacks shall be ten percent of the lot width with a minimum setback of 20 feet and a maximum required setback of 40 feet.

(2) Modifications to required setbacks for collector or arterial streets is permitted only by variance. Modifications for solar or wind energy purposes, are permitted only by special exception. See section 34-2191 et seq.

(3) Boat service buildings or boat service structures may be built up to the mean high-water line.

(Ord. No. 93-24, § 7(table 460.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97)

Secs. 34-875—34-900. Reserved.

DIVISION 8. INDUSTRIAL DISTRICTS

Sec. 34-901. Purpose and intent.

(a) *Generally.*

(1) The purpose and intent of the industrial districts is to regulate the continuance of certain land uses and structures lawfully existing as of August 1, 1986, which were originally permitted by the County Zoning Regulations of 1962, as amended, or 1978, as amended.

(2) It is also the purpose and intent of the industrial districts to encourage industrial growth in accordance with the goals, objectives and policies set forth in the Lee Plan, and to guide most industrial growth into the future urban areas where required infrastructure exists or can be feasibly extended. However, some rural-oriented industrial activities will also be permitted in the nonurban areas.

(3) In the industrial development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those which are specifically related to adjoining industrial uses as provided in Policy 1.1.7 of the Lee County Comprehensive Plan.

(b) *IL light industrial district.* The purpose and intent of the IL district is to permit the designation of suitable locations for and to facilitate the proper development and use of areas devoted to various light industrial and quasi-industrial commercial uses. While it is presumed that most industrial processes will take place within enclosed buildings, any activity not taking place within a building shall take place within a yard enclosed by an opaque wall or fence.

(c) *IG general industrial district.* The purpose and intent of the IG district is to permit the designation of suitable locations for and to facilitate the proper development and use of areas devoted to various heavy industrial uses which have the potential of producing extensive adverse impacts on surrounding land uses or resources. Such uses include those which produce noise, odors or increased hazards of fire, or are generally incompatible with lower-intensity land uses.

(d) *IR rural industrial district.* The purpose and intent of the IR district is to designate and to facilitate the proper development and use of land of suitable character for limited industrial purposes in the nonurban area of the County. In the IR district, the uses of land are limited to industrial uses having a close or organic relation to the production of agricultural commodities and products, or which produce goods or provide services essential to agricultural activities.

(Ord. No. 93-24, § 7(470.01), 9-15-93; Ord. No. 94-24, § 24, 8-31-94; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 04-05, § 1, 4-27-04; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-902. Applicability of use and property development regulations.

No land, body of water or structure may be used or permitted to be used and no structure may hereafter be erected, constructed, moved, altered or maintained in the industrial districts for any purpose other than as provided in section 34-903, pertaining to use regulations for industrial districts, and section 34-904, pertaining to property development regulations for industrial districts, except as may be specifically provided for in article VIII (nonconformities) of this chapter, or in section 34-620.

(Ord. No. 93-24, § 7(470.02), 9-15-93; Ord. No. 98-11, § 5, 6-23-98)

Sec. 34-903. Use regulations table.

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

	Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Administrative offices		P	P	P
Agricultural services: office/base operations	Note (9)	—	—	P
Aircraft landing facility, private:				
Lawfully existing:				

Expansion of aircraft landing strip or helistop or heliport landing pad	34-1231 et seq.	SE	SE	SE
New accessory buildings	34-1231 et seq.	P	P	P
New:				
Aircraft landing strip or heliport, ancillary hangers, sheds and equipment	34-1231 et seq.	SE	SE	SE
Helistop	34-1231 et seq.	SE	SE	SE
Amateur radio antennas and satellite earth stations when accessory to an existing principal use	34-1175	Refer to 34-1175 for regulations.		
Animals:				
Animal clinic	34-1321 et seq.	P	P	P
Animal kennel, when completely enclosed within a building	34-1321 et seq.	P	P	P
Control center (including Humane Society)	34-1321 et seq.	P	P	—
ATM (automatic teller machine)		P	P	—
Automobile repair and service (34-622(c)(2)):				
Group I	34-1351	P	P	—
Group II	34-1351	P	P	—
Bar or cocktail lounge	34-1261 et seq.	SE	SE	—
Blacksmith shop	Note (9)	P	P	P
Boat ramps		EO/SE	EO/SE	—

Broadcast studio, commercial radio and television	34-1441 et seq.	P	P	—
Building materials sales (34-622(c)(4))	34-3001 et seq.	P	P	—
Business services (34-622(c)(5))				
Group I		P	—	—
Group II		P	P	—
Bus station/depot	34-1381 et seq.	P	P	—
Caretaker's residence	>Note (17)	AA	AA	—
Caterers		P	P	—
Cleaning and maintenance services (34-622(c)(7))		P	P	—
Cold storage warehouse and processing plant (including pre-cooling)		P	P	P
Communication facility, wireless	34-1441 et seq.	Refer to 34-1441 et seq. for regulations.		
Computer and data processing services		P	P	—
Consumption on premises	34-1261 et seq., 34-3152	AA/SE	AA/SE	—
Contractors and builders (34-622(c)(9)):				
Group I		P (1)	P	—
Group II		P (1)	P	—
Group III	34-1352, 34-2443, 34-3001 et seq.	P (1)	P(12)	—

Day care center, child	34-206, Note (13) & (16)	P	—	—
Day care center, adult	34-206, Note (13) & (16)	P	—	—
Emergency operations center		P	P	—
EMS, fire or sheriff's station	34-3152	P	P	P
Entrance gates and gatehouses	34-1741 et seq.	P	P	P
Essential services	34-1611 et seq.	P	P	P
Essential service facilities:	34-622(c)(13)			
Group I	34-1611 et seq., 34-1741 et seq., 34-2142	P	P	P
Group II	34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	—	—
Group III	34-1611 et seq., CFPD, IPD or MPD only	EO	—	—
Excavation:				
Water retention	34-1651	P	P	P
Oil or gas		SE	SE	SE
Farm equipment, sales, storage, rental or service	34-1352, 34-3001 et seq.	—	—	P
Farm machinery and tractor repair		—	—	P

Flea market, open		SE	—	—
Freight and cargo handling establishments (34-622(c)(17))	34-3001 et seq., Note (9)	SE	P	P (3)
Gasoline dispensing system, special		P	P	—
Hatcheries, poultry	Note (9)	—	—	P
Health care facility, group III (34-622(c)(20))	Note (4)	SE	SE	—
Health club or spa		P	P	—
Heliport or helistop	34-1231	See aircraft landing facilities, private		
Impound yard	Note: 9	EO	EO	—
Laundry or dry cleaning (34-622(c)(24)), group II		P	P	—
Machine shop		P	P	—
Maintenance facility (government)	Note (2)	P	P	—
Manufacturing, repair or wholesale sales of:				
Apparel (34-622(c)(1))	Note (9)	P	P	—
Boats	Note (9)	SE	P	—
Chemicals and allied products (34-622(c)(6)):				
Group I	IPD only, Note (9)	EO	EO	—
Group II:				
Cosmetics, perfumes, etc.	Note (9)	P (5)	P (5)	—

All other chemicals	IPD only, Note (9)	—	EO	—
Electrical machinery and equipment (34-622(c)(11))	Note (9)	P	P	—
Fabricated metal products (34-622(c)(14)):				
Group II	Note (9)	SE	P	—
Group III	Note (9)	—	P	—
Food and kindred products (34-622(c)(15)):				
Group I	Note (9)	—	P	P
Group II	Note (9)	SE	P	P
Group III	Note (9)	P	P	—
Furniture and fixtures (34-622(c)(18))	Note (9)	P	P	—
Leather products (34-622(c)(25)):				
Group I	Note (9)	—	P	P
Group II	Note (9)	P	P	P
Lumber and wood products (34-622(c)(26)):				
Group I	IPD only, Note (9)	—	EO	EO
Groups II and IV	Note (9)	P	P	—
Group III	Note (9)	—	P	—
Group V	IPD only, Note (9)	—	EO	—
Group VI	IPD only, Note (9)	—	EO	—

	Machinery (34-622(c)(27)):				
	Group I	Note (9)	P (6)	P	—
	Group II	Note (9)	P (6)	P	—
	Group III	Note (9)	—	P	—
	Measuring, analyzing and controlling instruments (34-622(c)(28))	Note (9)	P	P	—
	Novelties, jewelry, toys and signs (34-622(c)(29)), groups I, II and III	Note (9)	P	P	—
	Paper and allied products (34-622(c)(31)):				
	Group II	Note (9)	P	P	—
	Group III	Note (9)	P (7)	P	—
	Rubber and plastic products (34-622(c)(44)):				
	Group I	IPD only, Note (9)	—	EO	—
	Group II	Note (9)	P	P	—
	Stone, clay, glass or concrete products (34-622(c)(48)):				
	Group I	Note (9)	P	P	—
	Group II	Note (9)	—	P	—
	Group III	Note (9)	P (8)	P	—
	Textile mill products (34-622(c)(50)):				
	Groups I and II	Note (9)	P	P	—

	Tobacco (34-622(c)(51))	Note (9)	—	P	—
	Transportation equipment (34-622(c)(52)):				
	Group II	Note (9)	SE	P	—
	Groups I, III and IV	Note (9)	—	P	—
Marina		34-1862	EO	EO	—
Mass transit depot or maintenance facility (government)			P	P	—
Message answering service			P	P	—
Mini-warehouse			P	P	—
Mobile home dealers		34-1352	P	P	—
Motion picture production studios		Note (9)	P	P	—
Nightclub		34-1201 et seq., 34-1261 et seq.	SE	SE	—
Nonstore retailers (34-622(c)(30)), all groups			P	P	—
Oxygen tent services			P	P	—
Parcel and express services			P	P	—
Parking lot:					
	Accessory		P	P	P
	Commercial	Note (15)	P	P	P
	Garage, public		—	—	—

	Park-and-ride	34-1388	P	P	P
	Temporary	34-2022	P	P	P
Parks (34-622(c)(32)), Group I		Note (2)	P	P	—
Personal services (34-622(c)(33)), group III			P	P	—
Photofinishing laboratory		Note (9)	P	P	—
Place of worship		Note (16), 34-2051 et seq.	P	P	P
Post office		Note (2)	P	P	—
Printing and publishing (34-622(c)(36))			P	P	—
Processing and warehousing			P	P	—
Recreation facilities					
	Commercial ((34-622(c)(38))				
		Group I		—	—	P
		Group III & IV		P	P	—
	Personal	P	P	P	P
	Private—On-site	P	P	P	P
	Private—Off-site	SE	SE	SE	SE
Recycling facility (df)			P	P	—
Religious facilities		Note (2) & (16), 34-2051 et seq.	P	P	—

Rental or leasing establishments (34-622(c)(39)):				
Group II	34-1201 et seq., 34-1352 34-3001 et seq., 34-3152	P	P	—
Group III	34-1352, 34-3001 et seq.	P	P	—
Group IV	34-1352, 34-3001 et seq., Note (9)	P	P	—
Repair shops (34-622(c)(40))				
Groups I, II, III and IV		P	P	—
Group V	Note (9)	P	P	—
Research and development laboratories (34-622(c)(41)):				
Group I	Note (9)	—	—	P
Groups II and IV		P	P	—
Restaurant (34-622(c)(43)):				
Group I	34-3152	P	P	P
Group II	34-1261 et seq., 34-3152	P	P	—
Resource recovery facilities:				
Recovery facilities to produce energy	IPD only	—	EO	—

Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises		P	P	P
Schools, commercial (34-622(c)(45))		P	P	—
Schools, noncommercial:				
Lee County School District	Note (16), 34-2381	P	P	P
Other	Note (16), 34-2381	—	—	—
Self-service fuel pumps		—	P (11)	—
Signs in compliance with chapter 30		P	P	P
Social services (34-622(c)(46)), group II	Note (9)	P	P	—
Storage:				
Indoor	34-3001 et seq.	P	P	P (3)
Open	34-3001 et seq., 34-1352	P	P	P (3)
Studios (34-622(c)(49))		P	P	—
Temporary uses		TP	TP	TP
Transportation services (34-622(c)(53)), groups II, III and IV		P	P	—
Trucking terminal	34-1352	SE	P	P (3)
Vehicle and equipment dealers (34-622(c)(55)):				
Group III		P	—	—

	Group IV		P	P	—
	Group V		P	P	—
Warehouse:					
	Mini-warehouse		P	P	—
	Private		P	P	—
	Public		P	P	—
Wholesale establishment:		34-622(c)(56)			
	Group I	34-3001 et seq., Note (9)	P	P	P
	Group II	34-3001 et seq., Note (9)	—	—	P
	Group III	34-3001 et seq.	P	P	—
	Group IV	34-3001 et seq.	P	P	—

Notes:

(1) Excluding asphalt or concrete batch plants that were not lawfully existing as of February 4, 1978.

(2) New facilities of ten or more acres or expansion of an existing facility to ten or more acres requires a special exception.

(3) Limited to agricultural products, livestock and equipment.

(4) Expansion of an existing facility to over 50 beds requires a special exception.

(5) Limited to manufacturing of cosmetics, perfumes and other toilet preparations only.

(6) Limited to assembly of the finished product from its component parts.

(7) Limited to SIC code 265 (Paperboard Containers and Boxes) only.

(8) Limited to small custom-designed concrete products produced in molds, such as decorative architecture or ornamental features commonly associated with residential uses.

(9) The use is subject to the special setback regulations as set forth in section 34-2443, minimum required setbacks.

(10) Reserved.

(11) Two pumps are permissible as an accessory use to businesses to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.

(12) Including asphalt batch plants.

(13) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.

(14) In the industrial development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those that are specifically related to adjoining industrial uses consistent with Policy 1.1.7 of the Lee County Comprehensive Plan.

(15) Limited to the parking of the following:

1. A tractor-trailer or semi-trailer truck.

2. A truck with two or more rear axles.

3. A truck with a manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 12,000 pounds.

4. Any truck and trailer combination resulting in a combined manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 12,000 pounds.

5. Any trailer used in the conduct of a commercial or industrial business.

(16) Not permitted in Airport Noise Zone B.

(17) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.

(Ord. No. 93-24, § 7(table 470.A), 9-15-93; Ord. No. 94-02, § 7, 1-19-94; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 95-07, § 35, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 04-05, § 1, 4-27-04; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 06-06 , § 1, 4-11-06; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-904. Property development regulations table.

Property development regulations for industrial districts are as follows:

TABLE 34-904. PROPERTY DEVELOPMENT REGULATIONS FOR INDUSTRIAL DISTRICTS

	Special Notes or Regulations	IL	IG	IR
Minimum lot area and dimensions:	34-2221, 34-2222, 34-2142			
Located in an industrial subdivision:				
Minimum lot size (acres unless otherwise noted)		20,000 sq. ft.	20,000 sq. ft.	2
Lot width (feet)		100	100	200
Lot depth (feet)		100	100	200
Freestanding, not within an industrial subdivision:				
Minimum lot size (acres)		2	2	2
Lot width (feet)		200	200	200
Lot depth (feet)		200	200	200
Minimum setbacks:	34-2191 et seq.			
Street (feet)	Notes (1) and (2)	Variable according to the functional classification of the street or road (see section 34-2192).		
Side yard (feet)	Note (1)	20	20	15
Rear yard (feet)		15	25	20

Residential property (feet)	34-2443	25 feet unless a greater setback is required as set forth in section 34-2443			
Water body (feet):	34-2191 et seq.				
Gulf of Mexico		In accordance with chapter 6, article III, or 50 feet from mean high water, whichever is the most restrictive.			
Other (feet)		25	25	25	
Special regulations:					
Animals, reptiles, marine life	34-1291 et seq.				
Consumption on premises	34-1261 et seq.				
Docks, seawalls, etc.	34-1863				
Essential services	34-1611 et seq.	Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.			
Essential service facilities (34-622(c)(13))	34-1611 et seq., 34-2142				
Fences, walls, gatehouses, etc.	34-1741 et seq.				
Nonroofed accessory structures	34-2194(c)				
Railroad right-of-way	34-2195				
Maximum height (feet)	34-2171 et seq.	35	35	35	

		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see section 34-2175).		
Maximum lot coverage (percent of total lot area)		40%	40%	40%

Notes:

(1) Modifications to required setbacks for collector or arterial streets is permitted only by variance. Modifications for solar or wind energy purposes, are permitted only by special exception. See section 34-2191 et seq.

(2) Special street setback provisions apply to portions of Colonial Boulevard and Daniels Road (refer to section 34-2192(b)).

(Ord. No. 93-24, § 7(table 470.B), 9-15-93; Ord. No. 94-24, § 50, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97)

Secs. 34-905—34-930. Reserved.

DIVISION 9. PLANNED DEVELOPMENT DISTRICTS

Sec. 34-931. Purpose and intent.

(a) The general purpose and intent of the various planned development districts is set forth in section 34-612(2). The purpose and intent of specific planned development districts is set forth in subsections (b) through (k) of this section.

(b) *RPD residential planned development and MHPD mobile home planned development districts.*

(1) The intent of the RPD and MHPD districts is to further the general purpose of planned developments set forth in section 34-612(2) as it relates to residential areas.

(2) It is also the intent of these districts to provide a property owner or land developer with a development technique that can increase residential density and its ancillary development in areas designated by the Lee Plan as being in the rural or outer island categories, provided that the proposed development shall be completely independent of County-subsidized facilities and services, and that the project will not have an adverse economic, environmental, fiscal or social impact to its surrounding environs or to the County.

(3) The principal use of any residential or mobile home planned development is human habitation in permanent yearround dwelling units. However, the RPD and MHPD districts permit some limited nonresidential uses for the convenience of the residents and the welfare of the public.

(c) *RVPD recreational vehicle planned development district.*

(1) The purpose and intent of the RVPD district is to further the general purpose of planned developments set forth in section 34-612(2) as it relates to recreational vehicle developments.

(2) It is the intent of this chapter that all new recreational vehicle developments and any expansion to an existing recreational vehicle development shall only be permitted if first rezoned into the RVPD district.

(3) The principal use of a recreational vehicle planned development is recreational vehicle emplacement, although some ancillary commercial uses for the convenience of the development guests may also be permitted.

(d) *CFPD community facilities planned development district.* The purpose of the CFPD district is to accommodate those governmental, religious and community service activities which frequently complement and are necessary to the types of activities permitted in other zoning districts, but which, due to the size, intensity or nature of the use and the potential impact on adjacent land uses, roads or infrastructure, should not be permitted as a use by right in those districts.

(e) *CPD commercial planned development district.*

(1) The intent of the CPD district is to further the general purpose of planned developments set forth in section 34-612(2), as it relates to commercial development.

(2) The principal uses of any commercial planned development are generally the retail sale and distribution of consumer goods and services, or the provision of standard office space for various purposes, including the delivery of professional services (including health care, short of inpatient facilities), or financial services, or for the administration of business and general business purposes.

(3) Ancillary uses which may be permitted in the commercial planned development district include permanent human habitation in multiple-family buildings and townhouses, transient housing in hotel or motel rooms, health care facilities, and other limited institutional uses and selected light industrial uses.

(f) *IPD industrial planned development district.*

(1) The intent of the IPD district is to further the general purpose of planned developments set forth in section 34-612(2) as it relates to industrial development.

(2) The principal use of any industrial planned development is the manufacture of goods and materials, and the storage and wholesale distribution of such goods and materials. However, for the welfare of the public and for the efficiency of the local economic structure, the IPD district permits many services and activities not allowed elsewhere and a limited number of commercial uses intended to serve principally the employees or patrons of businesses within the IPD.

(3) In the industrial development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those that are specifically related to adjoining industrial uses consistent with Policy 1.1.7 of the Lee County Comprehensive Plan.

(g) *AOPD airport operations planned development district.* The purpose and intent of the AOPD district is to accommodate and regulate those lands where public airports and ancillary facilities are conducted.

(h) *MPD mixed use planned development district.* To permit planned developments with a mixture of uses in accordance with subsection 34-612(2) as set forth in this chapter and Objective 4.1 of the Lee Plan in order to reduce the number of vehicular trips on the County's arterial and collector road network.

(i) *Private recreational facilities planned development (PRFPD) district.* The PRFPD district provides specific land development regulations that allow private recreational facilities in suitable areas within DR/GR areas. The PRFPD district can not be requested or approved in any other land use category.

The density reduction/groundwater resource (DR/GR) areas include upland areas that provide substantial recharge to aquifers most suitable for future wellfield development. These areas also are the most favorable locations for physical withdrawal of water from those aquifers. Only minimal public facilities exist or are programmed in these areas. Land uses in these areas must be compatible with maintaining historic surface and groundwater levels. Permitted land uses within the DR/GR areas include private recreational facilities when approved as part of a PRFPD district.

(j) *Mine excavation planned development (MEPD) district.* The MEPD district is intended to accommodate and regulate mining activities and to provide specific land development regulations that allow resource extraction activity consistent with the provisions set forth in chapter 12

(k) *Compact planned development (Compact PD) district.* The Compact PD district is intended for compact neighborhoods with shopping and workplaces nearby. Specific land development regulations are provided in chapter 32

(Ord. No. 93-24, § 7(480.01), 9-15-93; Ord. No. 94-24, § 25, 8-31-94; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 10-25 , § 4, 6-8-10)

Sec. 34-932. Regulation of land use in planned developments.

(a) All uses of land, water and structures permitted in a planned development are subject to the general requirements for planned developments, an adopted master concept plan and various special conditions, as required. Mine excavation planned developments are subject to chapter 12, the adopted MEPD resolution, special conditions and the approved engineered mine site plan set. Compact planned developments are subject to chapter 32, the adopted Compact PD resolution, special conditions, and the approved regulating plan.

(b) Special conditions may be formulated and applied to address unique aspects of the parcel in the protection of a bona fide public interest. The source of such restrictions may include good planning

practice as well as those specifications set forth in the application documents, policy and standards set forth in the Lee Plan.

(c) All special conditions must be reasonably related to the proposed development and to any reasonably expected impacts on public services and facilities and the public safety, health and general welfare. Such special conditions should be pertinent to the mitigation of these impacts. All conditions must be adopted as part of the zoning resolution and as an appendix to the approved master concept plan, engineered mine site plan set, or regulating plan that governs the planned development.

(d) The standards for use and development of a planned development will be set forth in the zoning or MEPD resolution and its attachments, and, unless modified through the schedule of deviations, where applicable (see section 34-412) or as provided in chapter 32, such standards may not be less restrictive than the minimum standards set forth elsewhere in this chapter, chapter 12, or other applicable development regulations.

(e) Areas devoted to various uses must be designated on the concept plan or mine site plan set. The application for a planned development must include a schedule detailing the uses desired, identifying such uses by citing the enumerated uses of one or more conventional zoning districts, use activity groups (section 34-622), and defined uses (section 34-2).

(Ord. No. 93-24, § 7(480.02), 9-15-93; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 10-25 , § 4, 6-8-10)

Sec. 34-933. Permitted uses.

Except in the MEPD PRFPD, and Compact PD districts, or where otherwise specifically indicated to the contrary, the uses listed in section 34-934, pertaining to use regulations for planned development districts, may be permitted in the indicated districts when consistent with the goals, objectives and policies of the Lee Plan for the land use category in which the property is located, and when approved on the enumerated documentation of the master concept plan. Uses that are not specifically listed in section 34-934 may also be permitted if, in the opinion of the Director, they are substantially similar to a listed permitted use.

In the MEPD and PRFPD districts, only those uses specifically listed in section 34-941 may be approved on the master concept plan. In the Compact PD district, allowable uses of individual lots are set forth in chapter 32, article II.

(Ord. No. 93-24, § 7(480.03), 9-15-93; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 10-25 , § 4, 6-8-10)

Sec. 34-934. Use regulations table.

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

	Special Notes or Regulations	RPD	MHPD	RVPD	Compact PD	CFPD	CPD	IPD Note (37)	AOPD	MPD	MEPD
Accessory uses and structures	Note (1), 34-1171 et seq.,	P	P	P	—	P	P	P	P	P	—

	34-2441 et seq., 34-1863 34-2141 et seq., 34-3106										
Accessory apartment	Note (2), (21), & (28), 34-1177	P	—	—	—	—	—	—	—	P	—
Administrative offices	Note (1)	P	P	P	—	P	P	P	P	P	—
Agricultural services: office/base operations		—	—	—	—	—	—	P	P	P	—
Agricultural uses and agricultural accessory uses		—	—	—	—	—	—	P	P	P	—
Aircraft food services and catering		—	—	—	—	—	—	—	P	P	—
Aircraft landing facilities, private	34-1231 et seq.	P	P	P	—	P	P	P	P	P	—
Airport operations facilities		—	—	—	—	—	—	—	P	—	—
Amateur radio antennas and satellite earth stations	34-1175	Refer to 34-1175 for regulations.									

Amusement park		—	—	—	—	—	P	—	—	P	—
Animals:											
Clinic or kennel	34-1321 et seq.	—	—	—	—	—	P	P	P	P	—
Control center (including Humane Society)		—	—	—	—	P	P	—	P	P	—
Keeping and breeding of Class I or Class II animals (df)	34-1291 et seq.	—	—	—	—	SE	SE	—	—	SE	—
Assisted living facility	Note (35) & (47) 34-1491 et seq., 34-1411	P(3)	—	—	—	P	P	—	—	P	—
ATM (automatic teller machine)					—		P	P	P	P	—
Auto parts store	34-1353	P(4)	P(4)	—	—	—	P	—	P	P	—
Automobile repair and service (34-622(c)(2)), all groups	34-1351, 34-1353 Note (41)	—	—	—	—	—	P	P	P	P	—
Automobile service station	Note (41), 34-1351, 34-1353	P(4)	P(4)	—	—	—	P	P	P	P	—
Bait and tackle shop	Note (49)	P(4)	P(4)	—	—	—	P	P	P	P	—

Banks and financial establishments (34-622(c)(3)):											
Group I		P(4)	P(4)	—	—	—	P	—	P	P	—
Group II		—	—	—	—	—	P	—	P	P	—
Bar or cocktail lounge	34-1261 et seq.	—	—	—	—	—	P	P	P	P	—
Bed and Breakfast (df)	Note (28), 34-1494	P	—	—	—	—	P	—	—	P	—
Boarding house	Note (28)	P	—	—	—	—	P	—	—	P	—
Boats:											
Boat parts store		P(4)	P(4)	—	—	—	P	P	P	P	—-
Boat ramps and dockage (not marinas)		P	P	P	—	P	P	P	—	P	—
Boat rental		P(4)	P(4)	—	—	—	P	P	P	P	—
Boat repair and service	34-1352, 34-3001 et seq.	—	—	—	—	—	P	P	P	P	—
Boat sales		—	—	—	—	—	P	—	P	P	—
Boat storage, dry		—	—	—	—	—	P	—	P	P	—
Boatyard	Note (5)	—	—	—	—	—	—	P	—	P	—

Broadcast studio, commercial radio and television	34-1441 et seq.	—	—	—	—	—	P	P	P	P	—
Building material sales (34-622(c)(4))	34-3001 et seq.	—	—	—	—	—	P	P	P	P	—
Business services (34-622(c)(5)):											
Group I		P(4)	P(4)	—	—	—	P	P	P	P	—
Group II	Note (12), 34-1352	—	—	—	—	—	P	P	P	P	—
Bus station/depot	34-1381 et seq.	—	—	—	—	P	P	P	P	P	—
Camping cabins	Note (28)	—	—	P(6)	—	—	—	—	—	P	—
Caretaker's residence	Note (34)	—	P	P	—	P	P	P	—	P	—
Car wash	34-1353	—	—	—	—	—	P	—	P	P	—
Cemetery, columbarium, mausoleum		—	—	—	—	P	—	—	—	P	—
Cleaning and maintenance services (34-622(c)(7))		—	—	—	—	—	P	P	P	P	—
Clothing stores, general (34-622(c)(8))		—	—	—	—	—	P	—	P	P	—

Clubs:											
Country		P	P	P	—	—	P	—	—	P	—
Commercial		—	—	—	—	—	P	—	P	P	—
Fraternal, membership organization	34-2111	—	—	—	—	—	P	—	P	P	—
Private	34-2111	P	P	P	—	—	P	—	P	P	—
Cold storage, pre-cooling, warehouse and processing plant		—	—	—	—	—	—	P	P	P	—
Commercial fishery		—	—	—	—	—	P	P	—	P	—
Commercial use of beachfront seaward of the coastal construction control line	Note (7), 34-3151	P	P	—	—	—	P	—	—	P	—
Communication facility, wireless	34-1441 et seq. Note (22)	Refer to 34-1441 et seq. for regulations.									
Community gardens	34-1716	AA	AA	AA	—	AA	AA	—	—	AA	
Community residential home	Note (35)	P	P	—	—	—	P	—	—	P	—

Compact community	Note (48)				P						
Computer and data processing services		—	—	—	—	—	—	P	P	P	—
Consumption on premises	34-1261 et seq., Note (49)	P(4)	P(4)	P(8)	—	—	P	P(9)	P	P	—
Continuing care facilities	Note (28), 34-1414	P	—	—	—	P	—	—	—	P	—
Contractors and builders (34-622(c)(9)), all groups	34-1352 34-3001 et seq.	—	—	—	—	—	P	P	P	P	—
Convenience food and beverage store	34-1353	P(4), (27)	P(4), (27)	—	—	—	P	P	P	P(27)	—
Correctional facility	Note (28)	—	—	—	—	P	—	—	—	P	—
Cultural facilities (34-622(c)(10))		—	—	—	—	P	P	—	P	P	—
Day care center, child, adult	Note (28)	P(4)	P(4)	P(8)	—	P	P	P	P	P	—
Department store		—	—	—	—	—	P	—	P	P	-
Dormitory	Note (28)	P	—	—	—	—	P	—	—	P	—

Drive-through facility for any permitted use		P(4)	P(4)	—	—	—	P	P	P	P	—
Drugstore, pharmacy		P(4)	P(4)	—	—	—	P	—	P	P	—
Dwelling unit:											
Live-work	34-1773	—	—	—	—	—	P	—	—	P	—
Single-family	Note (29)	P	P	—	—	—	EO	—	—	P	—
Duplex	Note (29) & (43)	P	—	—	—	—	EO	—	—	P	—
Two-family attached	Note (28) & (43)	P	—	—	—	—	—	—	—	P	—
Townhouse, multiple-family building	Note (28)	P	—	—	—	—	P(10)	—	—	P	—
Mobile home	Note (29)	—	P	—	—	—	—	—	—	P	—
Zero lot line	Note (28)	P	—	—	—	—	—	—	—	P	—
Entrance gates and gatehouse	34-1741 et seq.	P(3)	P(3)	P	—	P	P	P	P	P	—
Emergency operations center		—	—	—	—	P	P	P	P	P	—
EMS, fire or sheriff's station		P(3), (4)	P(3), (4)	—	—	P	P	P	P	P	—
Essential services	Note (1), 34-1611 et seq.,	P	P	P	—	P	P	P	P	P	—

	34-1741 et seq.										
Essential service facilities (34-622(c)(13)):											
Group I	Note (1), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P	P	P	—	P	P	P	P	P	—
Group II	Note (1) & (45), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P	P	P	—	P	P	P	P	P	—
Group III	Note (1), 34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	—	—	—	—	P	—	P	—	P	—
Excavation:											
Mining	Note (44); 12-101 et seq.	—	—	—	—	—	—	—	—	—	P
Water retention	34-1651	P	P	P	—	P	P	P	P	P	P

Oil or gas	34-1651	P(4)	P(4)	P	—	P	P	P	—	P	P
Excess spoil removal	Note (42), 10-329	P	P	P	—	—	P	P	P	P	—
Factory outlets (point of manufacture only)		—	—	—	—	—	P	P	P	P	—
Farm equipment, sales, storage, rental or service		—	—	—	—	—	P	P	P	P	—
Farm labor housing	Note (33), 34-1891 et seq.	P	P	—	—	—	—	—	—	P	—
Feed or fertilizer, mixing and sales		—	—	—	—	—	P	—	—	P	—
Fences, walls	Note (1), 34-1741 et seq.	P	P	P	—	P	P	P	P	P	—
Fish house, wholesale		—	—	—	—	—	P(11)	—	—	P	—
Fishing piers		P(3)	P(3)	—	—	—	—	—	—	P	—
Flea market:											
Open		—	—	—	—	—	P	P	—	P	—
Indoor		—	—	—	—	—	P	—	—	P	—

Food and beverage service, limited	Note (1)	P(4)	P(4)	—	—	—	P	—	P	P	—
Food stores (34-622(c)(16)):											
Group I	Note (49)	P(4)	P(4)	P	—	—	P	P(9)	P	P	—
Group II	Note (49)	P(4)	P(4)	—	—	—	P	P(9)	P	P	—
Forestry tower		—	—	—	—	P	P	—	—	P	—
Fraternity house	Note (28)	P	—	—	—	—	P	—	—	P	—
Freight and cargo handling establishments (34-622(c)(17))		—	—	—	—	—	P	P	P	P	—
Funeral home and mortuary (with or without a crematory)		—	—	—	—	P(19)	P	—	—	P	—
Gasoline dispensing system, special		—	—	—	—	—	P	P	P	P	—
Gift and souvenir shop	Note (49)	—	—	—	—	—	P	—	P	P	—
Golf course		P	P	P	—	—	P	—	—	P	—
Golf driving range		P	P	—	—	P	P	P	—	P	—
Hardware store		P(4)	P(4)	—	—	—	P	—	P	P	—

Hatcheries, poultry		—	—	—	—	—	—	P	—	P	—
Health care facilities (34-622(c)(20)):											
Group I	Note (28) & (47)	P	—	—	—	P	P	—	P	P	—
Group II	Note (28) & (47)	P	—	—	—	P	P	—	P	P	—
Group III		P(4)	P(4)	—	—	P	P	P	P	P	—
Group IV	Note (28) & (47)	—	—	—	—	P	P	—	—	P	—
Heliport or helistop		P	P	—	—	P	P	P	P	P	—
Hobby, toy and game shops (34-622(c)(21))		P(4)	P(4)	—	—	—	P	—	P	P	—
Home care facility	Note (1) & (28)	P	P	—	—	—	P	—	—	P	—
Home occupation	Note (1) & (31), 34-1771 et seq.	P	P	—	—	—	P	—	—	P	—
Hospice	Note (28)	—	—	—	—	P	P	—	—	P	—
Hotel/motel	34-1801 et seq., Note (36)	—	—	—	—	—	P	P(13)	P	P	—

Household and office furnishings (34-622(c)(22)), all groups		—	—	—	—	—	P	—	P	P	—
Housing units for employees only	Note (33)	—	—	—	—	P	—	—	—	P	—
Impound yard	34-1831 et seq., 34-2443	—	—	—	—	—	—	P	P	—	—
Insurance companies (34-622(c)(23))		—	—	—	—	—	P	—	P	P	—
Laundry or dry cleaning (34-622(c)(24)):											
Group I		P(4)	P(4)	P	—	—	P	—	P	P	—
Group II		—	—	—	—	—	—	P	P	P	—
Lawn and garden supply stores	34-2081	—	—	—	—	—	P	—	P	P	—
Library	Note (28)	—	—	—	—	P	P	—	P	P	—
Maintenance facility (Government)		—	—	—	—	P	P	P	P	P	—
Manufacturing of:											

	Apparel products (34-622(c)(1))	Note (5)	—	—	—	—	—	P	P	P	P	—
	Boats	Note (5)	—	—	—	—	—	—	P	P	P	—
	Chemical and allied products (34-622(c)(6))											
		Group I	Note (5)	—	—	—	—	—	—	P	P	—	—
		Group II	Note (5)	—	—	—	—	—	—	P	P	P	—
	Electrical machinery and equipment (34-622(c)(11))	Note (5)	—	—	—	—	—	P	P	P	P	—
	Fabricated metal products (34-622(c)(14)):											
		Group I	Note (5)	—	—	—	—	—	—	P	P	—	—
		Group II	Note (5)	—	—	—	—	—	—	P	P	P	—
		Group III	Note (5)	—	—	—	—	—	P	P	P	P	—
	Food and kindred products (34-622(c)(15)):											
		Group I	Note (5)	—	—	—	—	—	—	P	—	P	—
		Group II	Note (5)	—	—	—	—	—	—	P	—	P	—

		Group III	Note (5)	—	—	—	—	—	P	P	P	P	—
	Furniture and fixtures (34-622(c)(18))		Note (5)	—	—	—	—	—	—	P	P	P	—
	Leather products (34-622(c)(25)):												
		Group I	Note (5)	—	—	—	—	—	—	P	P	—	—
		Group II	Note (5)	—	—	—	—	—	P	P	P	P	—
	Lumber and wood products (34-622(c)(26)):												
		Groups I, III, IV, V and VI	Note (5)	—	—	—	—	—	—	P	P	—	—
		Group II	Note (5)	—	—	—	—	—	P	P	P	P	—
	Machinery (34-622(c)(27)), all groups		Note (5)	—	—	—	—	—	—	P	P	—	—
	Measuring, analyzing and controlling instruments (34-622(c)(28))		Note (5)	—	—	—	—	—	P	P	P	P	—
	Novelties, jewelry, toys and signs (34-622(c)(29)), all groups		Note (5)	—	—	—	—	—	P	P	P	P	—

Paper and allied products (34-622(c)(31))												
	Group I	Note (5)	—	—	—	—	—	—	P	—	—	—
	Group II	Note (5)	—	—	—	—	—	—	P	P	P	—
	Group III	Note (5)	—	—	—	—	—	—	P	P	P	—
Petroleum (34-622(c)(34))		Note (5)	—	—	—	—	—	—	P	—	—	—
Primary metal industries (34-622(c)(35))		Note (5)	—	—	—	—	—	—	P	—	—	—
Rubber and plastic products (34-622(c)(44)):												
	Group I	Note (5)	—	—	—	—	—	—	P	P	—	—
	Group II	Note (5)	—	—	—	—	—	P	P	P	P	—
Stone, clay, glass and concrete products (34-622(c)(48)):			—	—	—	—	—	—	—	—	—	—
	Group I	Note (5)	—	—	—	—	—	—	P	P	P	—
	Group II	Note (5)	—	—	—	—	—	—	P	—	—	—
	Group III	Note (5)	—	—	—	—	—	—	P	P	—	—
	Group IV	Note (5)	—	—	—	—	—	—	P	P	—	—

Textile mill products (34-622(c)(50)), all groups	Note (5)	—	—	—	—	—	—	P	P	—	—
Tobacco products (34-622(c)(51))	Note (5)	—	—	—	—	—	—	P	—	P	—
Transportation equipment (34-622(c)(52)):											
Group I	Note (5)	—	—	—	—	—	—	P	P	P	—
Groups II, III and IV	Note (5)	—	—	—	—	—	—	P	P	—	—
Marina	34-1862	P	P	—	—	—	P	P	—	P	—
Medical office		P(4)	P(4)	—	—	—	P	P	P	P	—
Mobile home dealers	34-1352	—	—	—	—	—	P	P	P	P	—
Models:											
Display center	34-1951 et seq.	P	P	P	—	—	P	—	—	P	—
Model home	34-1951 et seq.	AA	AA	AA	—	—	AA	—	—	AA	—
Model unit	34-1951 et seq.	AA	AA	AA	—	—	AA	—	—	AA	—
Motion picture production studio		—	—	—	—	—	P	P	P	P	—

Multislip docking facility		—	—	—	—	—	P	—	—	P	—
Nightclubs	34-1261 et seq.	—	—	—	—	—	P	P	P	P	—
Nonstore retailers (34-622(c)(30)), all groups		—	—	—	—	—	P	P	P	P	—
Parcel and express services		—	—	—	—	—	—	P	P	P	—
Package store	34-1261 et seq.	P(4)	P(4)	—	—	—	P	—	P	P	—
Paint, glass and wallpaper		—	—	—	—	—	P	—	P	P	—
Parks (34-622(c)(32)):											
Group I		P	P	P	—	P	P	P	P	P	
Group II		—	—	—	—	P	—	—	P	P	—
Park trailers	Note (28)	—	—	P(6)	—	—	—	—	—	P	
Parking lot:											
Accessory		P	P	P	—	P	P	P	P	P	—
Commercial		—	—	—	—	—	P	—	P	P	—
Garage, public		—	—	—	—	P	P	P	P	P	—
Park-and-ride	34-1388	P	—	—	—	P	P	P	P	P	—

Temporary	34-2022	—	—	—	—	P	P	P	P	P	—
Personal services (34-622(c)(33)):											
Group I	34-3021	P(4)	P(4)	P(8)	—	—	P	P	P	P	—
Group II		—	—	—	—	—	P	—	P	P	—
Group III		—	—	—	—	—	P	P	P	P	—
Group IV		P(4)	P(4)	—	—	—	P	—	P	P	—
Pet services		—	—	—	—	—	P	—	P	P	—
Pet shop		P(4)	P(4)	—	—	—	P	—	P	P	—
Pharmacy		P(4)	P(4)	—	—	—	P	—	P	P	—
Photofinishing laboratory	Note (5)	—	—	—	—	—	—	P	P	P	—
Place of worship	Note (28), 34-2051 et seq.	P	P	P	—	P	P	P	P	P	—
Plant nursery	34-2081	—	—	—	—	—	P	—	—	P	—
Post office		—	—	—	—	P	P	P	P	P	—
Printing and publishing (34-622(c)(36))	Note (5)	—	—	—	—	—	P	P	P	P	—
Prison	Note (28)	—	—	—	—	P	—	—	—	—	—
Processing or packaging of	Note (5)	—	—	—	—	—	—	P	P	P	—

agricultural or fish products											
Processing and warehousing		—	—	—	—	—	P	P	P	P	—
Racetracks (34-622(c)(37)):											
Group I		—	—	—	—	—	P	—	—	—	—
Group II		—	—	—	—	—	P	—	—	—	—
Real estate sales office	Note (23), 34-1951 et seq., 34-3021	P	P	P	—	—	P	—	P	P	—
Recreation facilities:											
Commercial (34-622(c)(38)) Groups I, III		—	—	—	—	—	P	—	P	P	—
Commercial (34-622(c)(38)) Group IV		—	—	—	—	—	P	—	P	P	—
Group V		—	—	—	—	P	P	—	P	P	—
Personal	Note (1)	P	P	P	—	P	P	P	—	P	—
Private—On-site	Note (1)	P	P	P	—	P	P	P	—	P	—
Private—Off-site	Note (3)	P	P	P	—	P	P	P	—	P	—

Recreational vehicles	Note (28)	—	P(20)	P(14)	—	—	—	—	—	P	—
Recycling facility		—	—	—	—	P	P	P	P	P	—
Religious facilities	Note (28), 34-2051 et seq.	P(3)	P(3)	—	—	P	P	P	P	P	—
Rental or leasing establishment (34-622(c)(39)):											
Group I	34-1352, 34-3001 et seq., Note (49)	P(4)	P(4)	P(8)	—	—	P	—	P	P	—
Group II	34-1201 et seq., 34-1352 34-3001 et seq.	P(4)	P(4)	—	—	—	P	P	P	P	—
Group III	34-1352, 34-3001 et seq.	—	—	—	—	—	P	P	P	P	—
Group IV	34-1201 et seq., 34-1352 34-3001 et seq.	—	—	—	—	—	P	P	P	P	—
Repair shops (34-622(c)(40)):											
Group I		P(4)	P(4)	—	—	—	P	P	P	P	—

Groups II, III, IV		—	—	—	—	—	P	P	P	P	—
Group V		—	—	—	—	—	P	P	P	P	—
Research and development laboratories (34-622(c)(41)):											
Group I		—	—	—	—	—	—	—	P	P	—
Group II		—	—	—	—	—	P	P	P	P	—
Group III		—	—	—	—	—	—	P	P	P	—
Group IV		—	—	—	—	—	P	P	P	P	—
Residential accessory uses (34-622(c)(42))	Note (1) & (31), 34-1171 et seq.	P	P	—	—	—	P	—	—	P	—
Resource recovery facilities:		—	—	—	—	—	—	P	—	—	—
Recovery facilities to produce energy Recovery facilities, other	34-3001 et seq.	—	—	—	—	—	—	P	—	—	—
Restaurant, fast food	34-1353	—	—	—	—	—	P	—	P	P	—
Restaurants (34-622(c)(43)):	Note (49)										
Groups I and III		P(4)	P(4)	—	—	—	P	P	P	P	—

Group II		P(4)	P(4)	—	—	P(1)	P	P	P	P	—
Group IV		—	—	—	—	—	P	P	P	P	—
Retail and wholesale sales, when clearly incidental and subordinate to a permitted principal use on the same premises		—	—	—	—	—	P	P	P	P	—
Rooming house	Note (28)	P	—	—	—	—	P	—	—	P	—
Salvage and disposal of materials, including auto junkyards, refuse disposal and processing plants, incinerators, landfills and similar uses		—	—	—	—	—	—	P(5)	—	—	—
Sanitary landfill	Note (5)	—	—	—	—	P	—	P	—	—	—
Schools:											
Commercial (34-622(c)(45))	34-2381	—	—	—	—	—	P	P	P	P	—
Noncommercial	Note (28), 34-2381	P	P	P	—	P	P	—	—	P	—
Self-service fuel pumps	Note (24)	P(4)	P(4)	—	—	—	P	P	P	P	—

Shredding and composting of vegetative matter	34-1831 et seq.	—	—	—	—	—	—	P	—	—	—
Signs in accordance with chapter 30	Note (1)	P	P	P	—	P	P	P	P	P	—
Social services (34-622(c)(46)):											
Group I		—	—	—	—	—	P	—	P	P	—
Group II		—	—	—	—	P	P	P	P	P	—
Group III	Note (28) & (47)	—	—	—	—	P	P	—	P(46)	P	—
Group IV	Note (28) & (47)	—	—	—	—	P	—	—	P(46)	P	—
Specialty retail shops (34-622(c)(47)):											
Group I		P(4)	P(4)	—	—	P(1)	P	—	P	P	—
Group II		P(4)	P(4)	—	—	—	P	—	P	P	—
Group III		—	—	—	—	—	P	—	P	P	—
Group IV		P(4)	P(4)	—	—	—	P	—	P	P	—
Stable:											
Boarding	34-1291 et seq.	P	P	P	—	—	—	—	—	P	—

	Commercial	34-1291 et seq.	—	—	—	—	—	P	—	—	P	—
	Private	34-1291 et seq.	P	P	P	—	—	—	—	—	P	—
Storage:												
	Indoor only	Note (1), 34-3001 et seq.	P(4)	P(4)	P	—	P	P	P	P	P	—
	Storage, open	Note (5), 34-3001 et seq. 34-1352	—	—	P(15)	—	—	P	P	P	P	—
	Large-scale storage of noxious or hazardous materials (flammable, toxic, explosive, corrosive, etc.), including liquid petroleum, fractions and distillates thereof, and fuel gases	Note (5), 34-3001 et seq.	—	—	—	—	—	—	P	P(16)	—	—
Studios (34-622(c)(49))			—	—	—	—	—	P	—	P	P	—
Tactical training (df)		34-2471	—	—	—	—	P	—	—	P	—	—

Temporary uses	Note (1), 34-3041 et seq.	P	P	—	—	P	P	—	P	P	—
Tents, transient parks only	Note (28)	—	—	P	—	—	—	—	—	P	—
Theater, indoor or outdoor (drive-in)	Note (32), 34-2471 et seq.	—	—	—	—	—	P	—	P	P	—
Timeshare units	Note (28), 34-1494, 34-2020(a)	P	—	—	—	—	P	—	—	P	—
Transportation services (34-622(c)(53)):											
Group I		—	—	—	—	—	P	P	—	P	—
Group II		—	—	—	—	—	P	P	P	P	—
Group III		—	—	—	—	P	P	P	P	P	—
Group IV		—	—	—	—	—	P	P	P	P	—
Truck stop, trucking terminal		—	—	—	—	—	P	P	P	P	—
Used merchandise stores (34-622(c)(54)):											
Group I		P(4)	P(4)	—	—	P(46)	P	—	P	P	—-

	Groups II, III and IV		—	—	—	—	—	P	—	P	P	—
Variety store			P(4)	P(4)	—	—	—	P	—	P	P	—
Vehicle and equipment dealers (34-622(c)(55)):												
	Groups I, II, and III	34-1352	—	—	—	—	—	P	P	P	P	—
	Group IV	34-1352	—	—	P(17)	—	—	P	P	P	P	—
	Group V	34-1352	—	—	—	—	—	P	P	P	P	—
Warehouse:												
	High cube		—	—	—	—	—	—	P	P	P	—
	Mini-warehouse		—	—	—	—	—	P	P	P	P	—
	Private		—	—	—	—	—	P	P	P	P	—
	Public		—	—	—	—	—	P	P	P	P	—
	Cold storage only		—	—	—	—	—	—	—	P	P	—
Wholesale establishments (34-622(c)(56)):												
	Groups I, III and IV		—	—	—	—	—	P	P	P	P	—
	Group II		—	—	—	—	—	P	P	—	—	—

Wrecking yard:											
Auto		—	—	—	—	—	—	P	—	—	—
Other		—	—	—	—	—	—	P	—	—	—

Notes:

(1) If use or structure is customarily accessory to an approved permitted use it does not need to be shown on the master concept plan.

(2) Permitted only when accessory to a lawfully permitted single-family dwelling unit.

(3) If not shown on the master concept plan, but included in the approved list of enumerated uses, this use may be approved administratively, at the Director's discretion, or as a planned development amendment after approval of the master concept plan.

(4) Subject to limitations for commercial uses set forth in section 34-937

(5) If the use or activity does not conform to the criteria set-forth in section 34-938, then it is subject to the setback requirements set forth in sections 34-935(b)(4) and 34-2441 et seq.

(6) Limited to nontransient parks only.

(7) Uses anticipated include boat rentals (inflatables, sailboats, jet skis, windsurfers and the like) food stands, rental of cabanas and beach furniture, outdoor amusements including balloonist, seaplane rides, ski tows and similar activities, fishing and sightseeing piers and towers.

(8) Permitted as an accessory use when designed and intended primarily for use by people staying at the recreational vehicle development.

(9) Permitted only when accessory to an airport or other transportation facility, hotel or motel, or an office complex of 50,000 or more square feet.

(10) Permitted only in conjunction with at least 50,000 square feet or more of commercial or industrial uses.

(11) Not permitted within 500 feet of nearest residence.

(12) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352

(13) Reserved.

(14) Park-trailers permitted in nontransient parks only.

(15) Limited to recreational vehicles, trailers, boats, and other vehicles and goods belonging to park residents.

(16) Limited to airplane fuels or other approved fuel storage terminals.

(17) Limited to recreational vehicles only.

(18) Reserved.

(19) Only when clearly subordinate to a cemetery located on the same premises.

(20) Recreational vehicle sites in mobile home planned developments (MHPD) must be designated on the approved master concept plan. All recreational vehicles approved as part of a MHPD are subject to the regulations in sections 34-762 through 34-766 and 34-1179

(21) In RPDs, MHPDs, and residential areas of MPDs, a special exception is required.

(22) Wireless communication facilities must be listed on the approved schedule of uses for the planned development; however, approval of a specific facility must be in accordance with section 34-1441, et seq.

(23) Real estate sales offices in residential areas are limited to sales of lots, homes or units within the development, except as may be permitted in section 34-1951 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding five years from the date the certificate of occupancy for the sales office is issued. The Director may grant one two-year extension at the same location.

(24) Two pumps are permissible as an accessory use to businesses to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.

(25) Reserved.

(26) In the MPD district, use is limited to industrial areas only.

(27) Limited to eight self service fuel pumps (df) unless a greater number is specifically approved as part of the planned development and depicted on the master concept plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998 will not be considered non-conforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.

(28) Not permitted in Airport Noise Zone B.

(29) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.

(30) Reserved.

(31) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004

(32) Indoor theater only in Airport Noise Zone B.

(33) Not permitted in Airport Noise Zone B.

(34) Not permitted in Airport Noise Zones unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1006(b)(2) as applicable.

(35) Not permitted in Airport Noise Zone B unless pre-empted by state law.

(36) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.

(37) In the Industrial Development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those that are specifically related to adjoining industrial uses consistent with Policy 1.1.7 of the Lee County Comprehensive Plan.

(38) Reserved.

(39) Wireless communication facilities required by the Federal Aviation Administration and Florida Department of Transportation may be administratively approved, if it is a necessary safety component related to the physical aviation activity.

(40) Reserved.

(41) Limited to four pumps, unless a greater number is approved as part of a planned development.

(42) In an existing planned development, the Director has the discretion to require removal of excess spoil to be reviewed through the public hearing process.

(43) See sections 34-3107 and 34-3108

(44) The rights applicable to mining excavations approved prior to September 1, 2008, are set forth in section 12-121

(45) All new or expanded essential services group II uses must be approved as a planned development.

(46) Permitted only as part of an AOPD approval for Page Field General Aviation Airport. Use must be included in Lee Plan Table 5(b) and be located within the non-aviation development area as depicted on Lee Plan Map 3G.

(47) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

(48) Land uses in the Compact PD district are governed by chapter 32

(49) See section 34-3152

(Ord. No. 93-24, § 7(table 480.A), 9-15-93; Ord. No. 94-02, § 7, 1-19-94; Ord. No. 94-24, § 49, 8-31-94; Ord. No. 95-07, § 35, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-18, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 04-05, § 1, 4-27-04; Ord. No. 05-08 , § 1, 5-24-05; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 06-06 , § 1, 4-11-06; Ord. No. 06-10 , § 1, 6-12-06; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 10-25 , § 4, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-935. Property development regulations.

The provisions of this section do not apply to PRFPDs; property development regulations for PRFPDs are set forth in section 34-941. The provisions of this section do not apply to Compact PDs; property development regulations for Compact PDs are set forth in chapter 32.

(a) *Minimum area for planned developments.*

(1) *Recreational vehicle planned developments.* The minimum area required for a new recreational vehicle planned development is 20 acres. A minimum of five acres is required to expand an existing recreational vehicle park, a phased recreational vehicle park or an approved recreational vehicle planned development in order to provide additional recreation vehicle units to the park. However, a recreational vehicle park, a phased recreational vehicle park or an approved recreational vehicle planned development can be expanded by less than five acres, if the expansion is solely for the purpose of providing amenities to the park and will not result in creating additional recreational vehicle units.

(2) *Other planned developments.* Minimum area and dimensions are not specified for other planned developments. However, the net developable land remaining, after deleting any environmentally sensitive lands and waters, must be of such size, configuration and dimension as to adequately accommodate the proposed structures, parking, access, on-site utilities, including wet or dry runoff retention, all required open space, including buffers, and similar spatial requirements.

(b) *Minimum setbacks of structures and buildings from development perimeter boundaries.*

(1) All buildings and structures must be set back from the development perimeter a distance equal to the greater of:

a. The width of any buffer area or landscape strip, required by chapter 10 or chapter 33; or

b. Fifteen feet, if the subject property is, or will be zoned RPD, MHPD, CFPD, or CPD; or

c. Fifteen feet for residential and commercial portions of the development, if the subject property is, or will be zoned MPD; or twenty-five feet for industrial portions of the development, if the subject property is, or will be MPD; or

d. Twenty-five (25) feet, if the subject property is, or will be zoned AOPD or IPD; or

e. One-half the height of the building or structure; or

f. The setback from road, street or drive as appropriate (see section 34-2192), if the development perimeter abuts a street right-of-way or easement;

g. Forty feet, if the subject property is, or will be zoned RVPD unless abutting land zoned RV or RVPD; or

h. Setbacks applicable in MEPD districts are as provided in chapter 12

(2) Parking or internal roads or drives may not be closer to the development perimeter than the width of any buffer area or landscape strip, required by chapter 10, chapter 33, or five feet, whichever is greater.

(3) Notwithstanding the provisions of subsections (b)(1) and (2) of this section all buildings, parking areas, and shipping and receiving areas and open storage areas of industrial land uses within a CPD, IPD, MPD, or AOPD must be set back in accordance with section 34-2441 et seq. or 100 feet, whichever is greater, from the development perimeter where the planned development abuts a residential land use or land zoned exclusively for residential uses.

(4) Notwithstanding the provisions of subsections (b)(1) and (2) of this section, when a proposed development will abut an existing residential subdivision or residential lots, the requirements set forth in section 10-416(d)(6) must be satisfied.

(5) The provisions of this subsection notwithstanding, the Board of County Commissioners may require greater setbacks and buffers when, in its opinion, they are necessary for the protection of public health, welfare or safety.

(c) *Uses permitted within required perimeter setback.* Street stubs required by chapter 10, bikeways and pedestrian walks, sidewalks, jogging and equestrian paths, and park furniture, including gazebos and picnic shelters, are permitted within required perimeter setbacks.

(d) [*Reserved.*]

(e) *Minimum lot size, dimensions and setbacks.*

(1) *Lot size and dimensions.*

a. In the RPD and MHPD districts, if the development contains or consists of a conventional subdivision for single-family residences, two-family or duplex structures or mobile homes, the lot dimensions and areas specified in section 34-695 for the RSA, RS-1, RS-2, RS-3, RS-4, RS-5 and TF-1 single-family and two-family districts or in section 34-736 for the MH-1, MH-2, MH-3 or MH-4 mobile home districts shall apply as appropriate, unless other lot areas and dimensions are approved by the Board of County Commissioners.

b. Where the master concept plan calls for dwelling units on individual lots in clusters or townhouse configurations, the specific lot areas and dimensions shall be determined by the space requirements of the unit itself, the provision of private open space and the voluntary reservation of additional common open space, if any.

(2) *Setbacks for residential buildings and mobile homes.* Setbacks from lot lines and separation of buildings for residential buildings and mobile homes in residential planned developments and mobile home planned developments shall be determined as follows:

a. If the development contains or consists of a subdivision for single-family detached or duplex structures or mobile homes, the front, side and rear setbacks specified in section 34-695 for the RSA, RS-1, RS-2, RS-3, RS-4, RS-5 and TF-1 single-family and two-family districts or in section 34-736 for the MH-1, MH-2, MH-3 or MH-4 mobile home district shall apply as appropriate, unless other lot areas and dimensions are approved by the Board of County Commissioners.

b. Where the master concept plan calls for single-family detached or attached zero lot line housing, each dwelling unit structure may have one wall without windows or doors on a side lot line, may encroach with eaves or cornice no more than 36 inches into the adjacent yard, and shall maintain at least a minimum separation from the building or mobile home on the side opposite the zero setback line consistent with the standard set forth in subsection (e)(2)c of this section.

c. Where the master concept plan calls for clustering of single-family detached structures or mobile homes, and so long as sufficient separation is maintained to prevent the spread of fire, and so long as adequate access is provided for emergency services as certified by the County Fire Official, the separation of buildings may be reduced to no less than ten feet.

(3) *Setbacks for buildings in commercial planned developments, industrial planned developments and mixed use planned development.*

a. If the development contains or consists of a subdivision for development parcels to be sold or leased as improved land for further development for commercial, industrial or multifamily residential purposes, where permitted, side and rear setbacks for all lots shall be scheduled on the master concept plan, except that, where a lot line is congruent with the development perimeter, the setback defined in subsection (b) of this section shall have priority.

b. The setbacks from internal streets shall be determined by the functional classification of the streets as set forth in section 34-2192

(4) *Minimum separation of buildings.* Unless otherwise specified, where there are two or more principal buildings on a development tract, the minimum separation of buildings shall be one-half of the sum of their heights, or 20 feet, whichever is greater.

(f) *Height of buildings.*

(1) *Mobile home planned developments.* In the MHPD district, no building or structure shall exceed 35 feet in height, and no mobile home shall exceed one story in height.

(2) *Community facility planned developments.* The maximum permitted height of any building shall be 35 feet. Buildings above 35 feet may be approved by the Board of County Commissioners at the time of master concept plan approval, provided that setbacks from adjacent property not under the same ownership shall be equal to or greater than the height of the building.

(3) *Other planned developments.* Except as restricted by section 34-2175, height of buildings in all other planned developments will vary in accordance with the land use classification of the subject property according to the Lee Plan land use plan map as follows:

a. In the intensive development and central urban land use categories, buildings may be as tall as 135 feet above minimum flood elevation with no more than 12 habitable stories.

b. In the urban community land use category, buildings may be as tall as 95 feet above minimum flood elevation with no more than eight habitable stories.

c. In the airport and tradeport commerce land use categories, buildings may be as tall as 45 feet above minimum flood elevation with no more than three habitable stories. With the consent of the port authority, the Board of County Commissioners may approve building heights up to 95 feet above minimum flood elevation with no more than eight habitable stories.

d. In the industrial interchange, industrial commercial interchange, general interchange and general commercial interchange land use categories, buildings may be as tall as 75 feet above minimum flood elevation with not more than six habitable stories.

e. In the suburban, outlying suburban and rural land use categories and in any other land use category in which a planned development is appropriate, buildings may be as tall as 45 feet above minimum flood elevation with no more than three habitable stories, except that such buildings may be as tall as 75 feet above minimum flood elevation with no more than six habitable stories when the applicant demonstrates that the additional height is required to increase common open space for the purposes of preserving environmentally sensitive land, securing areas of native vegetation and wildlife habitat, or preserving historical, archaeological or scenic resources.

(g) *Open space.* See section 34-414(a) for definitions pertaining to open space.

(1) *Residential and mobile home planned developments.*

a. In the residential or mobile home planned development districts, 40 percent of the total area of the project shall be common open space, except that this may be reduced to 30 percent when the remaining ten percent is distributed as private open space to individual dwelling units having immediate private ground floor access. Additional land or water may be reserved as open space at the developer's discretion.

b. No additional open space is required in the accessory commercial area beyond landscaped buffering, as required elsewhere in this chapter.

c. The common open space requirements set forth in subsection (g)(1)a of this section do not apply to developments consisting of a conventional subdivision for single-family detached or two-family (duplex) dwelling units or mobile homes on lots of standard dimensions.

(2) *Community facilities planned developments.* In the community facilities planned development district, not less than 30 percent of the total area of the project shall be common open space.

(3) *Commercial planned developments.* Open space shall be required in accordance with chapter 10

(4) *Industrial planned developments.*

a. In the industrial planned development district, open space shall be provided in accordance with chapter 10. Additional land or water may be reserved as open space at the developer's discretion.

b. In IPD districts, where the principal uses are open, area extensive, or productive of various noxious spillovers such as dust, odors, glare, noise and vibration and visual blight, the open space requirement shall be concentrated at the perimeter and used mainly for buffering, screening and landscaping.

(5) *Mixed use planned developments.* All applications for development orders for parcels within mixed use planned developments must contain the amount of applicable open space set forth in sections 34-935(g)(1), (2), (3) and (4).

(6) In the MEPD district open space must be provided in accord with chapter 12

(Ord. No. 93-24, § 7(480.04), 9-15-93; Ord. No. 94-24, § 26, 8-31-94; Ord. No. 95-07, § 22, 5-17-95; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 07-19 , § 6, 5-29-07; Ord. No. 08-21 , § 3, 9-9-08; Ord. No. 10-25 , § 4, 6-8-10; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-936. General conditions for all land uses.

(a) *Compliance with use restrictions.* Only those land uses enumerated in the documentation to the master concept plan are permitted in a planned development. The conditions of approval in the applicable zoning resolution shall be incorporated into covenants, restrictions and rules of operation binding on the developer, his successors and heirs, tenants-in-fee or leasehold.

(b) *Parking.* Unless governed by alternative standards established by special conditions or by chapter 32, parking for any use in this planned development will be governed by article VII, division 26, of this chapter in accordance with the actual use.

(c) *Signs.* Signage for any use in a planned development, not otherwise governed by special conditions, shall be controlled by general sign regulations currently in force.

(d) *Sale of alcoholic beverages.* Package sales and sale of alcoholic beverages for on-premises consumption shall be governed by the provisions of article VII, division 5, of this chapter and other special conditions set forth at the time of planned development approval.

(e) *Outdoor display of goods.* Except in RPD and MHPD developments, all open display of goods for sale shall be set back from public rights-of-way no less than 25 feet. In the RPD and MHPD districts, the outdoor display or storage of goods for retail sale is prohibited.

(f) *Outdoor storage of goods.* Any and all storage of retail or wholesale goods shall be enclosed by a wall or opaque fence or solid hedge, not less than six feet in height, or otherwise completely visually buffered.

(g) *Lighting.* Lighting of the exterior and parking areas of the planned development uses shall be of the lowest intensity and energy use adequate for its purpose, and shall not create conditions of glare outside the area designated for commercial uses.

(h) *Bikeways and pedestrian ways.* Unless governed by alternative standards established by special conditions, bicycle paths and pedestrian ways must be located and constructed in accordance with the requirements set forth in chapter 10

(Ord. No. 93-24, § 7(480.05(A)), 9-15-93; Ord. No. 95-12, § 10, 7-12-95; Ord. No. 10-25 , § 4, 6-8-10)

Sec. 34-937. Commercial uses in RPD and MHPD districts.

Commercial uses permitted in a residential or mobile home planned development district are limited to the convenience and utility of the residents. These commercial uses must meet the following conditions:

(1) Unless constrained by physical factors or a policy of higher priority, e.g., wetlands preservation, commercial uses must be oriented to the interior of the project, located centrally within the development, and not quickly or easily accessible from the outside perimeter.

(2) No more than a specified maximum amount of floor area, relative to the number of dwelling units or size of an RPD or MHPD district, may be used for commercial purposes. This relationship is specified as follows:

Total Approved Dwelling Units	Gross Commercial Floor Area
Less than 150	None
151 to 300	2,500 square feet
301 to 600	7,500 square feet
601 to 1,200	17,500 square feet
More than 1,200	Additional space may be added at a rate of 5,000 square feet per 300 dwelling units to a maximum of 30,000 square feet. In no case may the commercial area exceed three percent of the gross area of the project.

(3) The following commercial uses shall not be counted against the limitation set forth in subsection (a)(2) of this section:

a. Day care center.

b. Food and beverage service, limited.

c. Home occupation (article VII, division 18, of this chapter).

d. Self-service fuel pumps, exterior area only.

e. Boarding stables.

(4) Signs for commercial uses other than project sales shall not be visible from the perimeter of the project and shall comply with chapter 30

(5) Parking for commercial uses is governed by article VII, division 26, of this chapter, except that up to, but not more than, one-half of the required number of parking spaces may be reduced in direct proportion (one space deleted per unit) to the number of dwelling units located within one-quarter mile of the commercial area, as measured to the geometric center of the commercial area, and served by continuous and technically adequate systems of pedestrian and bicycle paths or ways.

(6) Outside display or storage of goods for retail sale is prohibited.

(7) Real estate sales activity and model homes shall be limited to that project only. Such uses shall be terminated upon the sale of the last unit in the project or phase or 12 months after the issuance of the last certificate of occupancy for the project or phase, whichever occurs first.

(8) In the RPD or MHPD district, no commercial land use or commercial occupancy of a structure may commence until a substantial proportion of the residential uses or occupancies have begun. The following table indicates the maximum proportion of the total permitted commercial floorspace that may be occupied for a minimum proportion of residential land uses commenced. This limit shall not apply to health care facilities.

PHASING LIMITS

Proportions are cumulative from left to right.

Residential use (minimum)	25%	50%	75%	100%
Commercial use (maximum)	25%	50%	100%	

These conditions are in addition to and not in lieu of any other general condition or regulation applicable to a residential or mobile home planned development.

(Ord. No. 93-24, § 7(480.05(B)), 9-15-93; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-938. Industrial uses in CPD district.

(a) In the commercial planned development district, industrial uses may only be permitted in accordance with the following standards:

(1) If producing a tangible product, the use or activity must stand at or near the end of the manufacturing process, accounting only for the last steps of preparation or assembly of components or preprocessed materials.

(2) All operations must be conducted within a fully enclosed building.

(3) The use may not emit dust, smoke, odor or other air or water pollutant, glare, sound or other vibration that can be perceived outside the boundaries of the development tract or industrial use area.

(4) The use may not receive, process or create hazardous materials in sufficient quantity to constitute a danger to persons, property or activities outside the boundaries of the development parcel or industrial use area.

(5) Open storage of raw materials, waste products or finished goods awaiting shipment is prohibited.

(b) Industrial uses not listed in section 34-934 as permitted uses in the commercial planned development (CPD) zoning district may be permitted by the Board of County Commissioners as part of an approved CPD provided the floor area of the unlisted uses does not exceed 50,000 square feet of floor area or the aggregate floor area of the other uses on the approved schedule of uses, whichever is less.

(Ord. No. 93-24, § 7(480.05(C)), 9-15-93; Ord. No. 95-07, § 23, 5-17-95)

Sec. 34-939. Recreational vehicle planned development property development regulations.

(a) *Location.* No new recreational vehicle park shall be developed and no existing recreational vehicle park shall be expanded if on barrier islands or in coastal high-hazard areas (V zones) as designated on the adopted flood insurance rate maps (FIRM) for the County.

(b) *Design criteria.*

(1) *Compatibility.* A recreational vehicle park shall be designed and developed in a manner compatible with and complimentary to existing and potential development in the immediate vicinity of the project site. Site planning shall give consideration to protection of the property from adverse environmental influences within the development, such as drainage problems or potential insect breeding sites. Further consideration shall be given to ensuring that the development will not adversely affect surrounding areas.

(2) *Utilities.* Each recreational vehicle park shall be connected to a public or private central water system and a public or private central sewage disposal system. Peak loadings determined in the Development of County Impact or development of regional impact review shall be the minimum capacity required.

(3) *Buffers.* All recreational vehicle parks are required to have a perimeter buffer area at least 40 feet wide adjacent to and completely around the boundary of the site, except along that portion of a boundary abutting a parcel of land zoned RV or RVPD. All recreational vehicle parks created or additions added to the existing parks after September 19, 1985, must provide a 40-foot wide perimeter buffer area with a vegetative visual screen. No roads or streets may be placed within the buffer area. However, roads and streets may cross over the perimeter buffer. Existing native vegetation in the buffer area must be retained to meet the visual screen requirement and may not be removed except as follows:

a. Exotic species as defined in section 10-420(h) must be removed.

b. Existing native vegetation may be removed to provide adequately sized grass swales adjacent to the points of access to the recreational vehicle park.

c. Existing native vegetation may be removed to provide a bike and/or pedestrian path in the buffer area.

d. A minimum of 75 percent of all trees and shrubs used in buffers and landscaping must be native varieties.

If the 40-foot buffer area does not have enough existing native vegetation to provide a vegetated visual screen, then buffer vegetation must be installed to provide at minimum 10 trees and 66 shrubs per 100 linear feet. Trees must be 14 feet in height and shrubs 36 inches in height at time of planting. Shrubs must be maintained at a minimum of 60 inches in height. Palms are counted at a 3:1 ratio clustered in staggered heights ranging from 14 feet to 18 feet in height. Palms are limited to 50% of the tree requirement.

(4) *Streets.* Except as may be specifically approved to the contrary as part of the recreational vehicle planned development approval, all streets and access drives within a recreational vehicle planned development shall meet the following minimum criteria:

a. *Transient parks.*

1. The minimum street right-of-way or easement is 50 feet.

2. The minimum pavement width is 20 feet.

Parking on streets shall be prohibited unless pavement width is increased eight feet on each side of the street where parking will be permitted.

b. *Nontransient parks.* Streets shall be in compliance with the requirements for streets as set forth in chapter 10

(5) *Recreational facilities.* Every recreational vehicle park shall have at least one outdoor recreation area, which shall be easily accessible from all sites. Such recreation area shall contain at least 250 square feet for each acre contained within the park, and no single recreation area within the park shall be less than 3,000 square feet in size.

(6) *Maximum number of living units.*

a. *Transient parks.* Transient parks may not exceed a maximum of 8 living units per non-wetland acre.

b. *Non-transient parks*. Non-transient parks may not exceed the standard residential density as permitted in the Lee County Comprehensive Plan.

(7) *Separation of structures.*

a. *All parks.* Unless otherwise provided in this section, no common-use permanent buildings may be placed within:

1. The required 40 foot perimeter buffer;

2. 25 feet of any park boundary not required to have a 40-foot buffer; or

3. 25 feet of any recreational vehicle site.

b. *Transient parks.* There shall be a minimum separation of ten feet between the closest walls of any recreational vehicles or appurtenances thereto, and any other recreational vehicle or appurtenance thereto.

c. *Nontransient parks.* There shall be a minimum setback of ten feet from each side and rear recreational vehicle site (lot) line, and 25 feet from any interior street right-of-way or easement.

(8) Completion of lots prior to occupancy; minimum occupancy prior to initiation of commercial use. A minimum of 30 lots must be completed and ready for occupancy before the first occupancy is permitted in a recreational vehicle park. No accessory commercial use will be issued an occupancy permit prior to a minimum of 30 lots being completed and ready for occupancy.

(c) *Accessory structures and additions.* Individual accessory structures, additions or freestanding storage sheds may be permitted only in non-transient parks, and only when in compliance with the regulations set forth in sections 34-764 through 34-766 and 34-1179

(d) *Recreational vehicles as permanent residences.* The use of a recreational vehicle type unit by a permanent resident as a permanent residence, as the terms are defined in F.S. ch. 196, is expressly prohibited as of September 16, 1985.

(Ord. No. 93-24, § 7(480.05(D)), 9-15-93; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-940. Mixed use planned developments.

(a) All mixed use planned developments must meet or exceed at least two of the following thresholds:

(1) A residential or mobile home development of 50 or more dwelling units.

(2) A commercial development or activity that is located on a parcel of two or more acres and includes 30,000 square feet or more of floor area.

(3) An industrial development or activity that is located on a parcel of two or more acres and includes 30,000 square feet or more of floor area.

(4) A community facility development of two or more acres.

(b) Mixed use developments containing residential uses should be designed to capture within the development a substantial percentage of the vehicular trips that are projected to be generated by those uses at the project's buildout.

(c) The master concept plan for a mixed use development must clearly indicate the land area to be used for each of the qualifying thresholds, as well as the uses proposed within each of the designated areas.

(Ord. No. 94-24, §, 8-31-94; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 05-14 , § 6, 8-23-05)

Sec. 34-941. Private recreational facilities planned developments.

(a) *Applicability:* The private recreational facilities planned development (PRFPD) district option may only be requested and approved in those areas depicted on the Lee Plan Private Recreation Facilities Overlay Map (Map 4).

(b) *General limitations:*

(1) Except for a caretaker's residence, development rights to residential density (i.e. dwelling units) associated with land zoned to the PRFPD district are extinguished, and therefore, cannot be transferred, clustered or otherwise assigned to any property as long as the private recreational facilities continue to exist. Development rights to residential density can be re-established only by removing the private recreational facilities in their entirety and eliminating all private recreational facility uses from the zoning district in effect.

(2) Approval of a PRFPD district may not be used as justification for requesting or approving an amendment to the future land use map series which will increase residential density in DR/GR areas.

(c) *Uses.*

(1) *Prohibited uses:* No residential uses are permitted within the PRFPD district, except as delineated in section 34-941(c)(3).

(2) *Permissible uses:*

a. The following uses are permitted and may be approved administratively within a PRFPD district without their location being designated on the approved master concept plan, provided the use is approved as part of the adopted zoning resolution:

Essential services.

Public wellheads.

b. The following uses are permitted only if approved in the adopted zoning resolutions and their general location is shown on an adopted master concept plan.

Aquifer storage and recovery facilities.

Boarding horse stables and riding areas (see note 1).

Camp grounds—Tent camping only, including:

Camping area office (see note 1).

Camping restrooms (see note 1).

Excavations for water retention (section 34-1651).

Forestry tower.

Golf course, including:

Country club (see note 1).

Golf course restrooms (see note 1).

Golf course maintenance areas (see note 1).

Helistop—If required by emergency services.

Recreational and educational facilities (see note 4).

Wireless communication facility (see note 1).

(3) *Accessory uses and structures.* The following uses and structures may be permitted as accessory uses and structures when specifically included in the adopted zoning resolution.

Administrative offices (see note 1).

Bait and tackle shops.

Bed and breakfast establishment.

Boat ramps and docks.

Boat rental—Motorized boats limited to a trolling motors.

Consumption on premises (see note 2).

Dwelling unit: One caretakers residence OR resident manager's unit

Entrance gates and gatehouse.

Fishing piers.

Fences, walls (see note 5).

Food and beverage service, limited (see Note 2).

Fractional ownership, dwelling unit.

Golf course driving range and practice area.

Parking lots—Accessory to a permitted use.

Personal services—Group II (see note 2).

Play areas—"Elementary school age" and "teenage and young adults" as discussed in "Park Planning Guidelines, 3rd Ed."

Service/maintenance areas ancillary to approved permissible uses (see note 1).

Restaurants—Only if located within the clubhouse.

Sewage package plant.

Signs in accordance with Chapter 30.

Specialty retail—Groups I, II and III (see note 3).

Timeshare, dwelling unit

NOTES:

(1) The following uses are subject to the stated limitation(s):

Clubhouse/administrative area:	Maximum: 20,000 SF/18-hole golf course.
Golf course restrooms:	Not to exceed two structures per 18-hole golf course, limited to a maximum of 150 square feet per structure. One additional structure, limited to a maximum of 150 square feet per structure, may be added for each additional nine holes.
Wireless communication facilities:	Maximum height: 35 feet. Wireless communication facilities must be listed on the approved schedule of uses for the planned development; however, approval of a specific facility must be in accordance with section 34-1441, et seq.
Maintenance area:	Maximum: 25,000 SF/18-hole golf course. An additional 12,500 square feet of maintenance area may be added for each additional nine holes.
Horse stable:	Maximum: 40,000 SF of stable building/ten acres.
Camping restrooms:	Maximum: One toilet per four camp units, clustered in structures not to exceed 500 square feet per structure.
	Maximum: One shower per four toilets.
Camping area office:	Maximum: 1,000 SF per campground.

(2) Proposed uses may be approved administratively when they are located wholly interior to a permitted clubhouse and are for use of club members only. Outdoor seating and outdoor golf

course service in conjunction with a COP must be specifically requested and approved as part of the adopted zoning resolution.

(3) Specialty retail sales are limited to items clearly associated with the principal use; i,e, golfing equipment and clothes in conjunction with a golf course or country club; camping equipment (not vehicles or trailers) and supplies in conjunction with a camp ground. Specialty retail sales must be located within the country club or main administration building and may not be located in free-standing buildings.

(4) Such as, but not limited to: hiking and nature trails including boardwalks, where the activities require little or no on-site facilities or capital investment, and utilize the natural environment with little or no alteration of the natural landscape.

(5) Fences and walls: must comply with section (d), subsection 4.a. iii.

(d) *Design standards.*

(1) *General:* Private recreational facilities planned development districts:

a. Except for developments proposing to include golf courses, the minimum area is ten acres (see subsection (e) for golf course requirements).

b. The district must be designed to provide adequate fire protection, transportation facilities, wastewater treatment and water supply, The developer, at his sole cost, will be responsible for providing these services and facilities in the event of a deficiency.

c. Private recreational facilities must be located, designed and operated to:

i. Be compatible with any adjacent publicly owned lands; and

ii. Not adversely affect any existing agricultural, mining or conservation activities: and

iii. Incorporate energy and resource conservation devices, such as low flow water fixtures, and natural skylights: and

iv. Not have adverse effects such as dust, noise, lighting, or odor on surrounding land uses and natural resources; and

v. Not create glare on adjacent properties; as such, all exterior lighting must be designed with downward deflectors to eliminate skyward glare (parking areas, walkways and paths and maintenance areas may be illuminated for security purposes, provided that light poles do not exceed 12 feet in height); and

vi. Prohibit public access during non-use hours.

(2) *Property development regulations.*

a. *Buffers and setbacks:* Where a building or other impervious development is located on an adjacent property within 25 feet of a property boundary zoned PRFPD, a minimum 15-foot wide buffer, with five trees per 100 linear feet, and a solid double row hedge must be provided, unless a greater buffer is required or deemed necessary during the rezoning approval.

b. *Building setbacks.*

i. Minimum of 50 feet from an existing road right-of-way line or roadway access easement;

ii. Minimum of 50 feet from any adjacent agricultural or mining operation.

iii. Minimum of 75 feet from any private property line under separate ownership used or zoned for residential dwellings.

iv. Except that greater setbacks may be required where reasonably necessary to address unique site conditions or development impacts.

c. *Setbacks for accessory buildings or structures.*

i. All setbacks for accessory buildings or structures must be shown on the master concept plan. To allow flexibility, the general area of any accessory buildings, structures and maintenance areas must be shown on the site plan. Appropriate setbacks applicable to the final placement of these buildings, structures or facilities must also be shown on the master concept plan.

ii. No maintenance, delivery, irrigation pump, or outdoor storage or delivery area may be located closer than 500 feet from any residential use under separate ownership, as measured from the edge of the above-listed area to the property line of the residential use.

d. *Open space.* A minimum of 85 percent open space must be provided, subject to the following:

i. Up to 100 percent of the area of natural and manmade bodies of water may contribute to achieving the minimum open space requirement; and

ii. To the extent possible, pervious paving and parking areas, and buildings elevated above ground level will be located and constructed so as to exceed the minimum 85 percent open space requirement.

(3) *Water quality, quantity and surface water resources.*

a. Prior to development order approval, all private recreational facility developments must design and obtain County approval of an overall surface water management plan as outlined in Lee Plan Objectives 60.2, 61.3 and 115.1, in cooperation with Lee County and the SFWMD.

b. Private recreational facility developments must be located, designed, and operated to:

i. Maintain or improve the storage and distribution of surface water resources, and to not degrade the ambient surface or groundwater quality or adversely impact the County's existing and future water supply, as such:

1) As part of the rezoning application conceptual surface water management plans must be submitted. This plan must be viable and take into consideration any natural flowway corridors, cypress heads, natural lakes, and the restoration of impacted natural flowway corridors.

2) Prior to the issuance of a development order, if the subject property is crossed by a flowway, the applicant must:

a) Provide detailed hydrological and hydraulic analyses demonstrating the limits of flow for three-day, ten-year, 25-year, and 100-year storm events and the developed site's ability to convey these flows, taking into consideration the general flowway paths that exist in the DR/GR areas. Some, but not all, flowways are depicted on the historic flowway aerial map and show the general boundaries of the main conveyances. Where an existing flowway is not well defined or is discontinuous, flexibility will be given to allow different alignments within a site to best achieve this design standard so long as:

i) The function and integrity of local and regional flowways is maintained; and

ii) Flowways are not utilized for primary surfacewater treatment areas; and

iii) Adequate hydraulic capacity will exist in the flowway without increasing flood levels.

b) Ensure stormwater run-off is pre-treated through an acceptable recreated natural system, dry retention or water treatment system, prior to discharging the run-off into existing lakes, wetlands, or any other aquatic systems; and

c) Ensure the development's surface water management system includes an average 50-foot wide vegetative setback measured from the edge of managed turf to the wetland jurisdictional line or top of bank of natural water bodies.

ii. Minimize adverse environmental impacts on wetlands and riparian areas and where appropriate, protect, enhance and manage natural resources such as flowways, waterways, wetlands, natural water bodies, and indigenous uplands; and

iii. Not result in a net reduction in functional wetland acreage as identified by the South Florida Water Management District Wetland Rapid Assessment Procedure (WRAP).

c. If a private recreational facility is proposed or requested in any wellfield protection zone, the portion of the development which is located in the proposed or requested area must be located, designed, and operated to:

i. Meet the requirements/criteria for protection zone 1, unless updated modeling is provided by the applicant and is approved by Lee County Division of Natural Resources and the Lee County Regional Water Supply Authority; and

ii. Minimize the possibility of contamination of groundwater during construction and operation (if in or near existing and proposed wellfields).

d. If the private recreational facility is proposed or requested within an area identified as an anticipated drawdown zone for existing or future public well development, the applicant must demonstrate as part of the rezoning application that development will:

i. Utilize an alternative water supply source such as reuse or withdrawal from a different non-competing aquifer; or

ii. Show, to the satisfaction of the Department of Natural Resources, that adequate supply is available in excess of that being used for planned public water supply development.

(4) *Natural resources and wildlife:*

a. Private recreational facility developments must be located, designed, and operated so that:

i. Critical habitat is conserved and the development does not adversely impact any existing, viable on-site occupied wildlife habitat for federal, state, or County protected species, species of special concern, threatened, or endangered species; and

ii. Preservation and/or management activities are incorporated as a condition of any approving zoning resolution to restrict the unnecessary loss of wildlife habitat or impact on protected species, species of special concern, threatened or endangered species; and

iii. Perimeter fences or walls are not required or encouraged. If perimeter fences or walls are proposed, they must be designed to:

a) Permit wide-ranging small and large animals to traverse the site; and

b) Provide a minimum of one foot clearance between the ground and the lowest portion of a fence or wall.

Alternatives to b) that meet the intent of providing wildlife the ability to traverse the site will be considered, but any alternative fence or wall is subject to the approval of the Director.

b. Except for golf courses, private recreational facility developments must be designed to preserve a minimum of 50 percent of on-site, indigenous native uplands habitat; [see subsection (e) Additional design and performance standards for golf course use, for golf course requirements].

c. Except for building sites and proposed turf areas, every reasonable effort must be made to preserve existing native vegetation and to use xeriscape vegetation and to meet the following minimum requirements for on-site vegetation:

i. 100 percent of all required trees and 75 percent of all additional trees will be native; and

ii. 80 percent of all required shrubs and 50 percent of all additional shrubs will be native; and

iii. A minimum of 70 percent of all trees and shrubs are xeriscape varieties.

d. No plant species included in the Florida Exotic Pest Plant Council, 1999 List of Florida's Most Invasive Species, will be planted as part of a private recreational facility development.

e. A statement must be included on the development order that the development area will be maintained free of any invasive exotic plants included in the Florida Exotic Pest Plan Council, 1999 List of Florida's Most Invasive Species.

(e) *Additional design and performance standards for golf course use:* The following standards for golf courses are in addition to design standards set forth above:

(1) Golf courses must be designed, constructed, certified, and then managed in accordance with the Audubon International Signature Program.

(2) The boundaries of a golf course must be designed to exclude residential out-parcels or enclaves, and prevent them from being integrated into the golf course design.

(3) Golf courses must be located, designed, and operated to minimize their impacts on natural resources, and to comply with the Best Management Practices for Golf Course Maintenance Departments (Best Management Practices), prepared by the Florida Department of Environmental Protection, May 1995, as well as ensuring:

a. Natural waterways are left in a natural, unaltered condition and are not channelized, provided:

i. If a crossing for a natural waterway is necessary, it must be designed to minimize the removal of trees and other shading vegetation;

ii. Any crossings of existing natural flowways and water bodies must be bridged, and golf cart crossings must be constructed of permeable material, be no wider than eight feet, and placed on pilings from edge of floodplain to edge of floodplain;

iii. Created or restored flowways and water bodies may be crossed by bridges or culverts, or a combination thereof, if approved by Lee County and the South Florida Water Management District;

iv. An existing natural waterway may not be excavated for new lakes or ponds;

v. Upland ponds must not expose stream channels to an increase in either the rate or duration of floodwater, unless otherwise required by the South Florida Water Management District in order to further regional water management objectives.

b. All fairways, greens, and tees are elevated above the 25-year flood level, and all greens must utilize underdrains. The effluent from these underdrains must be pre-treated prior to discharge into the balance of the development's water management system.

(4) To ensure water conservation, golf course irrigation systems must utilize computerized irrigation programs based on weather station information and moisture sensing systems to determine

existing soil moisture and evapotranspiration rates so as to provide water efficient zone control, as well as:

a. If located outside of an identified wellfield protection zone, re-use water, will be utilized for irrigation if available; and

b. If located within an identified wellfield protection zone, then any re-use water used for golf course irrigation must be in compliance with the wellfield protection ordinance.

(5) *Golf course site requirements.*

a. Minimum number of holes: 18 holes.

b. Minimum additional increments: Nine holes

c. Minimum site area: 150 acres per 18 holes, plus sufficient land to comply with the indigenous preserve requirements set forth below; and for every additional increment of nine golf holes, the site area must be increased by 75 acres, of which up to a maximum of 75 acres may be golf course "impact area."*

d. Maximum site "impact area": 150 acres per 18 holes plus a maximum of 75 acres for each additional nine holes.

*"impact area" includes all areas used for greens, tees, fairways, roughs, clubhouses, maintenance facilities, cart and pedestrian pathways, parking areas, i.e., all areas used for golf courses and their associated support uses.

e. *Minimum indigenous preserve area:* 200 acres per 18 holes plus 100 acres for each additional nine holes. The indigenous preserve area may be provided either on-site or off-site (or a combination of both), calculated as follows:

i. A credit of 2:1 will be given for every acre of indigenous preserve provided on the same site as the golf course, but outside of the golf course impact area; and

ii. All off-site indigenous preserve areas must be located within the DR/GR areas and unless located within or adjacent to an existing or designated public acquisition area the minimum indigenous preservation parcel size must be fifty acres.

f. *On-site indigenous restoration:*

i. *Definition: Indigenous restoration* - The enhancement or creation of a native plant community through the installation of appropriate native vegetation in such a manner as to establish an indigenous ecosystem capable of supporting wildlife and a sustainable native plant community. Integral to restoration is the evaluation and incorporation of ecological processes and structures, as well as, variability in biodiversity of regional and historic native plant communities.

ii. *On-site indigenous restoration credits:*

(a) To meet the 200 acre minimum indigenous preservation requirement, indigenous restoration credits (1:1) may be granted, so long as the restored area is:

i) No less than three acres; and

ii) An average width of no less than 100 feet; and a minimum of 75 feet wide.

(b) An additional 25 percent credit for each enhancement listed below, up to a maximum credit of (2:1), may be granted toward the development's indigenous preservation requirements, if, in addition to meeting the requirements immediately above, the restored area also:

i) Abuts an existing indigenous preserve, regardless of whether the preserves are on-site, off-site, public or private,

ii) Is designed to provide a link between existing indigenous preserves, regardless of whether the preserves are on-site or off-site from the development,

iii) Abuts a natural waterway or flow-way, or

iv) Is restored as a rare and unique upland habitat, as that term is defined by the Lee Plan.

v) Alternatives to the above-stated design criteria that demonstrate unique environmental restoration will be considered and credited appropriately with a maximum 2:1 credit. Any alternative design and credit is subject to approval by the Director.

iii. *On-site indigenous restoration plan requirements:*

(a) When on-site indigenous restoration is being used to meet the indigenous native plant community preservation requirement for a PRFPD, a preliminary indigenous restoration plan must be submitted at time of zoning review. The plan must also provide for and include, but is not limited to, the following information:

i) Restored preserve locations must be delineated on the master concept plan. The area of each restored preserve must be listed.

ii) By Florida Land Use Cover and Classification System (FLUCCS) code, a narrative description of each native plant community to be restored must be provided. A list of native plants found in the canopy, midstory and groundcover must be provided. Any existing native plants within the restoration area must be incorporated to the maximum extent possible (e.g., live oaks in a farm field, saw palmettos in a pine plantation).

iii) By FLUCCS code, a list of commercially available plants to be installed in the restoration area must be provided. This list, by species, must include the number of plants, size of plants to be installed, and spacing at installation. The general design strategy must be provided that illustrates the effort needed to recreate the intended native plant community. The planting density must be consistent with the plant community to be restored or created. Any hydrological alterations or improvements must be detailed.

iv) A temporary irrigation plan to insure the establishment of the plants. Such an irrigation plan must be designed to conserve water. An automated system with a rain sensor must be used. The temporary irrigation must be removed upon successful plant establishment. Where it can be demonstrated at the point in time a final indigenous preservation plan is submitted that wetland restoration areas have an adequate surface and groundwater levels for plant establishment, no irrigation will be required. Plants must meet the success criteria provided in section vii).

v) Plants must be mulched with an organic mulch at installation. The use of cypress mulch is prohibited.

vi) All management techniques and a general schedule to ensure the establishment of a native plant community (i.e. controlled burns; etc.).

vii) 80 percent survivability of installed plants must be maintained in perpetuity.

(b) A final indigenous restoration plan must be submitted at time of local development order. The restoration plan, including narrative details, graphic details, and detailed irrigation plan, must be incorporated into the local development order plans as part of the initial phase of development. The number, species, and sizes of plants must

be separately delineated for each restoration area. The plan may be compiled by an environmental consultant or a landscape architect.

(c) To insure successful installation and establishment of the restoration effort, the developer must provide financial assurance through a bond, letter of credit, escrow agreement or other method acceptable to the Department of Community Development and the County Attorney's Office. The financial assurance will be calculated at the estimated cost of purchasing an equivalent acreage of CREW lands to be maintained in perpetuity, and must be approved prior to local development order approval.

(d) A monitoring report must be submitted to the administrator on an annual basis for five years from date of certificate of compliance. The monitoring report must include mortality estimates per species planted, estimated causes for mortality, growth of the vegetation, documentation of any native plants that have colonized the area, any animals observed using the site, and other factors which would indicate the functional health of the restored system. If the restoration area is not successful within the initial five-year monitoring period, replanting is allowed with a five-year monitoring required from the date of any replanting. If after replanting the restoration area is not successful, the applicant must purchase CREW lands of equivalent size to be maintained perpetually. If the applicant is unwilling to purchase CREW lands in a reasonable length of time, the County will purchase CREW lands with the financial assurance provided.

g. *Management and maintenance of natural areas.* The owner(s), or their assignees, must use accepted Best Management Practices to perpetually maintain all golf course areas as well as any on-site natural vegetation areas associated with other private recreational facilities.

i. Appropriate management techniques will be determined based upon the existing plant community. A land management plan for natural vegetation areas must be submitted to, and approved by, the Lee County Division of Planning prior to issuance of a local development order.

Management techniques addressed in the plan must include, but are not limited to, the following:

1) Exotic pest plant control;

2) Removal of any trash and debris;

3) Restoration of appropriate hydrology;

4) Prescribed fire;

5) Native plant restoration;

6) Discussion of flora and fauna;

7) Enhancement of wildlife habitat;

8) Retention of dead trees and snags.

9) Integrated pest management program for any managed recreational areas.

10) A management plan for the off-site indigenous vegetation preserves including invasive exotic vegetation removal with perpetual management. This does not preclude the transfer of the property to a public entity as long as perpetual maintenance is guaranteed.

ii. *Management/maintenance of golf courses.* Prior to the issuance of a local development order, the golf course developer/property owner must demonstrate that the golf course

is designed to minimize adverse effects to surface and ground waters, including riparian areas, through the use of practices such as integrated pest management and reduced fertilizer use, adequate stormwater management facilities, vegetated buffers, etc., and at a minimum:

1) The facility must have an adequate water quality management plan, such as a stormwater management facility constructed in uplands to ensure that the private recreational facility results in no substantial adverse effect to water quality; and

2) The owners must employ management strategies in and around any golf course to address the potential for pesticide/chemical pollution of the groundwater and surface water receiving areas; and

3) Demonstrate the ability of the proposed golf course site, facilities, and management practices to comply with the goals of the Audubon International Signature Program for Golf Courses, where:

4) Proposed and approved management practices must include, but are not limited to:

   a) The use of slow release fertilizers and/or carefully managed fertilizer applications.

   b) The practice of integrated pest management when seeking to control various pests, such as weeds, insects, and nematodes; and

   c) The application of pesticides must involve only the purposeful and minimal application of pesticides, aimed only at identified, targeted species. The regular widespread application of broad-spectrum pesticides is not acceptable. The management program will minimize, to the extent possible, the use of pesticides, and will include the use of the USDA-SCS Soil Pesticide Interaction Guide to select pesticides for uses that have a minimum potential for leaching or loss due to runoff depending on the site specific soil conditions.

5) The application of pesticides within 100 feet of any CREW, or other adjacent public preserve lands, is prohibited; and

6) The application of pesticides is coordinated with irrigation practices (the timing and application rates of irrigation water) to reduce runoff and the leaching of any applied pesticides and nutrients; and

7) Retain a golf course manager, licensed by the state with respect to use of restricted pesticides, to perform, or be responsible for, the required management practice functions.

(f) *Environmental monitoring.* In order to ensure that the development will not degrade the ambient condition of surface and groundwater quality and quantity, vegetation and wildlife, the developer must establish and maintain an ongoing monitoring program evaluated and approved by Lee Count Division of Natural Resources and the Lee County Regional Water Supply Authority, consistent with the following:

(1) *Pre-development groundwater and surface water analysis.* A study to establish baseline data for groundwater and surface water monitoring for the project area must be designed to identify those nutrients and chemicals that are anticipated to be associated with the project. The applicant/developer is responsible for conducting the study and monitoring.

a. Prior to commencing this baseline study, the study methodology and modeling components must be approved by the Lee Count Division of Natural Resources and the Lee County Regional Water Supply Authority.

b. Issues of well locations, easements and wastewater re-use must be evaluated and approved by the Lee County Division of Natural Resources and the Lee County Regional Water Supply Authority during the planned development review process. Formal agreements, acceptable to the County Attorney's Office, addressing these issues must be executed prior to development order issuance.

The Division of Natural Resources Director must make a formal finding that the proposed uses will not have negative impacts on present and future water quality and quantity.

(2) *Surface water and groundwater.* Annual surface water and groundwater monitoring must continue in perpetuity; as follows:

a. Surface and groundwater monitoring requirements pertaining to the nutrients and chemicals identified by the pre-development analysis (required by section (f)(1)a) and those anticipated for use in conjunction with the proposed project, must be established and approved by the Division of Natural Resources; and

b. At a minimum, the monitoring must be conducted on a quarterly basis by a qualified third party; the data must be submitted to the Division of Natural Resources as soon as it is available; and

c. An annual summary report of the monitoring effort must be submitted to the Division of Natural Resources for their review and evaluation.

(3) *Other impacts.* The approved development must submit annual monitoring reports addressing the interaction between the use and environment. The reports must begin during the initial project construction phase and continue until 5 years after the issuance of a certificate of compliance for the entire project. The report must provide discussion and documentation on the following activities:

a. *Construction monitoring:* Annual reports detailing construction activities, permitting, compliance with Audubon International Signature Standards and percent of project completed.

b. *Land management activities:* Including those used on the golf course, as well as natural and preserve areas.

c. *Wildlife monitoring:* A discussion of wildlife, wildlife activity, and wildlife management activities.

d. *Irrigation monitoring:* A summary of the monthly irrigation withdrawal and irrigation sources.

e. *Mitigation/vegetation monitoring:* Status reports on the viability of any mitigation or landscaping conducted on-site.

f. *Integrated pest management monitoring:* Provide a discussion on the pest management techniques, and any pest problems that have occurred on the project.

g. Monitoring requirements for on-site indigenous restoration per section 34-491(d)(4)(f)iii(d).

If adverse impacts in any of the above areas are identified, enforcement and mitigation will be provided through the appropriate regulatory agency and enforcement procedures. If, after five years, no significant adverse impacts are determined, reporting on these subjects may be terminated.

(4) *Monitoring enforcement.*

a. If surface or groundwater monitoring shows degradation of water quality that is caused by the construction, operation, or maintenance of the facility, the County will provide written notice delivered by hand or return receipt requested mail to the property owner's last known address that a plan to correct the identified problem(s) must be submitted, as follows:

i. The property owner must submit a plan of action within 30 days after receipt of written notice from the County.

ii. The plan must identify actions that will correct the problem(s) within the shortest possible time frame.

iii. The plan will be reviewed by the County. If the plan is not submitted as required, or is found unacceptable by the County, the County will require all activities on the property to cease until a plan is submitted and approved; and

iv. The approved plan must be implemented by the property owner. If the County determines that the approved plan is not being implemented properly, the County can require all activities on the property to cease until the property owner comes back into compliance.

b. *Golf courses.* If a golf course loses its certification from Audubon, or if the status of certification from Audubon changes from being in full compliance:

i. Then the property owner must provide written notice to the County within ten working days of the loss or change in status of the certification;

ii. Within 30 days after providing notice to the County of the loss of certification status the property owner must also submit a written plan of action acceptable to the County to achieve re-certification in the shortest possible time. If a plan is not submitted as required, then all activity on the property must cease until a plan is submitted and approved.

iii. Thereafter, the approved plan must be implemented in good faith by the property owner. If the County determines that the plan is not being implemented properly, then all activity on the property must cease until the property owner comes back into full compliance with the plan and all permits issued.

iv. Failure to notify the County or to submit a plan of action may result in penalties up to and including revocation of the golf course use if it is deemed by the Director of Natural Resources that the violation(s) is (are) a possible threat to the environment.

(g) *Submittal requirements.* In addition to the submittal requirements for planned developments set forth elsewhere in this Code, PRFPD applications must include:

(1) *Master Concept Plan:* A clearly legible and properly scaled drawing must be provided in two sizes, 24 inches by 36 inches, and 11 inches by 17 in size. Both sizes of the master concept plan must be clearly legible, depict the correct scale for the size drawing and be drawn at a scale sufficient to adequately show and identify the following information (notes and legends may be used to provide the required information):

a. The general size, configuration and general location of proposed uses and structures, play fields and golf course routings. Minor adjustments to this master concept plan may be made administratively at the discretion of the Director.

b. The general area of any accessory buildings, structures and maintenance areas must be shown on the site plan. Minimum setbacks for accessory buildings and structures, as noted in subsection (d)(4), must be shown and used for the final placement of these buildings, structures or facilities.

c. The maximum height, in feet and number of stories, of any proposed buildings or structures;

d. The uses requested, and:

i. If a campground: the number of camping units; the number and size of the camping restrooms including the number of toilets and showers proposed; and the location and size of the camping area office.

ii. If a horse stable: the size of the stable building.

iii. If a golf course: the location and size of the clubhouse, administrative, and maintenance areas, the number of golf course holes, the approximate location of tees, fairways, and golf course greens, and the number and size of golf course restrooms.

e. The minimum width and composition of all proposed buffers along the perimeter of the subject property. Minimum building setbacks for buildings and structures, as noted in subsection (d)(4) must be shown and used for the final placement of buildings, structures or facilities, unless a greater setback is deemed necessary by the Board of County Commissioners.

f. The general location of all points of pedestrian and vehicular ingress and egress from existing easements or rights-of-way into the development.

g. Proposed access and facilities for public transit in accordance with sections 34-411(e) and 10-442, if the development is located on a public transit route.

h. The general location of open space including the location of natural and manmade bodies of water, and areas of native vegetation to be retained or created.

i. The general location of excavations for on-site fill and wet retention;

j. The location of any requested deviations, keyed to the schedule of deviations, including sample detail drawings of the effect on the site plan of the requested deviation;

k. A traffic impact statement in a format and to the degree of detail required by a form furnished by the County and in conformance with the adopted County Administrative Code. Upon written request, the Director may waive this requirement.

(2) *Environmental assessment:* An environmental assessment including, at a minimum, an analysis of the environment, historical and natural resources.

(3) A narrative explanation as to how the proposed development complies with the Lee Plan, as well as the guidelines for decision-making embodied in sections 34-145(c)(3)a. and b. and 34-145(d)(3).

(4) *Demonstration of compatibility.* Written statements concerning how the applicant will assure the compatibility of the proposed development with nearby land uses (by addressing such things as noise, odor, lighting and visual impacts), and the adequate provision of drainage, fire and safety, transportation, sewage disposal and solid waste disposal.

(Ord. No. 00-14, § 5, 6-27-00; Ord. No. 03-11, § 1, 4-8-03; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 11-01 , § 5, 3-8-11; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-942—34-960. Reserved.

DIVISION 10. SPECIAL PURPOSE DISTRICTS

Subdivision I. - In General

Subdivision II. - Environmentally Critical District

Subdivision III. - Airport Compatibility District

Subdivision IV. - Planned Unit Development District

Subdivision I. In General

Sec. 34-961. Purpose and intent.

Sec. 34-961. Purpose and intent.

The purpose and intent of the special purpose districts is to recognize and provide for certain types of uses and conditions which do not fall within the broader generalized categories set forth in this article. There are three special purpose districts as provided in subdivisions II through IV of this division.

(Ord. No. 93-24, § 7(490), 9-15-93)

Secs. 34-962—34-980. Reserved.

Subdivision II. Environmentally Critical District

Sec. 34-981. Purpose and intent.

(a) The purpose and intent of the EC environmentally critical district is to preserve and protect certain land and water areas in the unincorporated area of the County which have overriding ecological, hydrological or physiographic importance to the public at large.

(b) The application of the EC district is intended to prevent a public harm by precluding the use of land for purposes for which it is unsuited in its natural state and which injures the rights of others or otherwise adversely affects a defined public interest. The EC district shall be applied to an area of land or water only upon a recommendation by the Hearing Examiner and a finding by the Board of County Commissioners in their respective public hearings that the use or conversion of the property may create a public harm or a public need.

(c) Lands or waters to which this district may be applied include those areas that would fit the criteria of wetlands.

(Ord. No. 93-24, § 7(491(A)), 9-15-93; Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-982. Standards for application of EC district.

Any land classified as wetland area or any other environmentally sensitive land category may be considered for inclusion in the EC district.

(Ord. No. 93-24, § 7(491(B)), 9-15-93; Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-983. Use regulations.

No land, body of water or structure may be used or permitted to be used and no structure may be hereafter erected, constructed, moved, altered or maintained in the EC district for any purpose other than as provided in this section.

(1) *Permitted uses.* In the EC district, no land or water use is permitted by right except for those uses and developments permitted by the Lee Plan in wetlands, including:

a. Boating and canoeing, with no motors permitted except electric trolling motors.

b. Entrance gates and gatehouses (see article VII, division 17, of this chapter).

c. Fishing, limited to sport or recreational fishing only.

d. Forest management activities, limited to removal of intrusive exotic species or diseased or dead trees, and pest control.

e. Hiking and nature study, clearing, including pedestrian boardwalks.

f. Outdoor education, in keeping with the intent of the district.

g. Recreation activities, outdoor only, to include passive recreation such as tent camping and that active recreation requiring little or no facilities, capital investment or alteration of the natural landscape.

h. Single-family dwellings and their customary accessory uses, when in compliance with the requirements of an applicable Environmental Resource Permit pertaining to wetlands protection.

i. Wildlife management, as wildlife or game preserves.

j. Essential services and essential service facilities, group I, existing only.

k. Roadways, as approved by the Board of County Commissioners during the acquisition process.

l. Accessory building or structure provided it is incidental and subordinate to the principal use of the premises, and located on the same premises.

m. Bona fide agricultural livestock grazing use on Conservation 20/20 lands if approved by the Board of County Commissioners as a necessary part of the land amendment under a specific land stewardship plan for the property.

n. Temporary uses (see Article VII, Division 37, of this chapter).

o. County parks (including Neighborhood and Regional parks).

p. State parks with uses approved within the park's management plans in accordance with F.S. Chapters 253 and 259.

q. Federal parks with uses approved within the park's management plans.

(2) *Conservation 20/20 property.* A land stewardship plan applicable to the management of the property acquired under the 20/20 program must be approved by the Board of County Commissioners. The Land Stewardship Plan will define the uses allowed and appropriate given the environmental characteristics of each parcel. Uses identified in section 34-983(1) are potential uses of the 20/20 property, however, if a use is not specifically identified in the land stewardship plan approved by the Board, the use is not permitted on the Conservation 20/20 parcel.

(3) *Special exceptions.* Upon a finding that the proposed use is consistent with the standards set forth in section 34-145(c)(3), as well as all other applicable County regulations, the Hearing

Examiner may permit any specific use from the following list as a special exception, subject to conditions set forth in this chapter and in the resolution of approval:

a. Accessory structures, to include any building, structure (including sea walls) or impervious surface area including bikeways which is accessory to a use permitted by right or by special exception in the EC district.

b. Boating, without restriction, except that it shall be limited to natural or existing manmade channels.

c. Nature study center, noncommercial, and its customary accessory uses.

(Ord. No. 93-24, § 7(491(C)), 9-15-93; Ord. No. 95-12, § 11, 7-12-95; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-984. Property development regulations.

(a) *Residential density.* Residential density in the EC district is subject to the land use category wherein located, as well as chapter 14, article IV, pertaining to wetland protection. Wetlands have a maximum density of one dwelling unit per twenty acres (1du/20 acres).

(b) *Setbacks.* See article VII, division 30, subdivision III, of this chapter. In order to maximize flexibility in siting any structure permitted in the EC district, the minimum setbacks shall be as follows:

(1) Street or accessway: Variable according to the functional classification of the street or road (see section 34-2192).

(2) Side or rear lot lines or parcel boundaries: 15 feet.

(3) Gulf of Mexico: 50 feet from mean high water or as required by chapter 6, article III, whichever is the most restrictive.

(4) Other water body: 25 feet.

(c) *Additional regulations.* See article VII, division 30, of this chapter for additional regulations pertaining to property development.

(Ord. No. 93-24, § 7(491(D)), 9-15-93; Ord. No. 96-17, § 5, 9-18-96)

Secs. 34-985—34-1000. Reserved.

Subdivision III. Airport Compatibility District [13]

Sec. 34-1001. Applicability.

The provisions set forth in this subdivision are applicable to lands encompassing and surrounding the Southwest Florida International Airport (SWFIA), Page Field General Aviation Airport, comprising the related height and land use protection necessary to the viability of the airports. These provisions are applicable only in the unincorporated portions of Lee County unless an interlocal agreement providing otherwise is in effect.

(Ord. No. 93-24, § 7(492), 9-15-93; Ord. No. 94-24, § 28, 8-31-94; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1002. Findings, purpose, and intent.

(a) *Findings.* The Lee County Board of County Commissioners find as follows:

(1) The SWFIA and Page Field are an integral part of the County transportation network;

(2) The Airport Master Plans for both SWFIA and Page Field have been adopted into the traffic element of the Lee Plan in recognition of their importance as part of the County transportation system;

(3) The continued viable operation of the airports is critical to the continued health, safety and welfare of the citizens of Lee County as well as the many visitors that pass through these airports;

(4) Airport hazards endanger the lives and property of airport uses as well as the owners and occupants of property surrounding the airports;

(5) Airports may produce noise levels that are not compatible with residential uses and certain commercial and industrial uses;

(6) Hazards reduce the size of the area available for the landing, take off and maneuvering of aircraft, which impairs the viability of the airport;

(7) The creation of an airport hazard injures the community served by the airport and constitutes a nuisance; and

(8) In the interest of the public health, safety and welfare it is appropriate to establish regulations to prevent or minimize the creation of hazards and the placement of inappropriate uses in the vicinity of airports.

(b) *Purpose and intent.* The purpose of this subdivision is to establish protection around SWFIA and Page Field in accord with the provisions of F.S. Chs. 330 and 333 (as amended), as well as Federal regulations (as amended) including 14 CFR Parts 77, 150 and 151 and FAA Advisory Circulars 150/5300-13 and 150/5200-33, which address height obstructions, airport hazards, wildlife attractants, noise, runway protection zones, light emissions, reflectivity and power interference, aircraft overflights, and the public investment in air transportation facilities. These provisions are intended to supplement the state and federal regulations regarding airport protection and specifically to:

(1) Promote the maximum safety of aircraft arriving at and departing from public airports;

(2) Promote the maximum safety of residents and property within areas surrounding public airports;

(3) Promote the full utility of public airports, to ensure the maximum prosperity, welfare and convenience to the Lee, Charlotte, Collier, Hendry and Glades County areas and their residents;

(4) Provide building height standards for use within the approach, transitional, horizontal and conical surfaces to encourage and promote proper and sound development beneath these areas;

(5) Provide development standards for land uses within prescribed noise zones associated with the normal operation of public airports;

(6) Provide administrative procedures for the efficient and uniform regulation of all development proposals within designated airport noise zones, runway approach zones and airport height zones; and

(7) Prevent the creation of hazards and incompatible land uses.

(Ord. No. 93-24, § 7(492(A)), 9-15-93; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1003. Definitions.

The following words, terms and phrases, when used in this subdivision, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aircraft means any vehicle used or designed for navigation of or flight in the air.

Airport means an area of land or water designed and set aside for use for the taking-off, maneuvering and landing of aircraft.

Airport Elevation means the highest point of the airport's usable landing area, measured in feet above mean sea level (AMSL).

Airport Hazard means any structure or tree or use of land that would exceed the federal obstruction standards and obstructs the airspace required for flight of aircraft in taking off, maneuvering, or landing or is otherwise hazardous to such taking off, maneuvering, or landing of aircraft; and for which a permit or variance has not been issued.

Airport Obstruction means any existing or proposed manmade structure object or, object of natural growth or terrain, or use of land that violates the standards set forth in 14 CFR § 77.13, 77.17, 77.19, 77.21 and 77.23.

Airport Noise Zone means the areas representative of specific airport DNL noise contours or designated over flight areas in which land use is limited. Notification to property owners is provided through notice recorded in the Lee County Public records, and notification through recording of the areas occur.

Airport Obstruction Notification Zone means an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level.

Airport, Private means an airport that is registered with the state, but not State licensed. For purposes of this Article, Lee County Mosquito Control helistops and airport facilities (e.g. Buckingham Airport) are private airport facilities. Private airports are not open for use by the general public except by specific invitation of the airport owner.

Airport, Public means any airport licensed by the state, including state-licensed seaplane bases, helistops and emergency landing areas. Public airports as used in this code specifically refer to SWFIA and Page Field. Public airports are open to the general public with or without a prior request to use the airport.

Airport Reference Point means the approximate geographic center of all usable airport runways as identified on the approved Airport Layout Plan (existing and ultimate).

Airport Residential Protection Zone means an area identified in F.S. Ch. 333, that is contiguous to the airport and is defined by an outer noise contour that is considered incompatible with the types of construction identified in 14 CFR Part 150, Appendix A or an equivalent noise level as established by other types of noise studies. For SWFIA, this Zone is the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.

Airport Runway Approach Surface is an imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Airport Runway Primary Surface as defined by FAR Part 77. An Airport Runway Approach Surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

Airport Runway Clear Zone as defined in F.S. and 14 CFR Part 151.9(b) is an area at ground level which begins at the end of each Airport Runway Primary Surface and extends with the width of each Airport Runway Approach Surface to terminate directly below each Airport Runway Approach Surface slope at the point, or points, where the slope reaches a height of 50 feet above the elevation of the runway or 50 feet above the terrain at the outer extremity of the Airport Runway Clear Zone, whichever distance is shorter.

Airport Runway Primary Surface is an imaginary surface longitudinally centered on an existing or planned runway as defined by FAR Part 77.

Airport School Protection Zone means an area identified in F.S. Ch. 333, that extends five miles in a direct line along the centerline of a SWFIA or Page Field runway, and has a width measuring half the length of the runway which prohibits the placement of schools and educational facilities. This Zone also encompasses an area defined by an outer noise contour that is considered incompatible with that type of construction identified by 14 CFR Part 150, Appendix A or an equivalent noise level as established by others types of noise studies. For Page Field, this Zone also encompasses the area within the 65 DNL Noise Contour as approved in the 2002 Master Plan Update. For SWFIA, this Zone also encompasses the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.

Airport Surveillance Radar (ASR) means approach control radar used to detect and display an aircraft's position in the terminal area. ASR provides range and azimuth information, and coverage of the ASR can extend up to 60 miles.

Airport Wildlife Hazard Protection Zone means an area encompassing 10,000 feet from the nearest point of any SWFIA or Page Field runway shown on the most recent Airport Layout Plan approved by the FAA to be used or planned to be used by turbojet or turboprop aircraft.

Balloon means any type of dirigible, balloon or other type of hovering or floating object, tethered or untethered.

Day-night average sound level DNL means a 24-hour average noise level incorporating a ten-decibel penalty for noise during nighttime hours between 10:00 p.m. and 7:00 a.m.

DNL noise contour means a line linking together a series of points of equal cumulative noise exposure. Such contours are developed based upon aircraft flight patterns, number of daily aircraft operations by type of aircraft, and typical runway utilization patterns in terms of percentage of use.

FAA means the Federal Aviation Administration.

Instrument approach procedure means a landing approach utilizing electronic guidance aids and made without visual reference to the ground.

Owner means a mortgage holder, a lienholder or any person having any right, title or interest of any nature and kind whatsoever in and to any real estate within the boundaries of the zones established by this subdivision.

Page Field means and refers to Page Field General Aviation Airport.

Runway means a defined area on an airport prepared, used or intended to be used for the taking off and landing of aircraft along its length.

SWFIA means and refers to Southwest Florida International Airport.

(Ord. No. 93-24, § 7(492(B)), 9-15-93; Ord. No. 94-24, § 28, 8-31-94; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 11-08 , § 10, 8-9-11)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-1004. Airport Noise Zones.

(a) *Purpose.* The purpose of this section is to establish standards for land use and for noise compatibility requirements with respect to noise and overflights associated with the normal operation of SWFIA. This section establishes noise zones of differing intensities and land uses in the vicinity of SWFIA. This section establishes permitted land uses within the noise zones and establishes requirements for providing notification to current and prospective purchasers or developers of real estate within the noise zones.

(b) *Noise zones defined; permitted uses.* There are hereby created and established four airport noise zones pertaining to land uses surrounding the SWFIA. The noise zones are based upon the most recent composite DNL contours developed in accordance with the Federal Aviation Regulations, Part 150, Noise Compatibility Study for the Southwest Florida International Airport, in combination with an area subject to repetitive, low altitude aircraft over flights associated with flight training activity on the planned parallel runway, as approved by the Board of Port Commissioners and the FAA. The four proposed zones were adopted by the Board of County Commissioners and are on file at the Lee County Port Authority. The purpose and intent of these noise zones is to define and set forth specific regulations for all properties within the described areas. These noise zones are set forth as overlay zoning districts in that they provide regulations and restrictions in addition to those set forth in the planned development or conventional zoning districts in which the property is located, as defined in this chapter. Except as otherwise provided in this section, no land, body of water or structure may be used or permitted to be used and no structure may be hereafter erected, constructed, moved, reconstructed or structurally altered or maintained in any of these airport noise zones that is designed, arranged or intended to be used or occupied for any purpose other than as defined in the following:

(1) *Airport Noise Zone A.*

a. *Location.* Airport Noise Zone A is the land within the SWFIA boundary as identified in Appendix C.

b. *Restrictions.* Airport Noise Zone A is restricted to uses that are compatible with airports and air commerce, including but not limited to those necessary to provide services and convenience goods principally to airline passengers, and those uses generally associated with the airport operations, including aircraft and aircraft parts manufacturers, air freight terminals, aviation and airline schools, aircraft repair shops, aerial survey offices, aircraft sales, equipment and parts storage, aviation research and testing laboratories, airline catering services, governmental facilities and, other compatible non-aviation uses such as light industrial/warehouses, offices, hotels, and gas stations.

(2) *Airport Noise Zone B.*

a. *Location.* Airport Noise Zone B consists of that area of land located between Airport Noise Zone A and the 2020 Composite 60 DNL contour line as determined in the adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.

b. *Restrictions.* This zone allows any use permitted by this chapter, provided that no residential living units, places of worship, libraries, schools, hospitals, correctional institutions or nursing homes are permitted. However, residential units, including mobile homes that are lawfully existing as of June 27, 2000 will be treated as legally permitted uses and not as nonconforming uses. Lawfully existing mobile or manufactured homes may be replaced with

new mobile or manufactured homes or conventional single-family construction and existing conventional single-family homes may be replaced with new conventional homes so long as such replacement would be otherwise allowed by this Code. However, an existing conventional home may not be replaced with a new mobile or manufactured home. One conventional single-family home is permitted on each lot in a plat properly recorded before June 27, 2000 if such use would have been permitted on the lot prior to June 27, 2000. This zone requires formal notification in accord with section 34-1004

(3) *Airport Noise Zone C.*

a. *Location.* Airport Noise Zone C consists of that area of land located between the Airport Noise Zone B and the 2020 Composite 55 DNL contour line as determined in the adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.

b. *Restrictions.* This zone allows any use permitted by this chapter. This zone requires formal notification in accord with section 34-1004

(4) *Airport Noise Zone D.*

a. *Location.* Airport Noise Zone D consists of that area of land located southeast of Airport Noise Zone C and represented the area designated for Flight Training associated with the planned south parallel runway. This zone comprises the area within a half mile of the expected centerline of the training pattern depicted in the adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.

b. *Restrictions.* This zone allows any use permitted by this chapter. This zone requires formal notification in accord with section 34-1004

(c) *Noise zone notification.* Noise Zones B, C and D require formal notification that the property is within a particular Airport Noise Zone and may be subject to aircraft noise and overflights. Formal notification is provided by recording a Notice in the official County records that sets forth the legal description of the 2020 Composite DNL noise contours and the flight training overflight area as defined in the Federal Regulations, Part 150 Noise Compatibility Study for the SWFIA (2006).

(Ord. No. 93-24, § 7(492(E)), 9-15-93; Ord. No. 94-24, § 28, 8-31-94; Ord. No. 96-25, § 2, 12-18-96; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 05-15 , § 1, 8-23-05; Ord. No. 11-08 , § 10, 8-9-11)

Editor's note—

Ord. No. 11-08, § 10, adopted August 9, 2011, repealed former § 34-1004 and renumbered § 34-1006 as § 34-1004. See also the Code Comparative Table.

Sec. 34-1005. Airport Protection Zones.

(a) Lee County hereby establishes Airport Protection Zones for Lee County Public Airports as follows:

(1) Airport Runway Clear Zones.

(2) Airport School Protection Zones.

(3) Airport Residential Protection Zones.

(4) Airport Obstruction Notification Zones.

(b) These zones are established to regulate land development in relation to the SWFIA and Page Field as licensed for public use. The zones are intended to protect air transportation and facilities serving Lee County and surrounding cities and counties as well as the investment in these facilities.

(c) The approximate location and boundary of each protection zone is depicted on the maps in Appendix C.

(d) Development within the areas encompassed by these zones must be in accord with the provisions set forth in this subdivision.

(Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1006. Airport Runway Clear Zones.

(a) *Purpose of zone.* Pursuant to F.S. Ch. 333 and 14 CFR 151 the purpose of the Runway Clear Zone is to protect people and property on the ground, prevent the future erection or creation of hazards within the vicinity of a public airport that have the potential to diminish the runway capacity; and, to provide an opportunity to ameliorate obstructions created/existing prior to adoption of this section.

(b) *Location and map of zone.* The Airport Runway Clear Zones for SWFIA and Page Field are established in accord with the approved Airport Layout Plans, F.S. Ch. 333, FAR Part 77, 14 CFR Part 77 and 14 CFR 151 and depicted in Appendix C.

(c) *Prohibited uses.* Uses that are incompatible with airport operations or endangers the public health, safety and welfare by resulting in congregations of people, emission of light or smoke, or attraction of birds are prohibited within the established Airport Runway Clear Zones for each airport.

(d) *Development compliance.* Development within the Airport Runway Clear Zone must comply with the provisions of this article. All development within any Airport Runway Clear Zone must be reviewed by the Lee County Port Authority prior to any development or permit approval. No development approval may be issued unless it is specifically approved in writing by the Lee County Port Authority. No development within an Airport Runway Clear Zone will be approved that would degrade or have a negative impact on the use of any runway at SWFIA or Page Field. Review by the Port Authority must be consistent with the provisions of F.S. Ch. 333, 14 CFR 151, and FAR Part 77.

(Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1007. Airport School Protection Zones.

(a) *Purpose of zone.* Pursuant to F.S. Ch. 333, the purpose of the Airport School Protection Zones are to prohibit the construction of an educational facility or a public or private school at either end of a publicly owned, public-use airport within an area which extends five miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. For Page Field Airport this zone also encompasses the 65DNL Noise Contour as shown on the Noise Contour map adopted by the FAA as part of the 2002 Master Plan Update. For SWFIA, this Zone also encompasses the 65 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA. Aviation related educational facilities are exempt from this requirement. A Variance approving construction of an education facility within any Airport School Restriction Zone will only be granted based on specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns prohibiting such a location.

(b) *Location and map of zone.* The Airport School Protection Zones for SWFIA and Page Field are established in accordance with F.S. Ch. 333, and depicted in Appendix C.

(c) *Prohibited uses.* Uses that are incompatible with airport operations or endangers the public health, safety and welfare by constructing public or private educational facilities are prohibited within the established Airport School Protection Zones for SWFIA and Page Field.

(d) *Development compliance.* Development within the Airport School Protection Zones must comply with the provisions of this article.

(Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1008. Airport Residential Protection Zones.

(a) *Purpose of zone.* Pursuant to F.S. Ch. 333, the purpose of the Airport Residential Protection Zone is to prohibit the construction of any residential development within that area. For Page Field Airport this zone is the 65 DNL Noise Contour as shown on the Noise Contour Map adopted by the FAA as part of the 2002 Master Plan Update. For SWFIA, this Zone is the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.

(b) *Location and map of zone.* The Airport Residential Protection Zones for SWFIA and Page Field are established in accord with F.S. Ch. 333, and depicted in Appendix C.

(c) *Prohibited uses.* Uses that are incompatible with airport operations or endangers the public health, safety and welfare by constructing residential or educational facilities are prohibited within the established Airport Residential Protection Zones for SWFIA and Page Field.

(d) *Development compliance.* Development within the Airport Residential Protection Zones must comply with the provisions of this article.

(Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1009. Airport Obstruction Notification Zone.

(a) *Purpose of zone.* The purpose of the Airport Obstruction Notification Zone is to regulate the height of structures, equipment and objects of natural growth in proximity to SWFIA and Page Field.

(b) *Location and map of zone.* An Airport Obstruction Notification Zone is established around SWFIA and Page Field and consists of an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level. The Airport Obstruction Zone also includes the area within a one-half mile radius from the Airport Surface Radar. The approximate locations of the Airport Obstruction Notification Zones applicable to SWFIA and Page Field are depicted in Appendix C. The Airport Obstruction Notification Zone map will be reviewed annually by Port Authority staff and the Port Authority Attorney's Office and updated/amended by the Port Authority Executive Director as needed to ensure currency.

(c) *Prohibited uses.* Any object or structure within an Airport Obstruction Notification Zone or proposed at a height greater than an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level and anything above 125 feet above mean sea level will require a Tall Structures Permit approved by the LCPA. In addition, any object or structure within one-half-mile for the SWFIA Airport Surveillance Radar will require a Tall Structures Permit approved by the LCPA.

(d) *Development compliance.* No object or structure will be allowed within an Airport Obstruction Notification Zone or at a height greater than an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level without a prior written approved Tall Structures Permit issued by the LCPA. In addition, any object or structure within one-half-mile for the SWFIA Airport Surveillance Radar will require a written approved Tall Structures Permit by the LCPA.

(Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1010. LCPA Tall Structures Permit.

(a) The Department of Community Development (DCD) will make the initial determination with respect to whether proposed development exceeds an Airport Obstruction Notification Zone surface based upon on the maps in Appendix C as an element of the zoning, development order and building permit application process. If DCD determines the proposed development, including associated use of temporary construction equipment, exceeds an Airport Obstruction Notification Zone surface, the applicant will be required to obtain a written determination from the Lee County Port Authority regarding the potential airport obstruction or hazard created by the development proposed. This provision applies to all development or improvements to land, including new development, redevelopment, building or use modifications etc. proposed after August 9, 2011.

(b) If DCD determines, for any proposed construction, including adding height to any existing structures, and for all alterations, repairs or additions that will change the use of the structure, or for erecting, altering or repairing any object of natural growth, that the height of the proposed structure or object exceeds the height limitations outlined on the Airport Obstruction Notification Zone map, then the applicant is required to obtain a Tall Structures Permit from the Port Authority prior to the issuance of any further development orders or permits.

(c) Applications for a Tall Structures Permit must include the height and location of derricks, draglines, cranes and other boom-equipped machinery, if such machinery is to be used during construction.

(d) Applicants intending to use derricks, draglines, cranes and other boom-equipped machinery for such construction, reconstruction or alteration as is consistent with the provisions of this subdivision will, when the machine operating height exceeds the height limitations imposed by this subdivision, require a Tall Structures Permit. Upon obtaining this permit through the procedures outlined in this section, the applicant will mark, or mark and light, the machine to reflect conformity with the Federal Aviation Administration's or Port Authority's standards for marking and lighting obstructions, whichever is more restrictive, and will be required in such cases to inform the Port Authority, through this tall structures permit process, of the location, height and time of operation for such construction equipment use prior to the issuance of any permit to the applicant.

(e) The permitting procedures for a Tall Structures Permit are outlined as follows. If a tall structures permit application is deemed necessary by DCD, as determined through the use of the Airport Obstruction Notification Zone map, the following procedures will apply:

    (1) DCD will give a written notice to the applicant that a Tall Structures Permit is required and that no further permits or development orders can be issued until a Tall Structures Permit is obtained.

    (2) The applicant must then submit a completed Tall Structures Permit application to the Planning and Environmental Compliance Department, Lee County Port Authority, 11000 Terminal Access Road, Ft. Myers, Florida 33913. The Port Authority will review the application, and the following procedures will apply:

        a. If the Port Authority determines that the proposed construction or alteration represented in the application does not violate the provisions of Federal Aviation Regulations, Part 77, or the provisions of this subdivision or any other application of federal or state rules and regulations or does not adversely affect the airspace surrounding any County airport, the Port Authority will issue a Tall Structures Permit approval to the applicant with or without stipulations and conditions. The signed Tall Structures Permit will then be returned to the applicant. The applicant must present the Tall Structures Permit to DCD.

        b. If the Port Authority determines that the proposed construction or alteration violates the notification criteria of Federal Aviation Regulations, Part 77, or otherwise violates any provisions of this subdivision or any other applicable federal or state rules or regulations, the Port Authority will notify the applicant in writing that the proposed construction or alteration may adversely affect the airspace surrounding County airports and require that a notice of proposed construction or alteration be filed with the Federal Aviation Administration for

review through the submittal of Federal Aviation Administration Form 7460-1 as required by Federal Aviation Regulations, Part 77. The Port Authority will suspend the tall structures permit application process until Federal Aviation Administration findings of aeronautical effect are received and reviewed.

c. It is the responsibility of the applicant to forward the Federal Aviation Administration's findings of aeronautical effect, along with a copy of the completed original Federal Aviation Administration Form 7460-1, to the Port Authority in order to continue the Tall Structures Permit process.

d. FAA determinations constitute a statement regarding a proposed development's compliance with federal regulations governing airspace obstructions. The FAA does not have authority to grant local development approval. Consequently, Lee County may deny development approvals for a structure even if the FAA has determined that the structure does not constitute a hazard and does not exceed the standards set forth in 14 CFR Part 77.

e. After reviewing the Federal Aviation Administration's comments pertaining to the Federal Aviation Administration Form 7460-1, if the Port Authority determines that the proposed construction or alteration does not adversely affect any requirements pertaining to County airports, the Port Authority will issue a Tall Structures Permit approval to the applicant with or without stipulations and conditions. The applicant will present a copy of the Tall Structures Permit, along with all Port Authority comments and stipulations, to DCD. If the signed Tall Structures Permit is accompanied with stipulations of compliance, it is the responsibility of DCD to ensure that these stipulations are adequately addressed prior to the issuance of any zoning, development order or building permit approvals.

f. After reviewing the Federal Aviation Administration's comments pertaining to the Federal Aviation Administration Form 7460-1, if the Port Authority determines that the proposed construction or alteration does adversely affect any requirements pertaining to County airports, the Port Authority will issue a written denial of the Tall Structures Permit. A denied Tall Structures Permit must state specifically the reasons for denial. A denial must also state whether it is possible to obtain a variance from the provisions of this subsection and the criteria under which a variance may be sought.

g. A Tall Structures Permit will not be issued by the Port Authority if:

    a. the FAA has determined that the proposed structure or object to be a hazard to air navigation.

    b. the FAA has determined that the proposed structure or object is an obstruction to air navigation and penetrates one of the airport surfaces identified in F.S. Chs. 330 and 333.

    c. the proposed structure or object will impact the available landing area, approach minimums, federal or state licensing or compliance requirements, or otherwise degrade the operation of a County airport and the public investment therein.

h. Temporary or conditional tall structures permits pending completion of the Federal Aviation Administration's or the Port Authority's review will not be issued.

(3) *FDOT Determinations.* If the proposed construction or alteration (1) exceeds the federal obstruction standards as contained in 14 CFR §§ 77.13, 77.17, 77.19, 77.21 or 77.23; and, (2) is within ten nautical miles of the geographic center of a County airport; and, (3) is located within an incorporated municipality that has not entered into an interlocal agreement with the County and Port Authority regarding compliance with the provisions of this subdivision, then the applicant must obtain an Airspace Obstruction Permit from the Florida Department of Transportation. This permit request must be submitted to the FDOT Aviation Office in Tallahassee in compliance with the provisions of F.S. Ch 333. Lee County does not have jurisdiction to issue a permit approval absent an interlocal agreement within the incorporated municipality.

(4) *Review timing.* Port Authority has 60 days to issue a written response to a complete Tall Structures Permit application or determination request unless an applicant agrees to an alternative review period or an FAA determination is required. If an FAA airspace determination is required, the Port Authority will notify the applicant of this fact in writing within 30 days after a complete application is submitted. Once the applicant obtains the necessary FAA determination, the Port Authority will have an additional 30 days to review the application in conjunction with the FAA determination and issue a written report.

(5) *Permit validity.* An airport obstruction permit is valid for a period of one year after issuance, unless a local development permit is issued based upon the Airport Obstruction permit approval or determination.

(6) *Development approval.* Lee County may not issue a development approval for a parcel subject to compliance with this subdivision until the required Tall Structures Permit or determination is issued by the Port Authority.

(Ord. No. 93-24, § 7(492(G)), 9-15-93; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1011. Variance.

(a) An applicant may seek a variance from the provisions of this District.

(b) The variance application must include:

(1) A copy of the written request submitted in support of the development to the Port Authority.

(2) A copy of the application for a written determination submitted to the FAA in accord with 14 CFR Part 77 if the variance is related to a Tall Structures Permit.

(3) A copy of any previous determinations from the Port Authority and FAA.

(4) Documentation supporting the proposed development's position that:

a. The enforcement of these regulations will result in a practical difficulty or unnecessary hardship;

b. Granting the variance can be accommodated in the navigable airspace without an adverse impact to the aviation operation of SWFIA or Page Field; and

c. The relief requested is not contrary to the public interest, safety and welfare.

(c) Pursuant to F.S. § 333.07, any applicant may seek a variance to any determination under this section. Variance requests must be made in writing to Lee County in accordance with the provisions set forth in section 34-145 and this section. At the time of filing the variance application, the applicant must forward a copy of the application to the FDOT Aviation Office and the Lee County Port Authority Planning and Environmental Compliance Department by certified mail, return receipt requested. FDOT and the Lee County Port Authority will have 45 days from the receipt of the variance application to provide comments to the applicant and the County. Noncompliance with the variance procedures outlined in F.S. § 333.07 will be grounds for appeal pursuant to F.S. § 333.08 and to apply for judicial relief pursuant to F.S. § 333.11.

(Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1012. Land use restrictions.

(a) *Land use restrictions.* Notwithstanding other provisions of this subdivision, no use may be made of land or water within the County that will interfere with the safe operation of an airborne aircraft. The following special requirements apply:

(1) Lights or illumination used in conjunction with streets, parking, signs, or use of land and structures must be arranged and operated in a manner that it is not misleading or dangerous to aircraft operating from a public airport.

(2) Floodlights, spotlights and pulsating, flashing, rotating or oscillating lights intended as attention-gathering devices are prohibited if the Lee County Port Authority determines they will create a possible hazard to air navigation.

(3) Operations that produce smoke, dust, visible fumes or vapors, glare or other visual hazards within three statute miles of public airport runway are prohibited.

(4) Operations that may produce electronic interference with navigational signals or radio communication between aircraft, a public airport or other types of air traffic controlling facilities are prohibited.

(5) Sanitary landfills must be located in accordance with the following:

a. Landfills may not be located within 10,000 feet of a runway used or planned to be used by turbojet or turboprop aircraft.

b. Landfills may not be located within 5,000 feet of a runway used only by piston type aircraft.

c. Landfills may not be located in a manner that places the runways or approach and departure patterns of an airport between bird feeding, water or roosting areas.

(6) No use of land that will be a wildlife attractant hazard (pursuant to FAA AC 150/5200-33B), greater than the existing conditions, to the operation of aircraft in and out of a Lee County airport. If such attractant is determined to exist by the Port Authority and the FAA, the land owner will have the full and sole responsibility to eliminate the hazardous situation.

(7) Any type of dirigible, balloon or other type of tethered, hovering or floating object the height of which exceeds the airspace notification limitations outlined in section 34-1008 is subject to review under section 34-1011

(8) No structure of any height, type or material may be constructed or altered if it will cause interference to any airport surveillance radar system as determined by the Federal Aviation Administration or the Port Authority. Due to the fact that the operation of the airport surveillance radar (ASR) facility is electromagnetic in nature, objects may have an adverse affect on the safe and efficient operation of the ASR facility and the safe operation of aircraft overflying southwest Florida. Therefore, no facility will be permitted that the Port Authority determines will degrade, cause false shadows or targets, or in any way hinder or obstruct the existing or future planned use of an ASR facility in Lee County. The Port Authority, as part of their review of a proposed structure or land use may request, at its expense, an FAA study to be performed to determine the potential of electromagnetic interference.

(9) Pursuant to F.S. Ch. 333 and FAA AC 150/5200-33B any developments that attract birds and other wildlife that are hazardous to aircraft or airport operations, greater than the existing conditions, are prohibited. Developments with uses including, but not limited to; sanitary landfills, waste disposal operations, underwater waste discharge, wastewater treatment facilities, agricultural activities, artificial marshes, wetland mitigation and creation, will be reviewed on a case by case basis to determine the likelihood of creating a wildlife attractant hazardous to air navigation.

(10) Pursuant to FAA AC 150/5200-33, all water management ponds, lakes, canals, conveyances, and other features within 10,000 feet of any public airport are encouraged to be designed and built in accordance with FAA recommendations.

(b) *Obstruction marking and lighting.*

(1) As a condition of approval, the Port Authority may require the owner to mark and light the structure to facilitate navigation safety. Marking and lighting must conform to the standards set forth in F.S. § 333.07 and Federal Aviation Administration Advisory Circular 70/7460-1K.

(Ord. No. 93-24, § 7(492(D)), 9-15-93; Ord. No. 11-08 , § 10, 8-9-11)

Note—Formerly § 34-1005

Sec. 34-1013. Nonconforming uses.

Except as prescribed in section 34-1005(b), pertaining to obstruction marking and lighting, the requirements of this subdivision will not be construed to necessitate the removal, lowering or alteration of a structure existing on September 1, 1991 that does not conforming to the requirements set forth in this subdivision; nor may it be construed to require sound conditioning or other changes or alterations of any existing structure not conforming to the requirements as of September 1, 1989, or otherwise interfere with the continuance of any existing nonconforming use. Nothing contained in this subdivision requires any change in construction or alteration begun prior to September 1, 1989, and completed by September 1, 1991. The cost of removing or lowering any tree or object of natural growth not conforming to the requirements of this section will be borne by the owner of the nonconforming tree or object.

(Ord. No. 93-24, § 7(492(F)), 9-15-93; Ord. No. 11-08 , § 10, 8-9-11)

Note—Formerly § 34-1007

Secs. 34-1014—34-1030. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 11-08, § 10, adopted August 9, 2011, amended the title of Subdivision III to read as herein set out. Prior to inclusion of said ordinance, Subdivision III was entitled, "Airport Hazard District." See also the Land Development Code Comparative Table. (Back)

Subdivision IV. Planned Unit Development District

Sec. 34-1031. Applicability.

(a) The PUD planned unit development district is intended to recognize and provide for those developments which had received preliminary or final approval as a planned unit development or which had been scheduled for a PUD hearing before the Local Planning Agency prior to September 30, 1985. Subsequent to September 30, 1985, no application for preliminary approval of a development of a planned unit development shall be accepted.

(b) Certain sections of the PUD district regulations are hereby retained so as to allow completion of these developments which have received preliminary approval prior to August 1, 1986. All other sections concerned with preapplication and preliminary approval procedures are stricken.

(Ord. No. 93-24, § 7(493(A)), 9-15-93)

Sec. 34-1032. Purpose and intent.

It is the intent of this subdivision to establish a planned unit development (PUD) zoning district in an effort to:

(1) Encourage developers to exercise greater ingenuity and imagination in the planning and development or redevelopment of tracts of land under unified control than generally is possible under this chapter;

(2) Allow a diversification of uses, structures and open areas in a manner compatible with both the surrounding existing and approved development of land surrounding and abutting the PUD site;

(3) Provide a means for land to be used more efficiently, and for utilization of smaller networks of utilities and streets;

(4) Retain the natural amenities of land by encouraging scenic and functional open space within the PUD; and

(5) Give the developer reasonable assurance of approval of a PUD application before he expends complete design monies, while providing the County with assurances that the PUD will be developed according to approved specifications.

(Ord. No. 93-24, § 7(493(B)), 9-15-93)

Sec. 34-1033. Definitions.

(a) All definitions in section 34-2 will be applicable to this subdivision, except to the extent of inconsistency with any definitions contained in this subdivision.

(b) For purposes of this subdivision, the following words and terms will have the meaning given in this subsection:

Planned unit development (PUD) means a tract of land that is developed as a unit under unified control and is planned and developed in a single operation or within a proposed period of time by a series of scheduled development phases according to an officially approved final PUD development plan, that does not necessarily correspond to the property development and use regulations of the conventional zoning districts but permits flexibility in building siting and mixtures of housing types and land uses, and encourages the utilization of usable open space and the maintenance of significant natural features.

(Ord. No. 93-24, § 7(493(C)), 9-15-93; Ord. No. 03-16, § 6, 6-24-03)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-1034. Conflicting provisions.

Where conflict exists between the provisions in this subdivision and general zoning regulations, subdivision regulations and other applicable regulations, the provisions of this subdivision shall apply.

(Ord. No. 93-24, § 7(493(J)), 9-15-93)

Sec. 34-1035. Compliance with other regulations.

Except as expressly provided in this subdivision, the provisions of this chapter, chapter 10 and other applicable regulations shall apply to each PUD application.

(Ord. No. 93-24, § 7(493(K)), 9-15-93)

Sec. 34-1036. Procedure for approval; effect of PUD zoning.

Unless otherwise specified, applications for final PUD zoning must be submitted and processed in the same manner as zoning changes generally (see article II of this chapter) and in accordance with the following procedures. However, subsequent to September 30, 1985, no application for the approval of a preliminary PUD development plan under this section will be accepted. Thereafter, all new planned unit developments will be approved and administered under article IV (sections 34-341 through 34-490) of this chapter and division 9 of this article (sections 34-931 through 34-940).

(1) *Public hearing required.* Public hearings with due public notice, as required in article II of this chapter, will be held before the Hearing Examiner and the Board of County Commissioners on the application for rezoning to PUD.

(2) *Reversion of preliminary approval.* Preliminary approval of a PUD zoning application will be in effect for a two-year period. One extension for one year will be granted by the Board of County Commissioners with cause shown based on the recommendation of the Hearing Examiner. Application for this extension must be filed with the Department no later than 45 days prior to the expiration of the two-year period for the preliminary approval. If a final PUD development plan has not been filed with the Department at the expiration of the preliminary approval, the official zoning map will be amended to show the previous zoning and a notice of revocation will be filed with the case.

(3) *Final approval.*

   a. All applications for final approval of a PUD zoning must contain all of the information described in this subdivision.

   b. The final PUD development plan must be in substantial compliance with the approved preliminary development plan. Any modification by the developer of the preliminary PUD development plan must not:

1. Increase the proposed number of dwelling units by more than five percent;
2. Involve a reduction of the area set aside for open space and usable open space, or a substantial relocation of such area;
3. Increase by more than five percent the total lot coverage of all buildings and structures within the PUD; or
4. Involve a substantial change in the height of buildings.

c. Each application for final approval of a PUD zoning and the final PUD development plan must be filed with the Department of Community Development prior to the expiration of the preliminary approval. After official acceptance of this application, the Department Director will forward such application to the Hearing Examiner for inclusion on the agenda of a regular meeting.

d. All applications for final approval of a PUD application must be reviewed by the County staff.

e. Recommendations of the Hearing Examiner must be forwarded to the Board of County Commissioners (see article II of this chapter).

f. Subsequent to September 30, 1985, any applicant holding a preliminary PUD plan approved in accordance with this subdivision, that also meets the standards of detail and sufficiency of information set forth in article IV, division 2, of this chapter, may elect to seek approval of the final PUD development plan by submitting an application for a development permit in accordance with chapter 10 and administrative code AC-13-4. In all other aspects, the final plans must be consistent with this subdivision and all other applicable development regulations in force. The PUD zoning will become final when the initial development permit is issued in conformance with chapter 10

(4) *Effect of PUD zoning.* Any development of a PUD must be undertaken and carried out in accordance with:

a. The approved preliminary and final PUD development plans.

b. The zoning regulations existing at the time when the preliminary development plan was approved.

c. Such other conditions or modifications as may be attached to the PUD application during the process of the zoning change.

(Ord. No. 93-24, § 7(493(D)), 9-15-93; Ord. No. 99-05, § 9, 6-29-99)

Sec. 34-1037. Contents of final development plan.

Each application for final approval of a PUD rezoning application shall be accompanied by the final PUD development plan, composed of the following elements:

(1) A site development plan, drawn to an acceptable scale, which shall indicate:

a. The title of the project and the name of the developer.

b. The exact location, arrangement and dimensions of all proposed land uses, buildings and structures within the project boundaries, including the number of floors and height of all structures above finished grade.

c. The exact location of the traffic circulation pattern, including the location and width of all streets, driveways, walkways, bikeways, buildings and entrances to parking spaces.

d. A final design of off-street parking and loading areas, with exact dimensions.

e. A final design for all common elements, including open space, dedicated park land, if any, and dedicated park and recreation facilities.

(2) Agreements, provisions or covenants, including leasehold interests, restrictions and conditions, which govern the use, maintenance and continued protection of the PUD site or any portion thereof.

(3) A proposed schedule of development which identifies the anticipated project and component start and completion dates, stages of development, and the area and location of any nonresidential land use and common open space to be provided at or by each stage.

(4) An exact statement of the percent of the site to be covered by buildings, sidewalks, parking areas, roofed structures and other impervious surfaces, areas to be covered by water bodies or by golf courses, if any, areas to be landscaped, areas to be left in a natural undisturbed condition, and areas devoted to private recreational facilities and park lands.

(5) An exact statement, in tabular form, summarizing by phases the approved residential density, total number of dwelling units by type, size, site location and number of bedrooms, and total gross leasable floor area for commercial as well as other nonresidential uses.

(Ord. No. 93-24, § 7(493(G)), 9-15-93)

Sec. 34-1038. Changes to final development plan.

(a) The Director of the Department of Community Development may approve those minor changes specifically allowed pursuant to an approved final PUD development plan for a PUD. For any approved final PUD development plan for a PUD which does not specifically set forth those minor changes that may be approved by the Director of the Department of Community Development or any PUD development plan which has not received final approval prior to the effective date of the ordinance from which this subdivision is derived (July 6, 1987), minor changes (amendments) that may be approved by the Department Director include, in general, any change to the interior of the development which does not increase density or intensity (i.e., number of dwelling units or quantity of commercial or industrial floor area), or which does not decrease buffers or open space. The Director shall not approve any change which results in a substantial underutilization of public resources and public infrastructure committed to the support of the development, nor shall the Director approve any change which results in a reduction of total open space, buffering, landscaping and preservation areas, or which adversely impacts on surrounding land uses.

(b) Any other changes or amendments to the approved final development plan for a PUD not authorized pursuant to this section shall only be approved by the Board of County Commissioners after public hearing.

(Ord. No. 93-24, § 7(493(H)), 9-15-93)

Sec. 34-1039. Amendments to built planned unit developments.

Any part or all of a planned unit development (PUD) which is built may be the subject of an application for a variance, special exception or other approval covered by this chapter wherein the subject property is the only part of the original (PUD) for which the approval is sought. If the subject property meets the threshold for a Development of County Impact, it must be reviewed in accordance with the provisions in this chapter which apply to Developments of County Impact. If the subject property is not a Development of County Impact, it will be reviewed in accordance with the provisions in this chapter which apply to conventional zoning districts. In either case, the applicant must be the owner of the property and the consent of the owners of the remainder of the original (PUD) is unnecessary. However, these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property.

For purposes of this section, the term "built" means that the roads, utilities, buffering, open space, surface water management features and structures, common space, common amenities, common landscaping, gatehouses, entrance signs, entrance ways and other similar items identified as part of the final approved master concept plan have been constructed and acknowledged by the County as complete. In the case of (PUDs) which include residential structures, the term "built" does not mean that all residential structures have been constructed on individual platted lots.

(Ord. No. 93-24, § 7(493(I)), 9-15-93; Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-1040. Area, density and setback requirements; permitted uses.

(a) *Minimum area.* A PUD must be at least ten acres in area.

(b) *Permitted uses.* The following uses may be permitted in PUD zoning districts when they are approved on the preliminary and final PUD development plans:

(1) Dwellings of any variety or combination of types, including time share units and residential accessory uses.

(2) Parks, playgrounds, community centers or other recreation or social facilities owned and operated by a nonprofit organization.

(3) Recreational facilities such as golf, swimming, tennis and country clubs.

(4) Places of worship, libraries, schools, nursing homes and child care centers.

(5) Public parks and playgrounds, public buildings, and public utility and service uses.

(6) Storage of recreational vehicles and boats (see article VII, division 36, of this chapter).

(7) Commercial uses to the extent that they are designed for the use of the residents of the PUD and their guests. This shall include food and beverage service located in a private club with access limited to residents of the PUD and their guests and members of the private club.

(8) Model homes and temporary sales offices with display and sales activity limited to that project only (see article VII, division 24, of this chapter).

(9) Signs, provided such signs comply with chapter 30

(c) *Setback from PUD boundaries.* The minimum distance between any building or structure in the PUD and the PUD boundaries shall be one-half the height of the building or structure, but in no case shall the distance be less than 20 feet.

(d) *Lot area and width.* No minimum lot area or width shall be required within a PUD, provided that the density of the development complies with the density set forth in the Lee Plan for the land use classification in which the property is located, and provided further that the proposed lot lines are shown on the master concept plan.

(e) *Distance between structures.* The minimum distance between buildings within the PUD shall be one-half of the sum of the heights of the buildings, but in no case shall the distance be less than 20 feet.

(f) *Lot coverage.* The total lot coverage of all buildings and structures shall not exceed 40 percent of the total area of the PUD, or any development phase.

(g) *Usable open space.* A PUD shall exhibit and maintain a total usable open space requirement at least equal to 35 percent of the total area of the PUD. No more than 50 percent of the required usable open space shall be contained in the water bodies within the PUD.

(h) *Off-street parking and loading.* Off-street parking and loading requirements for a PUD shall be as for comparable uses set forth in article VII, divisions 25 and 26, of this chapter.

(i) *Exceptions.* For exceptions to property development regulations, see article VII, division 30, of this chapter.

(j) *Keeping of animals.* For regulations pertaining to animals, see article VII, division 6, of this chapter.

(k) *Residential density.* The base number of dwelling units per acre permitted in a PUD, or any section thereof, shall be that of the zoning district which permits similar uses.

(l) *Adjustments to base number of dwelling units permitted.* Under certain conditions, adjustments may be made or required to be made to the base number of dwelling units permitted in a PUD when the preliminary and final approval are given, or subsequent to approval.

(1) Decreases in the base number of dwelling units permitted may be required if it has been determined that the calculated base number would:

a. Create inconvenient or unsafe access to the PUD;

b. Create traffic congestion in the streets which adjoin or lead to the PUD;

c. Place an undue burden on streets, utilities, schools and other public facilities which serve or are proposed to serve the PUD;

d. Be in conflict with the intent or provisions of the Lee Plan; or

e. Create a threat to property or incur abnormal public expense in areas subject to natural hazards.

(2) Increases in the base number of dwelling units permitted in a PUD may be given for providing for items such as:

a. Construction of a public bicycle path, with benches or gazebos, as appropriate.

b. A minimum of ten percent low- and moderate-income units.

c. Construction of sidewalks within or surrounding a PUD site.

d. Developable acreage dedicated for a bona fide public purpose.

e. Use of solar energy for heating or cooling.

f. Provision of a public beach access easement.

g. Construction of a public community pool.

These adjustments shall not be automatic, and the actual extent of the adjustment is to be determined by the Board of County Commissioners acting on the recommendations of the Hearing Examiner and County staff.

(m) *Sale of alcoholic beverages.* For regulations pertaining to alcoholic beverages, see article VII, division 5, of this chapter.

(Ord. No. 93-24, § 7(493(E)), 9-15-93; Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-1041. General development standards; required improvements.

All PUD applications must conform to the purpose and intent of this subdivision and be in compliance with the following development standards:

(1) *General standards.*

a. A PUD must conform to the Lee Plan.

b. Every effort must be made in the planning and development of a PUD to protect desirable natural, historic or archaeological features of the PUD site, including trees and other

vegetation of consequence. The disturbance of terrain or vegetation in a manner likely to significantly increase either wind or water erosion or possible flooding within or adjacent to the PUD is prohibited.

c. Structures and open space should be arranged in such a way as to serve the needs of the PUD residents and minimize any adverse effects on neighboring properties.

d. Integrated architectural design for buildings, structures, landscaping and common open space is encouraged.

e. If a PUD contains a mixture of land uses, such as residential and commercial, the schedule of development must provide for coordination of these mixed uses.

f. Underground utilities will be encouraged wherever possible.

(2) *Public facilities.*

a. A PUD must be located in relation to sanitary sewers, water lines, drainage systems and other utility systems and installations so that extensions or enlargements of those systems will not result in higher net public cost or earlier expenditure of public funds than would development in a form generally permitted in the County.

b. However, if a PUD is not located as required in subsection (2)a. of this section, the developer must:

1. Provide public utilities, facilities or services approved by the appropriate County Departments to ensure satisfactory continuing operation and maintenance permanently or until equivalent public utilities or services are available; or

2. Make provisions to off-set any added net public cost or premature commitment of public funds necessitated by the PUD.

(3) *Public safety standards.*

a. There must be adequate space to permit accessibility to all structures by firefighting and similar emergency equipment within the PUD..

b. The applicant must install fire hydrants in accordance with the provisions of the Board of Fire Underwriters.

(4) *Fill and excavation.*

a. The developer's plans should minimize the hauling of fill along County rights-of-way.

b. The developer is encouraged to utilize existing high and dry land for higher-density residential use.

(5) *Vehicular and pedestrian traffic.* Principal vehicular access points must be designed to encourage smooth traffic flow and minimum hazard to vehicular or pedestrian traffic. Merging and turnout lanes and traffic dividers will be required where existing or anticipated heavy traffic flows indicate need. A safe sight zone (see section 34-3131) must be maintained where streets within the PUD intersect adjoining streets.

(6) *Screening.*

a. Fences, walls or vegetative screening must be provided at the perimeter of the PUD site where necessary to reduce noise, glare or other influences that have an adverse impact either on the PUD or on adjacent property.

b. Similar screening requirements may also be necessary to separate different land uses within the PUD, such as residential uses from commercial uses, developed recreational facilities, utility facilities, or outdoor loading or storage.

(7) *Open space.*

a. There should be reasonably convenient access from all occupied structures to open space.

b. Abutting and interrelated open space is desired.

c. Open space plans should attempt to maintain and enhance valuable site amenities such as vegetation, natural land forms and the like.

d. If a proposed PUD is to be constructed in a series of development phases, the total area of open space provided at the end of any phase must bear substantially the same or greater relationship to the total open space to be provided on the entire PUD site as the structures of units completed or under development bear to the entire PUD site.

(8) *Fees.* Each applicant for rezoning to a PUD district must pay a fee to the County for the examination of development plans or an amendment thereto and the inspection of all required improvements shown on such plans.

(Ord. No. 93-24, § 7(493(F)), 9-15-93; Ord. No. 96-06, § 5, 3-20-96)

Secs. 34-1042—34-1070. Reserved.

DIVISION 11. REDEVELOPMENT OVERLAY DISTRICTS

Subdivision I. - General Requirements

Subdivisions II—V. - Reserved

Subdivision VI. - The San Carlos Island Redevelopment Overlay District

Subdivision I. General Requirements

Sec. 34-1080. Purpose and intent.

(a) The redevelopment overlay district is a special zoning classification established to recognize and provide for the unique requirements of redevelopment that cannot be adequately addressed through existing regulations. The purpose of the district is to create favorable conditions for the revitalization of redevelopment areas, or portions thereof, by establishing a procedure through which such areas can be master planned. The master planning may include development guidelines and standards that, to the extent covered, are intended to provide an incentive driven alternative to the standard zoning and other land development regulations.

(b) It is the express policy of the Board of County Commissioners that development consistent with an approved redevelopment overlay district and master site plan be voluntary. Without limiting the generality of the foregoing principle, no application for development approval or rezoning may be denied on the basis that the proposed plan of development is inconsistent with an established redevelopment overlay district and master site plan for the area, unless the applicant has voluntarily chosen to seek approval pursuant to them.

(Ord. No. 93-29, § 2(494(A)), 10-20-93; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1081. Definitions.

In order to effectuate the purpose and intent of the redevelopment overlay district, certain terms are defined as follows:

Community Redevelopment Advisory Committee (CRAC) means an advisory committee appointed pursuant to Resolution 90-07-22, by the Board of County Commissioners.

Community Redevelopment Agency (CRA) means an agency established by the County pursuant to Florida Statutes, to undertake and implement improvements, as well as to promote and create favorable conditions for the development, redevelopment and revitalization of the community redevelopment areas.

Community Redevelopment Agency Board (CRA board) means the Board of County Commissioners sitting as the governing Board of the Community Redevelopment Agency, pursuant to Resolution 90-07-22, adopted by the Board of County Commissioners on July 7, 1990.

Community redevelopment areas means those unincorporated portions of the County established as community redevelopment areas, pursuant to Resolutions 90-07-21 and 91-06-13 adopted by the Board of County Commissioners, and any other resolutions that may be adopted to establish additional community redevelopment areas.

Community redevelopment plan means a community-wide plan, pursuant to F.S. §§ 163.360 and 163.362, which consists of policies, methods and strategies applicable to all community redevelopment areas.

Component plan means a redevelopment plan that examines the conditions and needs and provides redevelopment recommendations for a specific area, i.e., North Fort Myers, etc., hereinafter referred to as component areas. The plans are a component of the community redevelopment plan, hence the term component plan. The Board of County Commissioners has adopted component plans for, North Fort Myers, San Carlos Island, State Road 80, and Lehigh Acres.

Local Redevelopment Planning Committee (LRPC) means a committee of citizens appointed by the Community Redevelopment Agency Board to represent a component area.

Master site plan (MSP or Plan) means a plan for a specific area within a component area. The plan may include zoning and development regulations that are customized to fit the needs of the area subject to the master site plan.

(Ord. No. 93-29, § 2(494(B)), 10-20-93; Ord. No. 98-28, § 5, 12-8-98; Ord. No. 01-18, § 5, 11-13-01)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-1082. Overview of redevelopment overlay district regulations

(a) *Optional nature of redevelopment overlay districts.* Landowners in an approved redevelopment overlay district are encouraged to develop or redevelop their property in conformance with the applicable redevelopment overlay district master site plan and design guidelines. Should a landowner choose to avail himself of the modified land development regulations of the redevelopment overlay district, then compliance with all applicable portions of the redevelopment overlay district will be mandatory for that property. Landowners within a redevelopment overlay district are not subject to or required to participate in any of its provisions unless that landowner elects to do so. A landowner's decision to use a redevelopment overlay district's regulations must be made in writing. This document must be recorded by the applicant in Lee County's official records, and must acknowledge that the decision to develop under the redevelopment overlay district runs with the land. So long as the property utilizes the redevelopment overlay district's regulations to legitimize its existing plan of development, compliance with those regulations will continue to be required. If a property owner subsequently chooses to redevelop in complete conformance with the then existing regulations applicable to the underlying zoning district, compliance with the redevelopment overlay district's regulations is not required. In that event a form approved by the Department of Community Development reflecting the landowner's election to opt out of the redevelopment overlay district must be executed and recorded in the same manner as the election to participate.

(b) *Design guidelines.* Design guidelines may be developed for each redevelopment overlay district. These guidelines will provide technical and design assistance for exterior commercial building renovations and new construction. They are intended to encourage owners and tenants to improve, in a consistent manner, the overall ambiance of the redevelopment overlay district in an effort to give it a sense of place and relatedness between the establishments included within the district. Design guidelines address such things as preferred landscape materials and exterior colors. The design guidelines are offered simply to encourage the proper maintenance and improvement of the visual character of the districts. These guidelines are adopted through the Lee County administrative code process.

(c) *Types of redevelopment overlay districts and sub-districts.* Each redevelopment overlay district may be comprised wholly or in part of a district or sub-district that:

(1) Does not change the use(s), or the method of County approval required to allow a use in the underlying zoning district(s), i.e., only changes the property development regulations, open space/buffering/landscaping, parking, or signage requirements, or requires some form of integrated infrastructure;

(2) Changes the use(s) or method of County approval required to allow a use, from that required in the underlying zoning district(s); and

(3) Allows expansion so long as the sub-district area is geographically defined and approved in the same manner as either of the non-expansion areas set forth above, and any planning criteria or conditions established for the expansion sub-district are first met.

(d) *Development approvals.* Once a landowner has elected to develop under a redevelopment overlay district's regulations, the Community Development Director, or designee, is authorized and required to determine whether each development request complies with the redevelopment overlay district's land development regulations. When a property owner submits a development request relying on the redevelopment overlay district regulations, a copy of the recorded document reflecting the property owner's election to participate in the redevelopment overlay district must be provided.

(1) A redevelopment overlay district's regulations may authorize the Community Development Director, or designee, to administratively approve the proposed plan of development under the redevelopment overlay district's regulations, so long as the following criteria are met:

a. The applicant has provided a copy of an acceptable executed and recorded overlay participation agreement to the County;

b. The proposed development is consistent with the Lee Plan and the applicable adopted redevelopment overlay district's master site plan and land development regulations; and

c. The proposed development would not have any apparent negative effects on adjoining property; and would not have an adverse impact on the public health, safety, or welfare.

(2) The Director may approve, approve with conditions, or deny a development request within a redevelopment overlay district.

(3) Development proposals that seek to include uses that require approval of a special exception under a redevelopment overlay district's use regulations, may only be approved by the Director if the Lee County Hearing Examiner has approved the requested special exception and the development proposal meets the contention of subsection (d)(1)a, above.

(4) Notwithstanding the foregoing, property previously zoned to any of the planned development districts are not eligible to participate in a redevelopment overlay district through the administrative approval process. Instead, amendments to an existing planned development must follow the planned development amendment process specified in section 34-371. Developers of new planned developments may voluntarily elect to participate in a redevelopment overlay district, provided the uses proposed for the planned development are also allowed in the redevelopment overlay district or sub-district, except that the planned development request must provide site specific location of their proposed uses and footprints of structures to be developed. Development requests submitted pursuant to section 34-373(a)(6) are not legally sufficient.

(5) Development requests seeking administrative approval must file an application for same on forms substantially similar to those provided by the County and must detail the specific type of approval or relief being sought.

(6) Administrative decisions of the Director may be appealed in accordance with existing procedures for such appeals in this chapter.

(e) *Elements of a redevelopment overlay district.* Each redevelopment overlay district includes two distinct elements: the master site plan and the design guidelines. A master site plan is a required element, while design guidelines, although encouraged, are an optional element unless stated otherwise in a particular redevelopment overlay district. Together these elements are intended to encourage redevelopment in a manner consistent with the applicable component plan. Both the master site plan and design guidelines may have textual and graphic aspects.

(Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1083. Criteria for master site plans.

The following minimum criteria must be satisfied prior to the adoption of a master site plan:

(a) Property must be located within a community redevelopment component area.

(b) Properties within the proposed master site plan area must either:

(1) Possess unifying distinctive elements that create an identifiable setting, character, or association which share common development or redevelopment problems of such a nature that it would be more practical or desirable to address them concurrently as a redevelopment

overlay district rather than to have each individual property owner seek relief from specific development regulations; or

(2) Share a common problem that the Board of County Commissioners, acting as the Community Redevelopment Agency Board, determines should or could be addressed through the redevelopment overlay district process.

(c) A component plan must be completed and adopted prior to the preparation and adoption of a master site plan.

(d) A master site plan must be prepared and adopted in accordance with the procedures set forth in section 34-1087. The master site plan must be consistent with the component plan.

(Ord. No. 93-29, § 2(494(C)), 10-20-93; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1084. Contents of master site plan.

(a) The complexity of a master site plan may range from a simple document addressing one or two issues to a full-scale land development master plan that provides for modifications to the current use regulations, property development regulations, and other land development regulations, for the existing underlying zoning district(s). The type of master site plan that will be adopted largely depends on the number and scope of problems being addressed.

(b) All master site plans must contain, at a minimum, the following:

(1) A clearly specified purpose and intent.

(2) A clearly described perimeter of the district or sub-district to which it will apply, including a legal description and boundary sketch; and

(3) An identification name for notation on official documents.

(Ord. No. 93-29, § 2(494(D)), 10-20-93; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1085. Limitation to new land development regulations.

(a) A redevelopment overlay district and master site plan may address those specific land development regulations that need to be modified to further the district's stated purpose and intent. For example, if the master site plan would alter the current parking or open space requirements, it must state which regulation (for ex., by section number) is being modified, how, and to what extent, the regulation is being altered. If a master site plan does not modify existing regulations, the then current regulations of the underlying zoning district(s) will apply along with all other land development regulations applicable to a particular development request.

(b) The master site plan is not required to address all aspects of zoning and development, but may address and modify the zoning and development standards provisions of this Code, and any other development regulations necessary to accomplish the stated purpose and intent of the redevelopment overlay district.

(Ord. No. 93-29, § 2(494(E)), 10-20-93; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1086. Infrastructure.

Where the master site plan provides for shared infrastructure, such as common parking, surface water management, water and sewer facilities, and the like, a mechanism for its implementation must be provided within the plan. The plan must provide adequate assurances that the proportionate part of the shared

infrastructure needed for development of each parcel will be provided prior to, or concurrent with, development of that parcel pursuant to the plan.

(Ord. No. 93-29, § 2(494(F)), 10-20-93; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1087. Master site plan initiation and adoption.

(a) *Consideration of proposed master site plan.* A proposed master site plan must first be considered by the Local Redevelopment Planning Committee and the community redevelopment agency staff. The Local redevelopment Planning Committee will make a recommendation to the Community Redevelopment Advisory Committee, as to whether a master site plan should be prepared.

(b) *Approval or denial.* After the Local Redevelopment Planning Committee has made its recommendation to the Community Redevelopment Advisory Committee, the Community Redevelopment Advisory Committee must consider and determine whether or not to approve the request to prepare the master site plan. If the Community Redevelopment Advisory Committee does not approve the request to prepare a master site plan, the matter will be decided by the Community Redevelopment Agency Board.

(c) *Submittal documents.* Once the proposed scope of the master site plan has been decided and approved by the corresponding geographic local redevelopment planning committee, and the Community Redevelopment Advisory Committee, the Director of the Community Redevelopment Agency will consult with the Director of Community Development and determine what submittal documents will be required, given the scope of the master site plan. In the event they cannot agree, the matter will be resolved by the County Manager.

(1) *Master site plans that do not modify use regulations.* If the master site plan does not propose to modify the uses permitted in the underlying zoning district(s) or the approval required to allow the use, submittal documents may be as simple as the proposed language for modifying specific land development regulations consistent with section 34-1127(a). Other submittal documents will be provided as set forth above.

(2) *Master site plans that modify existing use regulations.* If the master site plan proposes to modify the use regulations of the underlying zoning district(s), or the type of approval required to allow a use, then the master site plan must include the following, unless specifically exempted by the Director of Community Development or the County Manager:

a. Existing property lines, current zoning and land uses.

b. The general location of all principal buildings and their current use.

c. Proposed uses of land.

d. A statement as to the kind and number of additional public facilities or utilities that will be required in the area, if applicable.

e. Existing and/or proposed density or intensity of land such as lot sizes, setbacks, building heights, number of dwelling units per acre, etc.

f. General location and pattern of vehicular and pedestrian circulation.

g. Open space and recreation;

h. Other general information such as:

1. Access control.

2. Architecture and sign guidelines.

3. Parking.

4. Pedestrian ways and bikeways.
5. Open space design.
6. Other similar attributes.

i. Proposed modifications to the existing land development regulations.

(d) *Submission to Department of Community Development.* Upon completion of the master site plan, including review and approval by the Local Redevelopment Planning Committee and the approval of the Community Redevelopment Advisory Committee, the plan will be submitted to the Department of Community Development for review and comment.

(e) *Presentation to Local Planning Agency and Board of County Commissioners.*

(1) Community redevelopment staff will present the proposed redevelopment overlay district regulations to the Local Planning Agency and the Board of County Commissioners. The Department of Community Development staff will prepare a report which addresses consistency of the master site plan with the Lee Plan and other issues of concern. This report will include a recommendation and will be presented at the Local Planning Agency and the Board of County Commissioners hearings.

(2) The Community Redevelopment Agency staff must provide written notice that:

a. States whether the subject property is located within the boundaries of the proposed redevelopment overlay district;

b. Explains development consistent with the redevelopment overlay district and master site plan will be optional;

c. Advises if uses other than those allowed in the underlying zoning district will be allowed in the redevelopment overlay district; and

d. Identifies who the property owner may contact to obtain additional information and participate in the planning process.

No defect in, or failure to receive, notice will effect the validity of an approved redevelopment overlay district or its master site plan, so long as the Community Redevelopment Agency staff has made a good faith effort to provide the notice required herein.

(f) *Public hearings; notice required.*

(1) The proposed redevelopment overlay district and master site plan will be reviewed by the Local Planning Agency at a public hearing for determination of consistency with the Lee Plan. Notice of the Local Planning Agency hearing will be as provided generally for consistency determinations by the Local Planning Agency through publication of the agenda.

(2) After the Local Planning Agency hearing, the redevelopment overlay district and master site plan must be reviewed at public hearings before the Board of County Commissioners. Notice of the hearings will be provided to all property owners within the proposed redevelopment overlay district and within 500 feet of the boundaries of the proposed redevelopment overlay district, consistent with current regulations for zoning use changes. Notice will be consistent with § 125.66, F.S. At the public hearings all interested parties will be afforded an opportunity to express their views respecting the proposed redevelopment overlay district and master site plan.

(g) *Effective date.* The redevelopment overlay district and master site plan will be effective when approved by a resolution or ordinance of the Board of County Commissioners adopted at the final public hearing.

(Ord. No. 93-29, § 2(494(G)), 10-20-93; Ord. No. 95-12, § 12, 7-12-95; Ord. No. 98-28, § 5, 12-8-98; Ord. No. 01-03, § 5, 2-27-01)

Sec. 34-1088. Amendment to adopted redevelopment overlay district and master site plan.

If at any time it becomes necessary or desirable to amend or modify an adopted redevelopment overlay district or master site plan, the following procedures will apply:

(1) *Minor changes.* Minor changes that do not modify approved land uses, or adversely affect adjacent properties may be administratively approved by the Director of Community Development.

(2) *Other changes.* Other amendments that are not treated as minor changes will require an amendment to the master site plan with public hearings in accordance with the procedures for adopting the original plan.

(Ord. No. 93-29, § 2(494(H)), 10-20-93; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1089. Review of development requests.

Once a redevelopment overlay district has been adopted, property owners within the master site plan boundaries have the option of developing consistent with that plan. If a property owner desires to develop under that plan, the owner or developer must comply with section 34-1082(d), above, and any additional requirements set forth for a specific redevelopment overlay district.

(Ord. No. 93-29, § 2(494(I)), 10-20-93; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1090. Placement of boundaries of adopted master site plan and redevelopment overlay district for community redevelopment areas on official zoning maps.

Upon adoption of a redevelopment overlay district and master site plan by the Board of County Commissioners, the following will be shown on the official County zoning maps:

(1) The boundaries of the master site planned area(s);

(2) To the extent of any differences, the boundaries of the redevelopment overlay district, so as to depict all portions of the community redevelopment areas that are eligible to use the provisions of that redevelopment overlay district; and

(3) Those specific properties that have elected to participate in the redevelopment overlay district.

(Ord. No. 93-29, § 2(494(J), (K)), 10-20-93; Ord. No. 98-28, § 5, 12-8-98)

Subdivisions II—V. Reserved [14]

Secs. 34-1091—34-1140. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 05-29, § 3, adopted Dec. 13, 2005, repealed Subdiv. II, §§ 34-1091—34-1093, which pertained to The Tice Redevelopment Overlay District. See also the Code Comparative Table. (Back)

Editor's note— Ord. No. 05-29, § 3, adopted Dec. 13, 2005, repealed Subdiv. III, §§ 34-1111—34-1113, which pertained to The Fort Myers Shores Redevelopment Overlay District. See also the Code Comparative Table. (Back)

Editor's note— Ord. No. 05-29, § 3, adopted Dec. 13, 2005, repealed Subdiv. IV, §§ 34-1122—34-1124, which pertained to The North Tamiami Trail Redevelopment Overlay District. See also the Code Comparative Table. (Back)

Editor's note— Ord. No. 01-18, § 5, adopted Nov. 13, 2001, repealed Subdiv. V, §§ 34-1133—34-1138, which pertained to the Bonita Springs Redevelopment Overlay District. See the Code Comparative Table. (Back)

Subdivision VI. The San Carlos Island Redevelopment Overlay District

Sec. 34-1141. Purpose and intent.

(a) *Purpose and affected area.* The San Carlos Island Redevelopment Overlay District (District) is designed to stimulate the revitalization of San Carlos Island. A legal description of the District's boundary is set forth in Appendix I. The District is comprised of the following four sub-districts:

(1) San Carlos Island Commercial Corridor (SCC) Sub-district,

(2) San Carlos Island Commercial Corridor Expansion (SCCE) Sub-district,

(3) San Carlos Island Fisherman's Wharf (SCF) Sub-district, and

(4) San Carlos Island Waterfront (SCW) Sub-district.

(b) *Optional nature of these regulations.* Individual landowners may choose to follow all existing Lee County regulations when they build or rebuild, or at solely their option, they may elect to develop or redevelop under the applicable provisions of this district. However, once a landowner elects to use any of the modified development regulations of the district on a particular parcel, then the landowner must comply with all of the applicable requirements of the district for that property. A landowner's election to redevelop or develop under the applicable district provisions must follow the procedure set forth in section 34-1082(a) to become effective.

(c) *Planned development zoning.*

(1) Property previously zoned to a planned development district will not be eligible to participate in the district through the administrative approval process for redevelopment overlay districts.

Instead, amendments to their existing approvals must follow the existing planned development amendment process specified in section 34-371

(2) Notwithstanding the above, new planned developments electing to participate in the redevelopment overlay district may be approved as part of the district, so long as the uses requested as part of the planned development are included in Table 1, below, and requisite approvals are obtained.

(d) *Authority.* This district is consistent with and helps to implement the adopted component redevelopment plan for San Carlos Island. This redevelopment overlay district complies with all requirements for such districts found in sections 34-1080 through 34-1090

(Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1142. Elements of the redevelopment overlay district.

This district includes two distinct elements. The first is the master site plan that modifies specified land development regulations, and authorizes changes in the uses or type of approval required for a use in the four sub-districts, as set forth in section 34-1143. The second element is a set of design guidelines adopted by administrative code that includes recommendations regarding landscape materials, commercial storefronts, signage and preferred colors. The design guidelines enable private landowners to construct new buildings, or to rehabilitate existing buildings and other facilities, consistent with the specified guidelines, and also encourage proper maintenance. Combined, the two elements help to facilitate the redevelopment of the district in a manner consistent with the San Carlos Island component plan.

(Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1143. Modified land development regulations, the master plan.

The District Master Site Plan (Plan or MSP) contains graphic and textual aspects which modify the following specified land development regulations. All other Lee County Land Development Regulations remain in full effect. A reduced copy of the San Carlos Island MSP is adopted by reference and included in reduced form in Appendix I. In general, the SCC and SCF Sub-districts retain the uses allowed in the underlying zoning districts. The SCW and SCCE Sub-districts alter the uses from those of the underlying zoning district to allow those uses set forth in Table 1, below. In addition, the type of approval required for certain uses has been modified, as also set forth in Table 1.

(a) *Planning criteria and conditions for the SCCE Sub-district.* No use set forth in Table 1 for the SCCE Sub-district can be approved unless the following planning criteria and conditions are found to exist by the Director or the Hearing Examiner, as applicable:

(1) The property to be developed is under unified control, and is abutting land within either the SCC Sub-district or abutting lands previously approved for development in the SCCE Sub-district under these provisions;

(2) There must be a unified plan of development shown on a master development plan submitted with the development request;

(3) Vehicular access to the proposed development request area:

a. Is not allowed through a less intense or residential area; and

b. Must be either from San Carlos Boulevard or through joint access with adjacent properties;

(4) Landscaping and buffering is provided consistent with existing regulations in section 10-416, except that:

a. Any reduced landscaping or buffering provisions of the district may not be utilized; and

b. If the property to be developed abuts South Street, a buffer that conforms to section 10-416(d) must be provided along South Street; and

(5) The property to be developed or redeveloped must comply with all of the requirements of Chapter 10, without variances thereto.

(b) *Land development regulations - land uses.* Development requests electing to apply the land development regulations of the district are processed as administrative approvals pursuant to section 34-1082(d), subject to the following:

(1) The uses permitted within the SCC and SCF Sub-districts are those in effect for the underlying zoning district(s) at the time a legally sufficient development request is submitted.

(2) Regardless of the uses allowed in an existing underlying zoning district(s), the only uses allowed in the SCW and SCCE Sub-districts are those set forth in Table 1 at the time a development request is deemed legally sufficient. Land uses that are not expressly included in Table 1 may be permitted by the Director only if they are no more intense than the most similar listed use, considering impacts such as noise, hours of operation, traffic generation, compatibility with the purposes of this overlay district and similar factors, and any required approvals are obtained.

(c) *Use of Table 1.* The following abbreviated terms have the meaning stated and apply to Table 1 and its explanatory notes: the letter "SE" means a use only permitted by a special exception approved pursuant to section 34-145(c), approval under section 34-1082(d)(1)a is required as well; "-" means that the use is not allowed, and the letter "P" means a use is permitted subject to approval by the Director pursuant to section 34-1082

TABLE 1
LAND USES IN THE SCCE AND SCW SUB-DISTRICTS

Land Uses	Special Notes or Regulations	SCCE	SCW
Accessory Apartment	34-1177 Note A	P	P
Administrative Offices		P	P
ATM (automatic teller machine)		SE Note I	P Note B
Bait and tackle shop		SE Note I	P Note B

Banks and financial establishment, Group I (34-622(c)(3))		SE Note I	
Bar or cocktail lounge	34-1261 et seq.	SE Note I	SE Note B
Bed and breakfast establishments		SE Note I	-
Boats: Boat parts store Boat rental Boat repair and service Boat sales Boat storage (all heights)	34-1352	 SE* SE* SE* SE* - *Note I	 - P P - P
Boatyard	Note H	-	P
Clubs, Private	Note A	SE	P
Commercial fishery including land support		SE Note I	P
Commercial use of beachfront sea-ward of the water body setback line		-	P
Consumption on premises	34-1261 et seq.	SE Note I	SE Note B
Cultural facilities, excluding animal or reptile exhibits and zoos		SE Note I	-
Docking or mooring facilities		-	P

Drive-through facility for any permitted use		SE Note I	-
Dwelling unit, Multiple-family units	Note A	SE Note I	-
Entrance gates and gatehouses		SE Note I	P
Essential services	34-1611 et seq.	P	P
Essential service facilities (34- 622(c)(13)): • Group I • Group II	34-1611 et seq.	 P SE	 P SE
Excavation, Water Retention	34-1651(b)	P	P
Fish house, wholesale, retail		SE Note I	P
Food and beverage service, limited		SE	P Note B
Freight and cargo handling establishments (34-622(c)(17))	Note A	-	P
Gift and souvenir shop		SE Note I	-
Home Occupation		P	-
Hobby, toy, game shops (34-622(c)(21))		SE Note I	-
Hotel/motel		SE Note	-

Laundromat, Laundry or dry cleaning, Group I (34-622(c)(24))	Note B	SE Note I	
Marina	34-1862 Note G Note H	-	P
Offices, marine-oriented government	Note C	SE Note I	P
Package store	34-1261 et seq.	SE Note I	-
Parks (34-622(c)(32)), public or private, Group I Groups II (limited to boat ramps & nature trails)		 P SE	 P P
Parking lot: Accessory Commercial Temporary		 P SE SE	 P - P
Personal services (34-622(c)(33)), Groups I and II		SE Note I	-
Recreation, personal (34-622(c)(38))		P	P
Rental or leasing establishments, Group I (34-622(c)(39))	34-1352 34-3001 et seq.	SE Note I	-
Residential accessory uses (34-622(c)(42))		P	-
Restaurants (34-622(c)(43)): • Group(s) I, II • With Outdoor Seating		 SE* SE* *Note I	 P P

Schools, commercial (34-622(c)(45))	34-2381 Note D	SE Note I	P
Signs in accordance with chapter 30	Note F	P	P
Specialty retail shop, Group(s) I, II, III (34-622(c)(47))		SE Note J	-
Temporary uses	34-3041 et seq.	SE	P
Transportation Services, Group I (34-622(c)(53)		-	P Note J
Vehicle and equipment dealers, Group III (34-622(c)(55)):	34-1352	SE Note I	-

NOTES:
A. Limited to marine-oriented operations.
B. Limited to establishments which are clearly accessory and subordinate to a marina or commercial fishing land support facility.
C. Mainly the U.S. Coast Guard, Army Corps of Engineers, State Department of Environmental Protection, Marine Patrol and other marine-oriented County facilities.
D. Limited to marine-oriented schools such as sailing schools.
E. Limited to seafood markets.
F. As modified by section 34-1142(e)(7).

G. In addition to the Marina Accessory uses listed in section 34-2, the following uses are included if clearly accessory and subordinate to a marina: food stores, laundry facilities, rental or leasing facilities Group I, and specialty retail shop, Group I.
H. Boat sales and boat part sales which are clearly accessory and subordinate to this use are allowed.
I. This use is only allowed east of San Carlos Boulevard.
J. This use is allowed only where the underlying zoning is CM or IM, and the Land Use Category is Urban Community.

(d) *Property development regulations - all sub-districts.*

(1) *Required off-street parking.* Off-street parking is generally required in accordance with section 34-2011 et seq. Those requirements assume that patrons of each land use will arrive in a private automobile that will be parked in a private lot on the same premises. With the existing public parking lots in the district that may be used by the local merchants for customer parking, the number of off-street parking spaces required for any given land use must conform to section 34-2020, except that marinas and other water related uses will provide at least the following minimum number of parking spaces:

Boat slips: Two spaces per five slips.

Dry storage: One space per six slips.

Charter or party fishing boats, including passenger carrying vessels such as sunset trips, eco-trips etc., but excluding local or international cruise ships: One space per four passengers, based on the maximum capacity of the boats using the docks or loading facilities.

(2) Alternative parking surfaces for parking lots may be permitted within the District, except for parking lots abutting San Carlos Boulevard, provided that

a. The areas are adequately drained and continuously maintained in a dust free manner. Acceptable alternative surfaces include: gravel, crushed shell, or other similar materials. Parking on grass or other unimproved surfaces such as sand or dirt is prohibited; and

b. Parking spaces for disabled persons must be paved with asphalt or concrete to provide a smooth surface without gaps or holes that would create a danger to the user.

(e) *Property development regulations - SCC and SCF sub-districts only.* The Director may administratively approve modifications to the property development regulations, ground-mounted sign regulations, off-street parking requirements, open space and buffering requirements set forth for the underlying zoning district for those properties in the SCC and SCF Sub-districts that physically abut or front upon San Carlos Boulevard, so long as the requirements below are met. All other properties within the SCC and SCF Sub-districts are subject to the land development regulations applicable to the underlying zoning in effect at the time a legally sufficient development request is submitted.

(1) *Property development regulations:*

a. *Lot requirements.* Minimum lot dimension or area requirements set forth for the zoning district(s) in which an eligible property is located may be administratively reduced by the Director as follows:

1. For an existing lot where the need for the reduction resulted from a government road right-of-way acquisition program and was not otherwise self-created, or

2. To create a new lot with a reduced lot depth, if the lot would comply with all lot width and area requirements and the lot is otherwise created in accordance with all other applicable regulations.

b. *Setbacks.* The minimum street, side or rear setback requirements set forth in the property development regulations for the underlying zoning district(s) in which the property is located may be reduced by the Director as follows:

1. *Existing buildings and structures.* Buildings and structures within the overlay district that are not in compliance with the street setback requirements of section 34-2192 will be considered legally nonconforming, subject to the provisions of section 34-3203(a) and (b), so long as the non-compliance resulted from a governmental road right-of-way acquisition program.

2. *New buildings and structures.* Any building or structure erected after January 1, 1999 must comply with all applicable setback development regulations for the underlying zoning district(s) then in effect, except that:

i. Where existing buildings on the abutting properties on both sides of the property in question are located closer to the street right-of-way than allowed by section 34-2192, the Director may approve a minimum street setback equal to the average setback of the existing buildings on the abutting property, or

ii. Where only one of the abutting lots has an existing building, the Director may approve a setback equal to one-half of the sum of the minimum setback for the existing building on the abutting lot and the required setback.

3. Street setbacks for flag poles may be reduced by the Director so long as no part of the structure encroaches into the public right-of-way.

c. *Maximum lot coverage.* If a portion of a site's parking or other development was reduced by a governmental road right-of-way acquisition program, then the site area lost thereby may be calculated as part of the overall lot area when determining maximum permitted lot coverage.

(2) *Open space, landscaping, and buffering.* The minimum open space, landscaping, and buffering required for developments may be modified as follows:

a. *Lots that meet or exceed required standards.* Lots that meet or exceed the minimum area requirements for the underlying zoning district(s) in which the property is located must comply with all open space, landscaping, and buffering requirements in effect at the time the development request is deemed legally sufficient.

b. *Lots that cannot meet standards.* The Director may administratively approve modifications to the buffering, open space, and landscaping requirements for lots that cannot meet the area or dimensional requirements of the underlying zoning district(s) in which the property is located where the non-compliance resulted from a governmental right-of-way acquisition program and was not otherwise self-created, as follows:

1. *Buffering.* Buffer areas between parking lots and the street right-of-way line may be waived provided that a fence, wall or other acceptable method (e.g. bollards) is used to prevent vehicles from entering the parking lot or parking spaces at other than the site's designated access point. If waiving the buffering requirements would still not allow the property to be developed in compliance with all other applicable regulations, then the Director may administratively approve modifications to the open space requirements, as set forth below.

2. *Open space.* The percentage of open space required by the underlying zoning district(s) may be reduced by up to 50 percent. If reducing the open space requirements by 50 percent would still not allow the property to be developed in compliance with all other applicable regulations, then the Director may administratively approve modifications to the landscaping requirements, as set forth below.

3. *Landscaping.* Landscaping requirements may be reduced in proportion to approved modifications to the open space requirements.

(3) *Access.* The Director, subject to approval of the Florida Department of Transportation, where required, may reduce the access point distance separation requirements to accommodate driveway or parking lot accesses, but only if they provide the sole vehicle access to two or more abutting properties.

(4) *Off-street parking.* Alternative parking patterns such as off-site or shared parking lots are encouraged in the SCC and SCF subdistricts. To allow flexibility in meeting a site's parking requirements, the Director may make modifications as follows:

a. *Properties meeting certain minimum lot requirements.* No parking modifications may be administratively approved for any use located on a lot or parcel that meets the minimum lot depth, width, and area requirements for the underlying zoning district(s) in which located notwithstanding the effect of a governmental right-of-way acquisition program.

b. *Properties reduced below minimum depth requirements.*

1. The Director may administratively reduce the number of required parking spaces otherwise required in proportion to any reduction in a parcel's area resulting from a governmental right-of-way acquisition program. For example, if a lot lost 1,000 square feet of area for road right-of-way (ROW) purposes (100 foot frontage by ten-foot depth for new ROW) and the resulting lot depth was reduced below the minimum for the underlying zoning district(s), then the parking requirements may be reduced by the Director up to six spaces (1,000 square feet divided by 162 square feet, the area of the standard parking space, i.e. nine feet by 18 feet, which equals 6.17, reduced to the next lower whole number, six) in order to meet the parking requirement. If the parking requirements still can not be met, the Director may administratively approve the minimum number of off-site parking spaces necessary to meet the site's parking requirements, so long as:

i. The site's property owner has entered into a written agreement with the property owner of the off-site parking lot that has been approved by the County Attorney's office and recorded in the County's public records;

ii. The furthest parking space in the off-site parking lot is located no more than 300 feet from the property in question; and

iii. No road or other restrictive barrier exists between the use and the parking lot that would prohibit safe pedestrian travel.

2. To allow flexibility in meeting a site's parking requirements, the Director may administratively approve a request to allow up to 50 percent of the required number

of parking spaces for land uses in the SCC and SCF Sub-districts to be located off-site, so long as the requirements of sections 34-1089 and 34-2020(e) are met.

(5) *Off-street loading.* Businesses within these Sub-districts are exempt from providing designated off-street loading zones as required by division 25, section 34-1981, et seq.

(6) *Signs.*

a. All signs within the SCC and SCF Sub-districts must comply with chapter 30 except that where an existing building on the property is closer to the right-of-way than the minimum setback required by section 34-2192 as a result of a governmental right-of-way acquisition program such that a ground-mounted sign could not be located between the existing building and the right-of-way and still comply with chapter 30, then the Director may administratively approve either of the following alternatives:

1. Reduce the required sign setback to accommodate a permitted ground-mounted sign, provided that no part of the sign may encroach into or over the public right-of-way or otherwise create an unsafe condition for passing motorists (see section 30-1(b)); or

2. Approve a ground-mounted sign to be located in the side yard next to the building but at a higher height than normally permitted, provided that the sign is the minimum height necessary to sufficiently convey a message about the owner or occupants of the property, the commodities, products or services available on the property, or the business activities conducted on such property (see section 30-1(e)(4)); and does not exceed 30 feet in height.

b. New billboards are not permitted within the SCC or SCF Sub-districts. Existing billboards destroyed by fire or other natural forces beyond 50 percent may be rebuilt in their current locations, at their current size.

(f) *Property development regulations - SCW and SCCE Sub-districts and certain properties in the SCC and SCF Sub-Districts.* Modified land development regulations for the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts which do not abut or front upon San Carlos Boulevard are set forth in Table 2, below. Off-street parking for these areas is addressed in sub-section (g) below. Except where specifically noted, the terminology and special regulations found in Table 2 have the same meaning and effect as they do throughout this chapter. All other land development regulations applicable to the underlying zoning district(s) and development request will continue to have their same force and effect.

TABLE 2
PROPERTY DEVELOPMENT REGULATIONS
FOR SCW, SC CE, AND PORTIONS OF SCC AND SCCF SUB-DISTRICTS*

	Special Notes or Regulations	*As limited in 34-1143 (f), above
Minimum Lot Area and Dimensions		
Minimum Lot Size:	34-2221	10,000 sq. ft.
Lot Width	34-2222	50 ft.

Lot Depth	34-2142	100 ft.
Minimum Building Setbacks:		
Street (from edge of Rt-of-way)	34-2191	25 ft.
Side Yard	34-2192	20 ft.
Rear Yard	34-1174	20 ft.
Water Body	Notes B & C	25 ft.
Minimum Building Separation		20 ft.
Minimum Accessory Use Setbacks		25 ft.
• Street		25 ft.
• Side and Rear Lot Lines	Note A	0 ft. or 20 ft.
• Water Body	Notes B & C	25 ft.
Maximum Height	34-2171 et seq. Note D	35 ft. or 3 habitable stories, whichever is less
Maximum Lot Coverage		60%

Notes: All notes referencing LDC sections must be complied with and met, plus the following as applicable:
A. The 0 feet setback applies only to attached commercial buildings
B. Limited to docks, non-roofed boardwalks, and decks with public access.

C. Boat service buildings or boat service structures, whether principal or accessory structures, may be built up to the mean high-water line, as applicable.
D. For boat storage facilities-dry located within an existing IM, IL and CM zoning district(s) located in the SCW Sub-district, the set back requirements of section 34-2174 are modified to only require the setbacks for heights greater than 55 feet above mean sea level.

(g) *Off-street parking for the SCW and SCCE Sub-districts and certain properties in the SCC and SCF Sub-Districts.* It is an important element of this District is to allow alternative parking patterns such as shared parking lots for the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts that do not abut or front upon San Carlos Boulevard. To allow flexibility in meeting a site's parking requirements in these areas, the Director may administratively approve a development request to allow up to 50 percent of the required number of parking spaces for any land use in the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts that do not abut or front upon San Carlos Boulevard to be located off-site, so long as:

(1) The site's property owner has entered into a written agreement with the property owner of the off-site parking lot which has been approved by the County Attorney's Office and recorded in the County's public records;

(2) No road or other restrictive barrier would exist between the site and the proposed off-site parking that would prohibit safe pedestrian travel; and

(3) The furthest parking space in the off-site parking lot is located no more than 300 feet from the property in question, except that:

a. The Director may approve the use of parking spaces greater than 300 feet off-site up to 1,000 feet off-site, so long as the applicant demonstrates that no other spaces for parking are available closer than those being proposed; or

b. If there are still not a sufficient number of spaces available within 1,000 feet, then so long as a shuttle service acceptable to the Director is provided and maintained between the parking spaces and the use(s) they serve, such parking may be used to meet up to 50 percent of the overall parking requirement.

(Ord. No. 98-28, § 5, 12-8-98; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 12-20 , § 4, 9-11-12)

Secs. 34-1144—34-1168. Reserved.

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

DIVISION 2. - ACCESSORY USES, BUILDINGS AND STRUCTURES

DIVISION 3. - SEXUALLY ORIENTED BUSINESSES

DIVISION 4. - AIRCRAFT LANDING FACILITIES, PRIVATE

DIVISION 5. - ALCOHOLIC BEVERAGES

DIVISION 1. GENERALLY

Sec. 34-1169. Purpose and applicability of article.

The purpose of this article is to provide rules and regulations which supplement, modify or further explain rules and regulations found elsewhere in this chapter, and, unless specifically noted to the contrary, the provisions of this article apply to all zoning districts.

(Zoning Ord. 1993, § 202; Ord. No. 98-28, § 5, 12-8-98)

Sec. 34-1170. Purpose of supplemental regulations.

(a) Regulations over and above those imposed by other sections of this chapter are necessary for certain uses which, because of their uniqueness or potential for substantial impact on surrounding land uses, warrant minimum standards which cannot properly be addressed in general provisions or property development regulations set for in specific districts. The purpose of the supplemental regulations set forth in this article is to set forth the detailed regulations, including but not limited to the bulk, layout, yard size and lot area, that apply to these uses.

(b) Some of the uses provided for in this article exceed the minimum thresholds for Developments of County Impact (see section 34-203) and will be required to apply for approval through the planned development procedure. The Board of County Commissioners may modify any of the requirements of this article in accordance with the procedures for a planned development application approval.

(c) The supplemental regulations set out in this article apply to the specified use regardless of whether it is a use permitted by right, special exception, Development of County Impact or temporary use permit, as specified in the district use regulation.

(Zoning Ord. 1993, § 500; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-28, § 5, 12-8-98)

DIVISION 2. ACCESSORY USES, BUILDINGS AND STRUCTURES

Sec. 34-1171. Applicability of division.

This division provides minimum regulations for those accessory uses, buildings and structures customarily incidental and subordinate to the principal use or building, which are not specifically regulated elsewhere in this chapter.

(Zoning Ord. 1993, § 501(A))

Sec. 34-1172. Definitions.

For purposes of this division only, certain words or terms shall mean the following:

Open-mesh screen means meshed wire or cloth fabric to prevent insects from entering the facility, including the structural members framing the screening material.

Roofed means any structure or building with a roof which is intended to be impervious to weather.

(Zoning Ord. 1993, § 501(B))

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-1173. Development regulations.

(a) *Permitted structures and uses.* Unless specifically indicated to the contrary, accessory uses, buildings and structures that are customarily recognized as clearly incidental and subordinate to the principal use of the property, are permitted by right when located on the same lot or parcel and in the same zoning category as the principal use, provided that:

(1) All uses, buildings and structures must comply with all applicable development regulations and building codes.

(2) Accessory buildings or structures may be built concurrently with a principal building or structure but, except as provided herein, no accessory use, building or structure may be commenced, erected, placed or moved onto a lot or parcel prior to the principal use, building or structure.

Exceptions are as follows:

a. Agricultural accessory structures in the AG district.

b. Fences or walls when in compliance with section 34-1741 et seq.

c. Seawalls or retaining walls (see section 34-1863).

d. Docks, personal (see section 34-1863). Only permitted if the lot meets the minimum lot size and dimensions required for a principal use, except that lots created prior to September 27, 1993 which contain submerged lands and which are located on islands without vehicular access to the mainland are exempt from this requirement.

(b) *Attachment to principal building.* Authorized accessory buildings or structures may be erected as part of the principal building or may be connected to it by a roofed porch, patio or breezeway, or similar structure, or they may be completely detached, provided that:

(1) Any accessory building or structure which is structurally a part of the principal building shall comply in all respects with the regulations for a principal building.

(2) Any accessory building or structure not structurally made a part of the principal building shall comply with the location requirements set forth in section 34-1174

(Zoning Ord. 1993, § 501(C); Ord. No. 01-18, § 5, 11-13-01; Ord. No. 11-01 , § 5, 3-8-11)

Sec. 34-1174. Location and setbacks generally.

(a) *Permitted locations.* Except as may be provided elsewhere in this chapter, all accessory uses, buildings and structures must be located on the same premises and must have the same zoning classification as the principal use. For purposes of this section, the zoning classification must consist of the following groups of zoning districts:

(1) Districts described in article VI, division 2, of this chapter (agricultural districts);

(2) Districts described in article VI, division 3, of this chapter (residential districts);

(3) Districts described in article VI, division 4, of this chapter (recreational vehicle park districts);

(4) Districts described in article VI, division 5, of this chapter (community facilities districts);

(5) Districts described in article VI, division 6, of this chapter (commercial districts);

(6) Districts described in article VI, division 7, of this chapter (marine-oriented districts);

(7) Districts described in article VI, division 8, of this chapter (industrial districts).

(8) Districts described in article VI, division 9, of this chapter (planned development districts).

(b) *Setback from streets.* No accessory use, building or structure may be located closer to a street right-of-way line or street easement than the principal building, except as provided for in division 30, subdivision III, of this article, or as set forth in this subsection.

(1) Accessory uses, buildings or structures in the RSC-1, RSA, RS, RM, TFC, TF and AG zoning districts may be closer to the street than the principal building as long as a minimum setback of 100 feet is maintained.

(2) Accessory uses, buildings and structures may be located on through lots as follows. For purposes of this subsection only, secondary street is defined as the street opposite the street which provides principal vehicular access as determined by the prior development pattern of that block.

a. On through lots with no dedicated buffer easement or residential project fence or wall, accessory uses, buildings and structures may be placed closer to the secondary street than the principal building as long as the minimum setbacks for streets as set forth in division 30, subdivision III, of this article are maintained.

b. On through lots with a dedicated buffer easement of ten feet or more (located on the property) and immediately adjacent to the secondary street, accessory uses, buildings and structures may not encroach into the easement.

c. On through lots with an abutting residential project fence or wall accessory use, buildings and structures must be set back a minimum of five feet from the property line.

(3) In the following cases, accessory uses, buildings and structures may be closer to the street than the principal building, but may not be closer than the minimum setbacks for streets as set forth in division 30, subdivision III, of this article.

a. Accessory uses, buildings and structures in the RSC-2 zoning district.

b. Any lot in which the rear lot line abuts a body of water.

c. Swimming pools, tennis courts, shuffleboard courts and other similar recreational facilities accessory to a multiple-family or townhouse development, a hotel/motel, or a mobile home or recreational vehicle development, provided that:

1. They are part of a planned development or a site plan approved in accordance with chapter 10; and

2. They are aesthetically landscaped with berming or buffering which is adequate to screen the use from the street so as to prevent it from being a traffic distraction.

d. Garages or carports for residential, commercial or industrial uses.

e. Outdoor display of merchandise, where permitted, subject to the provisions of division 36 of this article, and chapter 30, pertaining to signs.

(c) *Setback from bodies of water.* No building or structure (except docks and seawalls, which are subject to the setback requirements as set forth in chapter 26, article II) may be located closer to a bay, canal or other body of water than the minimum setback required in section 34-2194

(d) *Setbacks from side and rear property lines.* Unless the side or rear property line abuts a body of water (see section 34-2194), the following setbacks apply:

(1) *Agricultural accessory buildings and structures.* Except for those structures specified in division 6 of this article, pertaining to animals, all accessory agricultural buildings and structures must be set back a minimum of five feet from any rear property line and may not be closer to a side property line than the minimum required side setback for the district in which the property is located, or ten feet, whichever is less.

(2) *Residential accessory buildings and structures.* Except as provided in sections 34-1175 and 34-1176, all accessory residential buildings and structures must be set back a minimum of five feet from any rear property line and may not be closer to a side property line than the minimum required side setback for the district in which the property is located, or ten feet, whichever is less.

(3) *Commercial and industrial accessory buildings and structures.* All accessory buildings and structures for a principal commercial or industrial use must be set back:

a. A minimum of ten feet from rear and side lot lines when abutting a commercial or industrial zoning district; and

b. In accordance with the setback requirements for the district in which located or the minimum buffering requirements as set forth in chapter 10, whichever is greater, when abutting any district other than commercial or industrial.

(e) *Prohibited locations.* Nothing contained in this chapter may be construed as permitting placement of any accessory building or structure within a utility or other easement prohibiting such building or structure, or closer to adjacent property than permitted by the minimum buffer requirements set forth in chapter 10, or closer to any other building than permitted by the County Building Code.

(f) *Signs.* Signs are subject only to the setback requirements as set forth in chapter 30

(Zoning Ord. 1993, § 501(D); Ord. No. 93-24, § 8, 9-15-93; Ord. No. 94-24, § 31, 8-31-94; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 09-23 , § 10, 6-23-09)

Sec. 34-1175. Satellite earth stations and amateur radio antennas.

(a) *Purpose.* The purpose of this section is to:

(1) Further the health, safety, and aesthetic objectives of this chapter;

(2) Protect the aesthetic character of residential zoning districts;

(3) Balance the legitimate aesthetic and land use compatibility concerns of the County with the needs and interests of operators of amateur radio services;

(4) Reasonably accommodate amateur radio services;

(5) Ensure access to satellite services; and

(6) Promote fair and effective competition among competing communications service providers.

(b) *Applicability.* The provisions of this section will apply only to:

(1) Satellite earth stations greater than two meters (78.74 inches) in diameter that are within commercial or industrial zoning districts, or the commercial or industrial areas of a planned development;

(2) Satellite earth stations greater than one meter (39.97 inches) in diameter that are within any district not specified in (1) above; and

(3) Amateur radio antennas.

(c) *Definitions.* For purposes of this section only, certain terms are defined as follows:

Amateur radio services means a radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.

Amateur radio antenna means an antenna, including any mounting device, tower, or antenna-supporting structure, designed and constructed for amateur radio services.

Satellite earth stations means any device or antenna, including associated mounting devices or antenna-supporting structures, used to transmit or receive signals from an orbiting satellite, including television broadcast signals, direct broadcast satellite services, multichannel multipoint distribution services, fixed wireless communications signals, and any designated operations indicated in the FCC Table of Allocations for satellite services.

(d) *Property development regulations.*

(1) *Satellite earth stations.*

a. *Setbacks.* Satellite earth stations must meet the minimum setback requirements for the zoning district in which proposed, as well as those setback requirements in section 34-2191, et seq. In no case may satellite earth stations be placed closer to a right-of-way or street easement than the principal building.

b. *Allowable size.* No satellite earth station may exceed ten feet in diameter except when in conjunction with a cable television or broadcast facility and approved in accordance with the variance requirements of section 34-1453

c. *Location and placement.*

1. Except as provided below, no satellite earth station may be mounted on a roof or a building surface.

2. Exception. Satellite earth stations may be mounted on buildings that exceed 35 feet in height (as measured at ground level), provided the satellite earth station is not visible at ground level from any abutting right-of-way, street easement or any property under separate ownership and zoned or used for residential purposes.

d. *Signage.* Signs are prohibited on satellite earth stations.

e. *Height.* Ground-mounted satellite earth stations may not exceed ten feet in height, except when in conjunction with a cable television or broadcast facility and approved in accordance with the variance requirements of section 34-1453

f. *Landscaping.* Ground-mounted satellite earth stations exceeding two meters (78.74 inches) in diameter must include a landscaped buffer of at least three feet in width between the facility and any right-of-way or ingress/egress or access easement. The buffer must be at least four feet in height at installation and be maintained at a minimum of five feet in height within one year after time of planting.

g. *Structural requirements.* Satellite earth stations must be constructed or mounted so as to withstand sustained winds in accordance with the Florida Building Code. In the event of structural failure, the satellite earth station must be designed to collapse completely within the boundaries of the lot on which it is located.

h. *Limited waiver of requirements.* The Director may waive the requirements of section 34-1175(d)(1) where an applicant for a satellite earth station demonstrates in writing that compliance with these provisions will materially limit transmission or reception by the proposed satellite earth station. The Director may not waive any requirement to a greater extent than is required to ensure that transmission or reception is not materially limited. The decision of the Director is discretionary and may not be appealed.

(2) *Amateur radio antennas.*

a. *Location and placement.* Amateur radio antennas must be set back from all adjacent property lines by at least five feet, and in no case may they be placed closer to the right-of-way or street easement than the principal building. Amateur radio antennas may not be located within any easement.

b. *Signage.* Signs are prohibited on amateur radio antennas.

c. *Height.* New amateur radio antennas proposed at heights greater than 50 feet, but not higher than 75, will be subject to administrative review in accordance with section 34-1445. New amateur radio antennas proposed at heights greater than 75 feet will subject to the variance provisions of section 34-1453

d. *Structural requirements.* Amateur radio antennas must be constructed or mounted to withstand sustained winds in accordance with the Florida Building Code. In the event of structural failure, it must be designed to collapse completely within the boundaries of the lot on which it is located. Amateur radio antenna may be monopole, lattice or guyed type of construction.

e. *Restriction on antenna type.* Personal wireless services antenna may not be placed on an amateur radio antenna.

f. *Limited waiver of requirements.* The Director may waive the requirements of section 34-1175(d)(2) where an applicant for an amateur radio antenna demonstrates that compliance with these provisions will preclude amateur radio services. The Director may not waive any requirement to a greater extent than is required to ensure such services. The decision of the Director is discretionary and may not be appealed.

(Zoning Ord. 1993, § 501(E)1; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 03-11, § 1, 4-8-03)

Sec. 34-1176. Swimming pools, tennis courts, porches, decks and similar recreational facilities.

(a) *Applicability.* The regulations set out in this section apply to all swimming pools, tennis courts, shuffleboard courts, porches, decks and other similar recreational facilities which are accessory to a permitted use, and which are not specifically regulated elsewhere in this chapter.

(b) *Location and setbacks.*

(1) *Personal, private and limited facilities.*

a. *Nonroofed facilities.* All swimming pools, tennis courts, decks and other similar nonroofed accessory facilities shall comply with the following setback requirements:

1. Street setbacks as set forth in sections 34-1174 and 34-2192

2. Water setbacks as set forth in section 34-2194

3. Rear lot line setback as set forth in section 34-1174(d).

4. Side lot line setbacks as set forth in section 34-1174(d).

b. *Open-mesh screen enclosures.* Swimming pools, patios, decks and other similar recreational facilities may not exceed 3½ feet above grade unless it complies with minimum required principal structure setbacks. Decks or patios that comply with accessory structure setbacks may be enclosed with open-mesh screen. Enclosures with an opaque material above 3½ feet from grade must meet principal structure setbacks.

It is the responsibility of the applicant to increase all required setbacks sufficient to provide maintenance access around the pool whenever the pool is proposed to be enclosed with open-mesh screening or fencing. A minimum increase in setbacks of three feet is recommended.

c. *Roofed open-mesh enclosures.* Open-mesh screen enclosures may be covered by a solid roof (impervious to weather) provided that:

1. If structurally part of the principal building, the enclosure shall comply with all setback requirements for the principal building.
2. Except when in compliance with the setback requirements for principal buildings, a solid roof over a screen enclosure shall be constructed as a flat roof with the pitch no greater than the minimum required for rain runoff.

(2) *Commercial and public facilities.* All pools, tennis courts and other similar recreational facilities owned or operated as a commercial or public establishment shall comply with the setback regulations for the zoning district in which located.

(c) *Fencing.*

(1) *In-ground swimming pools, hot tubs and spas.* Every swimming pool, hot tub, spa or similar facility shall be enclosed by a fence, wall, screen enclosure or other structure, not less than four feet in height, constructed or installed so as to prevent unauthorized access to the pool by persons not residing on the property. For purposes of this subsection, the height of the structure shall be measured from the ground level outside of the area so enclosed. The enclosure may be permitted to contain gates, provided they are self-closing and self-latching.

(2) *Aboveground swimming pools, hot tubs and spas.* Aboveground pools, hot tubs, spas and similar facilities shall fulfill either the enclosure requirements for in-ground pools or shall be so constructed that the lowest entry point (other than a ladder or ramp) is a minimum of four feet above ground level. A ladder or ramp providing access shall be constructed or installed so as to prevent unauthorized use.

(3) *Exception.* A spa, hot tub or other similar facility which has a solid cover (not a floating blanket) which prevents access to the facility when not in use shall be permitted in lieu of fencing or enclosure requirements.

(4) *Tennis courts.* Fences used to enclose tennis courts shall not exceed 12 feet in height above the playing surface.

(d) *Lighting.* Lighting used to illuminate a swimming pool, tennis court or other recreational facility shall be directed away from adjacent properties and streets, and shall shine only on the subject site.

(e) *Commercial use.* No swimming pool, tennis court or other recreational facility permitted as a residential accessory use shall be operated as a business.

(Zoning Ord. 1993, § 510(E)2; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-1177. Accessory apartments.

(a) *Occupancy.* The principal structure must be owner occupied and is not limited to family members. Occupancy of the accessory apartment is not limited to family members of the principal structure. The purpose of this section is to facilitate the provision of affordable housing, strengthen the family unit or provide increased opportunities for housing the elderly and persons with special needs.

(b) *Applicability.* This section sets forth the requirements for accessory apartments, when subordinate to a single-family detached dwelling unit. The requirements of this section apply to accessory apartments whether they are listed as a permitted use or a use by special exception.

(c) *Definition.* For purposes of this section, the term "accessory apartment" means a living unit, with or without cooking facilities, constructed subordinate to a single-family residence that could be made available for rent or lease.

(d) *Off-street parking.* In addition to the requirements of section 34-2020(a), one additional space is required for the accessory apartment, and all required parking must be provided on the site.

(e) *Maximum floor area.*

(1) *Attached apartments.* If the accessory apartment is constructed as part of the principal building, the maximum floor area of the accessory apartment may not exceed 50 percent of the floor area of the main dwelling unit.

(2) *Detached apartments.* If the accessory apartment is not constructed as part of the main dwelling unit, the maximum floor area is 50 percent of the floor area of the main dwelling unit.

In no event may the maximum lot coverage permitted for the zoning district in which the property is located be exceeded. The accessory apartment is limited to one family, as defined in this chapter.

(f) *Minimum lot size.* An accessory apartment may be permitted on a lawfully existing lot of record that conforms to the minimum lot size of the district in which it is located. However, in no case may the lot area be less than 6,000 square feet.

(g) *Garage conversions.*

(1) *Attached garages.* An attached garage may be converted to an accessory apartment.

(2) *Detached garages.* A detached garage may be converted to an accessory apartment provided that the garage is not closer to the street right-of-way or easement than the principal dwelling unit. In no instance may the conversion be permitted where the garage encroaches in the front setback.

The minimum number of parking spaces must be maintained after the conversion of an attached or detached garage.

(h) *Appearance.* The entrance to the accessory apartment, when constructed as part of the principal residence, must be designed to retain the appearance of a single-family residence.

(i) *Density.*

(1) An accessory apartment, for the purposes of density, is termed a dwelling unit in accordance with the Lee Plan.

(2) For the purposes of density, an accessory apartment is considered an affordable unit, allowing density calculations to be based on the future land use category bonus density range.

(Ord. No. 93-24, § 10, 9-15-93; Ord. No. 94-24, § 32, 8-31-94; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-1178. Reserved.

Editor's note—

Ord. No. 12-19, § 3, adopted Sept. 11, 2012, repealed § 34-1178 which pertained to guest houses on Captiva Island and derived from Zoning Ord. 1993, § 511; and Ord. No. 97-10, § 6, adopted June 10, 1997.

Sec. 34-1179. Accessory structures in recreational vehicle developments.

(a) Storage sheds and carports on individual recreational vehicle sites are prohibited in transient parks.

(b) One freestanding storage shed, not exceeding 120 feet in floor area and ten feet in height, may be permitted in any non-transient park provided:

(1) No storage shed may be located closer than five feet to the side or rear lot line or closer than ten feet to a recreational vehicle under separate ownership; and

(2) The shed is properly tied down and complies with all building code requirements.

(c) Carports may be permitted in any non-transient park located within a conventional RV District provided the carport:

(1) Is located on a lot with a minimum of 2,000 square feet in size;

(2) Does not exceed 12 feet in width, 20 feet in length, and ten feet in height;

(3) Is not located closer than five feet to any side or rear lot line or closer than ten feet (measured overhang to overhang) to any recreational vehicle or carport under separate ownership;

(4) Remains open from grade up to the eave except the back end of the carport may be attached to a permitted storage shed; and

(5) Is in compliance with all building code requirements.

(d) Carports, to cover both the RV and one vehicle, may be permitted in any non-transient park located within an RVPD with an overall gross density of less than six units per acre provided the carport:

(1) Is located on a lot a minimum of 3,000 square feet in size;

(2) Does not exceed 25 feet in width, 42 feet in length, and 15 feet in height with a clear span of 13 feet six inches;

(3) Is not located closer than five feet to the side or rear lot line or closer than ten feet (measured overhang to overhang) to a recreational vehicle or carport under separate ownership;

(4) Remains open from grade up to the eave except that the back end of the carport may be attached to a permitted storage shed and a screened porch may be located along one side provided the length does not exceed 50 percent of the length of the carport; and

(5) In compliance with all building code requirements.

(Ord. No. 14-13 , § 7, 6-17-14)

Editor's note—

Prior to the reenactment of § 34-1179 by Ord. No. 14-13, said section was repealed in its entirety by Ord. No. 13-10, § 10, adopted May 28, 2013. The former § 34-1179 pertained to commercial fishing equipment storage as accessory use to residence in Greater Pine Island area and derived from § 532 of the 1993 Zoning Ordinance, and Ord. No. 93-24, § 17, adopted Sept. 15, 1993.

Sec. 34-1180. Additional dwelling unit on lot in agricultural districts.

(a) *Applicability.* This section provides the minimum regulations to permit development of an additional conventional single-family residence on the same parcel if the parcel has been zoned in an AG district and the parcel is developed in accordance with the density requirements of the applicable land use classification.

(b) *Standards.*

(1) Minimum lot area must be twice the required lot area for the zoning district, but in no event less than two acres including easements.

(2) Minimum lot width must be twice the required lot width for the zoning district.

(3) The units must be separated by a minimum of twice the required side yard setback for the zoning district.

(4) No more than two living units constructed as two freestanding conventional single-family residences are permitted.

(5) Property owners who have already established or plan to establish a caretaker's residence may not avail themselves of this provision.

(6) Each unit must be located on the parcel in such a manner that the units could be separated into individual lots and still meet the property development regulations for the zoning district as well as the density requirements for the applicable land use category without first creating a new street easement or right-of-way.

(7) Approval of a Type 4 Limited Review Development Order (LDO) under the provisions of LDC, section 10-174(4) will be required in order to obtain a lot split only if the land is subdivided. The property owners will be required to participate in a joint application to obtain the lot split approval subject to the provisions of section 10-174(4)g. This requirement runs with the land regardless of ownership change.

(Zoning Ord. 1993, § 533; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1181. Trucks and commercial vehicles in residentially and agriculturally zoned districts.

(a) Except as provided below, the following types of trucks or commercial vehicles may not be parked or stored on any property zoned AG, RS, RSA, RSC, TFC, TF, RM, MH, RV, PUD, RPD, RVPD, MHPD, or the residential portion of a MPD:

(1) A tractor-trailer or semi-trailer truck; or

(2) A truck with two or more rear axles; or

(3) A truck with a manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 15,000 pounds; or

(4) Any truck and trailer combination, excluding a trailer used solely for non-commercial or recreational purposes, resulting in a combined manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 15,000 pounds.

(b) Exceptions:

(1) Daytime deliveries or service calls;

(2) Trucks and equipment parked or stored within a completely enclosed building in conjunction with an approved home occupation pursuant to section 34-1772

(3) A truck or commercial vehicle parked or stored on any property zoned AG, provided:

a. The property is not vacant; AND

b. The truck or commercial vehicle is part of and primarily used for a legally permitted agricultural use in existence on the property, OR

c. The person operating the truck or commercial vehicle is a resident of the property and is appropriately licensed to drive the truck or commercial vehicle. This provision is intended to allow a resident in the agriculturally zoned districts (AG) to drive one truck home from work. It is not intended to allow a business to be run from the property.

(4) Trucks or vehicles used for emergency service work by a person employed by a public utility, when approved by the Director, provided:

a. The truck or vehicle is parked while the employee is on "emergency on-call status;" and

b. Only one emergency service truck is allowed for each employee residing at the property; and

c. The truck may not be stored at the property.

(Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 03-16, § 6, 6-24-03)

Sec. 34-1182. Cabanas.

(a) A cabana may be used only for recreational purposes.

(b) As a condition of building permit approval, the property owner must record a covenant in the public records that clearly indicates the uses allowed or prohibited within the cabana structure. This covenant must be consistent with this section and may not be amended without the written consent of the Director of Lee County Community Development.

(c) Overnight sleeping in a cabana is prohibited.

(d) Installation and use of stoves, cooktops, ranges or ovens within the cabana is prohibited.

(Ord. No. 05-14 , § 6, 8-23-05)

Secs. 34-1183—34-1200. Reserved.

DIVISION 3. SEXUALLY ORIENTED BUSINESSES

Sec. 34-1201. Applicability of division.

This division applies to all sexually oriented businesses (as defined in the Lee County Sexually Oriented Business Ordinance, Ord. No. 95-18).

(Zoning Ord. 1993, § 202.02(A); Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-1202. Definitions.

Sexually oriented business means a sexually oriented business as defined in the Lee County Sexually Oriented Business ordinance, Ord. No. 95-18.

(Zoning Ord. 1993, § 202.02(B); Ord. No. 96-06, § 5, 3-20-96)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-1203. Purpose of division.

The purpose of this division is to provide reasonable regulations to alleviate the adverse effect of sexually oriented businesses on adjacent and nearby uses of land.

(Zoning Ord. 1993, § 202.02(C); Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-1204. Prohibited locations.

No use of land for purposes governed by this division may be located closer than 1,000 feet, measured on a straight line, from:

(1) The closest wall of any building containing a similar use; or

(2) Any district which allows residential uses; or

(3) Any hotel, motel, restaurant, school (noncommercial), day care center (child), park, playground, place of worship, religious facility, public recreation facility, cultural center, rooming house, boarding house or hospital.

(Zoning Ord. 1993, § 202.02(C)1—3; Ord. No. 96-06, § 5, 3-20-96)

Secs. 34-1205—34-1230. Reserved.

DIVISION 4. AIRCRAFT LANDING FACILITIES, PRIVATE

Sec. 34-1231. Intent of division.

(a) *Existing landing strips, heliports or helistops.*

(1) In a residential subdivision platted in conjunction with an aircraft landing strip or heliport, no hangars may be constructed on the individual residential lots prior to construction of the principal residence on the lot.

(Zoning Ord. 1993, § 503(A); Ord. No. 94-24, § 33, 8-31-94; Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-1232. State permit.

If a proposed aircraft landing facility fails to obtain or is denied a permit from the state within one year from the approval of the special exception, the permit will automatically expire and become null and void.

(Zoning Ord. 1993, § 503(B); Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-1233. Land area and site.

The area proposed for an aircraft landing facility use must be sufficient and the site otherwise adequate to meet the standards of the Federal Aviation Administration and the State Division of Aeronautics, Department of Transportation, for the class of airport proposed, in accordance with the published rules and regulations of each agency.

(Zoning Ord. 1993, § 503(C)1; Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-1234. Building setbacks.

Any building, hangar or other structure within a planned development subject to this division must be set back a minimum of 100 feet from any public street right-of-way or other property line. Privately owned hangars on individual lots adjacent to existing aircraft landing strips must comply with the setback regulations for accessory structures set forth in division 2 of this article, unless safety requirements require a larger setback.

(Zoning Ord. 1993, § 503(C)2; Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-1235. Setbacks for approach zones.

(a) Every new or expanded aircraft landing strip must be set back from the property line a sufficient distance to ensure that the approach zone requirements and minimum effective landing strip length, as defined in Florida Administrative Code rule 14-60.007 and this division, do not interfere with the maximum permissible building heights on adjacent property. Maximum permissible building height is defined as the maximum building height allowable for the zoning district applicable to the adjacent property on the date the request for planned development zoning or a special exception is made.

(b) Every new or expanded heliport or helistop must be set back from the property line a sufficient distance to ensure that the two approach/departure corridors required by Florida Administrative Code rule 14-60.007(6)(a)3 do not interfere with the maximum permissible building heights on adjacent property as defined in this section.

(Zoning Ord. 1993, § 503(C)3; Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-1236. Compliance with height restrictions.

Any proposed runway or landing strip must be situated so that any structures, power lines, towers, chimneys and natural obstructions within the approach zones will comply with regulations for height restrictions in airport and heliport or helistop approach zones of the Federal Aviation Administration and the State Department of Transportation, Division of Aeronautics, or other airport authority qualified by law to establish airport hazard zoning regulations.

(Zoning Ord. 1993, § 503(C)4; Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-1237. Repair of aircraft and machinery.

All major repair of aircraft and machinery must be conducted within a completely enclosed structure.

(Zoning Ord. 1993, § 503(C)5; Ord. No. 96-06, § 5, 3-20-96)

Secs. 34-1238—34-1260. Reserved.

DIVISION 5. ALCOHOLIC BEVERAGES

Sec. 34-1261. Definitions.

For purposes of this division and when referred to elsewhere in this chapter, certain terms or phrases shall have the following meaning:

Alcoholic beverage means distilled spirits and all beverages, other than medicine, intended for human consumption and containing one-half of one percent or more alcohol by volume.

Beer, wine and *liquor* have the same meanings as provided in F.S. chs. 563, 564 and 565, respectively.

Bottle club means a business establishment providing facilities for the consumption of alcoholic beverages by its patrons on the premises but not licensed to sell alcoholic beverages, without regard as to whether the patrons are required to be members of the bottle club. Nonalcoholic mixers or so-called set-ups may be provided by the club. A bottle club does not include a social, fraternal or civic association or organization which only occasionally or intermittently provides facilities for on-premises consumption of alcoholic beverages by its members and their guests and is not licensed to sell alcoholic beverages.

Full course meals means items on a menu at a restaurant which include soups and salads, main dishes with side orders, and desserts.

Kitchen, commercial means a facility used for the preparation of food which is sold to the public and that is subject to state and local health department inspections.

Liquor license means a license issued by the state for the retail sale, service and consumption of liquor.

Noise means sound or vibrations which are defined as either noise or noise disturbance in the County Noise Ordinance, Ordinance No. 82-32, as amended by Ordinance No. 83-22, and as subsequently amended.

Package sales means alcoholic beverages that are sold only in containers sealed by the manufacturer and which are sold for consumption off the licensed premises of the business establishment.

Park, only when used in this division, means a park facility which is owned, leased or operated by a governmental agency. It does not include beach access strips.

Sale of, only when used in this division, includes the term "or service."

(Zoning Ord. 1993, § 202.03(B))

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-1262. Compliance with applicable regulations.

No structure, building, establishment or premises shall be occupied, used or maintained for the purpose of the retail sale, service or consumption of alcoholic beverages except in conformity with all applicable County regulations, including this chapter, and with the applicable state regulations.

(Zoning Ord. 1993, § 202.03(A))

Sec. 34-1263. Sale for off-premises consumption.

(a) Package stores which have only a 1-APS state liquor license are exempt from this section, except for subsection (c) of this section.

(b) The sale of alcoholic beverages for consumption off the premises shall be allowed as a permitted use as follows, provided that the regulations set forth in subsection (c) of this section are met:

(1) In any zoning district wherein package stores are listed as a permitted use, only when the establishment is licensed only as a package store; and

(2) In any retail sales establishment wherein the sale of alcoholic beverages for consumption off-site is clearly incidental to other retail sales commodities, such as in a grocery store, supermarket or drugstore, and limited to PS series liquor licenses.

(c) Only alcoholic beverages in original factory-sealed containers shall be permitted to be sold.

(d) In addition to the requirements of subsections (a) through (c) of this section, any establishment primarily engaged in the sale of alcoholic beverages for consumption off-site shall also be required to comply with all applicable state liquor laws and section 1 of Ordinance No. 76-9 of the County.

(e) No package store or other establishment primarily engaged in the retail sale of liquor for consumption off-site shall be permitted closer than 500 feet to any religious facility, school (noncommercial), day care center (child), park or dwelling unit, or 500 feet from any other establishment primarily engaged in the sale of alcoholic beverages.

(1) For purposes of this subsection, the distance shall be measured in a straight line from any public entrance or exit of the establishment to the nearest property line of the religious facility, school (noncommercial), day care center (child), park or dwelling unit, or any public entrance or exit of any other establishment primarily engaged in the sale of alcoholic beverages.

(2) Where an establishment for the sale of alcoholic beverages is located in conformity with the provisions of this subsection, and a religious facility, school (noncommercial), day care center (child), park or dwelling unit is subsequently established in the proximity of such existing establishment, then the separation requirements shall not apply.

(3) Notwithstanding subsection (e)(1) of this section, where a package store is located in a shopping center which is 25,000 square feet or greater in size, the separation requirements from any dwelling unit shall not apply.

(4) In any PD, planned development, where the applicant is contemplating the sale of alcoholic beverages for consumption off the premises in an establishment which cannot meet the distance requirements set forth in subsection (e) of this section, the applicant shall request a deviation from the requirements of subsection (e).

(Zoning Ord. 1993, § 202.03(C))

Sec. 34-1264. Sale or service for on-premises consumption.

(a) *Approval required.* The sale or service of alcoholic beverages for consumption on the premises is not permitted until the location has been approved by the County as follows:

(1) *Administrative approval.* The Director of the Department of Community Development may administratively approve the sale or service of alcoholic beverages for consumption on the premises when in conjunction with the following uses, if the proposed use satisfies the requirements set forth in this division. When circumstances so warrant the Director may determine administrative approval is not the appropriate action and that the applicant must instead apply for approval as a special exception. Such circumstances may include the previous denial by the Director or by a hearing board of a similar use at that location, the record of public opposition to a similar use at that location, and similar circumstances. When the Director has approved a request for consumption on the premises at a location where the actual building has not been constructed, the Director may not approve another request for consumption on the premises within one year's time, which could potentially violate the distance requirements. If the first building is completed within less than one year, and it can be shown the second use would not violate the prescribed distance requirements, the Director may approve the second location subject to all other requirements contained in this division.

a. County-owned airports, arenas and stadiums, including liquor, beer, malt liquor and wine in restaurants, bars, lounges, concessions, concession stands and package stores at County-owned airports;

b. Bars, cocktail lounges, or night clubs located in commercial and industrial zoning districts that permit bars, cocktail lounges or night clubs, provided the standards set forth in subsections (b)(1) and (3) of this section are met;

c. Bowling alleys, provided the standards set forth in subsections (b)(2)a and (b)(3) of this section are met;

d. Clubs and fraternal or membership organizations located in commercial and industrial zoning districts, where permitted, provided the standards set forth in subsections (b)(2)f and (b)(3) of this section are met;

e. Cocktail lounges in golf course, tennis clubs or indoor racquetball clubs, provided the standards set forth in subsections (b)(2)d and e and (b)(3) of this section are met;

f. Hotels/motels, provided the standards set forth in subsections (b)(2)c and (b)(3) of this section are met; and

g. Restaurants groups II, III and IV, and restaurants with brew pub license requirements, provided the standards set forth in subsections (b)(2)b and (b)(3) of this section are met. Outdoor seating in conjunction with a group II, III or IV restaurant may be approved administratively provided:

1. The outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership; or

2. The outdoor seating area is within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership but is a tenant of a multi-occupancy complex that is adjacent to an arterial or collector road.

h. Charter, party fishing boat or cruise ship, provided the standards of section (b)(3) are met. The COP approval is specific to the charter, party fishing boat or cruise ship operating from a specific location and does not run with the land nor is it transferrable.

i. Beer and wine taste testing in conjunction with package sales (consumption off premises).

(2) *Special exception.*

a. A special exception for consumption on the premises is required for:

1. Any establishment not covered by subsection (a)(1) of this section; or

2. Any establishment, except those covered by section 34-1264(a)(1)(g), which provides outdoor seating areas for its patrons consuming alcoholic beverages.

b. The burden of proof that the grant of the special exception will not have an adverse affect on surrounding properties lies with the applicant.

c. A single special exception for consumption on the premises for a shopping center in a conventional zoning district is sufficient to permit consumption on the premises in every restaurant that exists or may be established within the center.

(3) *Planned developments and planned unit developments.*

a. No administrative approval is necessary where an individual establishment or other facility proposing consumption on the premises is explicitly designated on the master concept plan and is included on the schedule of uses.

b. If consumption on the premises is shown as a permitted use on the approved schedule of uses for a shopping center, no administrative approval for consumption on the premises is required for restaurants within the center.

c. Consumption on the premises for other uses within planned developments and planned unit developments require administrative approval or a special exception.

(b) *Location; parking.*

(1) *Prohibited locations.*

a. Except as may be exempted in subsections (a)(1) or (b)(2) of this section, no establishment for the sale or service of alcoholic beverages for consumption on the premises may be located within 500 feet of:

1. A religious facility, school (noncommercial), day care center (child) or park;

2. A dwelling unit under separate ownership, except when approved as part of a planned development; or

3. Another establishment primarily engaged in the sale of alcoholic beverages for consumption on the premises, excluding those uses listed under subsection (b)(2) of this section.

Distance must be measured from any public entrance or exit of the establishment in a straight line to the nearest property line of the religious facility, school (noncommercial), day care center (child), dwelling unit or park, or to the closest public entrance or exit of any other establishment primarily engaged in the sale of alcoholic beverages.

b. Where an establishment for the sale of alcoholic beverages is located in conformity with the provisions of this subsection, and a religious facility, school (noncommercial), day care center (child), park or dwelling unit is subsequently established in the proximity of the existing establishment, then the separation requirements will not apply.

(2) *Exceptions to location standards.* Exceptions to location standards are as follows:

a. Bowling alleys, provided that:

1. There are no signs, or other indication visible from the outside of the structure concerned, that beer or wine or other malt and vinous beverages are served;

2. The bowling alley is in a fully air conditioned building with at least 10,000 square feet of floor space under one roof and where both uses are owned by the same entity;

3. The building contains at least 12 alleys available for bowling. The facilities for the service of food and beverages must be in an area separate from the alleys. The facility for the service of food and beverages must contain at least 2,000 square feet of usable floor space and must accommodate at least 60 patrons at tables; and

4. The building is at least 500 feet, measured as provided in this subsection, from the uses in described in subsections (b)(1)a.1 and 2 of this section.

b. Restaurants groups II, III and IV, provided:

1. The restaurant is in full compliance with state requirements;

2. The restaurant serves cooked, full-course meals, prepared daily on the premises; and

3. Only a service bar is used and the sale or service of alcoholic beverages is only to patrons ordering meals, or, if the restaurant contains a cocktail lounge for patrons waiting to be seated at dining tables, the lounge must be located so that there is no indication from the outside of the structure that the cocktail lounge is within the building.

c. Hotels/motels, provided that:

1. The hotel/motel contains at least 100 guest rooms under the same roof and that nightclubs, cocktail lounges or bars are located within the hotel or motel and under the same roof; and

2. The exterior of the building must not have storefronts or give the appearance of commercial or mercantile activity visible from the highways.

If the use contains windows visible from the highway, the windows must be of fixed, obscure glass. Access to the nightclub, cabaret, cocktail lounge, or bar must be through the lobby. Additional entrances are not permitted unless the additional entrance or door opens into an enclosed courtyard or patio. The additional entrance may not be visible from the street. A fire door or exit is permitted so long as the door or exit is equipped with panic type hardware and is maintained in a locked position except in an emergency.

d. Golf course clubhouses, provided that:

1. The golf course consists of at least nine holes, a clubhouse, locker rooms and attendant golf facilities, and comprises in all at least 35 acres of land.

2. Failure of the club to maintain the golf course, clubhouse and golf facilities will automatically terminate the privilege of the cocktail lounge and sale of beer from the refreshment stands.

e. Tennis clubs and indoor racquetball clubs, provided that the club is chartered or incorporated or owns or leases and maintains a bona fide tennis club or four-wall indoor racquetball club consisting of not less than:

1. Ten regulation-size tennis courts; or

2. Ten regulation-size four-wall indoor racquetball courts; or

3. A combination of tennis courts and four-wall indoor racquetball courts numbering ten;

4. Clubhouse facilities, pro shop, locker rooms and attendant tennis or racquetball facilities, all located on an abutting tract of land owned or leased by the club.

There may be no signs or other indications visible from the exterior of the clubhouse, building or structure that alcoholic beverages are served.

f. Clubs and fraternal or membership organizations provided:

1. The club or organization conforms to all the requirements of F.S. ch. 561 and other applicable state laws; and

2. There are no signs or other indications visible from the exterior of the clubhouse, building or structure that alcoholic beverages are served.

(3) *Parking.* Establishments providing alcoholic beverages for consumption on the premises must comply with the parking requirements for the principal use set forth in section 34-2020(b).

(c) *Procedure for approval.*

(1) *Administrative approval.*

a. *Application.* An applicant for a consumption on the premises permit must submit the following information on the form provided by the County:

1. The name, address and telephone number of the applicant.

2. The name, address and telephone number of the owner of the premises, if not the applicant.

3. An authorization from the property owner to apply for the permit.

4. Location by STRAP and street address.

5. Type of state liquor license being requested and anticipated hours for the sale and service of alcoholic beverages.

6. A site plan, drawn to scale, showing:

i. The property in question, including all buildings on the property and adjacent property;

ii. Entrances to and exits from the building to be used by the public;

iii. A parking plan, including entrances and exits;

iv. The floor area of the building and proposed seating capacity. If a restaurant is proposing a bar or lounge for patrons waiting to be seated in the restaurant, the floor area and seating area of the lounge must be shown in addition to the restaurant seating area.

7. A County map marked to indicate all property within 500 feet of the building to be used for consumption on the premises.

8. A sworn statement indicating that no religious facilities, day care centers (child), noncommercial schools, dwelling units or parks are located within 500 feet of the building.

b. *Findings by Director.* Prior to permit approval, the Director must conclude all applicable standards have been met. In addition, the Director must make the following findings of fact:

1. There will be no apparent deleterious effect upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises.

2. The premises are suitable in regard to their location, site characteristics and intended purpose. Lighting must be shuttered and shielded from surrounding properties.

(2) *Special exception.*

a. Applications for special exception must be submitted on forms supplied by the County and must contain the same information required for administrative approval.

b. Advertisements and public hearings must be conducted in accordance with the requirements set forth in article II of this chapter.

(d) *Temporary one-day permit.*

(1) *Intent; applicability.* It is the intent of this subsection to require nonprofit and for-profit organizations and establishments in the unincorporated area of the County obtain a one-day temporary alcoholic beverage permit for the sale of alcoholic beverages at the specific location where an event is held. This subsection pertains to but is not necessarily limited to the following uses:

a. Grand openings or open houses at residential, commercial or industrial developments;

b. Special outdoor holiday or celebration events at bars and restaurants;

c. Weddings and other special occasions at clubhouses;

d. Political rallies or events;

e. Block parties; and

f. Carnivals.

(2) *Procedure for approval.*

a. Any owner, lessee or tenant seeking approval for consumption on the premises for a temporary alcoholic beverage permit, must submit a written request to the Department of Community Development. The written request must include:

1. The name and address of the applicant;

2. A general description of the exact site where alcoholic beverages are to be sold and consumed;

3. The type of alcoholic beverages to be sold and consumed;

4. A fee in accordance with the adopted fee schedule; and

5. A temporary use permit, if applicable.

b. The Director will render a final decision within ten working days. The decision will be in the form of approval, approval with conditions or denial. The Director may forward the request to other appropriate agencies for comment.

(3) *Time limit.*

a. Only 12 temporary alcoholic beverage permits may be issued per year to a specific location, including those in conjunction with a temporary use permit. If more than 12 permits are sought per year for a specific location, then the location must obtain a permanent alcoholic beverage special exception. If the event for which the temporary alcoholic beverage permit is sought continues for longer than one day, the applicant may petition the Director for an extended permit. A temporary alcoholic beverage permit will not be issued by the Director for more than three days.

b. The Board of County Commissioners will review all requests for temporary alcoholic beverage permits where an event will run longer than three days. Under no circumstances will a temporary alcoholic beverage permit be issued for more than ten days.

c. If the temporary alcoholic beverage permit is obtained in conjunction with a temporary use permit, issuance of the permit must comply with the time limits established in 34-3041(e)(2).

(e) *Expiration of approval.* After the following time periods, the administrative or special exception approval of a location for the sale and consumption of alcoholic beverages on the premises granted in accordance with this section will expire and become null and void:

(1) In the case of an existing structure, the approval will expire six months from the date of approval unless, within that period of time, operation of the alcoholic beverage establishment has commenced. For purposes of this subsection, the term "operation" is defined as the sale of alcoholic beverages in the normal course of business.

(2) In the case of a new structure, the approval will expire one year from the date of approval unless, within that period of time, operation of the alcoholic beverage establishment has commenced. The Director may grant one extension of up to six months, if construction is substantially complete.

(f) *Transfer of permit.* Alcoholic beverage permits, excluding permits for bottle clubs and as noted in section 34-1264(a)(1)i., issued by virtue of this section is a privilege running with the land. Sale of the real property will automatically vest the purchaser with all rights and obligations originally granted to or imposed on the applicant. The privilege may not be separated from the fee simple interest in the realty.

(g) *Expansion of area designated for permit.* The area designated for an alcoholic beverage permit may not be expanded without filing a new application for an alcoholic beverage permit in accordance with the requirements contained in this chapter. The new application must cover both the existing designated area as well as the proposed expanded area. All areas approved must be under the same alcoholic beverage permit and subject to uniform rules and regulations.

(h) *Nonconforming establishments.*

(1) *Expansion.* A legally existing establishment engaged in the sale or service of alcoholic beverages made nonconforming by reason of the regulations contained in this section may not be expanded without a special exception. The term "expansion," as used in this subsection, includes the enlargement of space for the use and uses incidental thereto, the expansion of a beer and wine bar to include intoxicating liquor, as that term is defined by the Florida Statutes, and the expansion of a bar use to a nightclub use. Nothing in this subsection may be construed as an attempt to modify any prohibition or diminish any requirement of state law.

(2) *Abandonment.* Any uses, created and established in a legal manner, which thereafter become nonconforming, may continue until there is an abandonment of the permitted location for a continuous six-month period. For purposes of this subsection, the term "abandonment" means failure to use the location for consumption on the premises purposes as authorized by the special exception, administrative approval, or other approval. Once a nonconforming use is abandoned, it cannot be reestablished unless it conforms to the requirements of this chapter, and new permits are issued.

(i) *Revocation of permit or approval.*

(1) The Hearing Examiner has the authority to revoke an alcoholic beverage special exception, administrative approval, or other approval upon any of the following grounds:

a. A determination that an application for special exception or administrative approval contains knowingly false or misleading information.

b. Violation by the permit holder of any provision of this chapter, or violation of any state statute which results in the revocation of the permit holder's state alcoholic beverage license by the State Alcoholic Beverage License Board or any successor regulatory authority.

c. Repeated violation of any County ordinance at the location within the 12-month period preceding the revocation hearing.

d. Failure to renew a state liquor license, or written declaration of abandonment by the tenant and owner of the premises if under lease, or by the owner himself if not under lease.

e. Abandonment of the premises. An establishment which continually maintains (renews) its state liquor license, even though it has suspended active business with the public, will not be deemed to have been abandoned for purposes of this subsection.

f. Violation by the permit holder of any condition imposed upon the issuance of the special exception or administrative approval.

g. Violation of any of the minimum standards of the special exception.

(2) Prior to revoking an administrative approval, special exception, or other approval for alcoholic beverages, the Hearing Examiner must conduct a public hearing at which the permit holder may appear and present evidence and testimony concerning the proposed revocation. At the hearing, the Hearing Examiner may revoke the permit if a violation described in this subsection is established by a preponderance of the evidence. The permit holder must be notified of the grounds upon which revocation is sought prior to any hearing, and must be given notice of the time and place of the hearing in the same manner as set forth in article II of this chapter.

(3) When an alcoholic beverage permit is revoked in accordance with the terms of this subsection, the County may not consider a petition requesting an alcoholic beverage permit on the property for a period of 12 months from the date of final action on the revocation.

(4) Upon written demand of the Hearing Examiner, any owner or operator of an establishment with a COP license must make, under oath, a statement itemizing the percentage of his gross receipts from the sale of alcoholic beverages. Failure to comply with the demand within 60 days of the demand date is grounds for revocation of the special exception, administrative approval, or other approval.

(j) *Appeals.* All appeals of decisions by the Director must be in accordance with the procedures set forth in article II or article IV of this chapter for appeals of administrative decisions.

(k) *Bottle clubs.*

(1) All bottle clubs operating under a valid special permit are deemed nonconforming on the effective date of this ordinance.

(2) All non-conforming bottle clubs must discontinue their use no later than 12 months from the effective date of this ordinance.

(3) No new bottle clubs will be allowed in any zoning district. This subsection supersedes and repeals any existing County regulations in conflict herewith.

(Zoning Ord. 1993, § 202.03(D); Ord. No. 94-24, § 34, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-1265—34-1290. Reserved.

DIVISION 6. ANIMALS

Sec. 34-1291. Applicability of division.

The keeping, raising or breeding of horses and other livestock, including poultry of all kinds usually and customarily considered as farm animals, and the keeping, raising or breeding of reptiles, marine life or animals not indigenous to the state, may be permitted only as set forth in this division. This will not be interpreted as applying to pet stores or hobbyists keeping aquariums or domestic tropical birds in their own homes.

(Zoning Ord. 1993, § 202.04(A); Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1292. Horses and other equines.

The keeping, raising or breeding of horses or other equines is a permitted use or special exception in the AG, RS-4, RS-5 and MH-4 districts and in the RPD, MHPD, and MPD districts when approved as part of the master concept plan, as follows:

(1) *Lot size.* The minimum lot area required for a stable or other roofed structure for horses or other equines is as follows:

   a. Private stables: 40,000 square feet.

   b. Boarding stables: Five acres.

   c. Commercial stables: Ten acres.

(2) *Setback.* Except as provided in section 34-1296(b), any stable or other roofed structure for the keeping, raising or breeding of horses or other equines must be set back the following minimum distances from any property zoned RSC, RS (excluding RS-4 and RS-5), TFC, TF, RM, MHC, MH (excluding MH-4), RV, RPD, MHPD and MPD (except for those areas of RPDs, MHPDs and MPDs approved for stables), and any CFPD or CF districts approved for residential, health care or social service living facilities:

   a. Private stables: 35 feet.

   b. Boarding stable: 100 feet.

   c. Commercial stables: 200 feet.

(3) *Commercial stables.* Commercial stables are permitted by special exception, as specified in zoning district regulations, provided that there is compliance with this division. Commercial stables may allow horse shows and exhibitions, which may include riding exhibitions, riding lessons, dressage, roping and cutting, as ancillary uses subject to the following:

   a. A site plan must be submitted with the application for the special exception, showing all existing and proposed facilities, providing sufficient capacity for the size of the operation and sufficient off-street parking for entrants and guests.

   b. In no instance may more than 15 horses (outside entrants) participate at any one horse show or exhibition, except in conformance with section 34-3045

   c. Activities may not begin prior to 7:00 a.m. nor continue later than 12:00 a.m.

   d. Artificial lighting used to illuminate the facilities must be directed away from adjacent properties and streets.

e. Music and noise audible at the property line must be measured and restricted as provided in the County Noise Ordinance, Ordinance No. 82-32, as amended.

f. A refreshment stand may be permitted as an accessory use to a horse show or exhibition.

g. Maximum length of time may not exceed three days.

(Zoning Ord. 1993, § 202.04(B); Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1293. Goats, sheep and swine.

(a) Except as provided in section 34-1296(b), the keeping, raising and breeding of goats, sheep or swine may be permitted in any AG district as follows:

(1) Goats, sheep and swine may not be kept or allowed to run within 100 feet of any dwelling unit under separate ownership unless the property on which the dwelling unit is located is being used for bona fide agricultural purposes.

(2) Buildings or other roofed structures for keeping of goats, sheep or swine must be set back a minimum of 300 feet from any dwelling unit under separate ownership unless the property on which the dwelling unit is located is being used for bona fide agricultural purposes.

(b) The keeping and raising of Vietnamese pot-bellied pigs (sus scrofa bittatus) as a household pet is allowed in all residential districts. Vietnamese pot-bellied pigs are limited to no more than four pigs per dwelling unit. No other species of pig or hog may be kept or maintained in residential districts within the unincorporated areas of the County.

(Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1294. Noncommercial poultry raising.

Except as provided in section 34-1296(b), the keeping, raising and breeding of chickens or other poultry is permitted in any AG district and as approved by Special Exception in RS-4 and RS-5 districts provided that no coop or other structure for housing chickens or poultry is located closer than 100 feet to any dwelling unit under separate ownership unless the property on which the dwelling unit is located is being used for bona fide agricultural purposes.

(Ord. No. 98-03, § 5, 1-13-98; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-1295. Dairy barns; commercial poultry raising.

Except as provided in section 34-1296(b), dairy barns and commercial poultry raising buildings must be set back a minimum of 300 feet from any dwelling unit under separate ownership unless the property on which the dwelling unit is located is being used for bona fide agricultural purposes.

(Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1296. Other setbacks; exceptions to setback requirements.

(a) When a specific setback for an accessory building or structure is not provided in this division, the setbacks will be the same as for other accessory buildings or structures (see division 2 of this article).

(b) The minimum setbacks set forth in sections 34-1292, 34-1293, 34-1294 and 34-1295 will not be applicable to those facilities legally in existence and operation prior to residential zoning being approved closer than the required setbacks.

(Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1297. Activities requiring special approval.

(a) Due to possible adverse effects on the natural environment, or the potential hazard to surrounding property or the general public, the following activities are authorized only by special exception in certain zoning districts:

(1) The keeping, raising or breeding of:

a. American alligators or venomous reptiles;

b. Marine life which requires the storage of brackish or saline water in man-made ponds;

c. Domestic tropical birds for commercial purposes; and

d. Class I and II animals (df).

(b) All special exceptions authorizing the keeping, raising or breeding of American alligators, venomous reptiles, Class I animals or Class II animals must specify the number and type of animals permitted thereby.

(c) Class I animals maintained on a lot in accordance with state permits issued pursuant to F.S. ch. 379 prior to September 9, 1994, but which were not permitted by right or by special exception in the zoning district in which the lot is located, are considered nonconforming uses.

No new, additional, or replacement Class I animals will be permitted on such lots so long as the possession of these animals is not otherwise permitted by the operation of these zoning regulations.

(d) The provisions of this section do not apply to the possession of ostrich, cassowary, rhea or emu for the production of meat, skins or hides, feathers, or progeny thereof as part of a bonafide agricultural operation in an agricultural district.

(Zoning Ord. 1993, § 202.04(G); Ord. No. 94-02, § 2, 1-19-94; Ord. No. 94-24, § 35, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-1298—34-1320. Reserved.

DIVISION 7. ANIMAL CLINICS AND FACILITIES

Sec. 34-1321. Permitted activities.

Kennels, animal clinics and boarding facilities are limited to the raising, breeding, treating, boarding, training, grooming and sale of domestic animals.

(Zoning Ord. 1993, § 516)

Sec. 34-1322. Enclosure of facilities.

Except as specifically provided in this division, all animal clinics, animal kennels and boarding facilities shall be completely enclosed within an air conditioned, soundproof building and shall have no outdoor cages, pens, runs or exercise facilities.

(1) *Completely enclosed facilities.* Any animal clinic, kennel or boarding facility permitted by right or by special exception, as specified in the zoning district regulations, shall be required to meet the minimum lot size and setback requirements for the zoning district in which located.

(2) *Facilities not completely enclosed.* Any animal clinic, kennel or boarding facility which contains outdoor pens, cages, runs or exercise facilities shall be required to meet the following minimum requirements in addition to the regulations in the applicable zoning district:

a. *Lot size.* Minimum lot size is two acres.

b. *Setbacks.* No portion of any pen, cage, run or other outdoor exercise facility shall be located closer than 200 feet to any abutting lot or parcel under separate ownership, or from any street right-of-way line or easement.

(Zoning Ord. 1993, § 516(A); Ord. No. 09-23 , § 10, 6-23-09)

Secs. 34-1323—34-1350. Reserved.

DIVISION 8. AUTOMOTIVE BUSINESSES; CONVENIENCE FOOD AND BEVERAGE STORES; FAST FOOD RESTAURANTS [15]

Subdivision I. - Display, Rental, Repair or Storage of Vehicles or Equipment

Subdivision II. - Convenience Food and Beverage Stores, Automotive Service Stations, Fast Food Restaurants, and Car Washes.

FOOTNOTE(S):

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Editor's note— Ord. No. 09-23, § 10, adopted June 23, 2009, amended the title of Div. 8 to read as herein set out. Prior to inclusion of said ordinance, Div. 8 was entitled, "Automotive Businesses; Display, Rental, Repair or Storage of Vehicles or Equipment." See also the Land Development Code Comparative Table. (Back)

Subdivision I. Display, Rental, Repair or Storage of Vehicles or Equipment

Sec. 34-1351. Automotive repair and service.

Sec. 34-1352. Display, sale, rental or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.

Sec. 34-1351. Automotive repair and service.

(a) All services performed by an automotive repair and service establishment, including repair, painting and body work activities, must be performed within a completely enclosed building. Providing estimates for work to be completed or performing minor repair services, such as replacement of windshield wiper blades, automobile batteries, and light bulbs are excluded from this provision.

(b) Whenever an automotive repair and service establishment is within 75 feet of a residential use, all refuse and vehicle parts must be stored within a completely enclosed area.

(Zoning Ord. 1993, § 504; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 12-01 , § 6, 1-10-12)

Sec. 34-1352. Display, sale, rental or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.

Purpose and intent. The purpose of this section is to ensure that all establishments engaged in the outdoor display, sale, rental or storage of motor vehicles, boats, recreational vehicles, trailers, mobile homes, construction or farm equipment, or other similar items do not adversely impact adjacent land uses, especially residential land uses. The high levels of traffic, glare, and intensity of use associated with these uses may be incompatible with surrounding uses, especially residential uses. Therefore, in the interest of protecting the health, safety and general welfare of the public, the following regulations will apply to the location, layout, drainage, operation, landscaping, and permitted sales and service activities:

(a) *Applicability.* This section applies to all commercially zoned establishments engaged in the outdoor display, sale, rental or storage of motor vehicles, boats, recreational vehicles, trailers, mobile homes, construction or farm equipment, or other similar items; except "water-oriented rental establishments: outdoors," that are regulated by section 34-3151

(b) *Prohibited uses.*

(1) Except as provided in this section, no units may be used as sales offices or storage space. Any sales office or storage space, other than for the units, must be in a conventional building.

(2) A mobile home may be used as an office for sales of mobile home lots or units which are located within the mobile home development only.

(c) *Minimum setbacks.*

(1) All buildings and structures must comply with the following setback:

a. *Street setback:* 50 feet.

b. *Side yard setback:* 40 feet.

c. *Rear yard setback:* 40 feet.

(2) All items covered by this section which are displayed or offered for sale or rent must be set back a minimum of 20 feet from any property line, unless chapter 10 sets forth a different setback, in which case the greater setback will apply.

(3) All buildings and items covered by this section that are displayed or offered for sale or rent must be set back a minimum of 100 feet from any existing residence or any residentially zoned property. For purposes of this section, "residentially zoned property" does not include property zoned "AG."

(d) *Display and parking areas.*

(1) No parking space or loading zone required by the parking regulations set forth in this chapter may be used for the display of merchandise or parking of rental vehicles.

(2) Areas used for display may be grass or other surface, provided it is maintained in a sightly, dust free manner.

(e) *Storage areas.* Areas used for the commercial storage of motor vehicles, boats, trailers, recreational vehicles, mobile homes and construction or farm equipment which is not being displayed for sale or rent must be enclosed (see section 34-3005(b)).

(f) *Lighting.* Site lighting must be designed in accordance with section 34-625

(g) *Landscaping.* The following landscape requirements are in addition to the requirements of section 10-416

Required landscaping adjacent to property boundaries:

(1) *Right-of-way buffer landscaping.*

a. Landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer easement that is a minimum of 25 feet in width.

b. An undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum average height of two feet. The berm must be planted with ground cover (other than grass), shrubs, hedges, trees and palms.

c. The required number of trees is five canopy trees per 100 linear feet. Three sabal palm trees may be clustered to meet one canopy tree requirement. Palms are limited to a maximum of 50 percent of the right-of-way tree requirement. Palms must be clustered and planted in staggered heights, a minimum of three palms per cluster, spaced at a maximum of four feet on center, with a minimum of a four foot difference in height between each tree.

d. All of the trees must be a minimum of 14 feet in height at the time of installation. Trees must have a minimum of a three and one-half inch caliper at 12 inches above the ground and a six-foot spread. At installation, shrubs must be a minimum of three gallon, 24 inches in height at time of planting and maintained at a minimum of 36 inches in height within one year of planting. The shrubs must be planted three feet on center.

(2) *Landscaping adjacent to all other property lines.*

a. Side property boundaries (other than those adjacent to rights-of-way) must be planted with a single hedge row consistent with the minimum requirements of section 10-416. The hedge must be a minimum of 24 inches in height at planting, planted at three feet on center and must be maintained at a height of 36 inches within 12 months of planting.

b. Rear property boundaries (other than those adjacent to road rights-of-way) must be planted with a single hedge row. The hedge must be a minimum of 24inches in height at planting, planted at three feet on center and must be maintained at a height of 36 inches within 12 months of planting.

(h) *Perimeter walls.* These sites must be separated from adjacent residentially zoned or residentially developed properties by an architecturally designed eight-foot high solid wall utilizing materials similar in color, module and texture to those utilized for the building. Landscaping must be planted on the residential side of the fence or wall. The wall must be setback 25 feet from the property line and include five trees per 100 linear feet and a double hedge row. The trees and shrubs must meet the minimum planting standards per sections 10-420(c) and (d).

(i) *Outdoor speakers.* The use of public address or loudspeaker systems that broadcast outdoors is prohibited.

(Zoning Ord. 1993, § 507; Ord. No. 94-24, § 36, 8-31-94; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 07-24 , § 7, 8-14-07)

Subdivision II. Convenience Food and Beverage Stores, Automotive Service Stations, Fast Food Restaurants, and Car Washes.

Sec. 34-1353. Convenience food and beverage stores, automotive service stations, fast food restaurants, and car washes.

(a) *Purpose and intent.* The purpose and intent of this section is to ensure that establishments such as convenience food and beverage stores with or without gas pumps, automobile service stations with or without gas pumps, fast food restaurants, and car washes, accessory or stand alone, do not adversely impact adjacent land uses. The hours of operation, high levels of traffic, noise, glare and intensity associated with these uses may be incompatible with surrounding uses, specifically residential uses. In the interest of protecting the health, safety and welfare of the public, the following regulations apply to the location, design, operation, landscaping and related activities.

(b) *Applicability.* This section applies to all stand alone or accessory convenience food and beverage stores, automobile service stations, fast food restaurants and car washes.

(c) *Minimum lot area.* All buildings and structures must comply with the following minimum lot dimensions and area:

(1) *Minimum frontage:* 150 feet of frontage on a vehicular right-of-way

(2) *Minimum depth:* 150 feet

(3) *Minimum lot or parcel area:* 25,000 square feet

(d) *Minimum setbacks.* All buildings and structures must comply with the following setbacks:

(1) *Street setback:* 50 feet for arterials and collectors

(2) *Side yard setback:* 15 feet

(3) *Rear yard setback:* 20 feet

(e) *Street right-of-way buffer landscaping.* The following landscape requirements are in addition to the requirements set forth in section 10-416

(1) Landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer that is a minimum of 25 feet in width; or, 15 feet in width if abutting an internal accessway to a commercial development.

(2) For projects with an open drainage system, an undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum height of two feet as measured from the grade of the parking lot.

For projects with a closed drainage system a berm is not required.

(3) The required number of trees is five canopy trees per 100 linear feet. Three sabal palm trees may be clustered to meet one canopy tree requirement. Palms are limited to a maximum of 50 percent

of the right-of-way tree requirement. Palms must be clustered and planted in staggered heights, a minimum of three palms per cluster, spaced at a maximum of four feet on center, with a minimum of a four foot difference in height between each tree.

(4) All of the trees must be a minimum of 14 feet in height at the time of installation. Trees must have a minimum of a three and one-half inch caliper at 12 inches above the ground and a six-foot spread. At installation, shrubs must be a minimum of three gallon, 24 inches in height at time of planting and maintained at a minimum of 36 inches in height within one year of planting. The shrubs must be planted three feet on center.

(5) Landscaping adjacent to the rear and side property lines must comply with the minimum requirements established in section 10-416 dependent on adjacent land uses.

(f) *Separation.* Uses must be separated from adjacent residentially zoned or developed properties by:

(1) An architecturally designed eight-foot high masonry wall or fence a minimum of 25 feet from the property line and landscaped with a minimum of five trees and 18 shrubs per 100 lineal feet; or

(2) A 30-foot wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property.

The wall or fence must be constructed of materials similar in color and texture to those utilized for the principal structure. Landscaping must be planted between the wall or fence and the abutting property.

(g) *Canopies.*

(1) Flat-roof canopies are prohibited. Canopies must be consistent with the architectural design and features of the principal structure.

(2) Canopy lighting must comply with section 34-625(d)(4)c.

(3) Canopies must be of one color, consistent with the predominant color of the principal structure.

(h) *Accent banding.* Color accent banding on all structures, including canopies, is prohibited.

(i) *Primary facades.* All sides of a building facing adjacent rights-of-way external to the development project must be designed with primary facade features in compliance with section 10-600

(Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1354. Variances or deviations.

The provisions of this section apply to all new development, including redevelopment.

(1) A deviation or variance from the requirements stated in sections 34-1352 and 34-1353 must be obtained through the public hearing process unless the project qualifies for administrative relief under section 34-1354(3).

(2) The applicant must demonstrate that the granting of the deviation or variance will not have an adverse impact on adjacent land uses in addition to the requirements set forth in section 34-145

(3) Project rendered nonconforming by the adoption of section 34-1352 and 34-1353 may obtain administrative relief to facilitate development or redevelopment of the site. Development of these nonconforming projects sites will be limited to development that will bring the site more into compliance with sections 34-1352 and 34-1353 given the existing site constraints.

(Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 14-13 , § 7, 6-17-14)

Secs. 34-1355—34-1380. Reserved.

DIVISION 9. BUS DEPOTS, STATIONS AND TERMINALS; PARK-AND-RIDE PARKING LOTS [16]

Sec. 34-1381. Reserved.

Editor's note—

Ord. No. 13-10, § 10, adopted May 28, 2013, repealed § 34-1381 which pertained to purpose of the division and derived from § 505(A) of the 1993 Zoning Ordinance.

Sec. 34-1382. Site plan.

All applications for a special exception or change of use for a bus station/depot or bus terminal shall include a site plan, drawn to scale, indicating but not limited to following:

(1) The location of the bus stalls.

(2) Commuter parking.

(3) Taxi waiting stalls.

(4) Circulation pattern of the buses within and through the parking lot.

(5) Bus ingress and egress points to or from the parking lot.

(6) The location of the building housing the bus station/depot or bus terminal and the area designated for a waiting area, to include the storage and handling of luggage and parcels.

(Zoning Ord. 1993, § 505(B))

Sec. 34-1383. Access.

(a) The site plan shall be designed so that the location of ingress and egress points are adequate and the turning radii for buses are in accordance with the design standards as depicted in the latest edition of the publication of the American Association of State Highway and Transportation Officials (AASHTO),

A Policy on Geometric Design of Highways and Streets, in order to provide safe and efficient maneuverability.

(b) All buses exiting a parking lot must enter the street right-of-way in a forward motion.

(c) The site plan shall ensure safe and adequate access to collector or arterial streets.

(Zoning Ord. 1993, § 505(C))

Sec. 34-1384. Parking generally.

(a) *Off-street parking.* The parking for a bus station/depot or bus terminal where the loading and unloading of passengers, luggage or parcels may occur shall meet the following minimum requirements:

(1) One parking space, excluding parking space for buses, shall be required per 100 square feet of total floor area dedicated to passenger waiting area, and one space shall be required per 1,000 square feet of total floor area dedicated to ticket sales or baggage or parcel handling areas.

(2) Parking spaces shall be required for all buses using the site. A minimum of one bus parking space shall be required for each bus carrier using the facility. If arrival and departure times run concurrently, then additional parking must be provided to ensure that each bus has a separate parking space.

(3) The parking spaces for each bus stall shall be designated by signage and pavement markings.

(4) Each bus parking stall shall be a minimum of 12 feet by 50 feet in size for parallel or diagonal parking.

(5) All required parking shall have a paved, dustfree, all-weather surface.

(6) For every 12 daily scheduled bus arrivals and departures, or a portion thereof, at locations where passengers may disembark, one parking space for taxicabs and one parking space for commuters shall be required.

(b) *On-street parking.* In some instances, it may be appropriate for a bus station/depot to have the buses parked within an adjacent road right-of-way. In all such instances, the location of the bus turnout, proximity to the bus station/depot and how the bus will enter and exit the turnout must be shown on the site plan.

(Zoning Ord. 1993, § 505(D))

Sec. 34-1385. Parking for bus terminals.

(a) In addition to the requirements of section 34-1384(a), where bus terminals are permitted by right or special exception, the following parking requirements shall apply:

(1) One space for each 2,000 square feet of total floor area, with a minimum of five parking spaces, shall be required for buildings or structures dedicated to the housing of buses;

(2) Adequate parking shall be provided for the outdoor storage of buses, if such storage is required; and

(3) Where a bus terminal is used solely for the transient housing or parking of buses, the parking requirements of section 34-1384(a) shall not apply.

(b) On-street parking as described in section 34-1384(b) shall not be approved in conjunction with bus terminals.

(Zoning Ord. 1993, § 505(F))

Sec. 34-1386. Modification of parking requirements.

The Hearing Examiner has the authority, where a bus station/depot is permitted by special exception, to alter the requirements of section 34-1384(a)(1) and (a)(6) where the size of the station/depot, frequency of use and destination of passengers may warrant a lesser or greater number of parking spaces.

(Zoning Ord. 1993, § 505(G))

Sec. 34-1387. Expansion of existing bus station/depot.

Where a bus station/depot has been approved by special exception, any additions, renovations or other expansions or increase in intensity, beyond that which was originally approved, will require a special exception.

(Zoning Ord. 1993, § 505(E))

Sec. 34-1388. Park-and-ride parking lots.

(a) *Applicability.* This section applies to all park-and-ride parking lots as defined by section 34-2 that constitute the principal use of the property.

(b) *Property development regulations.* The minimum lot area, lot dimensions and setbacks must comply with the minimum requirements for the zoning district in which the use is located unless otherwise authorized by the Director.

(c) *Landscaping*. Landscaping must be provided in compliance with section 10-416

(d) *Access and design.* Park-and-ride lots must have access in compliance with section 34-2013 and be designed in compliance with sections 34-2015 through 34-2017

(e) *Pedestrian accommodations*. Pedestrian accommodations, as defined in section 34-2012, must connect the park-and-ride lot to the abutting bus station/depot or bus stop. A parking plan consistent with section 34-2014 must be provided.

(f) *Prohibited uses*. Park-and-ride lots must not be used for storage of vehicles.

(Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-1389—34-1410. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 13-10, § 10, adopted May 28, 2013, changed the title of Div. 9 from "Bus Depots, Stations and Terminals" to "Bus Depots, Stations and Terminals; Park-and-Ride Parking Lots." (Back)

Cross reference— Design standards for public transit, § 10-441 et seq. (Back)

DIVISION 10. CARE FACILITIES AND CENTERS

Sec. 34-1411. Assisted living facilities.

(a) *Generally.* Assisted living facilities (ALFs) are permitted by right or special exception as specified in the district use regulations or as approved as part of a master concept plan in the RPD, CFPD, CPD or MPD districts. Density must be calculated in accordance with sections 34-1491 through 34-1495 based on the density ranges for the land use category in which the subject property is located.

(b) *Design.* An assisted living facility must be designed so as to appear as, and be compatible with, adjacent residential buildings.

(c) *Lot dimensions and setbacks.* Assisted living facilities are subject to the property development regulations applicable to the zoning district within which they are located.

(d) *Parking.* Refer to section 34-2011 et seq.

(e) *Location.* No ALF may be constructed within the Coastal High Hazard area of the County unless the ALF facilities are constructed to meet the hurricane preparedness impact mitigation provisions set forth in section 2-485(b)(5)a to serve as on-site shelters for its occupants.

(Zoning Ord. 1993, § 502; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 14-13 , § 7, 6-17-14)

Secs. 34-1412, 34-1413. Reserved.

Editor's note—

Ord. No. 94-23, §§ 37 and 38, repealed former §§ 34-1412 and 34-1413, which pertained to day care centers and hospitals, respectively.

Sec. 34-1414. Continuing care facilities.

(a) *Generally.* Continuing care facilities (CCF's) may only be located in a RPD, CFPD, and MPD districts, as enumerated on the master concept plan, provided that:

(1) Continuing care facilities are subject to the density ranges for the land use category applicable to the subject property. Density will be calculated in accordance with subsection (c) of this section.

(2) A continuing care facility must contain one or more health care facilities group I or II, for on-site patient care.

(b) *Design; required facilities.*

(1) A continuing care facility must provide housing for older persons pursuant to title VII USC.

(2) A continuing care facility must provide full common dining facilities on the site. Individual units may be equipped with kitchens, but an average of at least one meal a day must be provided by the continuing care facility for all residents.

(3) A continuing care facility must incorporate one or more resident services on the site, such as banking facilities, barbershops or beauty shops, pharmacies, and laundry or dry cleaning.

(4) A continuing care facility must provide a shuttle bus service or similar transportation service for residents.

(c) *Density.* Density equivalents for a continuing care facility will be calculated for any assisted living facility units and nursing beds pursuant to division 12, subdivision II, of this article, and for independent living units on the basis of two independent living units equal to one residential dwelling unit.

(d) *Lot dimensions and setbacks.* Continuing care facilities are subject to the property development regulations applicable in the CFPD district.

(e) *Parking.* Refer to Sec. 34-2011 et seq.

(f) *Location.* No CCF may be constructed within the CHH areas of the County unless those facilities are constructed to meet the hurricane preparedness impact mitigation provisions set forth in section 2-485(b)(5)a to serve as on-site shelters for its occupants. CCF to be located in category 2 or 3 land falling storm areas must provide hurricane shelter facilities on site in accordance with section 2-485(b)(5)b.

(Zoning Ord. 1993, § 534; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 09-23 , § 10, 6-23-09)

Sec. 34-1415. Location of healthcare facilities.

No new Healthcare Facilities groups I, II, or IV may be constructed within the CCH areas of the County unless those facilities are constructed to meet hurricane preparedness impact mitigation provisions for shelter on site as set forth in section 2-485(b)(5)a.

Healthcare Facilities groups I, II or IV located in category 2 or 3 land falling storm areas must provide shelter facilities on site in accordance with section 2-485(b)(5)b.

Healthcare Facilities groups I, II or IV located in areas of special flood hazard where base flood elevation data has been provided as set forth in Chapter 6, Article IV must also comply with the standards set forth in section 6-472(7).

(Ord. No. 09-23 , § 10, 6-23-09)

Secs. 34-1416—34-1440. Reserved.

DIVISION 11. WIRELESS COMMUNICATION FACILITIES [17]

Sec. 34-1441. Purpose and intent.

The purpose and intent of this division is to:

(1) Promote the health, safety and general welfare of the public by regulating the siting of wireless communications facilities;

(2) Minimize the impacts of wireless communications facilities on surrounding areas by establishing standards for location, structural integrity, and compatibility;

(3) Accommodate the growing need and demand for wireless communications services;

(4) Provide for the location (and collocation) of wireless communications equipment on buildings so as to minimize visual, aesthetic, and public safety impacts, and adverse effects upon the natural environment and wildlife, including without limitation, avian flyways;

(5) Provide for the collocation of wireless communications equipment on existing antenna-supporting structures, especially where it will reduce the need for additional antenna-supporting structures;

(6) Encourage coordination between providers of wireless communications services in Lee County;

(7) Protect the character, scale, stability, and aesthetic quality of the residential districts of the County by imposing certain reasonable restrictions on the placement of amateur radio antennas that are over 50 feet in height;

(8) Respond to the policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless service or to prohibit or have the effect of prohibiting personal wireless service in the County;

(9) Establish predictable and balanced regulations governing the construction and location of wireless communications facilities, within the confines of permissible local regulation;

(10) Establish review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time; and

(11) Require the timely removal of antennas and antenna-supporting structures, the use of which has been discontinued.

(Ord. No. 03-11, § 1, 4-8-03)

Sec. 34-1442. Definitions.

For purposes of this division, certain terms are defined as follows:

Amateur radio antenna will have the meaning set forth in section 34-1175.

Ancillary appurtenances means equipment associated with a wireless communications facility including, but not limited to: Antennas, antenna concealment screening, attaching devices, transmission lines, and other equipment associated with a wireless communications facility. Ancillary appurtenances do not include equipment enclosures.

Antenna means any apparatus, or group of apparatus, designed for the transmitting and receiving of electromagnetic waves that includes, but is not limited to, telephonic, radio, or television communications. Antennas include omni-directional (whip) antennas, sectorized (panel) antennas, microwave dish antennas, multi or single bay (FM & TV), yaggie, or parabolic (dish) antennas, but do not include satellite earth stations.

Antenna concealment screening means panels, covers, or other methods that screen the visibility of antennas.

Antenna, dish means a parabolic, spherical, or elliptical antenna intended to receive wireless communications.

Antenna, flush-mounted means a dual-polarization antenna that is attached flush to an antenna-supporting structure, without the use of sidearms or other extension devices.

Antenna, panel means a directional antenna, with more than one panel per sector, designed to transmit and/or receive signals in a directional pattern that is less than 360 degrees.

Antenna, roof-mounted means an antenna mounted on the roof of a building, that extends above the roofline by 20 feet or less. An antenna, mounted on the roof of a building, that extends more than 20 feet above the roofline is an antenna-supporting structure.

Antenna, surface-mounted means an antenna that is attached to the surface or facade of a building or structure other than an antenna-supporting structure including, without limitation, billboards, utility poles and water towers.

Antenna, whip means a cylindrical, omni-directional antenna designed to transmit and/or receive signals in a 360-degree pattern.

Antenna-supporting structure means a vertically projecting structure, including any foundation, designed and primarily used to support one or more antennas or which constitutes an antenna itself. Antenna-supporting structures include roof-mounted antennas that extend above a roofline by more than 20 feet. For purposes of this division, a utility pole not exceeding 40 feet in height will not be construed to be an antenna-supporting structure.

Antenna-supporting structure, broadcast means an antenna-supporting structure, including replacements, which contains antennas that transmit signals for broadcast radio and television communications.

Antenna-supporting structure, guyed means a style of antenna-supporting structure supported by a series of guy wires that are connected to anchors placed in the ground or on a building.

Antenna-supporting structure, lattice means a style of stand-alone antenna-supporting structure, not supported by guy wires, which consists of vertical and horizontal supports with multiple legs and cross-bracing.

Antenna-supporting structure, monopole means a style of stand-alone antenna-supporting structure that is composed of a single shaft attached to a foundation with external antennas. This type of antenna-supporting structure is designed to support itself without the use of guy wires or other stabilization devices.

Antenna-supporting structure, replacement means an antenna-supporting structure intended to replace an antenna-supporting structure in existence at the time of application.

Available space means the space on an antenna-supporting structure or other structure to which antennas are both structurally and electromagnetically able to be attached.

Balloon test means an event in which the applicant arranges to fly, or raise upon a temporary mast, for four consecutive days, a brightly colored balloon not less than three feet in diameter, at the maximum height and at the location of the proposed antenna-supporting structure.

Base station means a primary sending and receiving site in a wireless communication network. A wireless communication facility may support base stations for more than one provider.

Broadcast facility means a wireless communications facility used for the transmission and reception of commercial radio or television signals.

Collocated or *collocation* means the addition or replacement of an antenna on an existing structure that has been previously approved for the placement of antenna. The term collocated includes the ground, platform or roof installation of equipment enclosures and ancillary accessories associated with the location and operation of the antenna.

Combined antenna means an antenna designed and utilized to provide services by more than one provider.

Equipment enclosure means an enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communications signals and support of a wireless communications facility, but not used primarily to store unrelated equipment or used as habitable space.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Geographic search area means the area in which an antenna is proposed to be located in order to provide the provider's designed service.

Letters of coordination means documentation provided by the applicant that the following notice was mailed, via certified mail, to all providers or, where applicable, owners of existing antenna-supporting structures, and that the applicant was unable to secure a lease agreement to allow the placement of the proposed antenna on an existing structure or building within the geographic search area:

Text of required notice:

"Pursuant to the requirements of the Lee County Land Development Code, (name of applicant) is hereby providing you with notice of our intent to meet with the Lee County Department of Community Development in a pre-application conference to discuss the location of a freestanding wireless communications facility that would be located at (location). We plan to construct an antenna-supporting structure of (number of) feet in height for the purpose of providing (type of wireless service). Please inform the County and us if either of the following applies:

a. You intend to place additional wireless communications facilities within two miles of our proposed facility; or

b. You know of an existing building or structure that might accommodate the antennas associated with our proposed facility.

Please provide us with this information within ten days following the receipt of this letter.

Sincerely, (applicant, wireless provider)"

The Department will maintain a list of known service providers and owners. Letters of coordination must be mailed at least 15 days prior to the pre-application conference required by this division and must request a response from the recipient within ten days of receipt.

Overall height means the height of a wireless communications facility measured as set forth in section 34-2171, but without any adjustment for minimum required flood elevation. Overall height includes all antennas and other ancillary appurtenances.

Personal wireless service means commercial mobile services (which include cellular, personal communication services, specialized mobile radio, enhanced specialized mobile radio, and paging), unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

Provider means a business, corporation, partnership, or other entity licensed by the FCC to provide wireless services in Lee County, Florida.

Repeater means a small receiver or relay transmitter of low power output relative to a base station output, designed to provide service to areas that are not able to receive adequate coverage directly from a base station.

Roofline means the uppermost line of the roof or parapet, whichever is lower.

Satellite earth station will have the meaning set forth in section 34-1175.

Shared use plan means a plan that includes the following:

(1) A signed statement from the antenna-supporting structure owner agreeing to allow multiple providers to collocate on the structure, where reasonable and structurally feasible; and

(2) A written evaluation of the feasibility of accommodating future collocations. Such evaluation must address the following, as appropriate:

   a. Structural capacity of the proposed antenna-supporting structure;

   b. Radio frequency limitations impacting the ability to accommodate collocations;

   c. Geographical search area requirements;

   d. Mechanical or electrical compatibility;

   e. Any restrictions imposed upon the facility by the FCC that would preclude future collocations; and

   f. Additional relevant information as required by the County.

Sight lines means a graphic representation consisting of:

(1) Using the U.S.G.S. Quadrangle map, at a scale of 1:25,000 as a base map, a minimum of eight view lines, shown beginning at True North and continuing clockwise at 45-degree intervals in a two-mile radius from the site; and

(2) A plan map of a circle of two miles radius of the communication facility site on which any areas from which the proposed communication facility will be visible must be indicated.

Utility pole means a vertical structure used primarily by publicly regulated utilities or for street lighting and located within a street right-of-way, road easement or public utility easement.

Utility pole, replacement means a vertical structure used primarily by publicly regulated utilities or for street lighting and located within a street right-of-way, road easement or public utility easement limited to 40 feet in height to accommodate wireless communication facilities.

Wireless communications means any personal wireless service, radio and television broadcast services, and any other radio frequency signals, including amateur radio.

Wireless communications facility means any facility used for the transmission and reception of wireless communications, usually consisting of an antenna or group of antennas, base station, transmission lines, ancillary appurtenances, equipment enclosures, or repeaters, and may include an antenna-supporting structure. Any of the following will be considered a wireless communications facility: Antennas, antenna-supporting structures (including replacement and broadcast), base stations, equipment enclosure, roof-mounted antennas, surface-mounted antennas, repeaters, and amateur radio facilities.

Wireless communications facility site means a property, or any part thereof, owned or leased by one or more providers and upon which one or more wireless communications facility(s) and required landscaping are located.

(Ord. No. 03-11, § 1, 4-8-03; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1443. Applicability and exemptions.

(a) Except as provided in subsection (b) below, this division applies to the installation, construction, or modification of wireless communications facilities.

(b) The following items are exempt from the provisions of this division:

(1) Amateur radio antenna with an overall height of 50 feet or less. Any such structure may be developed only in accordance with the provisions of section 34-1175

(2) Satellite earth stations, other than broadcast, may only be developed in accordance with section 34-1175

(3) Maintenance of existing wireless communications facilities that does not include the placement or replacement of a wireless communications facility.

(4) Replacement or modification of antennas, ancillary appurtenances or equipment enclosures with facilities of the same design, or narrower profile, the same size, or smaller, or otherwise not discernibly different in appearance, when viewed from ground level from surrounding properties, as the facilities being replaced;

(5) Wireless communications facilities erected as a temporary use, that receives a temporary use permit pursuant to the provisions of section 34-3041

(6) Wireless communications facilities erected upon the declaration of a state of emergency by a federal, state, or local government. However, no wireless communications facility will be exempt pursuant to this paragraph unless the Director of Public Safety makes a determination of public necessity for the facility. The written determination must be submitted to the Director. No wireless communications facility will be exempt from the provisions of this division beyond the duration of the state of emergency, and such facility must be removed within 90 days of the termination of the state of emergency.

(7) Collocation of antennas on existing antenna-supporting structures that:

a. Do not increase the height of the existing structure, as measured to the highest point of any part of the structure or any existing antenna attached to the structure;

b. Do not increase the approved ground wireless communication facility site; and

c. Are of a design and configuration consistent with all of the applicable design and aesthetic regulations, restrictions or conditions, if any, applied to the first antenna placed on the structure or applied to the structure itself.

(Ord. No. 03-11, § 1, 4-8-03; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1444. Permissible wireless facility locations.

(a) Except as provided below, a wireless communications facility may be permitted only in accordance with section 34-1447 and the provisions of this chapter. Regardless of the process required, the applicant must comply with all submittal, procedural and substantive provisions of this chapter. Variances or deviations from the requirements of this division may be granted only in accordance with the requirements of section 34-1453 for a variance.

(b) *Exceptions:*

(1) Broadcast antenna-supporting structures in excess of 250 feet will only be allowed within an agricultural zoning district by variance in accordance with the requirements of section 34-1453. Broadcast studios are not allowed in the agricultural zoning district and must comply with all other applicable zoning and development regulations.

(2) The first antennas proposed to be mounted on existing buildings or structures must apply for administrative review as set forth in section 34-1445(b). Collocations, other than those under section 34-1443(b)(7), shall follow the procedures indicated in section 34-1445

(3) On the barrier islands, Greater Pine Island (see section 33-1084), and within the outer island future land use areas, the overall height of wireless communications facilities must not exceed 35 feet or the height limitation set forth in section 34-2175

(4) Wireless communications facilities are prohibited in the Density Reduction - Groundwater Resource (DR/GR) Future Land Use areas, wetlands, environmentally critical zoning districts and areas readily visible from the University Window Overlay, except for:

a. Antenna supporting structures;

b. Surface-mounted and flush-mounted antennas; and

c. Collocations.

The design of any facility proposed in these areas must be reviewed in accordance with the provisions of section 34-1445 and section 34-1447.

(Ord. No. 03-11, § 1, 4-8-03; Ord. No. 07-19 , § 6, 5-29-07; Ord. No. 09-05 , § 2, 2-25-09; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1445. Development review process.

(a) *Pre-application conference.*

(1) Prior to submitting an application for a wireless communication facility, the applicant may file a request for a pre-application conference with the Director. The purpose of the pre-application conference is to acquaint the participants with the applicable requirements of this chapter and with preliminary concerns of the Department.

(2) The applicant's written request for a pre-application conference must include the following information with regard to the proposed facility:

a. Location and existing conditions;

b. Overall height;

c. Number of antennas proposed (including those of other providers);

d. Type of wireless communications to be provided; and

e. Proof that the letters of coordination were mailed.

(3) Among the matters to be addressed at the pre-application meeting are:

a. The ability of the proposed wireless communication facility to accommodate future collocations;

b. Alternative locations or facility configurations that may result in reduced impacts on adjacent properties and the surrounding community;

c. Compatible colors for the proposed facility;

d. The vantage points from which required photo-simulated post-construction renderings must be oriented;

e. The need for variances or deviations from the provisions of this chapter; and

f. The expected date of application and a preliminary schedule for development review.

(b) *Zoning.*

(1) *Administrative review.* Where provided by this division, an application will be reviewed by the Director for compliance with this chapter. The Director may attach conditions to any facility approved administratively if such conditions are reasonably necessary to effectuate the intent and purpose of this Code and other applicable regulations.

(2) *Special exception.*

a. Where, pursuant to Table 34-1447, a special exception is required, the application must be reviewed pursuant to the provisions of section 34-145(c) and this division.

b. *Appeal.* The Director or any aggrieved party may appeal decisions of the Hearing Examiner to the Board of County Commissioners following the procedures set forth in section 34-83(b), Zoning Actions. The Board of County Commissioners will treat the decision of the Hearing Examiner as a recommendation and not as a final decision. Appeals must be filed with the Director within 30 calendar days after the decision has been rendered.

(3) *Final decision.*

a. *Approval.* For administrative approvals and in addition to the findings required by section 34-145 for special exceptions and variances, for new antenna supporting structures the County must make all of the following findings (or conclude that a finding is not applicable) before granting approval of an application:

1. The applicant is not able to use existing wireless communications facility sites, either with or without repeaters, in the geographic search area; and

2. The applicant has agreed to rent or lease available space on the antenna-supporting structure, under the terms of a fair-market lease, without discrimination to other wireless communications service providers; and

3. The proposed antenna-supporting structure will not be injurious to historical resources, obstruct scenic views, diminish residential property values, or reduce the quality and function of natural or man-made resources; and

4. The applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities.

b. *Denial.* Decisions by the County to deny an application for a proposed wireless communications facilities must be in writing and supported by substantial competent evidence contained in a written record.

(c) *Building permits and development orders.* Building permits and development orders are required for all wireless communication facilities in accordance with this chapter and Chapters 6 and 10.

(d) *Review time frames.*

(1) Applications for all wireless facilities subject to this division must be granted or denied within the normal time frame for the applicable type of review, but in no case later than 90 business days after the date the application is determined to be sufficient for review. If the sufficient application is not approved or denied within 90 business days, the application will be deemed automatically approved.

(2) *Sufficiency review.*

a. Upon initial submission or resubmission of application information for a wireless facility, the County shall have up to 20 business days to review the application to determine if all the required materials, in the required form, have been included in the application.

b. If all of the required materials have been properly submitted, the application shall be found sufficient for review.

c. If all of the required materials have not been properly submitted or resubmitted, the County must provide the applicant a letter with a brief explanation as to why the application is not complete for review and request the necessary additional information.

d. If the County does not provide the applicant written notice of the insufficiencies within 20 business days of the date of the application is initially submitted or additional information resubmitted, the application will be deemed sufficient and ready for review.

(3) *Time frame waiver.* To be effective, a waiver of the time frames must be voluntarily agreed to by the applicant and the County. The County may request, but not require, a waiver of the time frames by an applicant, except that, with respect to a specific application, a one-time waiver may be required in the case of a declared local, state or federal emergency that directly affects the administration of all permitting activities of the County.

(Ord. No. 03-11, § 1, 4-8-03; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1446. Application submittal requirements.

(a) *Minimum required information for all wireless communication facilities applications.* Every application for wireless communication facilities must include the following information. However, upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the Director prior to submitting the application. A copy of the request and the Director's written response must accompany the application and will become a part of the permanent file. The Director's decision is discretionary and may not be appealed.

(1) Documentation of authority and acceptance of responsibility for compliance with these regulations, executed by the property owner, the applicant, and the provider who will be placing antennas on the proposed or existing wireless communications facility.

(2) The name, address, and telephone contact information for the owner of all proposed or existing antenna-supporting structures and wireless communication facilities; and an affidavit that such information will be updated annually or upon a change of ownership after the application is approved.

(3) A license (and for broadcast structures, a construction permit) issued by the FCC to transmit radio signals in Lee County.

(4) New antenna-supporting structures must demonstrate there are no existing suitable structures available or higher priority zoning districts in the geographic search area. As part of that demonstration, the application must include a graphical representation of the geographic search area.

(5) A statement confirming the overall height of the facility and all other facilities on the subject property, in terms of grade and sea-level.

(6) A letter or letters:

a. Demonstrating consent from the Executive Director of the Lee County Port Authority if the wireless communications facilities is to be located within the County airspace notification limits of section 34-1008

b. Confirming review and recommendation from the Lee County Mosquito Control District, the Lee County Sheriff's Department and the Director of Public Safety or their respective designee, for any wireless communication facility exceeding 35 feet;

c. Evidence of compliance with applicable Federal Aviation Administration requirements under 14 C.F.R. § 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use.

These letters are not required for collocated and surface-mounted antennas.

(7) A survey of the subject property completed by a registered land surveyor which shows all existing conditions. This requirement does not apply to roof-mounted and surface-mounted antennas.

(8) Photo-simulated post-construction renderings of the proposed wireless communications facility, equipment enclosures, and ancillary appurtenances as they would look after construction from areas where the proposed wireless communication facility will be visible according to the balloon test and sight lines. This requirement does not apply to collocations.

(9) Shared use plan or copy of an executed shared use plan for the existing facility. (This is not required for a broadcast facility until such time as a request is made to collocate personal wireless service equipment.)

(10) For new antenna support structures, to allow a determination that there are no existing structures on which the provider's proposed antennas could be located, a list and map identifying all existing wireless communications facilities to which the proposed facility will be a handoff candidate, including latitude, longitude, and power levels of each.

(11) Floor plans, elevations, and cross sections at a scale no smaller than ¼″ = 1′ (1:48) of any proposed accessory structure.

(12) To scale elevation drawings, indicating the roof, facades, doors, and other exterior appearance and materials of the proposed wireless communication facility (signed and sealed by a professional engineer).

(b) *Additional required information for wireless communication facilities requiring a public hearing.* In addition to the submittals required by sections 34-202 and 34-203, and the requirements of subsection (a) above, the following information must be provided:

(1) *Lease required.* If the property owner is not a provider, the application must include a copy of an executed lease agreement or memorandum of lease between the applicant or property owner and a provider. Where no lease agreement has been executed, the applicant must include an affidavit signed by a provider attesting to the provider's intent to make application for development order approval to place antennas on the wireless communications facility if the zoning application is approved.

(2) For antenna supporting structures, the graphic results of the balloon test conducted by the applicant pursuant to the requirements set forth in section 34-1446(d).

(c) *Additional information for wireless communication facilities required at time of application for a development order or building permit.* In addition to the submittals required by subsection (a) above, the following information must be provided along with the application for a development order or building permit:

(1) A certificate of insurance as required by section 34-1450

(2) Proof the wireless communications facility has been designed to withstand sustained winds in accordance with the Florida Building Code.

(3) Proof the antenna-supporting structure has been designed so that, in the event of structural failure, it will collapse within the boundaries of the leased area of the lot on which it is located.

(4) A stamped or sealed structural analysis of the wireless communication facility prepared by a professional engineer indicating the proposed and future loading capacity of the facility and specifying the design structural failure modes of the proposed facility; OR, where the wireless communication facility is to be mounted on an existing building or structure, a stamped or sealed structural analysis prepared by a professional engineer showing the ability of the building or structure to carry the load of the wireless communication facility.

(5) A landscape plan prepared by and bearing the seal of a landscape architect, including a narrative and calculations to ensure that the proposed landscaping will be in compliance with this Land Development Code. This requirement does not apply to roof-mounted or surface-mounted antennas.

(6) *Surety for removal.* A financial surety or other form of financial guarantee, payable to the County, to ensure timely removal of the facility in the event of abandonment, non-use or cessation of use. The surety must conform with the following requirements:

a. *Approval required.* The surety must be posted prior to issuance of a building permit or development order to guarantee the removal of the antenna-supporting structure. The amount of the surety must be acceptable to the Director. Additionally, before any surety instrument is accepted by the Director as in compliance with this section, the surety instrument must be reviewed and approved by the County Attorney's Office. Once approved and funded, the surety instrument must be filed with the clerk of the Board of County Commissioners.

b. *Types of surety.*

1. *Cash performance bond.*

2. *Other types of security.* The Board may accept letters of credit or escrow account agreements or other forms of security provided the reasons for not obtaining the bond are stated and the County Attorney approves the document.

c. *Certified cost estimate required.* The amount of the surety will be based upon a professional engineer's certified cost estimate of the cost of removing the antenna-supporting structure from the site and properly disposing of the dismantled antenna-supporting structure.

d. *Initial amount of surety.* The required surety must be posted with the Board and made payable to the County in an amount equal to 110 percent of the full cost of removal of the wireless communication facility as set forth in the professional engineer's certified cost estimate.

e. *Annual increase required.* The amount of the surety must be kept in full force and effect and must be increased by ten percent compounded for each year the antenna-supporting structure remains on the site.

f. *Surety to remain in effect.* The approved surety must remain funded until the wireless communication facility is removed from the site and properly disposed of.

g. *County's use of surety funds.* The County may use the posted surety funds to remove or secure a wireless communication facility upon a determination of abandonment, non-use or cessation of use as set forth in section 34-1451. In the event the posted amount of surety funds is insufficient to cover the full cost of removal, the County may file a lien on the site property for the amount of unpaid costs, including legal fees.

h. *Exemption from surety requirement.* The Director may, with approval from the County Attorney's Office, exempt a municipality or governmental entity from the surety requirement,

(d) *Balloon test.* Within 35 calendar days after an Application for an antenna-supporting structure has been deemed complete, the applicant must conduct a balloon test in accordance with the following regulations:

(1) Seven to 14 calendar days in advance of the first test date, the applicant must advertise, in a newspaper of general circulation in the County the dates (including a second date, in case of poor visibility on the initial date), times, and location of this balloon test. A copy of the ad and proof of publication must be provided to the Director as part of the application.

(2) At least 14 calendar days in advance of this balloon test, the applicant must inform the Director, in writing, of the dates and times of the test.

(3) The balloon must be flown for at least eight consecutive hours between 7:00 am and 7:00 pm on the dates chosen.

(4) The applicant must provide photographs of the balloon taken from each sight line. The photographs must identify the sight lines and distances from the proposed antenna-supporting structure.

(Ord. No. 03-11, § 1, 4-8-03; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1447. Development regulations.

The development regulations set forth herein apply to all wireless communications facilities as indicated.

(a) *Collocations.*

(1) Collocations on an antenna-supporting structure will be reviewed as follows:

a. The expansion of the wireless communications facility site area must comply with the applicable zoning height and setback requirements for principal structures and be subject to ADD and LDO review.

b. The portion of the collocation that does meet the requirements for exemption set forth in section 34-1443(b)(7) is exempt and subject to no more than a building permit review.

(2) Collocations on structures other than antenna-supporting structures that are not historic or in a historic district and that meet all of the following design restrictions shall be reviewed through an administrative review. The following design restrictions must be met:

a. The collocation will not increase the height of the existing structure, as measured to the highest point of any part of the structure, or any existing antenna attached to the structure;

b. The collocation will not increase the approved ground wireless communication compound area, if any; and

c. All aspects of the collocation are of a design and configuration consistent with the requirements of subsection 34-1447(d) and the applicable design and aesthetic regulations, restrictions of conditions, if any, applied to the first antenna placement on the structure that do not conflict with the requirements of subsection 34-1447(d). Regulations, restrictions, conditions, or permits applied to the first antenna placement or the structure that limit the number of collocations or require review processes inconsistent with this division will not apply.

(3) Collocations on structures other than antenna-supporting structures that are not historic or in a historic district, but that will not meet all of the design restrictions of (2) will be reviewed as follows:

a. The portion of the collocation that meets the design restrictions of (subsection (2) above) will be reviewed through an administrative review.

b. If the collocation involves only the expansion of the wireless communications facility site area, the expansion must comply with the applicable zoning height and setback

requirements for principal structures and the requirements of section 34-1447(e) and be subject to Administrative Action review and Limited Development Order review.

(4) Collocation of an antenna on a Historic Structures or in a Historic District must be reviewed in accordance with the requirements for construction and placement of a new antenna and must comply with applicable Historic Preservation requirements under the Code.

(b) Where permissible—Antenna-supporting structures.

TABLE 34-1447. PERMISSIBLE ANTENNA-SUPPORTING STRUCTURE HEIGHTS, LOCATIONS AND APPLICABLE REVIEW PROCESS.

Zoning Classification	Maximum Overall Height Allowed by the Administrative Approval Process	Overall Height Requiring Approval by Special Exception
Agricultural[5]	75 feet[1]	75.1—149 feet
Residential[2, 4]	35 feet	35.1—75 feet
PRFPD[3]	35 feet	Not Allowed
All other zoning districts[5]	90 feet	90.1—149 feet

Notes:

[1]An antenna-supporting structure over 35 feet in height, but not over 75 feet in height, may be approved administratively only if it is not located within 1,000 feet of a property line of a parcel zoned residential or being used for a residential use.

[2]Includes single-family, two-family, multiple-family, and mobile home residential zoning districts, recreational vehicle park districts, and residential, mobile home, recreational vehicle, residential planned developments, and mixed use planned developments, and planned unit developments.

[3]Private recreational facilities planned developments.

[4]A variance is required, in addition to the special exception, for an antenna supporting structure which exceeds 75-foot height limit.

[5]A variance is required, in addition to the special exception, for an antenna supporting structure which exceeds the 149-foot height limit.

(c) *District impacts minimized.*

(1) *Generally.* Antenna-supporting structures must be located in a manner that is consistent with the County's interest in land use compatibility, within and between zoning districts, as set forth in this chapter's zoning district regulations, section 34-611, et seq.

(2) *Siting priorities.* In order to justify the construction of an antenna-supporting structure, the applicant must demonstrate that higher ranking alternatives in the following hierarchy, beginning with a., do not constitute reasonable, compatible or feasible alternatives. Such demonstration must include a statement of position, qualifications, and experience by a qualified radio frequency engineer.

a. Collocated or combined antennas.

b. Surface-mounted antennas.

c. Roof-mounted antennas.

d. Antenna supporting structures.

(3) *Proliferation minimized.*

a. *Generally.* No antenna-supporting structure will be permitted unless the applicant demonstrates that the proposed antenna cannot be accommodated on an existing building, structure or antenna supporting structure.

b. *Additional documentation.* Additional documentation may also be submitted to demonstrate compliance with this section:

1. That no existing buildings or structures within the geographic search area meets the applicant's radio frequency engineering requirements;

2. That no building or structure within the geographic search area has sufficient structural strength to support the applicant's radio frequency engineering requirements; or

3. That there are other radio frequency engineering factors that render surface-mounted, roof-mounted or collocated wireless communication facilities unfeasible.

(4) *Zoning district priorities.* In order to justify locating a proposed antenna-supporting structure within a zoning district lower in the hierarchy below, the applicant must adequately demonstrate that siting alternatives within higher ranked districts, beginning with a., are not reasonable or feasible. This demonstration must include the submission of a statement of position, qualifications, and experience by a qualified radio frequency engineer.

a. Industrial;

b. Commercial;

c. Marine-oriented;

d. Community Facilities (CF) and Airport Operations Planned Development (AOPD);

e. Agricultural;

f. Recreational vehicle;

g. Residential (including mobile home);

h. Private recreational facilities planned development (PRFPD);

i. Environmentally critical (EC).

(d) *Visual impacts minimized.*

(1) *Generally.* Antennas must be configured in a manner that is consistent with the character of the surrounding community and must be of a color that blends with the structure to which it is attached, so that adverse visual impacts on adjacent properties are minimized. Antenna concealment screening should also be used when possible.

(2) *Monopole design required.* Unless approved as either a roof-mounted or surface-mounted facility, all antenna support structures must be a monopole, with all transmission cable/wiring concealed inside.

(3) *Antenna type priorities.* In order to justify the use of an antenna-type lower in the hierarchy below, the applicant must adequately demonstrate that higher ranked alternatives in the following hierarchy, beginning with a., are not reasonable or feasible. This demonstration must include the submission of a statement of position, qualifications, and experience by a qualified radio frequency engineer.

a. Flush-mounted;

b. Panel;

c. Whip;

d. Dish.

(4) *Camouflage, screening, taping, and placement.*

a. *Color.* Antenna-supporting structures and ancillary appurtenances, including transmission lines, must maintain a galvanized gray finish or other contextual or compatible color as determined by the County, except as otherwise required by the FAA or FCC.

b. *Fencing.* The developer of a wireless communication facility must install a fence or wall not less than eight feet and not more than ten feet in height from finished grade to enclose the base of the antenna-supporting structure and equipment enclosures associated with any wireless communication facility. Access to the antenna-supporting structure must be controlled by a locked gate. The fence must be constructed in accordance with section 34-1742. Not more than three strands of barbed wire, spaced six inches apart, may be allowed above the fence.

c. *Landscaping.*

1. A landscaped buffer of at least ten feet in width must be planted along the entire exterior perimeter of the fence or wall required by subsection b. above. Where the proposed antenna-supporting structure will be located adjacent to a residential or public recreational use, or a lot within a residential zoning district, the landscaped buffer must be at least 15 feet in width.

2. A buffer required by this section must contain sabal palms planted ten feet on center, and a double hedge row of native shrubs. Section 10-420 planting standards must be met. The hedge must be maintained at a minimum height equivalent to the fence height. Except where the proposed antenna-supporting structure will be located adjacent to a residential lot, public recreational use, or right-of-way, the landscaped buffer must

include six feet in height native canopy trees planted ten feet on center, instead of the sabal palms required above.

3. Where these regulations would require existing facilities to meet current landscape requirements, the Director may reduce or eliminate such requirements if the Director determines that the requirements would be unreasonable, infeasible or otherwise inequitable under the circumstances. The Director's decision is discretionary and may not be appealed. Applicants may apply for a variance from the landscaping requirements herein.

d. *Other facilities.*

1. Roof-mounted facilities must be camouflaged by a parapet or other device, or otherwise situated so as to screen its visual impact along each sight line.

2. Transmission lines placed on the exterior of a building must be camouflaged or otherwise shielded within an appropriate material that is the same color as, or a color consistent with, the building to which they are attached, as determined by the County.

3. Surface-mounted antennas must be placed no less than 15 feet from the ground and, where proposed for placement on a building, must be camouflaged or otherwise shielded within an appropriate material that is the same color as, or a color consistent with, the building to which they are attached, as determined by the County.

e. *Taping.* The developer of a wireless communication facility must install taping around the antenna-supporting structure in conformance with the following:

1. The tape must be six-inch 3m Diamond Grade tm VIP Reflective Sheeting, series 3990.

2. The taping must start at 20 feet above surface.

3. The taping must be at ten-foot intervals.

4. The tape must be wrapped around the support pole and overlap by one inch for a good seal.

(e) *General property development regulations.*

(1) *Setbacks.*

a. *New facilities.* All new antenna-supporting structures must meet the setback requirements for the zoning district in which they are proposed or a distance equal to their overall height from all lot lines of the fee property on which they are proposed, which ever is greater; unless a greater distance is required as a condition of the approval. A monopole with internal antennas must be setback a distance equal to one-half of its overall height from all lot lines of the fee property on which it is proposed, unless a greater distance is required as a condition of the approval or a variance is granted.

b. *Replacement facilities.* No replacement facility within the approved compound area may be placed closer to a lot line than the wireless communication facility it is replacing.

c. Ancillary appurtenances, and equipment enclosures must meet the minimum setback requirements for the zoning district in which they are proposed, as well as those set forth in section 34-2191, et seq.

(2) *Height.*

a. All antenna-supporting structures must comply with the requirements of section 34-1008

b. Antenna-supporting structures on the barrier islands or within the outer islands future land use areas may not exceed 35 feet, or the special height limits set forth in section 34-2175

c. Roof-mounted antennas, attachment devices, equipment enclosures or ancillary appurtenances may be placed on commercial, institutional, industrial and multi-family buildings at least 35 feet in height and may not extend more than 20 feet above the roofline of the building on which it is attached.

d. Collocations may not increase the existing overall height of an antenna-supporting structure.

e. In all other cases, the overall height of an antenna-supporting structure approved in accordance with section 34-1445 may not exceed 149 feet, except as provided below:

1. FCC approved AM broadcast antenna-supporting structures may not exceed 250 feet in overall height.

2. All other FCC approved broadcast antenna-supporting structures may not exceed 500 feet.

f. In no event may the provisions set forth in section 34-2174 apply to wireless communication facilities.

g. The overall height of ground-mounted equipment or equipment enclosure may not exceed 12 feet.

h. Private aircraft and helicopter landing facilities. In addition to the provisions of section 34-1001, et seq., antenna-supporting structures proposed within a designated notification height boundary of a private aircraft or helicopter landing facility, as specified on the Airspace Notification Map, will be limited to the height specified by that boundary, according to the proposed facility's distance from the runway or landing facility.

(f) *Construction.*

(1) *Type of construction.* Broadcast facilities may utilize lattice or guyed antenna-supporting structures. All other wireless facilities are limited to monopole antenna-supporting structures.

(2) *Accommodation of future collocations.*

a. Antenna-supporting structures should be designed to accommodate future collocations.

b. The applicant must submit a shared use plan that commits the owner of the proposed antenna-supporting structure to accommodating future collocations where reasonable and feasible in light of the criteria set forth in this section.

(3) *Lighting.*

a. Except for security lighting and site lighting, other types of lights, signals or illumination will only be permitted on an antenna-supporting structure or ancillary appurtenances where lighting is required by the FAA, FCC, the County, or the Lee County Mosquito Control District.

b. *Security lighting.* Security lighting and site lighting may be placed in association with an approved equipment enclosure. Site lighting must remain unlit except when authorized personnel are present at the facility. Security lighting and site lighting must be shielded to prevent light trespass.

c. *Required lighting.*

1. All antenna-supporting structures 150 feet or greater in height above ground level must be artificially lighted and maintained pursuant to the technical requirements of the Federal Aviation Administration's current Advisory Circular 70/7460-1K, Obstruction Marking and Lighting, as amended, or other appropriate aviation authority. Unless pre-empted by FAA or FCC regulations, all lighting must be approved in conjunction with the development order for the facility.

2. If the height of a structure under construction equals or exceeds the height at which permanent obstruction lights are required by the FAA, FCC or the Division of

Development Services, temporary high or medium intensity flashing lights must be installed at that level in accordance with Advisory Circular 70/7460-1K, Obstruction Marking and Lighting, as amended.

(4) *Notice of commencement of construction.*

a. Forty-eight hours before commencing construction of an antenna-supporting structure, and within 48 hours after the antenna-supporting structure construction reaches its maximum height, the Lee County Port Authority, Sheriff's office, Emergency Medical Services, the local fire district and the Lee County Mosquito Control District must be notified by the entity constructing the antenna-supporting structure. Notice must include the location of the antenna-supporting structure tied to the state plane coordinate system for the Florida West Zone (North American Datum of 1983/1990 Adjustment).

b. The tall structures permit application will not be issued if the proposed construction or alteration is found to violate the provisions of this Article VI, division 10, subdivision iii (section 34-1001, et seq.) or any other applicable federal or state rules or regulations. No tall structures permit will be issued if all Federal Aviation Administration and County Port Authority comments are not addressed to the satisfaction of the County Port Authority. The applicant will be forwarded a written notice if the tall structures permit is denied, from the County Port Authority. This written notice must specify the reason for objections and suggestions for compliance under this subdivision and all other applicable federal or state rules and regulations.

(5) *Floor area.* Floor area will be calculated based on the total impervious surface associated with an equipment enclosure. Floor area may not exceed 400 square feet per antenna array without approval by special exception.

(g) *Signage.*

(1) Signs on antenna-supporting structures, ancillary appurtenances, equipment enclosures, or on any fence or wall are prohibited unless permitted in accordance with this subsection.

(2) If high voltage is necessary for the operation of proposed wireless communications facilities, "High Voltage-Danger" and "No Trespass" warning signs not greater than one square foot in area must be permanently attached to the fence or wall at intervals of not less than 40 feet and upon the access gate, or as otherwise required by the FAA or FCC.

(3) A sign not greater than one square foot in area must be attached to the access gate that includes the following information:

a. Federal registration number, if applicable;

b. Name of property owner, facility owner, providers, and contact person; and

c. An emergency contact number for the contact person.

(Ord. No. 03-11, § 1, 4-8-03; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-05 , § 2, 2-25-09; Ord. No. 11-08 , § 10, 8-9-11)

Secs. 34-1448, 34-1449. Reserved.

Sec. 34-1450. Fees and insurance.

(a) Antenna-supporting structures and wireless communications facilities must be insured by the owner against damage to persons and against damage to property. Owner must provide a Certificate of Insurance to the Director annually.

(b) Fees for antenna-supporting structures and wireless communications facilities permitting and renewal, monitoring of emissions and inspection of structures, and other fees will be established by the Board.

(Ord. No. 03-11, § 1, 4-8-03)

Sec. 34-1451. Discontinued use.

(a) *Notice of discontinued use.* The owner of an antenna-supporting structure 750 feet or greater in height, the use of which has been discontinued for a period of one year, on an annual basis must provide the Director with an affidavit of an intention to continue the use, including a description of the owner's efforts to keep the facility in use. If the affidavit is not provided the Director may make a preliminary determination of discontinued use. For any other antenna-supporting structure, the use of which is discontinued for a period of 180 days, the Director may make a preliminary determination of discontinued use. In making such a determination, the Director may request documentation and affidavits from the property owner regarding the structure's usage, including evidence that use of the structure is imminent. The failure of a property owner to provide updated contact information on the owner of the antenna-supporting structure for two consecutive years will be presumptive evidence of discontinued use. If the Director determines that the use of an antenna-supporting structure or antenna has been discontinued, the Director will provide the property owner with a written notice of discontinued use by certified mail.

(b) *Declaration of discontinued use.* If the property owner fails to respond to the notice of discontinued use or to adequately demonstrate that the use of the antenna or antenna-supporting structure is not discontinued within 90 days, such failure will be evidence of discontinued use. Based on the foregoing, or on any other relevant evidence provided to the Director, the Director may make a final determination of discontinued use, whereupon a declaration of discontinued use will be issued to the property owner by certified mail.

(c) *Removal of facility.* Within 120 days of a declaration of discontinued use, the property owner must either: (1) reactivate the use of the antenna or antenna-supporting structure as a wireless communications facility or transfer ownership of the antennas or antenna-supporting structure to another owner who will make use of the facility; or (2) dismantle and remove the facility. If transfer of ownership occurs, the new owner must supply the Director with an affidavit attesting that the antennas or antenna-supporting structure will be in use within 120 days of the transfer in accordance with (1), above. If the facility remains discontinued upon the expiration of 120 days, the County may enter upon the property and remove the facility, with all costs to be borne by the property owner. The County may use the funds posted in the surety for this purpose.

(Ord. No. 03-11, § 1, 4-8-03; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1452. Nonconforming antenna-supporting structures.

The addition or replacement of antennas on any type of nonconforming structure will not be treated as an increase in the nonconformity of the structure. Additionally, the loss or destruction of a facility by the act of a third party, beyond the reasonable control of the owner and not due to a lack of maintenance or aging of the facility, will entitle the owner to utilize the buildback provisions of the Lee Plan to restore the facility.

(Ord. No. 03-11, § 1, 4-8-03)

Sec. 34-1453. Variance criteria.

(a) Variances or deviations to this division must be in accordance with the procedures set forth in section 34-145. In addition to the considerations and findings required under section 34-145, the Hearing Examiner must also make at least one of the following findings of fact:

(1) Failure to grant the variance or deviation would prohibit or have the effect of prohibiting the provision of personal wireless services;

(2) Failure to grant the variance or deviation would unreasonably discriminate among providers of functionally equivalent personal wireless services;

(3) The variance or deviation is necessary to ensure adequate public safety and emergency management communications;

(4) The variance or deviation is the minimum necessary in order for the applicant to provide broadcast services pursuant to an FCC-issued license or construction permit (existence of an FCC license requiring a broadcast antenna at a given height will constitute a presumption that this requirement has been met);

(5) Failure to grant the variance or deviation would prohibit or have the effect of prohibiting the provision of amateur radio services; or

(6) The variance will obviate the need for additional antenna-supporting structures in the geographic search area.

(b) Appeal of decisions of the Hearing Examiner pursuant to this section will be to the Board of County Commissioners in accordance with the provisions of section 34-1445(b)(2).

(Ord. No. 03-11, § 1, 4-8-03)

Secs. 34-1454—34-1470. Reserved

FOOTNOTE(S):

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Editor's note— Ord. No. 03-11, § 1, adopted April 8, 2003, repealed former Div. 11, §§ 34-1441—34-1446, and enacted provisions designated as a new Div. 11 to read as herein set out. Former Div. 11 pertained to communication towers. See the Land Development Code Comparative Table. (Back)

DIVISION 12. DENSITY

Subdivision I. - In General

Subdivision II. - Residential Development

Subdivision III. - Housing Density for Provision of Very Low, Low, Moderate and Work Force Income Housing

Subdivision IV. - Reserved

Subdivision I. In General

Secs. 34-1471—34-1490. Reserved.

Secs. 34-1471—34-1490. Reserved.

Subdivision II. Residential Development

Sec. 34-1491. Applicability of subdivision.

The provisions set forth in this subdivision apply to any proposed or existing residential development. For purposes of this subdivision, the term "residential" does not include hotel/motel density calculations (see division 19 of this article).

(Zoning Ord. 1993, § 202.09(A); Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1492. Definitions.

The following words, terms and phrases, when used in this subdivision, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gross residential acres means the total land area of a residential development as follows:

(1) Land areas to be included are as follows:

a. The area of existing and proposed artificial water bodies within the parcel boundaries;

b. Parks, noncommercial recreational facilities and open space;

c. Schools (noncommercial);

d. Police, fire and emergency services;

e. Sewage, water and drainage facilities;

f. Land proposed to be used for street rights-of-way or street easements;

g. Land proposed to be used for utility rights-of-way or easements; and

h. Land used for residential buildings and normal residential accessory uses.

(2) Existing open natural bodies of water may not be included in calculating gross residential acres.

(3) In mixed use developments, any existing or proposed street right-of-way or street easement, and any utility right-of-way or easement, must be prorated between the residential and the nonresidential uses.

Gross residential density means the ratio of housing units per gross residential acre.

Total land area means the total area of land, expressed in acres or fractions thereof, contained within the boundary lines of a development.

(Zoning Ord. 1993, § 202.09(B); Ord. No. 98-03, § 5, 1-13-98)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-1493. Calculation of total permissible housing units.

The Lee Plan establishes a standard and maximum residential density range permissible for each residential land use category. The procedure set forth in this section must be used to determine the standard residential density as well as the total number of housing units which may be permitted within a development.

(1) *Proposed developments.*

a. *Determination of land area.* The applicant must provide the calculations used in determining the following:

1. Total land area of the proposed development.
2. Total gross residential acres.
3. Gross residential acres less any area classified as wetlands.
4. Acres of any area classified as freshwater wetlands.
5. Acres of any other classified as wetlands (if applicable for density calculations).

b. Estimation of total permissible housing units. The number of permissible housing units is calculated as follows:

1. Intensive development, central urban and urban community land use districts.

i. Multiply the total gross residential acres less wetland area by the standard density range permitted for the land use category in which the property is located.

ii. Additional units may be transferred from abutting wetland areas at the same underlying density as is permitted for the uplands, so long as the uplands density does not exceed the maximum standard density plus one-half of the difference between the maximum total density and the maximum standard density as set forth in Table 1 "Summary of Residential Densities" in the Lee Plan.

2. Suburban, land use districts.

i. Multiply the total gross residential acres less wetland area by the standard density range permitted for the land use category in which the property is located.

ii. Additional units may be transferred from abutting fresh water wetland areas at the same underlying density as is permitted for the uplands, so long as the maximum uplands density does not exceed the maximum standard density of six units per acre plus two for a total of eight units per acre.

3. Outlying suburban land use district.

i. Multiply the total gross residential acres less wetland area by the standard density range permitted for the land use category in which the property is located.

ii. Additional units may be transferred from abutting fresh water wetland areas at the same underlying density as is permitted for the uplands, so long as the maximum

uplands density does not exceed the maximum standard density of three units per acre plus one for a total of four units per acre. Outlying suburban land located north of the Caloosahatchee River and east of Interstate-75, north of Pondella Road and south of Pine Island Road (SR 78), and in the Buckingham area (see Goal 19 of the Lee Plan), the maximum upland density shall be two units per acre plus one for a total of three (3) units per acre.

(2) *Existing developments and lots.* Due to the problems of computing gross density in the same manner as set forth for new developments, the following procedures must be followed:

a. *Single-family structures.* Any lawfully existing lot of record zoned for residential use will be permitted one single-family residence so long as the lot complies with either the property development regulations for the zoning district in which located, or the owner receives a favorable single-family residence determination in accordance with section 34-3273

b. *Two-family or duplex structures.* If two or more abutting properties have each qualified for the right to construct a single-family residence, and if the lots or parcels are located in a zoning district which permits duplex or two-family dwellings, the property owner may combine the lots to build a single duplex or two-family building in lieu of constructing two single-family residences.

c. *Townhouse or multiple-family structures.* Except as limited by section 34-1495, any legally existing lot of record which is zoned for townhouse or multiple-family development will be permitted dwelling units as follows:

1. *Developments which are not planned developments or PUD's.* When reviewing a request for a building permit for a townhouse or multiple-family building which is not part of a PUD or planned development, the maximum permitted dwelling units will be determined by the property development regulations set forth for the zoning district in which located for the particular type of building proposed, provided that:

i. The maximum number of dwelling units permitted will not exceed the standard density range for the land use category in which located; and

ii. The parcel area must be calculated as the area of the lot in question plus one-half of any abutting right-of-way or easement.

2. *Planned developments and PUD's.* Maximum density will be as set forth in the approving resolution.

(Zoning Ord. § 202.09(C)1, 2; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-1494. Density equivalents.

(a) *Applicability.* The density equivalents set forth in this subsection will be used in situations where it is necessary to convert permissible uses to residential dwelling unit equivalents. When permitted by the use regulations in a zoning district that permits dwelling units, the permissible density equivalents may not exceed the density limitations set forth in the zoning district or land use category (whichever is less) in which the property is located. In situations where the Lee Plan does not specify a standard density range, such as the interchange areas, the permissible density equivalents may not exceed ten dwelling units per acre.

(b) *Equivalency factors:*

(1) Where health care, social service, adult living facilities (ALF), continuing care facilities, or other "group quarters" (df) are provided in dwelling units, wherein each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.

(2) Except as may be specifically set forth elsewhere in this chapter, where health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other "group quarters" (df) are provided in dwelling units or other facilities wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or are brought to the occupants from a central kitchen, density equivalents will be calculated at the ratio of four people equals one dwelling unit.

A planned development, for which the master concept plan states the number of persons that may occupy an approved adult living facility (ALF) or Continuing Care Facility (CCF), may request an amendment to the approved master concept plan to reflect the increased number of occupants based upon the equivalency factor set forth in this section (if applicable). Such amendment will be considered a minor administrative amendment that will be deemed to not increase density and may be approved pursuant to section 34-380(b) as long as existing floor space is not increased to accommodate the increased number of occupants. If increased floor space is required, then a public hearing will be required.

(3) Notwithstanding subsection (b)(2) above, no density equivalency calculation is required for a bed and breakfast (df) in an owner-occupied conventional single-family residence (df) accommodating four or less lodgers. If the bed and breakfast will accommodate more than four lodgers, then the equivalency will be calculated as four lodgers equals one dwelling unit.

(4) Notwithstanding subsection (b)(2) above, no density calculation is required for hospital, prison, jail, boot camp, detention center, or other similar type facility owned or operated by a County, state or federal agency.

(5) Where dwelling or living units have "lock-off accommodations," density will be calculated as follows:

a. *Hotels/motels:* "Lock-off units" will be counted as separate rental units regardless of size.

b. *Timeshare units:* Lockoff units will be counted as separate dwelling units whether or not they contain cooking facilities, as follows:

i. Studio units will be counted as 0.1 dwelling units;

ii. One bedroom units will be counted as 0.25 dwelling units;

iii. Two bedroom units will be counted as 0.5 dwelling units;

iv. Three or more bedrooms will be counted as a full dwelling unit.

(c) *Determination of permitted density.* The maximum permitted density shall be determined by multiplying the number of dwelling units permitted (see subsection (a) of this section) by the appropriate equivalency factor.

(Zoning Ord. 1993, § 202.09(C)3; Ord. No. 94-02, § 3, 1-19-94; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 01-18, § 5, 11-13-01)

Sec. 34-1495. Density limitations for specific areas.

Except as may be specifically permitted by the Lee Plan, maximum densities are hereby limited as follows:

(1) *Captiva Island.* Maximum density permitted on Captiva Island is three dwelling units per gross residential acre.

(2) *Gasparilla Island.* Maximum density permitted on Gasparilla Island is three dwelling units per gross residential acre. Refer to Laws of Fla. ch. 83-385 for a description of affected properties.

(3) *Greater Pine Island.* See density limitations for Greater Pine Island in section 33-1085

(Zoning Ord. 1993, § 202.09(D); Ord. No. 07-19 , § 6, 5-29-07)

Secs. 34-1496—34-1510. Reserved.

Subdivision III. Housing Density for Provision of Very Low, Low, Moderate and Work Force Income Housing [18]

Sec. 34-1511. Applicability of subdivision.

This subdivision applies to the unincorporated area of the County, and to the incorporated areas of the County to the extent permitted by the interlocal agreements that may be made subsequent to the adoption of the ordinance from which this subdivision is derived and that are consistent herewith. However, it does not apply to any islands or to Greater Pine Island, as defined in this chapter.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-1512. Definitions.

(a) The following words, terms and phrases, when used in this subdivision, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Actual bonus density means the number of additional dwelling units permitted per acre in excess of standard density pursuant to the density bonus program. The actual bonus density per acre is not necessarily the maximum bonus density for the area.

Bonus density owner-occupied unit means a dwelling unit built in excess of the standard density and sold or reserved for sale to eligible households under the provisions of the density bonus program.

Bonus density bonus program means the program created by this subdivision to stimulate the construction of very low - low- moderate and work force - income housing in the County, by permitting qualifying developers, by their participation in the program, to exceed the standard density limits otherwise imposed by law.

Bonus density rental unit means a dwelling unit built in excess of the standard density and occupied or reserved for occupancy by eligible households in exchange for the payment of rent to the owner of the unit under the provisions of the density bonus program.

Eligible household means a household that is comprised of one or more natural persons determined by the County to be of very low, low, moderate or work force income according to HUD's households income limits adjusted for household size. The HUD Handbook is used to determine whether an individual will qualify as a household member. Whenever the handbook indicates that an individual is a household member, the individual's full income must be included in annual income calculations.

Fund means the Affordable Housing Trust Fund established by section 34-1520(a).

Low income means a person or household whose annual (gross) income does not exceed 80 percent of the area median income, as determined by HUD.

Maximum bonus density means the maximum number of dwelling units per acre allowed above the standard density range within each land use category under the bonus density program.

Moderate income means a person or household whose annual (gross) income does not exceed 120 percent of the area median income, as determined by HUD.

Standard density means the number of dwelling units permitted per acre in a particular land use category pursuant to all applicable policies and objectives of the Lee Plan, without the application of the bonus density program.

Standard density range means the possible number of dwelling units per acre permitted within a land use category designated by the Lee Plan without application of the bonus density program.

Very low income means a person or household whose annual (gross) income does not exceed 50 percent of the area median income, as determined by HUD.

Work Force Income means a person or household whose annual (gross) income does not exceed 140 percent of area median income as determined by HUD.

(b) Words or phrases used in this subdivision and not defined in section 34-2 or subsection (a) of this section will be interpreted so as to give them the meanings they have in common usage and to give this subdivision its most reasonable application.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09)

Sec. 34-1513. Conflicting provisions.

Whenever the requirements or provisions of this subdivision are in conflict with the requirements or provisions of another lawfully adopted ordinance, or other division of this land development code, the provisions of this division will take precedence.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-1514. Administration and enforcement of subdivision; verification of income.

(a) The Director will be responsible for maintaining public records of:

(1) All dwelling units constructed pursuant to the bonus density program;

(2) All such dwelling units that are occupied by eligible households;

(3) Complaints of violations of the bonus density program that are alleged to have occurred and the disposition of all those complaints;

(4) A list of all eligible households who have participated in the bonus density program; and

(5) Such other records as the Director believes may be necessary or desirable to monitor the success of the program and the degree of compliance therewith.

(b) The developer or the subsequent owner of a dwelling unit obtained via the density bonus program using the site-specific density bonus option set forth in section 34-1518 must submit the following eligible household income verification reports to the Division of Planning so that they may monitor the program for compliance.

(1) For owner-occupied units, the income verification forms must be submitted once prior to the issuance of a certificate of occupancy and each time thereafter that the unit is sold during the following seven-year period.

(2) For a renter-occupied units the income verification forms must be submitted once prior to the issuance of the certificate of occupancy for the unit in question and annually thereafter for the next seven-year period. This provision also applies each time thereafter that the unit is leased during the following seven-year period.

(c) The Director is hereby delegated the responsibility and authority for enforcing the provisions of this subdivision in cooperation with such other agencies of the County as the Director may request.

(d) The Division of Planning will maintain a list, open to the public, of units available to eligible households under the bonus density program. Developers must inform the Division when units are occupied by eligible households so that these units may be removed from the list.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-1515. Prohibited acts; notice of violation.

(a) It is a violation of this subdivision to rent or sell, or attempt to rent or sell, a bonus density rental unit or a bonus density owner-occupied unit, except as specifically permitted by the terms of this subdivision, or to knowingly give false or misleading information with respect to the information requested by the Director pursuant to the authority delegated to him by this subdivision.

(b) If the Director determines there is a violation of this subdivision, a notice of violation will be issued and sent, by both regular and certified mail, to the person committing the violation. The notice of violation issued must:

(1) Be in writing.

(2) Be dated and signed by the Director.

(3) Specify the violation.

(4) State that the violation must be corrected within 90 days of the date of the notice of violation.

(5) State that the County may pursue civil and criminal proceedings if the violation is not corrected by the specified date.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-1516. The bonus density program. [19]

The bonus density program allows the Board of County Commissioners the discretion to grant bonus density to developments in accordance with the Lee Plan and the following criteria. Although approval of the use of bonus density credits is solely within the discretion of the Board, applicants must comply with the minimum requirements set forth herein to be eligible for consideration for the program.

(a) *Alternative methods:* A developer may be eligible to exceed the standard density range for a particular land use category if:

(1) The additional dwelling units achieved through the bonus density program will be available only to eligible households in accordance with the site-specific provisions set forth in section 34-1518; or

(2) The developer makes a cash contribution to the affordable housing trust fund in accordance with section 34-1519. NOTE: The Board of County Commissioners will not approve new applications for cash contributions to the affordable housing trust fund for a two-year period beginning January 1, 2011.

(3) The property is located in the mixed use overlay in the intensive, urban community or central urban future land use category and is zoned mixed use planned development or compact planned development. The property must be developed in accordance with Chapter 32, Compact Communities, if the bonus density was approved after February 26, 2013 or if the bonus density was approved in a mixed use planned development approved prior to February 26, 2013 that has compact community components or is consistent with elements of the mixed use overlay.

(b) *Maximum bonus density.* The maximum bonus density that may be granted is set forth below:

Lee Plan - Land Use Category:	Standard Density Range: (dwelling units per acre)	Maximum Bonus Density: (additional dwelling units per acre)
Intensive development	8 to 14	8
Central urban	4 to 10	5
Urban community	1 to 6	4

(c) *Minimum requirements:*

(1) All requests for participation in the program must:

a) Comply with and be consistent with the Lee Plan and all other applicable federal, state and regional laws and regulations; and

b) Include only property zoned for the type of dwelling units to be constructed; and

c) Limit the proposed density to the maximum total density or less, allowed by the Lee Plan category applicable to the subject property.

(2) All proposed developments must be designed so that:

a) The resulting development does not have substantially increased intensities of land uses along its perimeter, unless adjacent to existing or approved development of a similar intensity;

b) The additional traffic will not be required to travel through areas with significantly lower densities before reaching the nearest collector or arterial road as required by Lee Plan Policy 39.1.4;

c) Existing and committed public facilities are not so overwhelmed that a density increase would be contrary to the overall public interest;

d) There will be no decrease in required open space, buffering, landscaping and preservation areas or adverse impacts on surrounding land uses;

e) Storm shelters or other appropriate mitigation is provided if the development is located within the Category 1 Storm Surge Zone for a land-falling storm as defined by the October 1991 Hurricane Storm Tide Atlas for Lee County prepared by the Southwest Florida Regional Planning Council; and

f) The resulting development will be compatible with existing and planned surrounding land uses.

(d) *Parcels of land of one-half acre or less.* Where the total actual bonus density will consist of only one dwelling unit and the developer agrees to participate in the program, the agreement required by section 34-1518(b)(2) and the bond required by section 34-1518(b)(3) may be waived upon written request to the Lee County Division of Planning for approval.

(e) *Assisted living facilities whose annual rental rates, including all services, do not exceed the levels established for eligible households* will be eligible for bonus density consistent with the applicable land use category. Where the cash-contribution density bonus option is used, the cash contribution must be applied for each dwelling unit or its equivalent unit, as provided in section 34-1494, built above the standard density.

(f) *Planned development zoning districts.* A planned development's approved density may be increased using affordable housing bonus density units, only by amending the planned development pursuant to section 34-380. The applicant must submit, as part of the submittal documents, a revised master concept plan showing the location of the proposed additional density; and must also provide additional information as required by the Director, to identify the impacts the increased density will precipitate over and above the impacts attributable to the density currently approved for the property.

Use of affordable housing bonus density units to increase density above the Lee Plan standard density may also be considered in conjunction with the original proposed planned development application. The bonus density application may be submitted, reviewed and approved in conjunction with the planned development rezoning application as set forth in section 34-1517.

(g) *Conventional zoning districts.* The density applicable to a conventional zoning district may be increased using affordable housing bonus density units only through the public hearing process. The bonus density application may be submitted, reviewed and approved in conjunction with a conventional rezoning application as set forth in section 34-1517

If a property owner or developer is not applying for rezoning, but wishes to use affordable housing bonus density units to increase densities above the Lee Plan standard density range, the application for the use of affordable housing density units and the contract required by sections 34-1518(b)(1) and 34-1519(c) must be submitted for concurrent review. The maximum density may not exceed the maximum total density for the land use category in which the property is located.

(h) *Bonus density contract.* All bonus density approvals will require the applicant to enter into a contract complying with the provisions of this division and Administrative Code 13-12.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 10-25 , § 4, 6-8-10; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-1517. Procedure to approve density increases.

(a) *Application.*

(1) A complete bonus density application, on a form approved by the Department of Community Development, must be submitted to the County along with the appropriate fee.

(2) As part of the application, the applicant must:

a. Clearly identify the option chosen, i.e., whether the cash contribution will be made or the bonus density units will be provided on-site; and

b. Provide documentation substantiating compliance with each of the review criteria set forth in section 34-1517(c).

(3) The application may be made in conjunction with a rezoning application or as a stand alone request. In either case, a fee applicable solely to the bonus density application will be required.

(4) If the bonus density was approved by the Board of County Commissioners as part of a mixed use planned development and the applicant is using Option 34-1516(a)(3) an administrative amendment pursuant to section 34-380 is required.

(b) *Recommendation.* Once the application is complete it will be reviewed by the Department of Community Development and a recommendation will be prepared for consideration by the Hearing Examiner. After a public hearing, the Hearing Examiner will prepare a recommendation for consideration by the Board of County Commissioners.

(c) *Review criteria.* Based upon the application and information available to the County concerning the subject property, a recommendation will be prepared by County staff for presentation to the Hearing Examiner.

(1) The recommendation must address each of the minimum requirements set forth in section 34-1516(c).

(2) The staff recommendation may contain reasonable conditions necessary to mitigate any adverse impacts that may otherwise be attributable to the density bonus approval.

(3) A draft copy of the bonus density contract, as negotiated by the parties, must be attached to the staff recommendation. If deemed appropriate by County staff, the recommendation can provide an explanation of the contract terms and provisions.

(d) *Processing the application.*

(1) *Hearing examiner.* The bonus density application and staff recommendation will be presented to the Hearing Examiner in accordance with the procedure set forth in section 34-145(d).

The Hearing Examiner's recommendation to the Board must also consider the review criteria contained in section 34-1516(c) as well as the provisions in the draft contract agreement. A copy of the draft contract must be attached to the Hearing Examiner recommendation for consideration by the Board.

(2) *Board action.* The Hearing Examiner's recommendation will be considered by the Board in accordance with the procedure set forth in section 34-83(b). During the hearing, the Board will consider the evidence and testimony submitted with respect to the bonus density application along with the proposed bonus density contract and may approve or deny the application and contract based upon the criteria set forth in section 34-1517(c).

If the bonus density application is presented to the Board in conjunction with a rezoning application, the Board may take action on the zoning application and the bonus density application separately, such that one may be approved and the other denied. If the bonus density application is presented to the Board in conjunction with a rezoning application the Board's action taken on the bonus density request will be noted in the final zoning resolution.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-1518. Site-specific density bonus (option 1).

(a) A developer may apply for bonus density based upon an agreement to build and make the bonus density units available for eligible households as follows:

(b) Prior to receiving a final development order or building permit using bonus density units, the developer must:

(1) Obtain Board approval in accordance with section 34-1517

(2) Execute a contract with the Board of County Commissioners, in a form approved by the County Attorney's Office, that will bind the developer and his successor:

a. In the case of rental units, to rent the unit exclusively to eligible households for a period of seven years or more from the date when the certificate of occupancy is issued;

b. In the case of owner-occupied units, to sell the unit to an eligible household, by conveyance that must include a recorded deed restriction prohibiting the transfer, either through rental or sale of the unit, for a period of seven years, to any other person except another eligible household;

c. To adhere to the limitations on monthly payments set forth in subsection (e) of this section;

d. To acknowledge and waive objections to the remedies reserved to the County in subsection (d) of this section;

e. To agree to rent or sell only to eligible households, as defined in section 34-1512 for a period of seven years; and

f. To agree to comply with all federal, state and local fair housing laws, rules, regulations or orders applicable to the development for seven years from the date of the initial certificate of occupancy.

(3) Deliver a bond or equivalent performance guarantee acceptable to the County Attorney, in an amount equal to 100 percent of the contribution required by section 34-1519 (option 2).

The bond or equivalent performance guarantee must guarantee the developer's performance under this option, notwithstanding any subsequent events, including but not limited to bankruptcy, change of ownership or death. Such bond or equivalent performance guarantee must provide that the surety will pay to the County an amount equal to 100 percent of the contribution rate set forth in section 34-1519(b)(2) for each bonus density rental unit or owner-occupied unit rented or sold by the principal of the bond in violation of the requirements of subsection (b)(2)a. or b. or subsection (e) or (f) of this section, plus costs of litigation, including attorney's fees and interest incurred by the County, directly or indirectly, to enforce the requirements of this subdivision.

The developer of a project who has posted a equivalent performance guarantee may apply for a reduction in the surety amount by submitting documentation verifying that a dwelling unit has been occupied by a qualifying household in accordance with section 34-1514(b). The reduction in the face amount of the surety will correspond to the bonus density unit contribution rate established in the governing County Administrative Code. The developer may apply to reduce the

surety amount each time a unit has been occupied by a qualifying household by providing the evidence described herein.

(4) Record a covenant in the public records stating that there is an obligation to rent or sell only to eligible households, as defined in section 34-1512, for a period of seven years after the certificate of occupancy is issued. The covenant must be set to expire no earlier than seven years after the certificate of occupancy is issued.

(c) The Board of County Commissioners may waive any requirement of this section if the developer is a Florida not-for-profit corporation exempt from federal income taxation as a charitable organization under the provisions of section 501(c)(3) of the Internal Revenue Code of 1954, or of any corresponding section of a subsequently enacted federal revenue act, or if the development is a nonprofit housing project financed, in whole or part, by a mortgage made by or through any agency of the government of the United States of America that is subject to tenant income limitations established by that agency as a condition of the mortgage.

(d) In addition to any action to enforce payment of the secured amounts described in subsection (b)(3) of this section, the County may bring any action for legal and equitable relief necessary to invalidate attempted transfers of legal or equitable real property ownership or possessory rights that would violate the restrictions of subsection (b)(2)a. or b. of this section.

(e) The rental rate of bonus density rental units and the selling price of bonus density owner-occupied units may be determined by the developer; provided, however, that the monthly rent (exclusive of utility charges) or mortgage payments may not exceed 35 percent of the gross monthly income of the lessees or buyers. In the case of assisted living facilities, the rental payment, including all services, may not exceed 80 percent of the household's income.

(f) Lessors and sellers may rent or sell bonus density rental units and owner-occupied units only to eligible households for seven years from the date of the initial certificate of occupancy.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-1519. Cash-contribution density bonus (option 2). [20]

(a) A developer may elect to pay the cash contribution set forth in subsection (b)(3) of this section and satisfy the other requirements of this section. NOTE: The Board of County Commissioners will not approve new applications for cash contributions to the affordable housing trust fund for a two-year period beginning January 1, 2011, The degree to which density may be increased pursuant to this option above the standard density limitations otherwise imposed by law represents a bonus to the developer of the land and is offered as a means of encouraging the developer to contribute to the County's Affordable Housing Trust Fund, thereby assisting the County in its efforts to provide adequate housing for eligible households.

Prior to receiving a final development order or building permit using bonus density units, the developer must obtain Board approval in accordance with section 34-1517.

(b) The bonus density for which a given area of land may qualify depends upon the amount the developer of the land contributes to the County's Affordable Housing Trust Fund.

(1) Contributions will be based on the number of dwelling units by which the developer desires to exceed the standard density range.

(2) The standard contribution per-unit rate will be established by administrative code. and may be adjusted annually.

(3) For every unit for which a standard contribution is paid, the developer will be entitled to exceed, by an equal number of units applied to the development as a whole, the standard density cap that

otherwise may be imposed on the development in question. However, the development will not be permitted to exceed the applicable maximum bonus density set forth in section 34-1517(b).

(4) The first development order following the approval of bonus density, or building permit if a development order is not required, will not be issued until the required contribution is paid in full. Developments that will be completed under multiple development orders, regardless of whether or not the first development order includes bonus units, must pay the required contribution prior to the issuance of the first development order. Contributions will not be refunded once made, even if the development in question fails to occur for any reason. Density bonuses for which contributions are made will run with the specific development plan submitted and approved by the County concurrent with the request for bonus density units.

(c) The developer must execute a contract with the Board of County Commissioners, in a form approved by the County Attorney's Office that binds the developer to the standard contribution per-unit rate and conditions set forth in subsections (b)(2) and (b)(3) of this section.

(d) Development made in excess of the standard density that otherwise would be imposed by law but for the provisions of this subdivision must comply with all other legal requirements that may be imposed by current or future federal, state, regional or local laws and regulations.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 10-25 , § 4, 6-8-10)

Sec. 34-1520. Affordable Housing Trust Fund.

(a) All contributions received from developers pursuant to this subdivision will be placed in a fund entitled the "Affordable Housing Trust Fund."

(b) The fund will be used to assist the County in its efforts to provide needed housing for eligible households. The assistance may include assistance for the construction, development or rehabilitation of rental or homeowner housing. Preference will be granted to qualifying affordable housing projects that are within a ten mile radius of the project generating the contribution into the fund.

(Ord. No. 99-22, § 3, 12-14-99; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09)

Secs. 34-1521—34-1540. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 99-22, § 3, adopted Dec. 14, 1999, amended the Subdiv. III to read as herein set out in §§ 34-1511—34-1520. Subsequently, Ord. No. 07-24, § 7, adopted August 14, 2007, amended the title of Subdivision III to read as herein set out. Prior to inclusion of said ordinance, Subdivision III was entitled, "Housing Bonus Density for Provision of Very Low and Low Income Housing." Subsequently, Ord. No. 09-23, § 10, adopted June 23, 2009, amended the title of Subdivision III to include "and work force." See also the Land Development Code Comparative Table. (Back)

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Note: [The last sentence in § 34-1516(a)(2), as adopted in LCO 10-25, will have no force or effect until the date the Lee Plan amendments adopted by ordinances 10-19 and 10-21 become effective in accordance with F.S. ch. 163.] (Back)

--- (**20**) ---

Note: [The second sentence in §34-1519(a), as adopted in LCO 10-25, will have no force or effect until the date the Lee Plan amendments adopted by ordinances 10-19 and 10-21 become effective in accordance with F.S. ch. 163.] (Back)

Subdivision IV. Reserved [21]

Secs. 34-1541—34-1570. Reserved.

Secs. 34-1541—34-1570. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 12-19, § 3, adopted Sept. 11, 2012, repealed Subdiv. 4, §§ 34-1541—34-1548, which pertained to Captiva Island and derived from Ord. No. 78-7, §§ 1—6, adopted May 10, 1978; Ord. No. 82-44, §§ 2—5, 7—9, adopted Dec. 1, 1982; and Ord. No. 96-25, § 2, adopted Dec. 18, 1996. (Back)

DIVISION 13. ENVIRONMENTALLY SENSITIVE AREAS [22]

Sec. 34-1571. Purpose of division; areas of concern.

Sec. 34-1572. Applicability of division.

Sec. 34-1573. Environmental assessment report.

Sec. 34-1574. Compliance with applicable regulations; new roads or expansion of existing facilities.

Sec. 34-1575. Coastal zones.

Sec. 34-1576. Islands.

Sec. 34-1577. Wetlands.

Sec. 34-1578. Floodplains.

Secs. 34-1579—34-1610. Reserved.

Sec. 34-1571. Purpose of division; areas of concern.

Several of the goals, objectives and policies set forth in the Lee Plan address development as it relates to the preservation, protection, enhancement and restoration of the coastal and inland natural resources of the County.

(1) The coastal zone is of special concern. The coastal zone includes but is not limited to the following natural systems:

a. *Marine:* Gulf of Mexico.

b. *Estuarine:* Coastal bays, coastal lagoons, coastal tributaries, forested saltwater wetlands, nonforested saltwater wetlands and sea grass beds.

c. *Terrestrial:* Beaches, dunes, coastal ridge, overwash plain and zones of archaeological sensitivity (see chapter 22).

(2) Other areas of concern which may require special regulations are:

a. Wetlands as defined in section 14-292

b. Areas which provide critical habitat of rare and endangered plant and animal species listed in the publication Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida, of the State Game and Fresh Water Fish Commission, as periodically updated.

c. Areas which have significant impact upon the quality of groundwater and receiving waters.

d. Significant areas of rare and unique upland habitats (RU) indicated in the County Coastal Study, including but not limited to the following:

1. Sand scrub (320).

2. Coastal scrub (322).

3. Pine flatwoods (411) categorized as mature due to the absence of severe impacts caused by logging, drainage and exotic infestation.

4. Slash pine/midstory oak (412).

5. Tropical hardwood (426).

6. Live oak hammock (427).

7. Cabbage palm hammock (428).

The numbered references are to the Florida Land Use Cover and Forms Classification System (FLUCCS), level III (FDOT, 1985)

(Zoning Ord. 1993, § 202.11(A); Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-1572. Applicability of division.

All areas proposed for development or rezoning which are designated as resource protection or transition zone areas on the land use plan map, or which come under the criteria set forth in section 34-1571, shall be subject to the general as well as the specific regulations set forth in this division.

(Zoning Ord. 1993, § 202.11(B))

Sec. 34-1573. Environmental assessment report.

When environmentally sensitive ecosystems occur, as identified by the County, the U.S. Army Corps of Engineers, the State Department of Environmental Protection, the South Florida Water Management District or other applicable regulatory agency, the developer or applicant shall prepare an environmental assessment that examines the existing conditions, addresses the environmental impacts and proposes means and mechanisms to protect, conserve or preserve the environmental and natural resources of these ecosystems.

(Zoning Ord. 1993, § 202.11(B)1.a)

Sec. 34-1574. Compliance with applicable regulations; new roads or expansion of existing facilities.

(a) Any use permitted or permissible in environmentally sensitive areas shall be subject to all applicable state and federal regulations as well as applicable County regulations.

(b) Except in instances of overriding public interest, new roads or the expansion of existing facilities within resource protection and transitional zones shall be prohibited.

(Zoning Ord. 1993, § 202.11(B)1.b)

Sec. 34-1575. Coastal zones.

(a) Development, other than minor structures, is prohibited seaward of the three-dimensional coastal construction control line as established by the State Department of Environmental Protection, and defined in section 6-333. For purposes of this section, minor structures mean pile supported elevated dune and beach walk-over structures; beach access ramps and walkways; stairways; fences and pile-supported viewing platforms, boardwalks and lifeguard support stands. Minor structures do not include septic tanks or other structures appurtenant to, cantilevered, supported by, or overhanging, or extending the principal structure. The minor structures identified herein are considered expendable under design wind, wave and storm forces.

(b) Development within the coastal zone must be compatible with protection of natural systems and in accordance with applicable coastal construction codes.

(c) No vehicular or foot traffic from developments or access strips to crossovers will be allowed to cross over directly on dune ridges or beach escarpments. Access to the beach must be via elevated dune walkovers.

(d) No development will be permitted which:

(1) Could restrict, impede, impound or otherwise interfere with tidal flow or drainage in coastal zone waters; or

(2) Alters or removes protection vegetation from the frontal or primary dune system, except for excavations for the installation of pilings necessary for the construction of elevated structures as permitted by the State Department of Environmental Protection.

(Zoning Ord. 1993, § 202.11(B)2.a; Ord. No. 95-07, § 24, 5-17-95; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 05-14 , § 6, 8-23-05)

Sec. 34-1576. Islands.

Development on islands shall be subject to the following:

(1) New or expanded mobile home or recreational vehicle developments shall not be permitted on barrier islands or in coastal high-hazard areas which include V zones as designated in the adopted flood insurance rate maps (FIRM) for the County and areas seaward of the coastal construction control line as it existed in 1988.

(2) No new causeways which require filling of submerged lands or wetlands shall be permitted to any island.

(3) No new bridges shall be constructed to undeveloped barrier islands except where needed to achieve evacuation clearance time objectives on adjoining islands connected by existing bridges, and only after the Lee Plan has been amended to ensure that the ultimate development of all areas served by the new bridge is limited to levels which can safely be served by the new and existing bridges.

(4) Paving of roads on and the development of commercial marinas on undeveloped barrier islands shall be prohibited.

(Zoning Ord. 1993, § 202.11(B)2.b)

Sec. 34-1577. Wetlands.

(a) Any development in or around wetlands shall be designed to protect the values and functions of the wetlands as set forth in chapter 14, article IV.

(b) No wetland shall be drained, filled or excavated unless and except as part of an approved restoration or mitigation program.

(Zoning Ord. 1993, § 202.11(B)2.c)

Sec. 34-1578. Floodplains.

(a) Future development in floodprone areas shall be in compliance with chapter 6, article IV.

(b) The degree of flood protection required by this section is reasonable for regulatory purposes and is based on scientific and engineering considerations. This section does not imply that areas outside of flood hazard areas or land uses permitted within such areas will be free from flooding or flood damage.

(Zoning Ord. 1993, § 202.11(B)2.d)

Secs. 34-1579—34-1610. Reserved.

FOOTNOTE(S):

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Cross reference— Open space, buffering and landscaping, § 10-411 et seq.; protection of habitat, § 10-471 et seq.; environment and natural resources, ch. 14. (Back)

DIVISION 14. ESSENTIAL SERVICES AND FACILITIES [23]

Sec. 34-1611. Purpose of division.

The purpose of this division is to set forth the development regulations for uses defined as essential services or classified as essential service facilities group I (section 34-622(c)(13)).

(Zoning Ord. 1993, § 202.12(A); Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1612. Permitted uses.

All buildings or structures defined as essential services or classified as essential service facilities group I [section 34-622(c)(13)] are permitted by right in all zoning districts when necessary for the day-to-day operation of the service, subject to the requirements set forth in this division.

(Zoning Ord. 1993, § 202.12(B)1; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1613. Setbacks.

(a) Structures regulated by this division that are three feet or less in height and which individually or collectively on the same parcel are 80 cubic feet or less in volume are exempt from all setback requirements.

(b) Buildings or structures that are over three feet but less than six feet in height, and which individually or collectively on the same parcel are 300 cubic feet or less in volume, must be set back a minimum of five feet from any street right-of-way or street easement and must comply with the visibility requirements set forth in section 34-1614

(c) Buildings or structures that exceed six feet in height and which individually or collectively on the same parcel exceed 300 cubic feet in volume but are less than 600 cubic feet in volume may not be located closer than 30 feet to any street right-of-way or street easement, or closer than 25 feet to any body of water.

(d) Buildings or structures that individually or collectively on the same parcel exceed 600 cubic feet in volume must comply with all setback requirements for the district in which located.

(Zoning Ord. 1993, § 202.12(B)2; Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1614. Height of structures in visibility triangle.

No building or structure regulated by this division that exceeds three feet in height may be permitted within the visibility triangle set forth in section 34-3131, pertaining to vehicle visibility.

(Zoning Ord. 1993, § 202.12(B)3; Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1615. Maximum number of structures per residential block.

Not more than one structure or group of structures which collectively exceed 150 cubic feet in volume may be permitted on the same side of a street within any residential block, unless a minimum separation of four lot widths is observed between the structures.

(Zoning Ord. 1993, § 202.12(B)4; Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1616. Screening and buffering.

(a) Structures or equipment (excluding transmission poles) exceeding three feet in height or which individually or collectively on the same parcel exceed 27 cubic feet in volume must be of neutral, non-glare color or finish so as to make them as visually unobtrusive as possible.

(b) Structures or equipment (excluding transmission poles) exceeding three feet in height, or which individually or collectively on the same parcel exceed 80 cubic feet in volume, must be of neutral, non-glare color or finish, and shielded on all sides by shrubs at least 36 inches high at time of planting, consistent with the requirements of section 10-420

(Zoning Ord. 1993, § 202.12(B)5; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 99-05, § 9, 6-29-99)

Sec. 34-1617. Exemptions from property development regulations.

Facilities defined as essential services or classified as essential service facilities group I are exempt from the property development regulations that set forth minimum lot size, area and dimensions.

(Zoning Ord. 1993, § 202.12(B)6; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98)

Secs. 34-1618—34-1650. Reserved.

FOOTNOTE(S):

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Cross reference— Design standards for utilities, § 10-351 et seq. (Back)

DIVISION 15. EXCAVATION ACTIVITIES [24]

Subdivision I. - Generally

FOOTNOTE(S):

--- (**24**) ---

Cross reference— Excavations, § 10-329. (Back)

Subdivision I. Generally

Sec. 34-1651. General requirements for all excavation activities.

Secs. 34-1652—34-1710. Reserved.

Sec. 34-1651. General requirements for all excavation activities.

(a) *Certificate to dig.* A certificate to dig must be obtained prior to receiving approval to excavate properties located within Level 1 or Level 2 zones of archaeological sensitivity pursuant to chapter 22

(b) *Mining.* Mining (def) activities may be permitted in accordance with chapter 12

(c) *Driving or sinking of wells for purpose of oil or gas exploration or extraction.*

(1) No oil or gas exploration wells or test wells may be commenced prior to obtaining a special exception for gas and oil exploration in accordance with the procedures set forth in article II of this chapter.

(2) No oil or gas exploration wells may be used for or converted to production wells prior to obtaining a special exception for gas and oil extraction in accordance with the procedures set forth in article II of this chapter

(d) *Excavations for purpose of water retention or other land development.* No excavation activities, including removal of surplus material may be commenced prior to receiving approval in accordance with the provisions of section 10-329 or chapter 12, as applicable.

(Zoning Ord. 1993, § 202.13; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 08-21 , § 3, 9-9-08)

Secs. 34-1652—34-1710. Reserved. [25]

FOOTNOTE(S):

--- (**25**) ---

Editor's note— Ord. No. 01-3, § 5, adopted Feb. 27, 2001, amended and renumbered the provisions of §§ 34-1672—34-1680 to read as herein set out. Subsequently, Ord. No. 08-21, § 3, adopted September

9, 2008, repealed Subdivision II, §§ 34-1671—34-1681, which pertained to mining. See also the Land Development Code Comparative Table for a detailed analysis of inclusion. (Back)

DIVISION 16. FARM PRODUCE STANDS, U-PICK OPERATIONS, AND COMMUNITY GARDENS [26]

Sec. 34-1711. Applicability of division.

The requirements of this division shall apply to all produce stands, U-pick operations and community gardens.

(Zoning Ord. 1993, § 522(A); Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-1712. Reserved.

Editor's note—

Ord. No. 11-08, § 10, adopted August 9, 2011, repealed § 34-1712, which pertained to definitions. See also the Land Development Code Comparative Table.

Sec. 34-1713. Produce stands.

(a) *Permanent structures.* Permanent structures for produce stands may be permitted in the AG zoning districts as specified in the district use regulations subject to the following regulations:

(1) All permanent structures shall be built in compliance with all applicable building codes and shall be located in accordance with all setback requirements for the district in which located.

(2) Only produce grown on the premises or on other farms located within the County and under the control of the owner of the premises shall be sold.

(3) Off-street parking shall be provided in accordance with division 26 of this article. Parking areas shall have a surface type specified in section 34-2017(b).

(b) *Temporary stands.* Temporary produce stands are permitted in the AG zoning districts subject to the following regulations:

(1) No permanent structures shall be erected;

(2) Temporary stands shall comply with the setback requirements of the district in which located;

(3) Off-street parking for a minimum of three cars shall be provided;

(4) Temporary stands shall be removed whenever the stand is not in use, except for short periods of 48 hours or less; and

(5) Only produce grown on the same premises shall be sold from a temporary produce stand.

(Zoning Ord. 1993, § 522(C))

Sec. 34-1714. Reserved.

Editor's note—

Ord. No. 11-08, § 10, adopted August 9, 2011, repealed § 34-1714, which pertained to roadside stands. See also the Land Development Code Comparative Table.

Sec. 34-1715. U-pick operations.

U-pick operations are permitted or permissible uses as specified in the district use regulations, subject to the following regulations:

(1) All U-pick operations shall provide an area on the premises for off-street parking of all customers, and the parking surface shall be as required by section 34-2017(b); and

(2) Unless an existing driveway is used, a temporary driveway permit shall be requested from the Department of Transportation and Engineering Services.

(Zoning Ord. 1993, § 522(E))

Sec. 34-1716. Standards for community gardens.

Community gardens may be permitted by right in zoning districts as specified in the district use regulations. Community gardens are not subject to review under chapter 10, but are subject to the following regulations:

(1) *Size limitation.* A community garden may not be greater than two acres in size.

(2) *Noise.* The use or operation of power tools or portable mechanical equipment outdoors in zoning districts that allow residential uses is prohibited before 8:00 a.m. and after 7:00 p.m. so as to avoid noise disturbance in the community.

(3) *Chemical application.* The use of fertilizer, pesticide, insecticide, herbicide or agricultural use chemicals must be consistent with label instructions and must be in compliance with Lee County Fertilizer Ordinance 08-08.

(4) *Sale of produce and plants in residential zoning districts.* The sale of flowers, vegetables or other crops grown on the property may be sold only as approved by a temporary use permit issued prior to the sale.

(5) *Temporary use permit.* A maximum of eight events may be scheduled each year via the temporary use permit process for a single property allowing the sale of flowers, vegetables or other crops grown on the property each year. Each event may not exceed two days. The property owner may obtain a single temporary use permit covering all events scheduled for the year.

Proof of sanitary facilities must be provided to the County with a temporary use permit.

(6) *Permitted structures.* Only the following structures will be permitted in a community garden:

a. Greenhouses, hoophouses, storage sheds, shade pavilions, and planting preparation houses.

1. *Location.* Buildings must be set back from property lines consistent with the minimum principal building setback of the underlying zoning district.

2. *Height.* No building or other structure may be greater than 15 feet in height.

3. *Building coverage.* The combined area of all buildings, excluding greenhouses and hoophouses, may not exceed 5,000 square feet.

4. *Floor.* Each building must provide an impervious floor to catch chemical runoff.

b. Fences. Fencing will be subject to the regulations in section 34-1742

c. Benches, picnic tables and garden art.

d. Planting beds raised three feet or more above grade, compost bins and rain barrel systems must set back from property lines consistent with the minimum principal building setback of the underlying zoning district.

e. Walkways. Walkways must be unpaved and covered with mulch, shell or gravel except as necessary to meet the needs of individuals with disabilities.

f. Signage. Each community garden must have one sign indicating the name of the community garden and the contact information of the principal operator, including the name and current telephone number. The sign may not exceed six square feet in area per side and may not exceed four feet in height.

g. Trash receptacles must be provided on site.

(7) *Parking.* Off-street parking is not required for gardens on property less than 20,000 square feet in lot area. A low turn over parking area must be provided for gardens over 20,000 square feet in lot area. Notwithstanding section 34-2017(c). Parking areas must be maintained as a grass area or in a dustfree manner. Handicapped parking is not required.

(8) *Prohibited activities.* The following activities are prohibited within the community garden:

a. Littering, dumping, and illegal activities.

b. Amplified sound.

c. Recreational sports.

(9) *Application.* An application for administrative approval must be submitted to the Department of Community Development along with the following documentation:

a. Letter signed by the property owner giving permission for use of property.

b. Letters of no objection from adjoining property owners when the proposed community garden abuts property zoned or used for residential purposes.

c. A site plan, drawn to scale, showing the property size with dimensions.

d. The site plan must show the location of all existing structures on the property.

e. The site plan must reflect existing streets, easements or land reservations within the site.

f. The site plan must include proposed fencing and screening, if any.

g. The site plan must identify the source of water that will be used for irrigation purposes.

(Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-1717—34-1740. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 10-24, § 1, adopted June 8, 2010, amended the title of Div. 16 to read as herein set out. Subsequently, Ord. No. 11-08, § 10, adopted August 9, 2011, amended the title of Div. 16 to read as herein set out. Prior to inclusion of said ordinance, Div. 16 was titled, "Farm Produce Stands, U-Pick Operations, Roadside Stands, and Community Gardens." See also the Land Development Code Comparative Table. (Back)

DIVISION 17. FENCES, WALLS, GATES AND GATEHOUSES

Sec. 34-1741. Applicability of division.

This division applies to all fences, walls, gatehouses and entrance gates that are not specifically exempted in this division. This division does not apply to seawalls (see section 34-1863 for regulations on seawalls).

(Zoning Ord. 1993, § 202.14(A); Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-1742. Construction of fences.

(a) Except for fences used for bona fide agricultural uses or purposes of conservation by Lee County, the State of Florida or other governmental entities, all fences and walls that are over 25 inches in height must comply with established building permit procedures.

(b) All fences and fence walls on each property must be of uniform materials, design and color. Any additions to existing fences or walls that do not exceed the length of the existing fence or wall shall maintain a uniformity of materials, design and color with that of the existing fence or wall.

(c) All fences and fence walls must be constructed and maintained in a manner that will not detract from the neighborhood or community. Fences must not contain missing materials or components of which it was built and must remain substantially vertical so that it serves the function or aesthetic purpose for which it was built and has not been compromised to the point that the fence would present a danger of flight or destruction during severe weather.

(d) Fences and fence walls must be constructed of conventional and traditional building materials including, but not limited to, concrete block, brick, wood, decorative aluminum, iron or steel, chain link or composite products manufactured specifically for fences and walls. Non-traditional materials, including but not limited to, tires, mufflers, hubcaps, etc., are prohibited. Fabric sheets or nets, or plastic, metal or vinyl sheets or slats may not be used as part of the fence or attached to a fence for the purpose of effecting privacy or required screening.

(e) Fences and walls must be constructed to present the finished side of the fence or wall to the adjoining lot or any abutting right-of-way. Where, there is an existing fence, wall or continuous landscape hedge on the adjoining parcel, this provision may be administratively waived upon written request.

(f) Except as provided below, no barbed wire, spire tips, sharp objects, hog wire, game fence, horse wire or other similar materials or electrically charged fences may be erected within 100 feet of any residential area or residential zoning district under separate ownership:

(1) Fence material such as, hog wire, game fence, horse wire or other similar materials may be erected but cannot be the primary material when the property is within 100 feet of any residential area or residential zoning district under separate ownership.

(2) Bona fide agricultural uses may use barbed wire or electrically charged fences to control livestock when located in districts permitting the raising, keeping or breeding of livestock.

(3) The use of barbed wire for temporary security fences around construction materials or equipment in conjunction with an active construction project may be permitted when approved by the Director.

(4) The use of chain-link fence with three strands of barbed wire on top of the fence with six-inch spacing between the strands of barbed wire may be required or approved by the Director around structures or equipment of potential hazard to residents or passersby not otherwise protected.

(5) The use of hog wire is permitted on lands owned, for purposes of conservation, by Lee County, the State of Florida, or other governmental entities.

(g) Electrical fences must comply with National Electrical Safety Code requirements.

(Zoning Ord. 1993, § 202.14(B); Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-03, § 5, 2-27-01; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-1743. Residential project walls.

(a) *Definition:* For purposes of this section, a *residential project fence* means a wall or fence erected around a residential subdivision (but not individual lots) or development of ten or more dwelling units.

(b) *A residential project fence or wall:*

(1) May be a maximum height of eight feet around the perimeter of the project upon a finding by the Development Services Director that the fence does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.

(2) May include architectural features such as columns, cupolas, fountains, parapets, etc., at a height not to exceed twice the fence or wall height provided they are compatible with the project and abutting properties.

(3) Required or optional residential project walls must be landscaped on the exterior side (between the wall and the abutting property or street right-of-way) with a minimum of five trees per 100 lineal feet and shrub hedges, within a minimum plantable width of seven and one-half feet located on the exterior side of the wall or fence.

a. Hedges must be planted and maintained so as to form a 36-inch high continuous visual screen within one year after time of planting.

b. Trees adjacent to a right-of-way must be appropriately sized in mature form so that conflicts with overhead utilities, lighting and signs are avoided. The clustering of trees and use of palms adjacent to the right-of-way will add design flexibility and reduce conflicts.

(4) Must be constructed to ensure that historic water flow patterns are accommodated and all stormwater from the site is directed to on-site detention/retention areas in accordance with the SFWMD requirements.

(5) May not be permitted until proper documents have been recorded providing for the maintenance of the project fence and landscaping.

(c) Residential project fences or walls are not permitted in compact communities regulated by chapter 32. This prohibition does not affect the ability of a residential or mixed-use development within a compact community to provide entry features and/or residential development identification signs that comply with chapter 30

(Zoning Ord. 1993, § 202.14(C); Ord. No. 00-14, § 5, 6-27-00; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 10-25 , § 4, 6-8-10)

Sec. 34-1744. Location and height of fences and walls other than residential project fences.

(a) *Setbacks.* Except as may be specifically permitted or required by other sections of this chapter or chapter 10, no fence or wall, excluding seawalls, may be erected, placed or maintained:

(1) Within any street right-of-way or street easement.

(2) Closer to the Gulf of Mexico than permitted by chapter 6, article III.

(3) Closer than five feet to the mean high-water line along natural water bodies, including canals created from sovereign lands, except that, where the canal is seawalled, the fence may be built landward of the seawall.

(b) *Height.*

(1) *Determination of height.* Except as set forth in section 10-416 for required buffers, fence or wall height will be measured from the existing elevation of the abutting property.

In rear and side yards, the building official has the discretion to allow a deviation of up to four inches in height where required to compensate for variations in grade, drainage, or weed maintenance provided that the length of the structural materials for the fence do not exceed the permitted height.

(2) Except as provided for in section 34-1743 (b)(1), the maximum permitted height for fences and walls is as follows:

a. *Residential areas:*

i. A fence or wall located between a street right-of-way or easement and the minimum required street setback line may not exceed three feet in height, except that fences may be a maximum height of four feet so long as the fence is of open mesh screening* and

does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.

*For purposes of this section only, open mesh screening may include vertical picket-type fencing provided that the minimum space between vertical members must be a minimum of one and one-half times the width and thickness of the vertical members or bars. i.e. if the vertical members are two and one-quarter inches wide and three-quarter inch thick (total three inches), then the minimum space between them must be four and one-half inches (1.5 × 3.0 = 4.5). In no case may the space between vertical members or bars be less than 37/8 inches.

ii. A fence or wall located between a side or rear lot line and the minimum required setback line for accessory buildings is limited to a maximum height of six feet For purposes of this section, the side yard will be considered that portion of the lot extending from the minimum required street setback line to the rear lot line.

iii. A fence located within 25 feet of a body of water must be open mesh screening above a height of three and one-half feet.

b. *Commercial and industrial areas.* A commercial or industrial fence may be a maximum height of eight feet around the perimeter of the project upon a finding by the Development Services Director that the fence does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.

c. *Walls and fences along limited access or controlled access streets.* A wall or fence may be placed or maintained along any property line abutting a limited access or controlled access street provided it complies with the same regulations as are set forth for residential project fences in section 34-1743

d. *Agricultural fences.* An open mesh or wire fence for bonafide agricultural uses may be a maximum height of eight feet along any property line in an agricultural district provided that the fence does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.

e. *Community garden fences.* Fences for community gardens located in Residential zoning districts RS, TFC, RM, MHC, MH, RV, CFPD, CPD, RPD, MHPD, RVPD, and MPD may be a maximum height of six feet high along any property line provided the fence does not interfere with vehicle visibility requirements at traffic access points (see section 34-3131). The design of the fence must be in compliance with section 34-1742. Barbed wire, spire tips, sharp objects or electrically charged fences are prohibited.

(Zoning Ord. 1993, § 202.14(D); Ord. No. 93-24, § 4, 9-15-93; Ord. No. 95-07, § 26, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-1745. Buffer for commercial and industrial uses.

All commercial and industrial uses must provide a buffer as required in Chapter 10.

(Zoning Ord. 1993, § 202.14(E)1; Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-1746. Construction in easements.

Nothing in this division may be construed so as to permit the construction or placing of any construction within a public or private easement which prohibits such construction or placement.

(Zoning Ord. 1993, § 202.14(F); Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-1747. Enclosure of high-voltage transformers and other utility equipment.

(a) All substation high-voltage transformers and any other utility structures or equipment of potential hazard to residents or passersby not otherwise protected must be completely enclosed by a chainlink fence not less than eight feet in height. On top of the fence must be three strands of barbed wire with a six-inch spacing between each strand.

(b) Distribution transformers must comply with National Electrical Safety Code requirements.

(Zoning Ord. 1993, § 202.14(G)1; Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-1748. Entrance gates and gatehouses.

The following regulations apply to entrance gates or gatehouses that control access to three or more dwelling units or recreational vehicles, or any commercial, industrial or recreational facility:

(1) An entrance gate or gatehouse that will control access to property 24 hours a day may be permitted provided that:

a. It is not located on a publicly dedicated street or street right-of-way; and

b. Appropriate evidence of consent is submitted from all property owners who have the right to use the subject road or from a property owner's association with sufficient authority; and

c. If it is to be located within a planned development, it is an approved use in the schedule of uses; and

d. The gate or gatehouse is located:

1. A minimum of 100 feet back from the existing or planned intersecting street right-of-way or easement; or

2. The gate or gatehouse is designed in such a manner that a minimum of five vehicles or one vehicle per dwelling unit, whichever is less, can pull safely off the intersecting public or private street while waiting to enter; or

3. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the Development Services Director.

4. In a manner that does not impede or interfere with the normal operation and use of individual driveways or access points.

5. Where, in the opinion of the Director of Development Services, traffic volumes on the intersecting street are so low that interference with through traffic will be practically non-existent, the Director may waive or modify the locational requirements set forth in subsection (1)d. above. If the intersecting street is County-maintained, then the Director of Lee County Department of Transportation must concur. The decision to waive or to modify the locational requirements is discretionary and may not be appealed.

e. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the Development Services Director.

(2) *Access for emergency vehicles must be provided.*

a. Any security gate or similar device that is not manned 24 hours per day must be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles.

b. If an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.

(3) *Extension of fences or walls to an entrance gate or gatehouse.* A fence or wall may be extended into the required setback where it abuts an entrance gate or gatehouse, provided vehicle visibility requirements (see section 34-3131) are met.

(4) Entrance gates that are installed solely for security purposes for non-residential uses, and that will remain open during normal working hours, are not subject to the location requirements set forth in (1)c. above and are not required to be equipped with an override mechanism acceptable to the local emergency services agencies or an override switch installed in a glass-covered box for the use of emergency vehicles. However, if an emergency necessitates the breaking of an entrance gate, the cost of repairing the gate and the emergency vehicle if applicable, will be the responsibility of the owner or operator of the gate.

(5) *Turn-arounds.* A paved turn-around, having a turning radius sufficient to accommodate a U-turn for a single unit truck (SU) vehicle as specified in the AASHTO Green Book current addition, must be provided on the ingress side of the gate or gatehouse.

(Zoning Ord. 1993, § 202.14(G)2; Ord. No. 95-07, § 27, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11)

Secs. 34-1749—34-1770. Reserved.

Editor's note—

Ord. No. 00-14, § 5, adopted June 27, 2000, repealed § 34-1750, which pertained to walls and fences along limited access or controlled access streets. See the Land Development Code Comparative Table.

DIVISION 18. HOME OCCUPATIONS; LIVE-WORK UNITS [27]

Sec. 34-1771. Intent of division.

It is the intent of this division to allow the operation of home occupations by right in all districts permitting dwelling units, but to regulate them so that the average neighbor, under normal circumstances, will not be disturbed or inconvenienced by them.

(Zoning Ord. 1993, § 513(A))

Sec. 34-1772. Permitted uses; operation.

(a) Any use of a residence for a home occupation must be clearly incidental and subordinate to its use for residential purposes by the occupants.

(b) The use must be conducted entirely within the dwelling unit or customary accessory building.

(c) No employees other than members of the immediate family residing in the dwelling may be permitted to work at the residence, but may be employed to work elsewhere provided that the employees do not come to the residence for equipment, vehicles, or supplies. Under special conditions, such as a disabled person or retiree needing clerical assistance, the Director may allow one employee who is not a resident of the home to work at the residence.

(d) There may be no exterior indication that the dwelling is used for any purpose other than a residence, except that one non-illuminated nameplate, not exceeding one square foot (144 square inches) in area, may be attached to the building on or next to the entrance.

(e) No commodities, stores or display of products on the premises may be visible from the street or surrounding residential area. No outdoor display or storage of materials, goods, supplies or equipment used in the home occupation may be permitted on the premises, unless approved by special exception. Vehicles and trailers for use in connection with a home occupation may not be parked or stored on the premises unless completely enclosed within a building.

(f) No equipment may be used which creates noise, vibration, glare, fumes, odors or electrical interference objectionable to the normal senses. No equipment or process may be used which creates visual or audible interference in any radio or television receiver off the premises or causes fluctuations in line voltage off the premises.

(g) No use permitted by this division may generate greater volumes of traffic than would otherwise be expected by normal residential uses.

(h) No use that attracts customers to the dwelling unit may be permitted under this section.

(Zoning Ord. 1993, § 513(B); Ord. No. 93-24, § 11, 9-15-93; Ord. No. 94-24, § 40, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-1773. Live-work units.

(a) *Uses.* Uses are limited to those uses permitted in the underlying zoning district or as approved in a schedule of uses for a planned development district. Uses requiring a special exception may be approved as a live-work unit use through the public hearing process. The work unit must not exceed 50 percent of the total floor area of the live-work unit. The commercial use must be conducted entirely within the work unit.

(b) *Minimum lot area, dimensions and setbacks.* The minimum lot area, lot dimensions and setbacks must comply with the minimum requirements for the zoning district in which the unit is located.

(c) *Landscaping.* Landscaping must be provided in compliance with section 10-416

(d) *Occupancy.* The owner/occupant of a live-work unit must maintain a valid County local business tax receipt (f/k/a occupational license) for the business on the premises. Proof of payment of the annual local business tax will be required to be submitted to the Lee County Department of Community Development prior to occupancy and annually thereafter.

(e) *Parking.* The multiple-use development parking standard (see section 34-2020(b)) will be used to determine the minimum number of spaces required for each live-work unit. The minimum number of required parking spaces may be reduced up to 50 percent if a parking demand study is provided that

supports the reduction pursuant to section 34-2020(c)(6) and administrative approval is obtained pursuant to section 34-2020(e).

(f) *Prohibited uses.* Outdoor storage or display of materials, goods, supplies, equipment, or products associated with the commercial use is prohibited. Equipment must be operated in conformance with the performance standards of this Code.

(Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-1774—34-1800. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 13-10, § 10, adopted May 28, 2013, changed the title of Div. 18 from "Home Occupations" to "Home Occupations; Live-Work Units." (Back)

DIVISION 19. HOTELS AND MOTELS

Sec. 34-1801. Definitions.

For the purposes of this division, a hotel/motel is defined as a building, or group of buildings on the same premises and under single control, consisting of ten or more sleeping rooms kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay to transient guests or tenants. Hotels/motels must be registered with the Department of Revenue as a bona fide hotel/motel operation and are required to pay the levied tourist development tax promulgated by the County. Hotels/motels that are not registered with the Department of Revenue or do not pay the tourist tax will be subject to the density limitations and property development regulations for multiple-family buildings.

(Zoning Ord. 1993, § 514(A); Ord. No. 94-24, § 41, 8-31-94; Ord. No. 96-17, § 5, 9-18-96)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-1802. Property development regulations.

Property development regulations for uses subject to this division are as follows:

(1) Minimum lot dimensions

a. Area: 20,000 square feet

b. Lot width: 100 feet

c. Lot depth: 100 feet

(2) Setbacks:

a. Street: In accordance with section 34-2192

b. Water body: In accordance with section 34-2194

c. Side and rear yards: 20 feet for buildings up to 35 feet in height, plus one-half foot for every one foot in excess of 35 feet

(3) Parking:

a. Minimum parking requirements are set forth in division 26 of this article.

b. Ancillary uses located in separate buildings and available to non-guests must meet the requirements of division 26 of this article.

(4) Rental units permitted:

a. Minimum floor area per unit is 120 square feet.

b. For developments within conventional zoning districts located within Lee Plan future land use map categories that have maximum standard density limits, rental unit density equivalents are:

Three rental units with 425 square feet or less of total floor area per unit equal one dwelling unit.

Two rental units with a total floor area of 426 to 725 square feet per unit equal one dwelling unit.

Each rental unit with a total floor area exceeding 725 square feet equals one dwelling unit.

Where lock-off accommodations (df) are provided, each "keyed room" will be calculated as a separate rental unit.

Proposed hotel/motel with more than 200 rental units or that exceed the equivalency factors above when divided by the Lee Plan maximum standard density for the property in question will be permitted only as a planned development.

c. In categories without density limits, the number of permitted hotel/motel rental units will be determined by design and compliance with all applicable property development regulations including open space, setbacks, and height restrictions except as provided below.

d. Hotels/motels approved as planned developments are not subject to rental unit size or density requirements set forth above provided all other aspects of the development (height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area and otherwise consistent with the Lee Plan. However, any increase in the number or the floor size of the rental units approved in a planned development will require an amendment to the master concept plan.

(Zoning Ord. 1993, § 514(B); Ord. No. 94-24, § 41, 8-31-94; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-1803. Existing hotels/motels.

(a) A non-conforming hotel/motel destroyed by fire or natural forces may be rebuilt in accordance with the provisions set forth in section 34-3241(b)(2)b.

(b) A non-conforming hotel/motel destroyed other than by fire or natural forces, may only be rebuilt in compliance with the density equivalents set forth in section 34-1802 and all applicable property development regulations for the zoning district in which the property is located.

(c) The following rules will apply to hotel/motels permitted as "existing only" or as a "permitted use" that are voluntarily demolished or destroyed other than by fire or natural forces:

(1) No increase in the total number of rental units or expansion in the floor size of existing rental units will be permitted if the hotel/motel does not conform to the density equivalents set forth in section 34-1802

(2) A hotel/motel that complies with the density equivalents set forth in section 34-1802 but does not comply with height, setbacks, area, or lot coverage requirements may increase rental units or expand floor size subject to section 34-3203

(3) A hotel/motel that complies with the density equivalents set forth in section 34-1802, but does not comply with parking requirements, may not increase the number of rental units unless the property is brought into compliance with all applicable regulations. The rules set forth in a. through c. above do not apply in a planned development zoning district.

(d) If the hotel/motel is in compliance with the density equivalents set forth in section 34-1802 as well as with height, setbacks, parking, open space and buffering requirements, the number of rental units and floor size may be expanded provided all applicable regulations are met.

(e) No hotel/motel approved by special exception may increase the number or floor size of rental units without approval of a new special exception.

(Zoning Ord. 1993, § 514(C); Ord. No. 94-24, § 41, 8-31-94; Ord. No. 96-17, § 5, 9-18-96)

Editor's note—

Ordinance No. 96-17, § 5, adopted September 18, 1996, amended § 34-1803. Formerly, such section pertained to conversions.

Sec. 34-1804. Subordinate uses.

For regulations pertaining to subordinate uses, refer to section 34-3021.

(Zoning Ord. 1993, § 514(D); Ord. No. 94-24, § 41, 8-31-94; Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-1805. Density limitation for Captiva Island.

The permitted density for hotels and motels as set forth in this division will not apply to any hotel or motel units on Captiva Island. The maximum permitted density for hotels or motels on Captiva Island may not exceed three units per gross acre. The redevelopment of nonconforming hotels and motels on Captiva Island will be governed by the provisions of section 33-1628(b). That section will be interpreted to prohibit an increase in the number of rental units and to establish a maximum average unit size of 550 square feet.

(Zoning Ord. 1993, § 514(E); Ord. No. 94-24, § 41, 8-31-94; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 96-25, § 2, 12-18-96; Ord. No. 14-13 , § 7, 6-17-14)

Secs. 34-1806—34-1830. Reserved.

DIVISION 20. JUNK, SCRAP OR SALVAGE YARDS; DUMPS AND SANITARY LANDFILLS

Sec. 34-1831. Planned development approval required.

(a) Except as provided in subsection (b) of this section, it is unlawful for any person to develop a new junk, scrap or salvage yard, auto wrecking or wrecking yard, refuse or trash dump, or any landfill operation, or to expand in land area any lawfully existing operation, within the unincorporated area of the County, without first having obtained a planned development approval from the Board of County Commissioners.

(b) Shredding and composting of vegetative matter, such as grass clippings, shrubs and brush, generated from a location other than the same premises may be permitted by planned development in the IPD district only. Provided, however, this section will not prevent emergency debris removal operations specifically authorized, as to duration and location, by the Board of County Commissioners during a State of Local Emergency or Major/Catastrophic Disaster Declaration.

(Zoning Ord. 1993, § 515(A); Ord. No. 04-05, § 1, 4-27-04; Ord. No. 06-06 , § 1, 4-11-06)

Sec. 34-1832. Compliance with applicable regulations.

All facilities subject to this division shall comply with all applicable federal, state and local rules and regulations.

(Zoning Ord. 1993, § 515(B))

Sec. 34-1833. Site plan.

Any application for approval of facilities subject to this division shall include a detailed site plan showing the location of all buildings and the location of all storage areas designed or used for automobiles and other vehicles, parts, lubricants, fuel, other storage, or filling.

(Zoning Ord. 1993, § 515(C))

Sec. 34-1834. Review of applications by Utilities Department.

All applications for approval of facilities subject to this division shall be submitted to the County Utilities, Division of Solid Waste Management, for review and comment prior to any action by the Board of County Commissioners.

(Zoning Ord. 1993, § 515(D))

Sec. 34-1835. Fencing.

Unless specifically waived by the Board of County Commissioners, all outdoor storage areas used in connection with operations subject to this division shall be completely enclosed with a fence eight feet in height so constructed as to provide a 100 percent visual barrier. No junk, impounded vehicles, scrap or salvage materials shall be stored so as to be visible above the fence when viewed from ground level.

(Zoning Ord. 1993, § 515(E); Ord. No. 04-05, § 1, 4-27-04)

Sec. 34-1836. Access.

An access road constructed in accordance with chapter 10 shall be provided to the entrance of the facility. Access shall be restricted to specific entrances with gates which can be locked.

(Zoning Ord. 1993, § 515(F))

Secs. 34-1837—34-1860. Reserved.

DIVISION 21. MARINE FACILITIES, STRUCTURES AND EQUIPMENT [28]

Sec. 34-1861. Boats, floating structures, floating equipment and live-aboards.

(a) No boat, floating structure or other floating equipment may be moored to mangroves except in an emergency.

(b) No person may discharge or permit or control or command to discharge any raw sewage, garbage, trash or other waste materials into the waters of the County.

(c) No boats, floating structures or other floating equipment designed to accommodate one or more living units, or designed or used for retail sales, may be permitted to anchor, moor, tie up or be attached to a wharf, pier or other structure emanating from real property or to real property itself within unincorporated areas of the County except in conformity with the regulations contained in this chapter and other applicable County ordinances.

(d) Except as provided in this subsection, no person may live aboard a vessel under his command or control, which is moored to real property or to a dock, pier, seawall or other structure attached to real

property in the unincorporated area of the County, except at a marina (see section 34-1862) that is properly zoned for marina use under the provisions of this chapter. The provisions of this subsection will not apply to:

(1) Live-aboard vessels equipped with an approved discharge device and occupied by a licensed captain and his immediate family;

(2) Commercial vessels, including commercial fishing boats, tugs, barges, salvage vessels, passenger vessels or cargo vessels, when used in commerce and navigation; or

(3) The mooring of vessels responding to an emergency.

The exceptions granted by subsections (d)(1) and (2) of this section are not intended to apply to personal fishing boats used for recreation or to fishermen with marine products licenses.

(Zoning Ord. 1993, § 202.05; Ord. No. 93-24, § 2, 9-15-93; Ord. No. 09-23 , § 10, 6-23-09)

Sec. 34-1862. Marinas, fish houses and docking facilities.

(a) *Water-dependent overlay zones.* Water-dependent overlay zones have been designated for shoreline areas where priority will be granted to water-dependent land uses (Goal 8). Goal 12 and Objective 124.6 of the Lee Plan detail specific requirements for the water-dependent overlay zones on San Carlos Island (see map 2 of the Lee Plan). Policies regulating water-dependent uses in other areas of the County are found in policies 128.1.1 and 128.2.1, and are mapped in the appendix of the Lee Plan, as map 12.

(b) *Marina siting criteria.* The marina siting criteria set forth in the Manatee Protection Plan and objective 128.5 and policies128.5.1 through 128.5.12 of the Lee Plan must be considered in evaluating new or substantially expanded marinas, other wet slip facilities and boatramps.

(c) *Marina design criteria.* The marina design criteria set forth in the Manatee Protection Plan and objective 128.6 and policies 128.6.1 through 128.6.16 of the Lee Plan must be utilized in evaluating the design of new marinas, or expansion of wet slip facilities at existing marinas.

(Zoning Ord. 1993, § 517; Ord. No. 93-24, § 12, 9-15-93; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 09-23 , § 10, 6-23-09)

Sec. 34-1863. Construction and maintenance of docks, seawalls and other structures designed for use on or adjacent to waterways.

Construction, placement, erection and maintenance of docks, mooring piles, seawalls, watercraft landing facilities and other structures designed for use on, or adjacent to waterways, must be in compliance with the Manatee Protection Plan established building permit procedures and with chapter 26, article II. See section 34-1171, et seq.

(Zoning Ord. 1993, § 202.10; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 09-23 , § 10, 6-23-09)

Secs. 34-1864—34-1890. Reserved.

FOOTNOTE(S):

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Cross reference— Marina design, § 10-257; marine facilities and structures generally, ch. 26; marine-oriented districts, § 34-871 et seq. (Back)

DIVISION 22. FARM LABOR HOUSING [29]

Sec. 34-1891. Purpose of division.

The purpose and intent of this division is to recognize and provide for housing permanent or transient farm laborers working at agricultural operations, as called for by Lee Plan Objective 135.2 and related policies. It is further the intent of this division that because housing established under the terms of this division is generally more intense than is otherwise permitted in agricultural areas, it will be used exclusively for agricultural housing purposes and no other. It is the intent of this division to encourage housing for farm labor to be clustered rather than spread out; this housing must be designed to standards that meet the peculiar requirements of the farm labor market while protecting the health, safety and general welfare of the farm laborers and the general public.

(Zoning Ord. 1993, § 518(A); Ord. No. 95-07, § 29, 5-17-95; Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-1892. Special exception required.

Farm labor housing developed under the regulations set forth in this division must obtain a special exception if located in agricultural zoning districts (see Table 34-653). Densities in the rural, open lands, and groundwater resource/density reduction land use categories are limited as provided in Lee Plan Policy 135.2.3. Densities in other land use categories are limited to the regular residential densities in the Lee Plan and to all other requirements of the site's zoning district.

(Zoning Ord. 1993, § 518(B); Ord. No. 95-07, § 29, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-1893. Site plan.

In addition to the requirements of section 34-202(b), at a minimum, every special exception application for farm labor housing must include a site plan showing the following information:

(1) The area and dimensions of the land to be devoted to the housing development.

(2) Street patterns and parking, with provisions for surfacing with a hard, dustless material.

(3) The layout of building sites.

(4) Actual yard dimensions for the preparing of each dwelling unit lot.

(5) The size and type of dwelling units proposed.

(6) Location, size and type of utilities.

(7) Recreational area of 300 square feet per dwelling unit.

(Zoning Ord. 1993, § 518(C); Ord. No. 95-07, § 29, 5-17-95; Ord. No. 98-11, § 5, 6-23-98)

Sec. 34-1894. Design standards; required facilities.

(a) *Perimeter setbacks.* If no landscaped buffers are provided, farm labor housing must be set back a minimum of 500 feet measured from the nearest dwelling unit, mobile home, or recreational vehicle or any residentially zoned property under separate ownership. The setback may be reduced to 300 feet where a 20-foot wide landscaped buffer exists or is provided containing at least six trees and 30 shrubs per 100 linear feet. The setback may be further reduced to 100 feet where a 40-foot wide landscaped buffer exists or is provided containing at least ten trees and 60 shrubs per 100 linear feet. Trees and shrubs planted in these buffers must comply with the provisions of section 10-420. No perimeter setbacks are necessary if the adjacent residentially zoned property is also used for farm labor housing.

(b) *Utilities.* Utilities must be installed in accordance with chapter 10

(c) *Recreational vehicles.* Recreational vehicles, including park models, must not be used for year-round permanent habitation.

(d) *Standards for dwellings on platted lots.* The construction or placement of farm labor housing dwelling units (including mobile homes and recreational vehicles) on separate platted lots must comply with the following standards.

(1) Minimum lot size per dwelling: 6,500 square feet.

(2) Minimum lot width per dwelling: 65 feet.

(3) Street setback: variable according to the functional classification of the street or road (see section 34-2192).

(4) Side setback: 6.5 feet each side.

(5) Rear setback: 20 feet.

(6) Water body setback: 25 feet.

(7) Utilities: Hook-ups for potable water, an approved sanitary sewage disposal system and electric power must be located on each dwelling unit, mobile home, recreational vehicle or other trailer lot.

(e) *Standards for dwelling units not placed on separate platted lots.* The construction or placement of farm labor housing dwelling units (including mobile homes and recreational vehicles) must comply with the following standards:

(1) Street setback: variable according to the functional classification of the street or road (see section 34-2192).

(2) Minimum separation: There must be a minimum separation of 13 feet between any dwelling units, mobile homes, recreational vehicles or other types of trailer units, or other buildings.

(3) Utilities: Hook-ups for potable water, an approved sanitary sewage disposal system and electric power must be located on each dwelling unit, mobile home, recreational vehicle or other trailer site.

(4) Service buildings: If there is to be more than ten units on the site, one building for service purposes only must be provided.

(Zoning Ord. 1993, § 518(D); Ord. No. 95-07, § 29, 5-17-95; Ord. No. 99-05, § 9, 6-29-99)

Secs. 34-1895—34-1920. Reserved.

FOOTNOTE(S):

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Cross reference— Housing, § 6-401 et seq. (Back)

DIVISION 23. MOBILE HOMES [30]

Sec. 34-1921. Move-on permit.

No mobile home shall be relocated or moved onto any property without first obtaining a move-on permit from the Division of Codes and Building Services.

(Zoning Ord. 1993, § 519(C); Ord. No. 93-24, § 13, 9-15-93)

Sec. 34-1922. Tiedowns.

All mobile homes shall be tied down in accordance with state and insurance regulations.

(Zoning Ord. 1993, § 519(A))

Sec. 34-1923. Skirting.

All mobile homes shall have removable skirting around the entire perimeter.

(1) Skirting shall be of a durable material such as decorative block, concrete block, fiberglass, aluminum or vegetation. Junk doors or other scrap material is prohibited.

(2) Skirting shall be maintained at all times by the resident.

(Zoning Ord. 1993, § 519(B))

Secs. 34-1924—34-1950. Reserved.

FOOTNOTE(S):

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Cross reference— Buildings and building regulations, ch. 6; flood hazard reduction, § 6-401 et seq.; mobile home residential district, § 34-731 et seq. (Back)

DIVISION 24. MODEL HOMES, UNITS AND DISPLAY CENTERS

Sec. 34-1951. Applicability of division.

The provisions of this division apply to dwelling units, mobile homes or recreational vehicles erected or emplaced on a lot for purposes of promoting sales of units.

(Zoning Ord. 1993, § 520(A); Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-1952. Definitions.

The following words, terms and phrases, when used in this division, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Model display center means three or more single-family detached homes, mobile homes or recreational vehicles, or four or more duplex or two-family units (not buildings), erected on a single, undivided property for purposes of promoting sales of units for construction or emplacement elsewhere.

Model display group means two or more model homes (see definition of model home) each erected or placed on a separate single property that meets the minimum requirements for a lot in the zoning district in which located, for purposes of promoting sales of units for construction or emplacement elsewhere. The lots used in a model display group must be abutting lots.

Model home means a single-family, two-family or duplex building, or a mobile home or recreational vehicle, used solely for demonstration purposes or sales promotion, not occupied as a dwelling unit, and

open to the public for inspection, but the model home itself as located on the lot is not available for sale for occupancy (see Speculative home).

Model unit means a dwelling unit within a multiple-family or townhouse building, used solely for demonstration purposes or sales promotion, not occupied as a dwelling unit, and open to the public for inspection.

Speculative home means a dwelling unit, mobile home or recreational vehicle erected or emplaced on a lot for sales promotion and open to the public for inspection and which is available for sale and occupancy on the lot upon which it is located.

(Zoning Ord. 1993, § 520(B); Ord. No. 96-17, § 5, 9-18-96; Ord. No. 01-18, § 5, 11-13-01)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-1953. Speculative homes.

Speculative homes may be permitted in any zoning district which permits construction, erection or emplacement of that type of unit, provided the unit is constructed, erected or emplaced in compliance with the property development regulations for the zoning district in which located. No advertising signs or "model," "open house" or "open for inspection" signs, as defined in chapter 30, will be permitted, except a "for sale" sign.

(Zoning Ord. 1993, § 520(C); Ord. No. 96-17, § 5, 9-18-96; Ord. No. 98-03, § 5, 1-13-98)

Sec. 34-1954. Model homes and model units.

(a) *Generally.* Model homes and model units may be permitted by right, by special exception, or by administrative approval as specified in zoning district use regulations and as follows:

(1) *Administrative approval:* The Director may administratively approve the location of individual model homes and model units in any new development provided the property remains under unified control and the provisions of this division are met.

(2) *Special exception:* The Hearing Examiner, after public hearing, may approve the location of individual model homes and model units in existing developments provided the provisions of this division are met.

(b) *Location; connection of utilities and certificate of occupancy.*

(1) Each model home must be located on a single lot. Model units are permitted in any townhouse or multiple-family building.

(2) Model homes must be connected to water, sewer and electricity and must receive a certificate of occupancy as a model home only, prior to use as a model.

(3) Model homes may be approved only in areas where they will not adversely affect existing residents. Except for the CC and CG zoning districts, only models for the type of dwelling unit allowed in the district where the model is located may be permitted.

(4) Multiple model homes utilizing the same basic floor plan will not be permitted within the same development prior to the final recording of the subdivision plat. Each model must have a floor plan that is distinctly different, as determined by the Director, from other models homes within the development.

(c) *Prohibited uses.*

(1) No model home or model unit may be used for living purposes either temporarily or permanently while used as a model home or model unit.

(2) No real estate sales except those incidental to the sale of model homes, model units or lots within the development may be conducted in a model home or model unit.

(d) *Time limitations.*

(1) *Model homes.* Approval for a model home will be valid for a period of time not exceeding three years from the date of issuance of a certificate of occupancy for a model home, unless the Director or Hearing Examiner (as applicable) grants an additional specified time limit. Upon expiration of the approval, the owner may; 1) apply for an administrative extension of the model home use; 2) apply for a change of use permit to convert the model to a living unit; or 3) remove the model from the property.

(2) *Model units.* The use of a model unit within a townhouse or multiple-family building may not extend beyond the initial sale period for that phase.

(e) *Change of use.* No model home or model unit may be converted to a living unit prior to application and approval of a change of use permit.

(f) *Parking.* Except when located in a model display center or within a model display group, parking for the model home or model unit must be on the same premises and must be in compliance with parking requirements of this chapter for the type of dwelling unit or recreational vehicle being displayed.

(Zoning Ord. 1993, § 520(D); Ord. No. 96-17, § 5, 9-18-96; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-1955. Model display centers.

(a) Model display centers may be approved in commercially zoned districts that permit model display centers, as indicated in the use regulations for commercial districts. Model display centers may be approved by administrative approval in new RPD, MHPD, RVPD or MPD developments provided the property is zoned for the type of model home, model unit or recreational vehicle displayed, but require a planned development amendment in existing RPD, MHPD, RVPD or MPD districts unless already approved as a permitted use in the schedule of approved uses on the master concept plan.

(b) Units within a model display center may be connected to electricity, but may not be connected to water or sewer.

(c) Units may not be used for permanent occupancy, nor may they be used to provide office space. All sales must be conducted in a main sales office on or off the premises.

(d) Parking must be provided adjacent to the sales office in accordance with the parking regulations for offices and developed in accordance with chapter 10

(e) This section does not prohibit the designation of various units within a multiple-family building or complex as model units during the sale of units within the building or complex.

(Zoning Ord. 1993, § 520(E); Ord. No. 96-17, § 5, 9-18-96; Ord. No. 01-18, § 5, 11-13-01)

Sec. 34-1956. Model display group.

(a) Model display groups may be approved by special exception in any district that permits model homes as indicated in the use regulations.

(b) Each model home must comply with the regulations stated in section 34-1954 except that additional parking may be approved on an abutting lot provided that:

(1) It is approved as part of the special exception; and

(2) It obtains a development order and complies with the regulations for a low-turnover parking lot; and

(3) Buffering requirements for a commercial use are provided where the lot abuts a residentially zoned lot under separate ownership; and

(4) A bond or other surety in an amount and form acceptable to the County is posted prior to issuance of a development order to guarantee the removal of the parking lot and the restoration of the site to a landscaped condition suitable for residential use.

(Ord. No. 01-18, § 5, 11-13-01)

Secs. 34-1957—34-1980. Reserved.

DIVISION 25. OFF-STREET LOADING

Sec. 34-1981. Applicability of division.

The off-street loading requirements of this division shall apply to commercial, industrial and other nonresidential uses.

(Zoning Ord. 1993, § 202.15(A))

Sec. 34-1982. Access.

(a) Street access to off-street loading areas must comply with the provisions set forth for off-street parking in section 34-2013

(b) Except as provided in section 34-1986, off-street loading areas must be spatially or physically separated from off-street parking areas and pedestrian walkways.

(c) Service roads must be a minimum of 12 feet wide for one-way usage and 24 feet for two-way operations.

(Zoning Ord. 1993, § 202.15(B); Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-1983. Lighting, maintenance and drainage.

Site lighting, maintenance and drainage required for off-street loading areas must comply with sections 34-2015 and 34-2017.

(Zoning Ord. 1993, § 202.15(C); Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-1984. Other use of loading areas.

Off-street loading areas for the sale, repair, dismantling or servicing of any vehicles or equipment is prohibited, except on an emergency or temporary basis or as provided in section 34-2019.

(Zoning Ord. 1993, § 202.15(D); Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-1985. Screening.

When off-street loading areas are located adjacent to residential uses or zoning districts, and are not entirely visually screened at ground level, a continuous visual screen along the lot line abutting the residential use must be provided in accordance with division 17 of this article or chapter 10, whichever is the most restrictive.

(Zoning Ord. 1993, § 202.15(E); Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-1986. Off-street loading area requirements.

(a) Commercial, industrial and nonresidential uses that receive or ship goods via large semitrailer or full trailer trucks must provide an off-street loading area. Establishments that receive or ship commodities via small panel trucks or vans will not be required to provide off-street loading areas and may utilize the parking area, provided:

  (1) Deliveries are received before or after the hours open to the public.

  (2) No delivery truck remains in the parking lot for more than four hours.

  (3) Deliveries do not interfere with pedestrian or vehicle movements.

(b) A plan for off-street loading areas must be provided as part of the site plan submitted for approval under chapter 10, or, if the development is exempt from chapter 10, then a plan must be submitted at time of application for a building permit and be reviewed by the Zoning and Development Review Division for consistency with this division and this chapter.

(c) Off-street loading areas must comply with the following:

  (1) Loading areas must be located on the lot or parcel it serves.

  (2) The surfaced portions of loading areas, excluding driveways, must setback 20 feet from right-of-way lines and ten feet from property under separate ownership or control.

  (3) Loading spaces may not obstruct, hinder or endanger the movement of vehicles and pedestrians.

(d) The off-street loading area must have a minimum width of ten feet and depth of 30 feet.

(Zoning Ord. 1993, § 202.15(F); Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-1987. Number of spaces.

Establishments that receive or ship goods via large semitrailer or full trailer trucks must provide a minimum of one loading space for the first 10,000 square feet of floor area, plus one space for each additional 20,000 square feet of floor area or major fraction thereof.

(Zoning Ord. 1993, § 202.15(G); Ord. No. 12-20 , § 4, 9-11-12)

Secs. 34-1988—34-2010. Reserved.

DIVISION 26. PARKING

Sec. 34-2011. Applicability of division.

(a) *New developments.* Residential and nonresidential uses must provide off-street parking spaces in accordance with the regulations in this division.

(b) *Existing developments.*

(1) Existing buildings and uses with existing off-street parking spaces may be modernized, altered or repaired without providing additional parking spaces, provided there is no increase in total floor area or capacity. Buildings damaged in excess of 50 percent must comply with all applicable regulations.

(2) Existing buildings or uses enlarged in terms of floor area must provide additional parking spaces for the total floor area in accordance with this division.

(3) When the use of a building is changed to a use that is required to have more parking than exists, the additional parking must be provided.

(c) *Developments on islands without vehicular access to mainland.* Developments on islands where direct vehicular access to the mainland by bridge, causeway or street system is not available are exempt from this division.

(Zoning Ord. 1993, § 202.16(A); Ord. No. 96-17, § 5, 9-18-96; Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-2012. Definitions.

For purpose of this division only, certain words or phrases are defined as follows:

Drive-up. The terms "drive-up" and "drive-through" are synonymous.

Employees means the regular working staff, paid, volunteer or otherwise, at maximum strength and in full-time equivalent numbers, necessary to operate, maintain or service a given facility or use under normal levels of service.

High turnover applies to parking lots wherein vehicles are parked for relatively short periods of time ranging from a few minutes to several hours. Customer parking for retail establishments, offices, or similar establishments are considered high turnover.

International cruise ships are ships that usually leave port for 24 hours or more and that provide meals, sleeping accommodations, gambling or other entertainment for customers.

Light industrial means industrial uses permitted by right in the light industrial (IL) conventional zoning district.

Local cruise ships are ships that usually leave port and return in less than 24 hours and that usually provide at least one meal, gambling or other entertainment.

Low turnover applies to parking wherein vehicles are parked for relatively long periods of time, such as employee parking during the day, or uses such as marina parking, cruise ship parking, sports arena parking, etc., wherein customers leave cars for four or more hours while attending special events, or overnight parking in residential developments.

Multiple-use development means a building or buildings containing two or more different uses. Multiple-use development includes occupants of multiple-occupancy complexes (df) and development on abutting properties not necessarily under unified or singular control. For purposes of this definition only, the term "abutting property" means properties having a boundary line, or point or portion thereof in common, with no intervening street right-of-way or easement, or other easement over 50 feet in width.

Park-and-ride space means a parking space within 500 feet of a bus stop whereby a user leaves their vehicle and travels via bus, carpool, vanpool or bike. No part of a parking lot used to satisfy required parking for any existing use on the same premises may be used for park-and-ride spaces. Park-and-ride spaces may be located in accessory, park-and-ride or commercial parking lots or parking garages, but must obtain designation by Lee County Transit (LeeTran) and approval by the Director.

Parking aisle means an access way within a parking lot that provides direct access to individual parking spaces.

Parking lot means an area of land designed, used or intended for parking five or more vehicles.

Parking lot entrance means the access way that provides ingress or egress from a street right-of-way or easement to a parking lot.

Parking space means an area of land designed or intended for parking one vehicle. Parking spaces are designated as disabled spaces or standard spaces, depending on the purpose of the space.

Pedestrian accommodations for safe and convenient pedestrian movement may include: striped crosswalks, sidewalks, shared use paths, signage and/or signals, lighting, curb cuts and ramps.

Single-use development means buildings with a single occupant or multiple occupants with the same use. Single-use development includes occupants of multiple-occupancy complexes (df) and development on abutting properties not necessarily under unified or singular control.

(Zoning Ord. 1993, § 202.16(B); Ord. No. 93-24, § 5A, 9-15-93; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-2013. Access.

(a) Parking lots must be designed to permit vehicles exiting the parking lot to enter the street right-of-way or easement in a forward motion. The Director may administratively approve parking to back out into rights-of-way in residential developments subject to the following limitations:

(1) The street must be a privately owned and maintained, low-volume, local street.

(2) All parking spaces must be for amenities to the development such as parks and recreational facilities and not for dwelling units or commercial uses.

(3) Parking spaces may be perpendicular or at a 30 or 45 degree angle to the roadway, and must comply with the parking space dimensions set forth in section 34-2016(1). The Director may require surfacing to comply with section 34-2017(a) or (b), depending on the type of amenity served.

(b) Each parking lot must have a distinct parking lot entrance. The entrance must meet the requirements of chapter 10, as well as the following:

(1) Minimum width at property line for one-way entrances is 15 feet.

(2) Minimum width at property line for two-way entrances is 24 feet.

(3) Maximum width at property line is 35 feet.

The Director may determine that high traffic volumes or other special circumstances warrant other requirements.

(c) Parking lot entrances may not exceed a six percent grade for 20 feet into any lot or parcel, nor may a parking lot entrance enter a street right-of-way or easement at an angle of less than 90 degrees unless a lesser angle is approved by the Director.

(Zoning Ord. 1993, § 202.16(C); Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-2014. Parking plan.

A parking plan is required for all uses, except single-family residence, duplex, two-family attached and single-family mobile home dwelling units, and must be submitted for review and approval in accordance with chapter 10. Developments that are not required to be reviewed and approved in accordance with chapter 10, must submit plans to the Division of Zoning and Development Services prior to issuance of a building permit. The plan must accurately designate the required parking spaces, parking aisles, parking lot entrance, parking lot interconnections, bicycle parking facilities, pedestrian accommodations, and the relation of the off-street parking facilities to the uses or structures the facilities are designed to serve.

(Zoning Ord. 1993, § 202.16(D); Ord. No. 96-17, § 5, 9-18-96; Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-2015. Location and design generally.

(1) *Location.* All required parking spaces must be provided on the same premises and within the same zoning district as the use they serve or within a zoning district that permits the same use, except for:

a. Parking lots zoned CP; or

b. Parking lots part of a multiple-use development; or

c. Park-and-ride lots and park-and-ride spaces.

(2) *Design.* Parking lots must be designed in accordance with the following:

a. Setback, buffer, landscaping and drainage requirements required under chapter 10

b. If the parking lot will be used at night, adequate lighting must be provided for the driveways, ingress and egress points, and parking areas of commercial and industrial uses. Lighting must be designed in accordance section 34-625

c. Individual parking spaces must be accessible from a parking aisle intended to provide access to the space. Stacking of vehicles (one behind the other) will be permitted only for single-family, duplex, two-family, and townhouses where each dwelling unit has a garage or driveway appurtenant to it and in valet parking facilities wherein parking is performed by employees of the facility.

d. Parking lot spaces must be provided with sufficient maneuvering room to allow an exiting vehicle to leave the parking lot in a forward motion. Parking lots utilizing 90-degree parking with dead-end aisles must provide a turning bay for those spaces at the end of the aisle.

e. In parking lots where more than one tier of parking spaces will be developed, pedestrian accommodations must be provided.

f. Adjacent commercial uses must provide parking lot interconnections for automobile traffic. Interconnects between parking lots do not satisfy the criteria for site location standards outlined in Lee Plan Policy 6.1.2(5).

(Zoning Ord. 1993, § 202.16(E); Ord. No. 96-17, § 5, 9-18-96; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-2016. Parking space dimension, delineation, angle and aisle width.

In addition to satisfying the provisions of this division, off-street parking lots must conform to the following requirements:

(1) *Parking space dimensions*. Minimum individual parking space dimensions are as follows:

a. Disabled parking (all): 12 feet by 18 feet. Parking access aisles which may be shared between two disabled spaces must be no less than five feet wide and must be part of an accessible route to the building or facility entrance. The individual parking space dimensions do not preclude compliance with the Americans with Disabilities Act (ADA) of 1990, as amended.

b. High and low turnover parking lots:

1. 90-degree parking: Nine feet by 18 feet.

2. 30-, 45- or 60-degree parking: 8½ feet by 18 feet.

3. Parallel parking: Eight feet by 22 feet.

c. Golf cart parking: Five feet by eight feet.

(2) *Delineation of spaces.*

a. *Paved parking lots.*

1. Parking spaces must be delineated by all-weather painted lines, or thermoplastic striping, not less than four inches in width, centered on the dividing line between spaces.

Parking spaces for persons with disabilities must be prominently outlined with blue paint, and must be repainted when necessary to be clearly distinguishable as a parking space designated for persons who have disabilities. Signs erected after October 1, 1996 must indicate the penalty for illegal use of the space.

2. Parking spaces that abut a pedestrian walkway, required landscaping, or required open space must be provided with a parking block set two feet from the end of the parking space.

b. *Unpaved parking lots.*

1. Parking spaces in unpaved parking lots must be delineated by placing a parking block two feet from the end of the parking space and centered between the sides of the space.

2. If the space abuts a structure, the space may be indicated on the structure, in which case parking blocks are not required.

c. Temporary parking lots. (See section 34-2022.) Individual spaces in temporary parking lots do not need to be delineated provided the end of each space and all aisles are clearly delineated with temporary posts and ropes.

(3) *Minimum aisle widths. Minimum aisle widths are as follows:*

	Aisle Width	
Angle of Parking	One-Way (feet)	Two-Way (feet)
Parallel	12	20
30	12	22
45	12	22
60	18	24
90	22	24

(4) *Parking angle.* Parking must be developed throughout the site utilizing the same degree of angle. The mixture of one-way and two-way parking aisles, or different degrees of angled parking within any parking area is prohibited except:

a. A single bay of parking provided along the perimeter of the site may vary in design in order to maximize the number of spaces provided on-site.

b. Parking design may vary between individual parking areas provided that the parking areas are physically separated from one another by buildings or a continuous landscape buffer a minimum of five feet in width. The Director may approve a minimum number of vehicle access points to pass through the landscaped buffer.

(Zoning Ord. 1993, § 202.16(F); Ord. No. 93-24, § 5B, 9-15-93; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-2017. Parking lot surface.

(a) *High turnover parking lots.*

(1) *Parking aisles.* Except as provided in subsection (d) of this section, all high turnover parking lot aisles must be provided with a paved, dustfree, all-weather surface.

(2) *Parking spaces.* All parking spaces, except those seaward of the coastal construction control line, must have a paved, dustfree, all-weather surface from the aisle to the parking block or curb. All disabled parking spaces, including disabled parking spaces seaward of the coastal construction control must be paved with asphalt or concrete to provide a smooth surface without gaps or holes that create a danger to the user. For all other parking spaces, the term "paved" will be interpreted to mean and include asphalt, concrete, paving block and other similar types of treatment. Parking spaces, excluding disabled parking spaces, located seaward of the coastal construction control line must be stabilized with treatments approved by the Director.

(b) *Low turnover parking lots.*

(1) Alternative surfaces may be permitted provided the areas are adequately drained and continuously maintained in a dustfree manner. Alternative surfaces may include gravel, crushed shell or other similar materials. Parking on grass or other unimproved surfaces such as sand or dirt is prohibited.

(2) Disabled parking spaces must be paved with asphalt or concrete to provide a smooth surface without gaps or holes which would create a danger to the user.

(c) *Temporary parking lots.* Temporary parking lots do not need to be surfaced, and may be maintained as a grass area or in a dustfree manner.

(d) *Reservation of spaces for future use.* When a use or activity is required by this chapter to provide more than ten high turnover parking spaces, the Director may approve leaving up to 25 percent of the required spaces as landscaped areas reserved for future use, provided:

(1) The applicant clearly shows the reserved parking spaces on the site plan;

(2) The reserved parking areas are not counted towards the minimum open space or landscaping or buffering requirements of this chapter or chapter 10

(3) All drainage facilities must be calculated and built as though the reserved parking areas were impervious surfaces; and

(4) The reserved parking areas may not be used for any purpose other than landscaped open space or temporary overflow parking during special holiday seasons or sales.

If the property owner decides to pave the reserved area for parking, he must submit the original site plan or development order approval to the Director, who is authorized to approve the paving provided paving does not include new entrances onto a public street. If the parking areas does involve new entrances, then a limited review development order is required.

(e) *Director discretion.*

(1) The Director is authorized to permit high turnover parking lots (including parking lot aisles), to meet the surfacing standards for low turnover parking lots (section 34-2017(b), above) under the following circumstances:

a. The property is not located in the intensive development or central urban land use categories;

b. The proposed parking lot will contain no more than 25 spaces;

c. The proposed alternative surface will be adequately drained; and

d. The proposed alternative surface is consistent with the uses and the parking lot surfaces in the surrounding neighborhood.

(2) This subsection may not be construed inconsistently with the Americans with Disability Act (ADA) of 1990.

(3) The Director's decision is discretionary in nature and may not be appealed pursuant to section 34-145(a) of this chapter.

(Zoning Ord. 1993, § 202.16(G); Ord. No. 93-16, § 2, 5-19-93; Ord. No. 93-37, § 2, 11-17-93; Ord. No. 94-24, § 42, 8-31-94; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 09-23 , § 10, 6-23-09; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-2018. Reserved.

Editor's note—

Ord. No. 12-20, § 4, adopted Sept. 11, 2012, repealed § 34-2018 which pertained to joint use of parking lots and derived from Zoning Ord. 1993, § 202.16(H); Ord. No. 96-06, § 5, adopted March 20, 1996; Ord. No. 96-17, § 5, adopted Sept. 18, 1996; and Ord. No. 98-03, § 5, adopted Jan. 13, 1998.

Sec. 34-2019. Other use of parking lots.

Except as provided in this section, required off-street parking areas may not be utilized for the sale, display or storage of merchandise, or for repair, dismantling or servicing of vehicles or equipment.

(1) Residential property owners are not prohibited from the occasional servicing of their own noncommercial vehicle or conducting normal residential accessory uses.

(2) The Director may approve the following upon submittal of a site plan showing that the structure will not reduce the parking spaces required for the principal use, or create a traffic or pedestrian hazard.

a. Charitable or other similar drop-off collection stations.

b. Recycling machines or facilities.

c. Automatic teller machines (ATMs).

d. Other uses which do not interfere with the use of the parking lot.

(3) Carnivals, fairs and amusement attractions and devices.

a. If the uses are located in an existing parking lot, the parking lot must have enough spaces to comply with the minimum requirements for the principal use and the carnival, fair or amusement attraction or device (see section 34-2020(b)). Prior to obtaining a temporary use

permit (see division 37 of this article) for the temporary use of a parking lot, the applicant must submit a site plan showing there will be no net loss or reduction in the number of parking spaces required for any existing principal use that relies on the parking lot.

b. The temporary uses may not be located in a parking lot that is nonconforming as to the number of spaces needed for the existing uses.

(Zoning Ord. 1993, § 202.16(I); Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-2020. Required parking spaces.

All uses are required to provide off-street parking based on the single-use development requirement unless the use is located in a development that qualifies as a multiple-use development, in which case, the minimum required spaces for multiple-use developments may be used. Use of the multiple-use development minimum parking regulations is optional.

Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested.

(a) *Residential uses.* Residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(a). REQUIRED PARKING SPACES FOR RESIDENTIAL USES

Use		Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
1.	Single-family, duplex, two-family attached and mobile home units.		2 spaces per unit	—
2.	Townhouses.	Note (1)	2 spaces per unit	—
3.	Multiple-family and timeshare units.	Note (1) & (3)	2 spaces per unit	—
4.	Assisted living facilities.	Note (2), 34-1494 et seq.	0.54 spaces per unit	0.41 spaces per unit
5.	Continuing care facilities.	Note (2), 34-1494 et seq.	1.12 spaces per unit	1 space per unit
6.	Independent (self-care) living facilities, including group quarters, health care (grps I & II), social	Notes (1) & (2), 34-1494 et seq.	1 space per unit	0.59 spaces per unit

	services (grps III & IV) and other similar uses.			

Notes:

(1) In addition to the spaces required, additional parking spaces equal to ten percent of the total required must be provided to accommodate guest parking in a common parking lot.

(2) Where the living units are maintained under single management and the residents are not capable or permitted to own or operate private vehicles on the same premises, the Director may authorize up to a 75 percent reduction in required parking spaces if sufficient parking is provided for employees and visitors.

(3) If vehicles back directly onto an internal roadway or access way, the driveway must be designed so that:

1. The driveway connects to a private internal local road or access way with a design and posted speed limit of 25 miles per hour, or less;
2. The visual clear zone sight distance (considering vehicles that may be parked nearby) is a minimum of 200 feet and in conformance with the visibility triangle criteria of section 34-3131
3. Traffic calming devices are provided per Lee County Administrative Code AC-11-14; and
4. The length of the driveway, as measured from the garage structure or the end of the stacked parking space farthest from the street or access way must be a minimum of 22 feet to the edge of a private street right-of-way or easement line OR 27 feet to the edge of pavement of an access way. However, this section is not to be interpreted to allow buildings or structures closer to a street right-of-way or easement than permitted by section 34-2192

(b) *Non-residential uses.* Non-residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(b). REQUIRED PARKING SPACES FOR NON-RESIDENTIAL USES

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Airports, landing strips and heliports.		Determined by the Director	—
Animal clinics.		5 spaces per veterinarian plus 1 space per employee	—
Animal kennels.		5 spaces	—

Automotive drive-in oil change establishments.	34-2021(c)	1.5 spaces per service bay	—
Automotive repair and service (excluding drive-in oil change establishments); automotive service stations.		4 spaces per service bay plus 1 space per employee	—
Banks and financial establishments.	34-2021(a)	3 spaces per 1,000 square feet of total floor area	2.5 spaces per 1000 square feet of total floor area
Bars and cocktail lounges, nightclubs.	Note (1)	21 spaces per 1,000 square feet of total floor area	14 spaces per 1,000 square feet of total floor area
Barbershops, beauty shops, massage parlors, etc. (personal services group II)		3 spaces per operator (chair) or 1 space per 100 square feet, whichever is greater, with a minimum of 5 spaces	—
Bed and breakfast.	34-1494(b)(3)	1.2 spaces per rental unit	—
Bowling alleys.	Note (1)	4 spaces for each lane	—
Carnivals, fairs and amusement attractions and devices.	34-2019(3)	10 spaces per amusement device	—
Car washes.	34-2021(b)	1.5 spaces per car stall	—
Convenience food and beverage stores.	Notes (1) & (15)	1 space per 200 square feet of total floor area (one parking space per four fuel pumps will be credited against the required parking), with a minimum of 5 spaces	—

Day care centers.	Note (2)	2 spaces per employee	—
Educational institutions:			
a. Public schools.		Parking must be provided In compliance with state law	—
b. Private or parochial schools:		—	—
1. Elementary or middle schools.		1 space per employee plus 1 space per 40 students	—
2. High schools.		1 space per employee plus 1 space per 10 students	—
3. Colleges, universities and trade and vocational institutions.	Note (3)	1 space per employee plus student parking as the Director deems necessary	—
Essential service facilities.		1 space per employee on the largest shift	—
Flea market, Indoor.		1 space per 100 square feet of total floor area	—
Flea market, Open.		5 spaces per rental space or booth	—
Funeral homes.	Note (14)	1 space per 4 seats or 4 spaces per 250 square feet of chapel area, whichever is greater	—
Golf courses.	Note (4)	6 spaces per hole	—

Health and Fitness Clubs.	34-2020(b)	7 spaces per 1,000 square feet of total floor area	5 spaces per 1,000 square feet of total floor area
Hospitals (health care facilities, group IV).		1 space per bed, excluding bassinets and gurneys, plus 1 space per employee on the largest shift	—
Hotels and motels.	Note (1), 34-1801 et seq.	1.2 spaces per rental unit	—
Marinas and other water-oriented uses.	Note (1)	—	—
a. Boat slips.		1 space for every 2 slips	—
b. Boat ramps.	Note (5)	10 spaces per boat ramp	—
c. Multi-slip docking facility.		Determined by Director	—
d. Dry storage.		1 space per 5 unit stalls	—
e. Charter or party fishing boat.	Note (6)	1 space per 3 people	—
f. Local cruise ships.	Note (6)	1 space per 2 people	—
g. International cruise ships.	Note (6)	1 space per 3 people	—
h. Live-aboards.		2 spaces per 3 live-aboards	—
Manufacturing and light industrial.	Note (1)	1.75 spaces per 1,500 square feet of total floor area	1.5 spaces per 1,500 square feet of total floor area

Meeting halls, clubs (fraternal and membership) and other places for group assembly not otherwise listed.	Notes (7) & (14)	1 space per 100 square feet of total floor area	—
Miniature golf.	Note (1)	1.5 spaces per hole	—
Multiple-occupancy complex with total floor area of 350,000 square feet or more.	Note (16)	—	4.5 spaces per 1,000 square feet of total floor area
Museums, art galleries, libraries, studios and other similar uses not covered elsewhere.		3 spaces per 1,000 square feet of total floor area	—
Offices, excluding medical. (Including but not limited to: business services group I, contractors and builders, insurance companies, nonstore retailers, personal services group IV, social services group I, and other similar offices.)		1 space per 300 square feet of total floor area	1 space per 350 square feet of total floor area
Offices, medical and health care facilities group III.		4.5 spaces per 1000 square feet of total floor area	4 spaces per 1000 square feet of total floor area
Places of worship.	Note (14); 34-2051 et seq.	1 space per 3 seats	1 space per 5 seats
Recreation facilities, indoor.	Note (1)	4 spaces per 1000 square feet of total floor area	3.5 spaces per 1000 square feet of total floor area
Recreation facilities, outdoor, commercial.		Determined by the Director.	—

Religious facility.	Notes (1) & (14); 34-2051 et seq.	1 space per 3 seats	—
Restaurants.	Notes (8), (9) & (10)	14 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate	12.5 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate
Restaurants, fast food.	Note (9)	13 spaces per 1000 square feet of total floor area; outdoor seating area is calculated at same rate	—
Retail or business establishments.			
a. *Small products or commodities:* Auto and boat parts; clothing stores; department stores; drugstores; food stores; hardware stores; hobby, toy and game shops; package stores; household/office furnishings, group, II; personal services group I (excluding barbershops, beauty shops & massage establishments); specialty retail shops groups I, II and III; used merchandise stores group I; variety stores; and other similar type establishments.	34-2021 et seq.	1 space per 250 square feet of total floor area, with a minimum of 5 spaces; dead storage is calculated at same rate	1 space per 350 square feet of total floor area; dead storage is calculated at same rate
b. *Large products or commodities:* Used merchandise stores groups II and III; vehicle and equipment dealers group II; and other similar type establishments.	Note (1); 34-2021 et seq.	2.5 spaces per 1,000 square feet of total floor area, with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,000 square feet	2.5 spaces per 1,000 square feet of total floor area; no parking is required for areas of the building used only as dead storage

			and not available to the public
c. *Very large products or commodities:* Household/office furnishings groups I & III; mobile home dealers; specialty retail stores group IV; used merchandise stores group IV; vehicle and equipment dealers groups I, III, IV and V; and other similar type establishments.		1 space per 700 square feet, with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,500 square feet	1 space per 700 square feet of total floor area; no parking is required for areas of the building used only as dead storage and not available to the public
Schools, commercial.		2 spaces per 100 square feet of total classroom floor area	1 space per 100 square feet of total classroom floor area
Tennis courts, commercial.	Note (14)	3 spaces per court plus one space per 3 spectator seats	—
Theaters, auditoriums, stadiums, arenas and other similar places of public assembly.	Notes (1) & (14)	1 space per 4 seats	1 space per 4 seats
Warehouse, high-cube.	Note (1)		
a. Passenger car parking		1 space per 1,000 square feet of total floor area for the first 20,000 square feet, plus 1 space per 2,000 square feet for the second 20,000 square feet to 99,999 square feet, plus 1 space per 5,000 square feet for that portion over 100,000 square feet	—

b. Truck and trailer parking	Notes (12) & (13)	1 space for every 5,000 square feet of total floor area	—
Warehouse, mini-warehouse.		1 space per 25 storage units, with a minimum of 5 spaces	—
Wholesale, processing and warehousing establishments.	Note (1)	1.25 spaces per 1,500 square feet of total floor area	0.75 spaces per 1,500 square feet of total floor area

Notes:

(1) Accessory or ancillary uses must be calculated separately and in compliance with this division.

(2) In addition to the minimum parking requirement for day care centers, adequate and safe provisions for loading and unloading clients must be provided.

(3) An additional one space for every six seats must be provided when public use of an auditorium or other place of assembly within a school is likely.

(4) Parking for a clubhouse with a restaurant will be 6 spaces per hole or 12.5 spaces per 1,000 square feet of restaurant whichever is greater.

(5) Parking space dimensions for boat ramps must be a minimum of 12 feet wide by 40 feet long to accommodate a vehicle and boat trailer.

(6) Minimum parking requirement is based on the boat manufacturer's specifications related to the maximum passenger capacity and crew capacity of the boat or ship using the dock or loading facility.

(7) For meeting facilities with fixed seats, refer to Recreational facilities, indoor.

(8) If over 50 percent of the total floor area of a restaurant is used as a bar or cocktail lounge, then the minimum parking requirement will be: 14 spaces per 1,000 square feet for the floor area used as the restaurant and 21 spaces per 1,000 square feet for the floor area used as the bar or cocktail lounge.

(9) The minimum required parking requirement for Groups I, II and fast food restaurants with no drive-up facilities located in a multiple-use development is 1 space per 350 square feet of total floor area.

(10) No additional parking spaces are required when a restaurant is located within the same building as the principal use and is provided primarily for the employees and customers of the principal use.

(11) Reserved.

(12) Truck dock/loading bay spaces may be used to satisfy the truck and trailer parking requirement. Truck dock/loading spaces do not have to be striped.

(13) Parking space dimensions of 15 feet wide by 60 feet long are required to accommodate truck and trailer parking. However, truck and trailer parking spaces located in truck dock/loading bays do not have to meet the parking space dimension requirements.

(14) Where occupants utilize benches, pews or other similar seating arrangements, each 24 lineal inches of seating facilities will be counted as one seat for the purpose of computing off-street parking requirements.

(15) If more than 20 percent of the total floor area or 600 square feet, whichever is less, is used for the preparation and/or sale of food or beverages in a ready-to-consume state, parking will be calculated the same as a fast food restaurant.

(16) Limited to multiple-occupancy complexes that lawfully existed on September 17, 2012. If the complex is enlarged in terms of floor area or if the value of renovation exceeds 50% of the value of the property, additional parking spaces must be provided based on the requirements in 34-2020(b). Parking for the additional floor area will be calculated at the multiple-use development rate required for the specific use.

(c) *Parking reduction for non-residential uses.* The Director may administratively approve a reduction to the minimum required number of parking spaces for non-residential uses by a maximum of ten percent if one or more of the following conditions are satisfied and approval is obtained in accordance with section 34-2020(d):

(1) *Transit stop.* The minimum required parking for a use may be reduced by five percent if a transit stop along a transit route with an average weekday PM peak hour frequency of 30 minutes or less is located within a 500-foot radius of the site's external sidewalk connection. Continuous pedestrian accommodations must be provided on-site from the external sidewalk connection to the primary entrance of the building and from the external sidewalk connection to the transit stop.

(2) *Boat slips, on the same premises.* The minimum required parking for a use may be reduced by ten percent if boat docking is abutting and available on the same premises as a use.

(3) *Bicycle and pedestrian facilities and amenities.* The minimum required parking for a use may be reduced by five percent if bicycle and pedestrian facilities, identified on the Bikeways/Walkways Facility Plan - Planned Facilities and Existing Facilities, Map 3D-1 or Map 3D-2 of the Lee Plan, are located in the right-of-way adjacent to the property or on the property; a continuous bicycle path and pedestrian accommodations, consistent with section 10-610, are provided internal to the project from the bicycle/pedestrian facility to the primary entrance of the building; and, bicycle racks are provided on-site consistent with section 10-610(e)(3).

(4) *Golf cart amenities.* The minimum required parking for a use may be reduced by one space for every two designated golf cart spaces if: golf carts will be used as a means of travel to the proposed use; the use is accessed by a street where golf cart travel has been approved by Lee County; and, designated golf cart parking is provided.

(5) *Public parking garages and commercial parking lots.* The minimum required parking for a use may be reduced by ten percent if an existing public parking garage or commercial parking lot is located within a 500-foot radius of the site's external sidewalk connection. Continuous pedestrian accommodations must be provided on-site from the external sidewalk connection to the primary entrance of the building and from the external sidewalk connection to the public parking garage or commercial parking lot entrance.

(6) *Parking demand study.* The Director may reduce the number of required parking spaces when the applicant demonstrates that parking demand is at least 10 percent below what this division requires based on local data, including, but not limited to a parking demand study performed at a minimum of three similar local facilities in accordance with the guidelines set forth by the Institute of Transportation Engineers report, Parking Generation. A methodology meeting with Staff to discuss the parameters of the parking demand study is recommended prior to the collection of any data.

(7) *Park-and-ride spaces.* Parking spaces in excess of the minimum requirement for the principal use(s) may be used as park-and-ride spaces if designated by Lee County Transit (LeeTran) and approved by the Director. If park and ride spaces are designated, the minimum required spaces for the principal use(s) will be determined by using the multiple-use development parking requirements. No part of a parking lot used to satisfy required parking for any use on the same premises may be used for park-and-ride. If applicable, pedestrian accommodations must be provided from the parking spaces to the transit stop.

(d) *Procedure for administrative approval.*

(1) *Application.* In addition to the information required by section 34-201 et seq., an applicant must submit the following information on the form provided by the County:

a. A list of all the uses the parking supports, the total floor area for each use, the number of parking spaces required, and the number of parking spaces proposed.

b. A site plan, drawn to scale, showing:

i. The property in question, including all buildings on the property and adjacent property;

ii. Entrances to and exits from the building to be used by the public;

c. A parking plan consistent with section 34-2014

d. The peak parking demands for each use demonstrating that no part of a parking lot intended to satisfy required parking for a use is used to offset the parking requirements for another use unless the peak parking demands occur at different times.

e. When reduced parking is requested pursuant to 34-2020(c)(6) a parking demand study must be provided.

(2) *Findings by Director.* The Director must conclude all applicable standards have been met prior to approval. In addition, the Director must make the following findings of fact:

a. There will be no apparent deleterious effect upon surrounding properties or the immediate neighborhood;

b. The reduced parking will not have an adverse impact on the public health, safety and welfare;

c. The proposed use is not solely dependent on vehicular traffic; and

d. No part of a parking lot intended to satisfy required parking for a use is used to offset the parking requirements for another use unless the peak parking demands occur at different times.

(3) The Director's decision is not subject to review. If an applicant's request for an administrative deviation is denied, the Applicant may seek relief by filing a request for a variance or deviation in accordance with chapter 34

(e) *Parking in excess of 120 percent of minimum requirements*.

(1) In commercial, industrial and mixed-use developments that require 80 parking spaces or more, each additional parking space provided at time of local development order approval in excess of 120 percent of the minimum requirements of this section, must provide:

a. An additional 80 square feet of internal parking island landscape area for every additional parking space over 120 percent. This additional area must be provided within the parking lots or building perimeter planting area and may not be provided in the buffers adjacent to property boundaries.

b. All internal parking island landscape areas must be planted with trees, shrubs, and ground covers. The landscape areas must include shrubs and ground cover plants with a minimum of 50 percent coverage of the landscape area at the time of planting. Trees and shrubs must

meet the size requirements of section 10-420(d). Groundcover plants must be a minimum one-gallon container size.

(2) Development orders stamped received by the Lee County Department of Development Services prior to September 17, 2012 rendered nonconforming by the adoption of section 34-2020(f) will not be required to obtain additional approvals for parking in excess of 20 percent of the minimum requirements.

(Zoning Ord. 1993, § 202.16(J); Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 98-28, § 5, 12-8-98; Ord. No. 99-05, § 9, 6-29-99; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 02-20, § 5, 6-25-02; Ord. No. 03-16, § 6, 6-24-03; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 07-24 , § 7, 8-14-07; Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 12-20 , § 4, 9-11-12; Ord. No. 13-10 , § 10, 5-28-13; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-2021. Drive-thru stacking requirements.

Commercial establishments providing drive-up service windows or stalls must provide separate vehicle stacking for those uses. For the purpose of this section, a stacking unit is defined as 18 feet in length and nine feet in width. The total number of stacking units required will be based on the type of business, as follows:

(a) *Banks and financial establishments:* Stacking lanes to accommodate five cars per window or point of service, including automatic teller machines, if located in a drive thru lane.

(b) *Car wash:* Stacking lanes to accommodate one car per service stall or five cars, whichever is greater.

(c) *Drive-in automotive oil change establishments:* Stacking lanes to accommodate two cars per service bay or five stacking spaces per site, whichever is greater. Each service bay may count as one stacking space.

(d) *Restaurants:* Stacking lanes to accommodate ten cars per service lane, with a minimum of five spaces preceding the menu board.

(e) *Other:* Stacking to accommodate five cars per service lane.

(Ord. No. 12-20 , § 4, 9-11-12)

Editor's note—

Ord. No. 12-20, § 4, adopted Sept. 11, 2012, repealed § 34-2021 and enacted a new section as set out herein. The former § 34-2021 pertained to an exception for fast order food establishments located in multiple use complex and derived from Zoning Ord. 1993, § 202.16(K); and Ord. No. 96-17, § 5, adopted Sept. 18, 1996.

Sec. 34-2022. Temporary parking lots.

(a) No temporary use permits for temporary parking lots will be issued on Captiva Island or within the Gasparilla Island conservation district.

(b) In other areas of the County, temporary use permits may be issued for temporary parking lots subject to the following:

(1) Temporary parking lots will be allowed, in conjunction with an approved temporary use permit, commencing on December 15 and continuing until May 31. For the purposes of this subsection,

temporary permits for temporary parking lots may be issued for all or part of the time period and will not be limited to 30 days as set forth in section 34-3041(e).

(2) Temporary parking lots are permitted on commercial or industrial zoned properties. However, any structures must remain vacant.

(3) Temporary parking lots are permitted adjacent to or within 660 feet of a collector or arterial road. Ingress and egress to the lot be through a residential neighborhood or residentially zoned district is prohibited.

(4) The applicant must submit to the Director a parking plan, drawn to scale, depicting: the location of access points, ropes and posts, and the circulation pattern within the parking lot, and other relevant information.

(5) The delineation of spaces for temporary parking lots must be in accordance with section 34-2016(2)c.

(6) The temporary parking lot surface must be maintained in accordance with section 34-2017(c).

(7) The temporary parking lot must be designed to permit vehicles to enter the street right-of-way in a forward motion. The temporary parking lot must utilize an existing entrance or exit, except that no additional traffic will be directed onto residential streets. Where no access exists, the parking lot plan will be reviewed by the County Department of Transportation.

(8) If the temporary parking lot will be used at night, adequate lighting must be provided for the driveway's ingress and egress points. The lighting must be directed to eliminate glare on any other use.

(9) The temporary parking lot must be secured in a manner that will not permit ingress and egress except during the designated hours of operation.

(10) The temporary parking lot must not adjoin or be less than ten feet from residential uses or residentially zoned property.

(11) A parking attendant will be required during the hours of operation of the temporary parking lot.

(12) The temporary parking lot must only be used for the parking of operable motor vehicles, with no overnight parking or camping. No other temporary or permanent use of the property will be allowed during the life of the temporary use permit for parking.

(13) Section 34-3048, pertaining to ancillary uses permitted in off-street parking lots, will not apply to this section.

(14) The hours of operation may be from 7:00 a.m. until 10:00 p.m., unless extended by the Director in writing.

(15) The parking spaces created through the approval of temporary parking lots will not be used for calculating the off-street parking requirements set out in section 34-2020

(16) Where approval for a temporary parking lot will extend beyond 30 days, subsection (b)(17) of this section will apply.

(17) Where a temporary parking lot abuts residential property, that portion of the parking lot must be buffered by a continuous visual screen with a minimum opacity of 75 percent and a minimum height of four feet. The visual screen may be located up to one foot from the right-of-way or street easement line. At intersections of parking lot entrances or exits with a street right-of-way or easement, no obstruction will be planted or erected which materially obstructs the driver's view of approaching traffic or pedestrians.

(Zoning Ord. 1993, § 202.16(L); Ord. No. 93-24, § 5C, 9-15-93; Ord. No. 12-20 , § 4, 9-11-12)

Secs. 34-2023—34-2050. Reserved.

DIVISION 27. PLACES OF WORSHIP AND RELIGIOUS FACILITIES

Sec. 34-2051. Property development regulations.

(a) *Noncommercial or nonindustrial districts.* All religious facilities and all places of worship located in noncommercial or nonindustrial districts shall be subject to the following property development regulations:

(1) *Minimum lot area and dimensions.*

a. Minimum lot area is two acres.

b. Minimum lot width is 100 feet.

c. Minimum lot depth is 100 feet.

(2) *Maximum building height.* The building height shall be governed by the zoning district within which the use is located; provided, however, that in no zoning district shall any height limitation apply to a church spire or any single-story portion of a structure.

(3) *Maximum lot coverage.* Maximum lot coverage is 40 percent in all districts unless a zone is less restrictive.

(4) *Setbacks.*

a. Minimum front setback is 25 feet.

b. Minimum side setback is ten percent of the lot width, with a minimum of 20 feet and a maximum of 40 feet. If a structure exceeds 35 feet in height, the required side setback shall be increased on each side by an additional one-half foot for every foot of height over 35 feet. It is the intent of this subsection that flexibility of site design should be achieved by permitting the portion of a particular side setback in excess of 30 feet to be provided for by increasing the opposite side setback in the amount of such excess.

c. Minimum rear setback is 20 feet.

d. Minimum water body setback is 25 feet.

(b) *Commercial and industrial districts.* All places of worship and all religious facilities located in a zone permitting both residential and commercial uses as principal uses shall adhere to the commercial property development regulations of that district.

(Zoning Ord. 1993, § 521(A)1, 2)

Sec. 34-2052. Parking.

(a) Minimum parking requirements are set forth in division 26 of this article.

(b) Parking for ancillary facilities must meet the requirements of division 26 of this article; provided that, where the ancillary facilities will not be used at the same time, parking will be based upon the peak anticipated attendance at any one time, for all facilities.

(c) Parking on grass. Up to 50 percent of the parking spaces required for the sanctuary or main assembly hall of a place of worship may be provided as parking on grass, provided the regulations set forth in the following sections, pertaining to off-street parking requirements, are met:

(1) Section 34-2013, parking lot access.

(2) Section 34-2014, parking plans.

(3) Section 34-2015(1), location.

(4) Section 34-2015(2), design, subsections a, c and d.

(5) Section 34-2016(1)b, dimensional requirements.

(6) Section 34-2016(3), aisle widths.

(Zoning Ord. 1993, § 521(A)3; Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-2053. Expansion of existing place of worship.

Expansion of existing places of worship, lawfully existing as of August 1, 1986, by right or by special exception, is hereby declared a legal use. Additions, renovations or other expansion of the main place of assembly may be permitted upon application for and approval of a building permit in accordance with all applicable County regulations, without the requirement of special exception approval. Any expansion which would constitute a religious facility will require a special exception, except in those zoning districts where permitted by right.

(Zoning Ord. 1993, § 521(B))

Secs. 34-2054—34-2080. Reserved.

DIVISION 28. PLANT NURSERIES

Sec. 34-2081. Nurseries in urban services area.

Where the zoning district use regulations permit plant nurseries in the urban services area:

(1) The area so used shall be set back at least 25 feet from all street rights-of-way or easements; and

(2) Fertilizer, compost, etc., shall be limited to quantities for immediate use, and kept at least 100 feet from any residential use.

(Zoning Ord. 1993, § 523)

Secs. 34-2082—34-2110. Reserved.

DIVISION 29. PRIVATE CLUBS, FRATERNAL CLUBS AND MEMBERSHIP ORGANIZATION CLUBS

Sec. 34-2111. Applicability of district use regulations.

The limited enumeration of a private, fraternal or membership organization club use is not meant to limit or abridge the rights of assembly in any way. Such organizations are not prohibited from meeting in various traditional and appropriate places. For example, a service club's weekly meeting at a restaurant in a district not otherwise allowing fraternal, membership organization or private clubs shall not constitute a zoning violation. However, where such an organization is the principal user of real property for meetings, entertainment, and food and beverage service, such a meeting place, hall or clubhouse shall be permitted only where this use is explicitly enumerated.

(Zoning Ord. 1993, § 202.08)

Secs. 34-2112—34-2140. Reserved.

DIVISION 30. PROPERTY DEVELOPMENT REGULATIONS

Subdivision I. In General

Sec. 34-2141. Applicability of division.

Unless otherwise provided, the regulations set forth in this division qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(Zoning Ord. 1993, § 202.18)

Sec. 34-2142. Exception for essential service facilities group I.

Essential service facilities group I are not required to meet the minimum required lot area and dimensions for the district wherein located, provided that access, buffering, drainage, retention, parking and other provisions of chapters 10 and 34 are satisfied.

(Zoning Ord. 1993, § 202.18(E); Ord. No. 09-23 , § 10, 6-23-09)

Secs. 34-2143—34-2170. Reserved.

Subdivision II. Height

Sec. 34-2171. Measurement.

(a) Except as provided in this subdivision, the height of a building or structure is measured as the vertical distance from grade* to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs, and to the highest point of any other structure (excluding fences and walls).

* For purposes of this subdivision, grade is the average elevation of the street or streets abutting the property measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage.

(1) In areas within the Coastal Building Zone and other flood prone areas (as defined in Chapter 6 Articles III and IV of the LDC), height of a building is the vertical distance from the minimum required flood elevation to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof, to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

(2) Fences, walls, and buffers are measured in accordance with section 34-1744 and section 10-416

(Zoning Ord. 1993, § 202.18(A)1; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 99-05, § 9, 6-29-99)

Sec. 34-2172. Reserved.

Editor's note—

Ordinance No. 97-10, § 6, adopted June 10, 1997, repealed § 34-2172. Formerly, such section pertained to determination of grade and derived from Zoning Ord. 1993, § 202.18(A)2.

Sec. 34-2173. Exception to height limitations for certain structural elements.

(a) The following structural appurtenances may exceed the height limitations stipulated in the applicable districts for authorized uses, without increasing setbacks as required in section 34-2174

(1) Purely ornamental structural appurtenances such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles or monuments.

(2) Appurtenances necessary to mechanical or structural functions such as chimneys and smokestacks, water tanks, elevator and stairwell enclosures, ventilators, and bulkheads; AM and FM radio and television masts, aerials, and antennas; fire and hose towers, utility transmission and distribution structures, cooling towers, aircraft control towers or navigation aids, forest fire observation towers, and barns, silos, windmills or other farm structures when located on farms.

For satellite earth stations and amateur radio antennas - refer to section 34-1175.

For wireless communication facilities, refer to section 34-1441 et seq.

(b) The permitted exceptions to the height limitations may be authorized only when the following conditions can be satisfied:

(1) The portion of the building or structure permitted as an exception to a height limitation may not be used for human occupancy or for commercial purposes.

(2) Structural exceptions to height limitations may only be erected to the minimum height necessary to accomplish the purpose it is intended to serve, and no higher.

(3) If the roof area of the structural elements permitted to exceed the height limitations equals 20 percent or more of the total roof area, they will be considered as integral parts of the whole structure, and therefore not eligible to exceed the height limitations.

(Zoning Ord. 1993, § 202.18(A)3; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 03-11, § 1, 4-8-03)

Sec. 34-2174. Additional permitted height when increased setbacks provided.

(a) Subject to conditions set forth in section 34-2175, any building or structure may be permitted to exceed the height limitations specified by the zoning district regulations in which the property is located provided every required street, side, waterbody, and rear setback is increased by one-half foot for every one foot by which the building or structure exceeds the specified height limitation.

(b) In zoning districts that do not specify a maximum height limitation, the increase to setbacks stated in this section will apply to all buildings or structures exceeding 35 feet in height.

(c) The height increases described in section 34-2174(a) and (b) may not be used in Greater Pine Island.

(Zoning Ord. 1993, § 202.18(A)4; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 07-19 , § 6, 5-29-07; Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-2175. Height limitations for special areas and Lee Plan land use categories.

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

(a) *Special areas.*

(1) *Upper Captiva Island.* The height of a structure may not exceed 35 feet above grade (base flood elevation). The provisions of section 34-2174(a) do not apply to Upper Captiva Island. No variance or deviation from the 35-foot height restriction may be granted.

In addition to compliance with all applicable building codes (including Fire and Life Safety Codes), any building with two or more stories or levels must provide an exterior stairway from the uppermost levels (including "widow's walks" or observation decks) to the ground OR a one-hour fire rated interior means of egress from the uppermost levels (including "widow's walks" or observation decks) to the ground.

(2) *Captiva Island.* No building or structure may be erected or altered so that the peak of the roof exceeds 35 feet above the average grade of the lot in question or 42 feet above mean sea level, whichever is lower. The provisions of section 34-2174(a) do not apply to Captiva Island. No variance or deviation from this height restriction may be granted; provided however, one communication tower, not to exceed 170 feet in height, may be constructed in accord with Lee Plan Policy 13.1.14.

(3) *San Carlos Island.* The height of a structure may not exceed 35 feet above grade, except as provided for in section 34-2174. If seaward of the coastal construction control line, elevations may exceed the 35-foot limitation by three feet for nonconforming lots of record.

(4) *Gasparilla Island conservation district.* No building or other structure may be erected or altered so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.

(5) *Greater Pine Island.* See section 33-1088

(6) *All other islands.* The height of a structure may not exceed 35 feet above grade (base flood elevation). Except as provided in subsections 34-2175(3), (4), and (5), the provisions of section 34-2174(a) do not apply to islands. No variance or deviation from the 35-foot height restriction may be granted.

(7) *Airport hazard zone.* Height limitations for the airport hazard zone are set forth in article vi, division 10, subdivision III, of this chapter.

(b) *Lee Plan land use categories.*

(1) *Intensive development and central urban land use categories.* Buildings may be as tall as 135 feet above minimum flood elevation with no more than 12 habitable stories.

(2) *Urban community land use category.* Buildings may be as tall as 95 feet above minimum flood elevation with no more than eight habitable stories.

(3) *Airport lands and tradeport land use categories.* Buildings may be as tall as 45 feet above minimum flood elevation with no more than three habitable stories. With the consent of the port authority, the Board of County Commissioners may approve building heights up to 95 feet above minimum flood elevation with no more than eight habitable stories.

(4) *Industrial interchange, industrial commercial interchange, general interchange and general commercial interchange land use categories.* Buildings may be as tall as 75 feet above minimum flood elevation with not more than six habitable stories.

(5) *Suburban, outlying suburban and rural land use categories.* Buildings may be as tall as 45 feet above minimum flood elevation with no more than three habitable stories, except that such buildings may be as tall as 75 feet above minimum flood elevation with no more than six habitable stories when the applicant demonstrates that the additional height is required to increase common open space for the purposes of preserving environmentally sensitive land, securing areas of native vegetation and wildlife habitat, or preserving historical, archaeological or scenic resources.

(Zoning Ord. 1993, § 202.18(A)5; Ord. No. 93-24, § 6, 9-15-93; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 98-03, § 5, 1-13-98; Ord. No. 98-11, § 5, 6-23-98; Ord. No. 98-17, § 1, 8-25-98; Ord. No. 99-13, § 1, 10-4-99; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 05-14 , § 6, 8-23-05; Ord. No. 07-19 , § 6, 5-29-07; Ord. No. 09-05 , § 2, 2-25-09; Ord. No. 09-23 , § 10, 6-23-09)

Secs. 34-2176—34-2190. Reserved.

Subdivision III. Setbacks [31]

Sec. 34-2191. Measurement; permitted encroachments.

All setbacks shall be measured to the nearest point of a building or structure. Encroachment into the setback shall be permitted as follows:

(1) *Wing walls.*

a. A wing wall which is part of a building may be permitted to encroach into a side or rear setback, provided that such encroachment is no higher than would be permitted for a fence or wall.

b. When measuring the setback for a wing wall, the setback shall be measured from the property line to the nearest point of the wing wall which meets the maximum height permitted for a fence or wall within the side or rear setback.

(2) *Overhangs.* An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch or living space to extend into the setback.

(3) *Shutters.* A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.

(4) *Awnings and canopies.*

a. Awnings and canopies which are attached to a building may be permitted to encroach three feet into the setbacks, as long as their location does not interfere with traffic, ingress and egress, or life safety equipment.

b. For purposes of this section, awnings and canopies may be attached to a nonconforming building and shall not be considered an extension or enlargement of a nonconformity, as long as the building is properly zoned for its use and the conditions as set forth in this section are met.

(Zoning Ord. 1993, § 202.18(B)1; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-2192. Street setbacks.

(a) *Required setback.* Except as provided for in subsection (b) of this section, or unless a modification is granted as a variance or deviation, all buildings and structures must be set back from the adjacent street easement or right-of-way according to the functional classification of the adjoining street as set forth in the Functional Classification of Roadways Administrative Code, AC-11-1. Any street not shown in AC-11-1 as a collector or arterial street will be presumed to be a local street or a private street for the purposes of this section.

SETBACKS FROM STREETS

Street Classification	Setback from Edge of Right-of-Way or Street Easement Line (feet)
Arterial or collector street:	
With frontage street*	65
Without frontage street	25
Local	25
Private	20

* Applies only where the frontage street is located within 40 feet of the right-of-way; does not apply where the frontage street is or will be located within the right-of-way.

(b) *Exceptions.*

(1) *Exception for certain structures.* Certain structures are exempt from the street setback requirements as follows:

a. *Mail and newspaper delivery boxes.* Mail and newspaper delivery boxes may be placed in accordance with U.S. Postal Service regulations; however, the support for a mail or

newspaper delivery box must be of a suitable breakaway or yielding design, and any mail or newspaper delivery box placed in an unsafe or hazardous location, as determined by the Department of Transportation, can be removed by the Department of Transportation at the property owner's expense.

b. *Bus shelters, bus stop benches and bicycle racks.* Bus shelters and bicycle racks may be located in any district, provided the location of the structure is approved by the County Department of Transportation.

c. *Utility equipment.* Accessory utility equipment such as pad-mounted transformers, service pedestals and telephone terminal or switching devices are exempt from certain setback requirements, provided that they comply with the provisions set forth in division 14 of this article.

(2) *Exception for certain existing lots and structures.*

a. The setbacks set forth in subsection (a) of this section will not apply to residential structures or public schools erected prior to August 1, 1986, or which received a development order or building permit which is still valid on August 1, 1986.

b. Street setbacks for corner lots recorded prior to January 28, 1983, which have a lot width of less than 100 feet will be modified as follows:

1. If the corner lot abuts two local streets, the setback for the street opposite the interior side yard may be reduced to 15 feet.

2. If the corner lot abuts a local street and a street of higher classification, the street setback for the local street may be reduced to 15 feet.

(3) *Structures along Colonial Boulevard.* Setbacks for structures along Colonial Boulevard must be 100 feet from the edge of the right-of-way extending easterly from the east right-of-way line of Seaboard Coastline Railroad. The following may be permitted within the setback area:

a. Structures listed in subsection (b)(1) of this section.

b. Access drives, frontage roads or parallel access roads.

c. At-grade parking facilities located within the 25 feet farthest from the right-of-way.

(4) *Structures along Daniels Road.* Setbacks for structures along Daniels Road must be 40 feet from the edge of the right-of-way extending from the east right-of-way line of U.S. 41 to the east section line of Section 23, Township 45 South, Range 25 East. The following may be permitted within the setback area:

a. Structures listed in subsection (b)(1) of this section.

b. Access drives, frontage roads or parallel access roads.

c. At-grade parking facilities located within the 25 feet farthest from the right-of-way.

d. Landscaping, to include buffering, vegetation, fences and walls.

e. Water retention and drainage ponds.

f. Project or subdivision entrance identification signs.

(5) *Structures, parking and access drives along Corkscrew Road.* Because Corkscrew Road serves as a gateway to Florida Gulf Coast University, and because the Board of County Commissioners desires to promote an attractively landscaped, uniform appearance along the roadway, the following minimum setbacks for buildings, structures, parking lots and drives have been established.

All parking lots, access streets and drives must be set back a minimum of 50 feet from the right-of-way if located in the Interchange land use category and 75 feet from the right-of-way when located in any other land use category.

The following may be permitted within the setback area:

a. Structures listed in subsection (b)(1) of this section.

b. Access drives that run perpendicular to the right-of-way.

c. Landscaping, to include buffering, vegetation and required fences and walls.

d. Water retention and drainage ponds.

e. Project or subdivision entrance identification signs.

If an applicant desires to deviate from the above setback requirements, the Board of County Commissioners may, at the time of a rezoning in conjunction with a planned development application, approve the use of an alternative design betterment plan. All details of this plan must be submitted as part of the rezoning application. The detailed plan must, at a minimum, provide the locations of all structures, parking areas, internal walkways, open space and preserve areas, water management areas, access roads/ways and locations of proposed signs. A rendered drawing showing the design must also be submitted.

(c) *Modifications.* Upon determination that the setbacks set forth in subsection (a) of this section are not needed, the setbacks may be modified by a variance approved pursuant to section 34-203(e), or by a deviation as part of a planned development. Right-of-way modifications may not be granted through this provision.

(Zoning Ord. 1993, § 202.18(B)2; Ord. No. 95-07, § 30, 5-17-95; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 01-18, § 5, 11-13-01; Ord. No. 05-29 , § 3, 12-13-05; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-2193. Reserved.

Editor's note—

Ord. No. 94-24, § 43, adopted Aug. 31, 1994, repealed former § 34-2193, which pertained to setbacks from section lines and quarter section lines.

Sec. 34-2194. Setbacks from bodies of water.

(a) *Gulf of Mexico.* Except as provided in this section or elsewhere in this chapter, buildings and structures may not be placed closer to the Gulf of Mexico than set forth in chapter 6, article III, pertaining to coastal zone protection, or 50 feet from mean high water, whichever is the most restrictive.

(b) *Other bodies of water.* Except as provided in this section or elsewhere in this chapter, buildings and structures may not be placed closer than 25 feet to a canal or to a bay or other water body or the distance required by the provisions of chapter 6, article IV, pertaining to flood hazard reduction, whichever is greater.

For purposes of measuring setbacks from a canal, bay, or other body of water, the following will be used:

(1) If the body of water is subject to tidal changes, the mean high water line (MHWL) will be used.

(2) If the body of water is seawalled, setback will be measured from the seaward side of the seawall, not including the seawall cap.

(3) If the body of water is rip-rapped or has a natural or unimproved shoreline, the setback will be measured from the control elevation of the body of water. If the control elevation is unknown or not available, then the setback will be measured from the ordinary high water line (OHWL).

(c) *Exceptions.*

(1) *Planned developments.* In a planned development zoning district, the Board of County Commissioners shall have the authority to grant less stringent setbacks than required in this section for the following situations:

a. Artificial bodies of water such as retention ponds or reflection ponds, when development surrounding the entire body of water is under unified control.

b. Natural bodies of water which are totally contained on a parcel of land proposed for development under unified control, provided all applicable state or local permits are obtained.

c. Those portions of natural or artificial bodies of water which may be defined as navigable and accessible to the public but which do not provide for through navigation, including but not limited to lakes, ponds or pockets which have only one means of navigable ingress and egress, provided that:

1. All necessary state and local permits are obtained; and

2. The entire circumference of the body of water, except the navigable point of ingress and egress, is under unified control.

(2) *Docks, seawalls and other watercraft landing facilities.* See section 34-1863

(3) *Other accessory structures.* Certain accessory buildings and structures may be permitted closer to a body of water as follows:

a. *Fences and walls.* See division 17 of this article.

b. *Nonroofed structures.* Swimming pools, tennis courts, patios, decks and other nonroofed accessory structures or facilities which are not enclosed, except by fence, or which are enclosed on at least three sides with open mesh screening from a height of 3½ feet above grade to the top of the enclosure, shall be permitted up to but not closer than:

1. Five feet from a seawalled canal or seawalled natural body of water;

2. Ten feet from a nonseawalled artificial body of water; or

3. Twenty-five feet from a nonseawalled natural body of water;

whichever is greater. Enclosures with any two or more sides enclosed by opaque material shall be required to comply with the setbacks set forth in subsections (a) and (b) of this section.

c. *Roofed structures.*

1. Accessory structures with roofs intended to be impervious to weather and which are structurally built as part of the principal structure shall be required to comply with the setbacks set forth in subsections (a) and (b) of this section.

2. Accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to but not closer than 25 feet to a natural body of water, and ten feet to an artificial body of water.

(Zoning Ord. 1993, § 202.18(B)4; Ord. No. 97-10, § 6, 6-10-97; Ord. No. 01-18, § 5, 11-13-01)

Sec. 34-2195. Setbacks from lot lines abutting railroad right-of-way.

Any nonresidential use which utilizes the facilities of the railroad may be permitted to construct and maintain loading and unloading dock facilities adjacent to the railroad right-of-way without requiring a variance from setback requirements.

(Zoning Ord. 1993, § 202.18(B)5)

Sec. 34-2196. Uses employing solar energy or wind-driven electrical generators.

Any use proposing to use solar or wind energy for water heating, climate control or electricity may request a special exception to modify the property development regulations so as to maximize use of solar or wind energy, provided that:

(1) The modifications from this chapter are the minimum required to provide such access;

(2) The modifications do not decrease either total lot area or total usable yard area;

(3) The principal use, absent its solar or wind aspects, is a permitted use in the zone for which it is proposed; and

(4) The proposed plans for solar or wind access best serve to protect the degree and location of that access and do not, or will not, require the restriction of development on adjoining properties with respect to their existing zoning classification.

(Zoning Ord. 1993, § 202.18(B)6; Ord. No. 96-06, § 5, 3-20-96)

Secs. 34-2197—34-2220. Reserved.

FOOTNOTE(S):

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Cross reference— Special setback regulations for specific uses, § 34-2441 et seq. (Back)

Subdivision IV. Lots

Sec. 34-2221. Minimum dimensions generally.

Unless specifically approved otherwise as part of a planned development district approval or as set forth in article VII of this chapter:

(1) All specified lot area, width and depth dimensions are mandatory minimums.

a. Exception. The Director of Community Development may approve the subdivision of the following projects notwithstanding the noncompliance of the individual lots with property development regulations in chapter 34, and chapter 10, provided the overall development complies with all other applicable zoning requirements. The projects which may be approved in this matter are as follows:

1. The subdivision of existing commercial and industrial developments;

2. Commercial or industrial developments which have received a development order;

3. A final development order for a commercial or industrial development which is still effective; or

4. A new final development order application for a commercial or industrial development.

b. Applicants seeking such relief must submit the following:

1. A detailed site plan of the overall development which indicates existing and proposed lot lines, buildings and uses, streets and accessways, off-street parking, water management facilities, buffering and open space.

2. A detailed listing of the section number(s) and the specific regulation(s) of chapter 34, chapter 10 and/or chapter 30, if applicable, from which relief is sought. This information shall also be shown on the site plan.

3. Pertinent calculations which demonstrate that the overall development complies with zoning and development standards ordinance standards, which shall include the following, if applicable:

i. In the event that the individual lots will not have direct access to a public street, the applicant shall demonstrate how access to such lots will be accomplished via common areas.

ii. In the event individual lots will not comply with minimum open space requirements, the applicant shall demonstrate how the required open space requirement for the overall development will be satisfied via common areas.

4. Documents, satisfactory to the County, assuring that all common elements of the overall development are subject to unified control and will be perpetually maintained through a property owners association. The common elements must include, but are not limited to, streets and accessways, off-street parking, water management facilities, buffering, fences or walls, and open space.

Upon completion of the review of documents submitted, the Director may approve the request with or without conditions to ensure that the overall development complies with the development standards.

c. Exemptions granted under the provisions of this section may not be construed as providing relief from any development regulations not specifically listed and approved. Compliance with chapter 10, and other land development ordinances must be based on the overall development as though the lots created under this exemption did not exist. For example developments subdivided under the provisions of this section, may be considered as multiple-occupancy complexes or as developments created under unified control for the purpose of determining identification signs, directory signs, and total sign area; and the ground-mounted identification sign and directory signs permitted for the overall development will not be construed as off-site advertising for businesses located on the subdivided lots.

(2) Except as set forth in this section for the RM-2 district, no part of a required yard or other required open space, or required off-street parking or off-street loading space, provided in connection with

a building, structure or use shall be used to meet the requirements for any other building, structure or use, except in compliance with specified provisions made in this chapter. In the RM-2 district, when a single parcel is developed as a condominium or cooperative, or is retained under single ownership (see section 34-3102), nothing in this section shall be construed to require that each individual dwelling unit type be constructed on a parcel which meets the minimum lot dimensions of the RM-2 district, but rather that only the total parcel so developed shall be required to meet the minimum lot areas, width, depth, setbacks and open space.

(3) No lot or yard existing on August 1, 1986, shall be reduced in size, dimension or area below the minimum requirements set out in this chapter for the zoning district in which the property is located. Lots or yards created after August 1, 1986, shall meet at least the minimum requirements established in this chapter for the zoning district in which located. Where a lot or yard is reduced below the minimum requirements as a result of dedication, condemnation, purchase or other acquisition for a public use, the resultant nonconforming lot or yard may be required to obtain a variance in accordance with article II of this chapter.

(4) The following shall apply to lot width (see also the definition of lot measurement in section 34-2):

a. On straight streets where lot lines are perpendicular to the street right-of-way line, the terms "lot width" and "street frontage" are synonymous.

b. On curvilinear streets where lots may not have parallel side lot lines, a lesser street frontage may be permitted provided that the required lot width is met at the midpoints of the side lot lines.

c. On culs-de-sac where irregularly shaped lots with nonparallel side lot lines occur, the street frontage may be less than the minimum required width provided that the side lot lines are radial to the center point of the cul-de-sac with a minimum angle of 45 degrees.

d. On lots lawfully created prior to August 1, 1986, where side lot lines are not perpendicular to the street right-of-way line and form a parallelogram or similar type lot in which the street frontage is greater than the true lot width, a permit may be issued provided all applicable setbacks are met.

e. On lots created after August 1, 1986, where side lot lines are not perpendicular to the street right-of-way line and form a parallelogram or similar type lot in which the street frontage is greater than the true lot width, lot width shall be measured perpendicular to the side lot line, at the required street setback line.

(Zoning Ord. 1993, § 202.18(C); Ord. No. 93-37, § 3, 11-17-93; Ord. No. 95-07, § 31, 5-17-95; Ord. No. 03-16, § 6, 6-24-03)

Sec. 34-2222. Lots created after January 28, 1983.

Unless specifically approved otherwise as part of a planned development district approval:

(1) *Corner lots.* All corner lots created after January 28, 1983, shall be required to increase the minimum specified lot width by 15 feet in all zoning districts which have a minimum required lot width of 100 feet or less.

(2) *Lots abutting collector or arterial streets.* All lots which abut a collector or arterial street shall have a minimum depth of 125 feet.

(Zoning Ord. 1993, § 202.18(D))

Secs. 34-2223—34-2250. Reserved.

Subdivision V. Gasparilla Island [32]

Sec. 34-2251. Findings; purpose of subdivision.

The legislature of the state hereby finds that Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key and Loomis Island, lying within Charlotte County and Lee County, including all adjacent submerged lands, tidal lands, overflow lands and tidal ponds, are fragile barrier islands as defined in the presidential directive on barrier islands dated May 23, 1977, and are areas of particular natural beauty containing abundant plant, marine, animal and bird life. The conservation of the natural beauty, plant, marine, animal and bird life of the islands is in the best interest of the residents and property owners of the islands and the citizens of Lee and Charlotte Counties and the state. The manner and extent to which development of the islands is permitted to occur will have a substantial effect on the ecology and natural beauty of the islands. In order to preserve and conserve the fragile ecosystems and natural characteristics of the islands, it is necessary to restrict by this subdivision land uses and the height and density of structures and to prevent the proliferation of exterior advertising signs on the island. The purpose of this subdivision is to permit limited development of the islands while preserving the natural beauty and plant, marine, animal and bird life.

(Laws of Fla., ch. 80-473, § 1)

Sec. 34-2252. Applicability and interpretation of subdivision.

(a) This subdivision shall not be construed as limiting the application of or repealing any local comprehensive land use plan or law or rule dealing with the subject of zoning, conservation, air and water pollution standards or advertising (signs). If any of the standards specified by this subdivision are more restrictive than those specified in such other plan, law or rule, the standards specified by this subdivision shall prevail.

(b) That southern portion of Gasparilla Island consisting of approximately 42 acres and used generally as a port operation, more specifically described as a tract or parcel of land lying in Sections 23 and 26, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows, shall be exempt from the provisions of this subdivision until July 1, 1981: Beginning at the intersection of the approximate mean high-tide line of Charlotte Harbor with the south line of the north half of the south half of government lot 3, Section 26, being also the south line of lands owned by Florida Power and Light Company as described in deed recorded in Deed Book 273 at page 236 of the public records of the County, run south 89 degrees 21 minutes west along such south line to the southwest corner of the lands described in such deed; thence run north 00 degrees 39 minutes west, perpendicular to such south line, for 513.46 feet to an intersection with the south line of a County road as described in County Commission Minute Book 8 at page 298; thence run south 89 degrees

43 minutes 20 seconds east along such south line and an easterly prolongation thereof for 587.88 feet to the southwest corner of lands described in deed recorded in Official Record Book 1346 at page 1236 of such public records; thence run north 00 degrees 16 minutes 40 seconds east along the west line of such lands for 165 feet to the south line of lands of the Seaboard Coastline Railroad (formerly Charlotte Harbor and Northern Railway) as described in deed recorded in Deed Book 129 at page 346 of such public records; thence run north 89 degrees 43 minutes 20 seconds west along such south line for 1,450 feet more or less to the approximate mean high-tide line of the Gulf of Mexico; thence run northerly along such line for 350 feet more or less to an intersection with a line bearing north 89 degrees 58 minutes west and passing through Monument B, as described in such railroad deed; thence run south 89 degrees 58 minutes east along such line, being a northerly line of the lands described in such deed, for 510 feet more or less to such Monument B; thence run north 00 degrees 08 minutes west along a west line of such lands for 1,200 feet to Monument A, as described in such deed; thence run north 89 degrees 52 minutes east along a north line of such lands for 597.4 feet; thence run north 46 degrees 29 minutes east for 145.35 feet to an intersection with a line 50 feet westerly from and parallel with the centerline of the main track of such railroad; thence run northerly along such parallel line for 8,122.5 feet to the north line of Section 23, being the south line of First Street as shown on the revised plat of Boca Grande recorded in Plat Book 7 at pages 1 and 1A of such public records; thence run easterly along the south line of First Street for 103 feet to an intersection with a line 50 feet easterly from and parallel with the centerline of the main track; then southerly along such parallel line for 5,545 feet; thence easterly for 30 feet to an intersection with a line 80 feet easterly from and parallel with such centerline; thence southerly along such parallel line for 2,677.5 feet to an intersection with a line bearing north 89 degrees 52 minutes east and passing through such Monument A; thence run north 89 degrees 52 minutes east along such line, being also a north line of such railroad lands, for 285 feet more or less to the approximate mean high-tide line of Charlotte Harbor; thence run southerly along such line for 2,250 feet more or less to the point of beginning, together with the existing right-of-way for the Seaboard Coastline Railroad (formerly Charlotte Harbor and Northern Railway) running northerly from the south line of First Street described in this subsection to the north shore of Gasparilla Island in Charlotte County, Florida.

(c) If any provision of this subdivision or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subdivision which can be given effect without the invalid provision or application, and to this end the provisions of this subdivision are declared severable.

(Laws of Fla., ch. 80-473, § 5)

Sec. 34-2253. Enforcement by property owners.

Any owner of real property within the district created by this subdivision may enjoin the violation of this subdivision or enforce the provisions of this subdivision by instituting civil proceedings filed in a court of competent jurisdiction. In order to enforce the provisions of this subdivision or to enjoin a violation of this subdivision, a real property owner need not allege or prove that the violation of this subdivision will adversely affect the property rights of such real property owner to any greater extent or different degree than the violation will affect any other real property owner within the district. A real property owner who is successful in his efforts to enforce this subdivision through civil proceedings shall be awarded a reasonable attorney's fee and court costs, which shall be assessed as a judgment against the person determined by the court to have violated this subdivision. No action by any County Commission shall be required as a condition precedent to enforcement of this subdivision pursuant to this section.

(Laws of Fla., ch. 80-473, § 6)

Sec. 34-2254. District creation and boundaries.

There is hereby created a special conservation district, for the uses and purposes set forth in this subdivision, to be known as the Gasparilla Island conservation district. The boundaries of the district are determined as follows: all of Gasparilla Island, including Boca Grande Isles and Gasparilla Golf Course Island, Three Sisters Island, Hoagen's Key and Loomis Island, situated in Lee County and Charlotte County, including all adjacent submerged lands, tidal lands, overflow lands and tidal ponds.

(Laws of Fla., ch. 80-473, § 3)

Sec. 34-2255. Use and property development regulations.

(a) For purposes of this section, the term "dwelling unit" means a room or group of rooms designed, used or intended as a single habitable unit which provides permanent, semipermanent or transient living and sleeping facilities, whether or not it contains cooking or kitchen facilities. The term "dwelling unit" includes but is not limited to single-family residences, a residence within a two-family or multifamily structure, and hotels, motels and other commercial rental units.

(b) No building or other structure shall be erected or altered within the district so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.

(c) No parcel of land within the district shall be utilized so that the density of dwelling units per acre, including commercial rental dwelling units, exceeds five dwelling units per acre, except the dwelling unit construction allowed under subsection (e) of this section, and except dwelling units in existence on the effective date of Laws of Fla., ch. 80-473. If such existing dwelling units compute at a higher density than five units per acre, no additional dwelling units shall be added. The right to repair or rebuild any such nonconforming existing dwelling units having a higher density utilization than allowed under this section shall be governed by the local government zoning regulations.

(d) In computing the density of dwelling units, only land above mean sea level, contiguous and under single ownership, may be used. Only the number of dwelling units represented by a full fraction of five shall be permitted, and if the land is less than one acre the density shall be reduced proportionately. Parcels that are bisected by publicly dedicated walkways or roads, including state and County roads, shall not be considered contiguous for the purpose of computing density under this section.

(e) One single-family dwelling may be constructed upon either a single substandard lot or a grouping of such lots under one ownership, which lot or lots are a part of a subdivision that was officially platted and recorded prior to the effective date of Laws of Fla., ch. 80-473, provided such construction is allowed under the local government zoning regulations. If a transfer of ownership of two or more of such substandard lots that are contiguous occurs, other than by inheritance or will, subsequent to the effective date of Laws of Fla., ch. 83-385, the density and other limitations and restrictions of Laws of Fla., ch. 83-385 shall apply.

(f) No land within the district shall be used for commercial, industrial, multifamily or duplex purposes, except land that was zoned for such use prior to the effective date of Laws of Fla., ch. 80-473; provided, however, that, in any event, any dwelling units constructed subsequent to the effective date of Laws of Fla., ch. 80-473 shall not exceed a density of five dwelling units per acre. The only zoning change permissible within the district, subsequent to the effective date of Laws of Fla., ch. 80-473, is a zoning change to a single-family residential classification. Nothing contained in Laws of Fla., ch. 83-385 shall preclude maintenance of fuel supply facilities at existing ports or off-loading facilities.

(g) No local governmental body or agency shall have the authority to grant variances or exceptions to the height, density or sign requirements, or any other provision or requirement of this subdivision. Notwithstanding the provisions of this section, the Lee County Board of County Commissioners or the Charlotte County Board of County Commissioners, in their respective counties, may grant the right to

repair, renovate or rebuild any nonconforming existing dwelling unit or structure occupied for use as of the effective date of Laws of Fla. ch. 80-473, upon a finding of the Board of County Commissioners in the respective county that the traditional use of such structures has served the public and community benefit. However, no such reconstruction, rebuilding or renovation of such nonconforming structure shall be allowed to a density or building height or use greater than that authorized under the provisions of this subdivision or the present nonconformity, whichever is greater.

(1) As used in this subsection, the term "nonconforming building or structure" means a building or structure, the size, dimension or location of which was in existence prior to the effective date of Laws of Fla., ch. 80-473, but which fails, by reason of the adoption of this subdivision and existing County building and zoning regulations, to conform to the present requirements of zoning regulations.

(2) As used in this subsection, the term "traditional use" may include but is not limited to the longevity of use, contribution of the use to the community and historic integrity of the community, and uniqueness of the use in context with the adjoining land uses.

(3) When the nonconforming use of a structure is discontinued or abandoned for 12 consecutive months after being damaged or destroyed and no permits for reconstruction, renovation or repair have been applied for within that period, the Board of County Commissioners may not grant permission for use of the structure except in conformance with the provisions of this subdivision and applicable County codes, regulations or ordinances.

(h) No exterior advertising sign shall be erected or displayed within the district except on-site signs which relate in subject matter to the premises on which they are located. Exterior advertising signs which are banners, beacons, neon, rotating, flashing or animated are prohibited.

(i) This section shall not render legally existing structures or signs unlawful.

(j) The following shall apply to the Gasparilla Inn historic resort area:

(1) *Creation and boundaries.* There is hereby created, because of its special and irreplaceable historic significance and community importance, the Gasparilla Inn historic resort area. The territory of the area consists of the following described parcels of land:

a. A parcel of land lying easterly of Boca Grande Bayou in government lot 1 and in the east half of the southeast quarter, Section 14, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows: From the southeast corner of the intersection of Palm Avenue and Seventh Street as shown on the revised plat of Boca Grande recorded in Plat Book 7 at page 1 of the County records, run north 89 degrees 23 minutes 55 seconds east along the south line of Seventh Street as shown on such plat and an easterly prolongation thereof for 1,250 feet; thence run south 30 degrees 36 minutes 05 seconds east for 100 feet to the point of beginning. From the point of beginning run north 30 degrees 36 minutes 05 seconds west for 800 feet; thence run south 59 degrees 23 minutes 55 seconds west for 220 feet more or less to the waters of Boca Grande Bayou; thence run southeasterly along such waters for 850 feet more or less to an intersection with the line bearing south 59 degrees 23 minutes 55 seconds west and passing through the point of beginning; thence run north 59 degrees 23 minutes 55 seconds east along such line for 140 feet more or less to the point of beginning. Containing 3.2 acres more or less. The bearings mentioned in this subsection are based on assuming the south line of Seventh Street to bear north 89 degrees 23 minutes 55 seconds east.

b. A parcel of land lying in government lots 3 and 4, Section 14, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows: Beginning at the northwest corner of the intersection of Gilchrist Avenue (120 feet wide) and Fourth Street (60 feet wide) as shown on the revised plat of Boca Grande recorded in Plat Book 7 at page 1 of the County records, run northerly along the westerly line of Gilchrist Avenue and a northerly prolongation thereof for 510 feet to the north line of Fifth Street as

shown on such plat; thence run easterly along such north line for 374.01 feet to the westerly line of Gasparilla Road (60 feet wide) as shown on such plat; thence run northerly along such westerly line for 599.04 feet to the south line of Seventh Street (50 feet wide) as shown on such plat; thence run westerly along such south line and a westerly prolongation thereof for 608 feet more or less to the mean high-water line of the Gulf of Mexico; thence run southerly along such line for 1,110 feet more or less to an intersection with a westerly prolongation of the north line of Fourth Street; thence run easterly along such prolongation and such north line for 350 feet more or less to the point of beginning. Excepting therefrom that part of Fifth Street (110 feet wide) as shown on the revised plat of Boca Grande lying within the parcel described in this subsection. Containing 12.4 acres more or less net of the Fifth Street right-of-way.

c. A parcel of land lying in government lots 1, 3 and 4 and in the east half of the southeast quarter, Section 14, Township 43 South, Range 20 East, Gasparilla Island, Lee County, Florida, which tract or parcel is described as follows: Beginning at the northeast corner of the intersection of East Avenue (40.2 feet wide) and Fifth Street (60 feet wide) as shown on revised plat of Boca Grande recorded in Plat Book 7 at page 1 of the County records, run easterly along the north line of Fifth Street and an easterly prolongation thereof for 1,340 feet more or less to the waters of Boca Grande Bayou; thence run northwesterly along such waters for 640 feet more or less to an intersection with the south line of Seventh Street (50 feet wide) as shown on such plat; thence run westerly along such south line for 340 feet more or less to an intersection with the southerly prolongation of the east line of lots 23 and 26, block 57, revised plat of Boca Grande; thence run northerly along such prolongation and such east line for 248 feet more or less to the waters of Boca Grande Bayou on the south line of Eighth Street (491.55 feet wide) as shown on such plat; thence run westerly along such south line and the north line of block 57 for 575 feet more or less to the northwest corner of the east half of lot 4, block 57; thence run southerly along the west line of the east half of lot 4 for 124 feet more or less to the southwest corner of such east half; thence run easterly for 25 feet more or less to the northwest corner of lot 3, block 57; thence run southerly along the west line of lot 3 and a southerly prolongation thereof for 174 feet more or less to the south line of Seventh Street; thence run westerly along such south line for 310 feet more or less to an intersection with the east line of East Avenue as shown on such plat; thence run southerly along such east line for 599 feet more or less to the point of beginning. Excepting therefrom those parts of the rights-of-way for Palm Avenue (58.27 feet wide) and Seventh Street as shown on the revised plat of Boca Grande lying within the parcel described in this subsection. Containing 19.7 acres more or less net of such road rights-of-way.

(2) *Standards for construction.* The historic resort area is found to have traditional uses which are of a public benefit for the operation and maintenance of a resort inn complex and all amenities and facilities associated with such uses, including but not limited to tennis courts, swimming pools, recreational complex, golf shop, employee housing, and such auxiliary buildings and facilities as necessary for the operation and maintenance of such a complex, and shall be able to maintain such use, notwithstanding the other restrictions of this subdivision as to residential density, except as provided in this subsection (10).

(3) *Restrictions.* The residential density restrictions of this subdivision do not apply within the boundaries of the historic resort area if such residential density does not exceed 80 resort room accommodations, 109 employee dwelling units, and 56 other residential dwelling units. All other land uses, building standards or restrictions, or activities within the historic resort area are governed by the provisions of this subdivision and by the County Comprehensive Plan where not in conflict with this subdivision. However, the Board of County Commissioners, in application of its zoning, parking, setback and other land use ordinances, rules or regulations, shall take into consideration the special and historic significance and traditional land uses of the historic resort area and the area's location on a sensitive barrier island.

(Laws of Fla., ch. 80-473, § 4; Laws of Fla., ch. 83-385, § 1; Laws of Fla., ch. 86-341, § 1)

Secs. 34-2256—34-2270. Reserved.

FOOTNOTE(S):

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Editor's note— Printed herein are the special acts regarding Gasparilla Island. The acts have been codified and assigned section numbers and catchlines for purposes of this codification. Any amendments of the special acts in this subdivision must be by special act of the state legislature. (Back)

Subdivision VI. McGregor Boulevard

Sec. 34-2271. Designation as historic and scenic route.

McGregor Boulevard (State Road 867) extending from its intersection with U.S. 41 (State Road 45) south to its intersection with College Parkway is hereby designated as a County historic and scenic boulevard.

(Ord. No. 78-25, § 1, 11-25-78)

Sec. 34-2272. Prohibited construction activities; removal of palm trees.

As to McGregor Boulevard, as defined and designated in this subdivision as a County historic and scenic boulevard, the following uses or activities are prohibited:

(1) There shall be no removal of any living palm tree within 20 feet of either side of the existing paved surface of the road, or any activity which requires the removal of such living tree, without the replacement of such tree with a similar tree.

(2) Subsequent to the date of the ordinance from which this section is derived, there shall be no new street connections, road connections, road intersections, overpasses or underpasses made either with, under or over McGregor Boulevard, or any alteration of the physical dimensions, appearance or location of the portion of McGregor Boulevard described in this subdivision, except as follows:

   a. Bicycle paths, the construction of which does not require the removal of any palm tree, are permissible.

   b. Construction by owners of property or easements abutting such road, of access roads, driveways or other such entrances and exits to the road, is permissible. Should such construction require the removal of a living palm, the palm shall be relocated.

c. Additional intersections, underpasses or overpasses with McGregor Boulevard are permissible at College Parkway, Colonial Boulevard, U.S. 41 and the Mid-Point Bridge Corridor crossing. Should such construction require the removal of a living palm, the palm shall be relocated.

d. The ordinary maintenance and repair of the road is permissible, provided the physical dimensions and location of the road are preserved.

e. Any work that is necessary for the public health or safety, as determined by the agency having jurisdiction over the portion of the road involved, is permissible.

f. The establishment of three-lane turn lanes or three-lane turn intersections on such road is permissible, if such can be accomplished without the dislocation of immediately bordering palm trees, or can be accomplished by transplanting the trees to conform with the revised intersection design.

g. Nothing in this section shall be construed to prohibit the widening of such road if the widening can be accomplished without dislocation of immediately bordering palm trees or can be accomplished by conforming to revised intersection design.

h. Nothing in this section shall be construed to restrict or in any way limit the use of County funds to widen or provide adequate turn lanes to McGregor Boulevard as set forth in subsections (2)f and g of this section.

(Ord. No. 78-25, § 2, 11-25-78; Ord. No. 79-19, § 1, 9-5-79; Ord. No. 87-31, § 1, 11-24-87; Ord. No. 95-04, § 2, 2-25-95)

Secs. 34-2273—34-2350. Reserved.

DIVISION 31. RESERVED [33]

Secs. 34-2351—34-2380. Reserved.

Secs. 34-2351—34-2380. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 14-13, § 7, adopted June 17, 2014, repealed Div. 31, § 34-2351, which pertained to recreational vehicles as permanent residences and derived from § 202.19 of the 1993 zoning ordinance. (Back)

DIVISION 32. SCHOOLS

Sec. 34-2381. Noncommercial schools.

Secs. 34-2382—34-2410. Reserved.

Sec. 34-2381. Noncommercial schools.

(a) *Permitted districts.* All noncommercial schools constructed by the district school board on land owned by the district school board are permitted by right in any zoning district. Also permitted by right in any zoning district is Florida Gulf Coast University, located in the Lee Plan University Campus category, including all facilities normally associated with a public university. Development of Florida Gulf Coast University will be in accord with a campus master plan adopted pursuant to F.S. § 240.155. All other noncommercial schools are permitted in accordance with the applicable zoning district use regulations for the property.

(b) *Access.* Access requirements for new schools are as follows:

(1) Whenever possible, elementary schools will have access to local or collector streets; and

(2) Secondary schools must have access to a collector or arterial street.

(c) *Location.* No school site will be approved which, in the opinion of the Hearing Examiner, is exposed to physical constraints, hazards or nuisances which are detrimental to the health and safety of students and to the general operation of the school.

(Zoning Ord. 1993, § 524; Ord. No. 94-24, § 44, 8-31-94; Ord. No. 11-08 , § 10, 8-9-11)

Secs. 34-2382—34-2410. Reserved.

DIVISION 33. SIGNS

Sec. 34-2411. Location and construction.

All on-site and off-site signs shall be located, erected and constructed in accordance with chapter 30.

(Zoning Ord. 1993, § 202.21)

Secs. 34-2412—34-2440. Reserved.

DIVISION 34. SPECIAL SETBACK REGULATIONS FOR SPECIFIC USES [34]

Sec. 34-2441. Intent of division.

It is the intent of this division to set forth minimum setback requirements for certain types of uses not specifically regulated elsewhere in this chapter. Where a use is not specifically regulated, the setback requirements of the zoning district in which the use is located will govern. Where this division specifies a different setback, the most restrictive will prevail.

(Zoning Ord. 1993, § 525(A); Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-2442. Definitions.

For purposes of this division only:

Residentially zoned property means any property zoned RSC, RS, TFC, TF, RM, RV, RVPD, MH, RPD or MHPD, and those portions of property zoned CPD indicating residential use.

(Zoning Ord. 1993, § 525(B); Ord. No. 94-24, § 45, 8-31-94; Ord. No. 96-06, § 5, 3-20-96)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 34-2443. Minimum required setbacks.

(a) The following uses must be set back a minimum of 660 feet from any residentially zoned property under separate ownership. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage.

(1) Asphalt batch plants.

(2) Dumps, refuse and trash.

(3) Essential service facilities, group III (section 34-622(c)(13)).

(4) Junkyard (df) or salvage yard.

(5) Landfills, sanitary.

(6) Manufacturing of:

a. Chemicals and allied products, group I (section 34-622(c)(6)).

b. Chemicals and allied products, group II (section 34-622(c)(6)—All except drugs, perfumes, toilet articles, etc.

c. Fabricated metal products, group I (section 34-622(c)(14)).

d. Lumber and wood products, groups III, V, and VI (section 34-622(c)(26)).

e. Machinery, group III (section 34-622(c)(27)).

f. Paper and allied products, group I (section 34-622(c)(31)).

g. Petroleum (section 34-622(c)(34)).

h. Primary metal industries (section 34-622(c)(35)).

i. Stone, clay, glass and concrete products, groups II and IV (section 34-622(c)(48)).

j. Textile mill products, group III (section 34-622(c)(50)).

k. Tobacco (section 34-622(c)(51)).

l. Transportation equipment, groups I, III, and IV (section 34-622(c)(52)).

(7) Research and development laboratories, group III (section 34-622(c)(41)).

(8) Lumber and wood products, group I (section 34-622(c)(26) excluding woodchipping operations.

(9) Stockyards.

(10) Wrecking yard—Auto and other.

(b) The following uses must be set back a minimum of 330 feet from any residentially zoned property under separate ownership. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage.

(1) Hatcheries, poultry.

(2) Manufacturing of:

a. Food and kindred products, group I (section 34-622(c)(15)).

b. Leather products, group I (section 34-622(c)(25)).

c. Lumber and wood products, group I (section 34-622(c)(26) excluding sawmills and planing mills (SIC 242)).

(3) Research and development laboratories, group I (section 34-622(c)(41)).

(4) Wholesale establishments, groups I and II (section 34-622(c)(56)).

(c) The following uses must be set back a minimum of 300 feet from any property under separate ownership zoned other than AG, IG or IR. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage.

(1) Feedlots.

(2) Milk processing plants.

(3) Fertilizer mixing.

(4) Bulk chemical storage for crop dusting.

(d) The following uses must be set back a minimum of 100 feet from any residentially zoned property under separate ownership. The setback applies to all buildings and structures, and all areas used for parking of trucks or equipment, shipping, receiving, or storage.

(1) Blacksmith shop.

(2) Freight and cargo handling establishments (section 34-622(c)(17)).

(3) Impound yard.

(4) Manufacturing of:

a. Boats.

b. Chemicals and allied products, group II (section 34-622(c)(6))—Limited to cosmetics, perfumes, etc.

c. Fabricated metal products, group II (section 34-622(c)(14)).

d. Food and kindred products, group II (section 34-622(c)(15)).

e. Furniture and fixtures (section 34-622(c)(18)).

f. Leather products, group II (section 34-622(c)(25)).

g. Lumber and wood products, group IV (section 34-622(c)(26)).

h. Machinery, groups I and II (section 34-622(c)(27)).

i. Paper and allied products, groups II and III (section 34-622(c)(31)).

j. Stone, clay, glass and concrete products, groups I and III (section 34-622(c)(48)).

k. Textile mill products, groups I and II (section 34-622(c)(50)).

l. Transportation equipment, group II (section 34-622(c)(52)).

(5) Motion picture studio.

(6) Photofinishing laboratory (df).

(7) Rental or leasing establishment, group IV (section 34-622(c)(39)).

(8) Repair shops, group V (section 34-622(c)(40)).

(9) Social services, group II (section 34-622(c)(46)).

(e) Except when located in the C-2 district, the following uses must be setback a minimum of 100 feet from any residentially zoned property under separate ownership. If located in the C-2 district, the setback must be as required for other uses in the same district.

(1) Manufacturing of:

a. Apparel (section 34-622(c)(1)).

b. Electrical machinery and equipment (section 34-622(c)(11)).

c. Fabricated metal products, group III (section 34-622(c)(14)).

d. Food and kindred products, group III (section 34-622(c)(15)).

e. Lumber and wood products, group II (section 34-622(c)(26)).

f. Measuring, analyzing, and controlling instruments (section 34-622(c)(28)).

g. Novelties, jewelry, toys, signs, groups I, II, and III (section 34-622(c)(29).

h. Rubber and plastics products, group II (section 34-622(c)(43)).

(f) The minimum setbacks set forth in subsections (a), (b), (d), and (e) of this section are not applicable to those facilities legally in existence and operation, or to an industrial subdivision legally in existence, prior to a residential zoning or use being approved closer than the required setbacks.

(Zoning Ord. 1993, § 525(C), (D); Ord. No. 94-24, § 45, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 04-05, § 1, 4-27-04)

Secs. 34-2444—34-2470. Reserved.

FOOTNOTE(S):

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Cross reference— Setbacks, § 34-3191 et seq. (Back)

DIVISION 35. SPORTS/AMUSEMENT PARKS AND RECREATIONAL FACILITIES

Sec. 34-2471. Applicability of division.

Sec. 34-2471. Applicability of division.

The regulations set forth in this division for specific sports/amusement parks and facilities are in addition to any other applicable regulations. In the case of conflict, the most restrictive regulations apply. Government owned and operated parks, as found in section 34-622(c)(32), are exempt from this division.

(Zoning Ord. 1993, § 526(A); Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-2472. Required approvals.

(a) *New sports/amusement parks and recreational facilities.* The following types of sports/amusement parks and recreational facilities, regardless of land area involved, shall only be permitted when approved as a planned development district:

(1) Arenas, stadiums, racetracks and other similar facilities, private or commercial.

(2) Drive-in theaters.

(3) Outdoor shooting ranges, and only when in compliance with National Rifle Association safety standards.

(4) Any commercial sports/amusement park and recreational facility exceeding ten acres in land area.

(b) *Existing recreational facilities and parks.*

(1) *Planned developments.* Recreation halls and other sports/amusement parks and recreational facilities within an approved PUD or PD shall be subject to the provisions of the approving resolution or ordinance.

(2) *Other developments.* Recreation halls and other sports/amusement parks and recreational facilities lawfully existing as of the effective date of the ordinance from which this section is derived shall be permitted to remain, provided that any expansion of land area, buildings or structures shall comply with the provisions of this section.

(Zoning Ord. 1993, § 526(B); Ord. No. 93-24, § 14B, 9-15-93)

Sec. 34-2473. Minimum lot area.

All sports/amusement parks and facilities, whether a principal use or accessory use, shall be located on property meeting the minimum lot size and dimensions of the zoning district in which located as well as any additional area, width or depth required to permit full compliance with all setbacks, ground cover, open space, buffering, drainage and parking requirements as set forth in this chapter or chapter 10, whichever is most applicable.

(Zoning Ord. 1993, § 526(C)1)

Sec. 34-2474. Setbacks.

(a) Minimum setbacks for uses subject to this division are as follows:

(1) Street setbacks shall be as set forth in section 34-2192

(2) Water body setbacks shall be as set forth in section 34-2194

(3) Side and rear setbacks shall be as set forth in the property development regulations of the zoning district in which located, except as provided in this division.

(b) Setback requirements for specific uses are as follows:

(1) *Commercial outdoor sports/amusement parks, amusement devices and water slides.* Amusement devices, water slides, miniature golf and other commercial outdoor sports/amusement parks and facilities not specifically regulated shall be located not less than 50 feet or a distance equal to the height of the structure or device, whichever is greater, from any property under separate ownership, provided further that such setback shall be 100 feet from any adjacent property zoned RS, TF, TFC, RM, MH or RPD, or any existing residential use.

(2) *Arenas, stadiums and racetracks.* No commercial or private arenas, stadium facilities, racetracks or other similar commercial or private facilities, other than parking, shall be permitted within 500 feet from any property line abutting property zoned RS, TF, TFC, RM, MH or RPD, or any existing residential use, provided that the 500-foot setback shall only apply to property outside of the planned development project.

(3) *Bleachers and other seating facilities.* All outdoor seating facilities, including but not limited to bleachers and other outdoor seating areas, shall be located not less than 25 feet from any property under separate ownership.

(4) *Drive-in theaters.* All outdoor movie screens shall be located a minimum of 100 feet from any lot line, with the screen so oriented that the picture is not visible from any existing or proposed arterial or collector street.

(5) *Golf driving range not part of an approved golf course.* The playing area and hitting field for a golf driving range not part of an approved golf course shall be set back sufficiently to prevent golf balls from being hit onto property under separate ownership.

(6) *Recreation halls and private clubs.* Recreation halls and ancillary facilities and private clubs shall be located at least 40 feet from any residential dwelling and situated in a manner so as to encourage pedestrian and bicycle traffic.

(7) *Outdoor shooting ranges.* All outdoor shooting ranges shall be set back from adjacent properties in accordance with standards established by the National Rifle Association.

(8) *Other facilities.* The following facilities are specifically regulated elsewhere in this chapter:

a. Marinas, section 34-1862

b. Stables, boarding and commercial, division 6 of this article.

c. Swimming pools and tennis courts, division 2 of this article.

(Zoning Ord. 1993, § 526(C)2; Ord. No. 93-24, § 14C, 9-15-93)

Sec. 34-2475. Access.

Arenas, drive-in theaters, racetracks, stadiums and other similar types of sports/amusement facilities shall provide vehicular access from an arterial or collector street. Such access points shall be located so as to minimize vehicular traffic to and through local streets in nearby residential neighborhoods.

(Zoning Ord. 1993, § 526(D)1)

Sec. 34-2476. Accessory uses.

(a) Accessory uses, buildings or structures for sports/amusement parks and recreational facilities which are customarily incidental to the principal use may be permitted. Such uses include but are not limited to restroom facilities, maintenance sheds, refreshment stands (with no alcoholic beverages unless approved in accordance with division 5 of this article), pro shops (where applicable), and administrative offices.

(b) During daylight hours, drive-in theater parking areas may be used for a flea market, provided no buildings are erected in connection with such use. Drive-in theaters may also be used to provide off-site parking for arenas, stadiums, etc., in accordance with section 34-2478, if approved by the Board of County Commissioners.

(c) Food and beverage service, limited, is permitted in any recreation hall; provided, however, no alcoholic beverages shall be distributed or consumed on the premises except in compliance with division 5 of this article.

(Zoning Ord. 1993, § 526(D)2)

Sec. 34-2477. Lighting.

Artificial lighting used to illuminate the premises of sports/amusement parks and recreational facilities shall be directed away from adjacent properties and streets.

(Zoning Ord. 1993, § 526(D)3)

Sec. 34-2478. Parking.

(a) Parking facilities for sports/amusement parks and recreational facilities shall be provided in accordance with division 26 of this article.

(b) For occasional use facilities such as arenas and stadiums, the Board of County Commissioners may allow up to 50 percent of the parking requirement to be met off the site, provided that:

(1) The developer owns or otherwise controls the off-site parking facility or has a binding letter from the owner of the property granting use of the property or parking facility during the life of the arena or stadium;

(2) The developer provides adequate transportation from the parking facility to the stadium or arena; and

(3) The developer provides additional security and traffic control personnel for any event wherein the off-site parking facilities will be required, satisfactory to the Board of County Commissioners.

(c) Parking facilities for occasional use sports/amusement parks and recreational facilities that are lawfully existing and received a certificate of occupancy or certificate of completion prior to January 1, 1995 will be provided as follows:

(1) For occasional use facilities such as arenas and stadiums, the Director of the Department of Community Development may allow up to 80 percent of the parking requirement to be met off the site, provided:

a. The developer owns or controls the off-site parking facility or has a binding letter from the owner of the property granting use of the property or parking facility during the life of the temporary use permit, see section (2), below:

b. The developer provides adequate transportation from the parking facility to the stadium or arena; and

c. The developer provides additional security and traffic control personnel satisfactory to the County Manager or his designee for any event which requires the off-site parking facilities.

(2) Parking facilities for occasional use sports/amusement parks and recreational facilities must be provided in accordance with section 34-2022 of this article, except as modified herein.

a. Temporary parking lots may be allowed, in conjunction with an approved temporary use permit, year round. For the purposes of this subsection, temporary permits for temporary parking lots are not limited to 30 days as set forth in section 34-3041(d).

b. A temporary parking lot may only be permitted on:

1. Vacant agricultural, commercial, community facilities, or industrial zoned property; or

2. Commercial or industrial zoned property with structures provided the structures are vacant and remain vacant for the duration of the temporary use permit.

(Zoning Ord. 1993, § 526(D)4; Ord. No. 95-07, § 32, 5-17-95)

Sec. 34-2479. Sound systems.

Sound systems for sports/amusement parks and recreational facilities shall meet the requirements of the County Noise Ordinance, Ordinance Nos. 82-32 and 83-22.

(Zoning Ord. 1993, § 526(D)5)

Secs. 34-2480—34-3000. Reserved.

DIVISION 36. STORAGE FACILITIES AND OUTDOOR DISPLAY OF MERCHANDISE

Sec. 34-3001. Applicability of division.

(a) Except as provided in this section, the regulations set forth in this division shall apply to all outdoor display of merchandise which is offered for sale or rent, and to all storage facilities as defined in this division.

(b) The provisions of the division do not apply to the display, sale or rental of motor vehicles, boats, recreational vehicles, trailers, mobile homes, construction or farm equipment (see section 34-1352); or to junk, impound yards, scrap or salvage yards (see division 20 of this article); or to refuse, trash dumps and sanitary landfills (see division 20 of this article); or to garage or yard sales by residents of dwelling units on their own property (see section 34-622(c)(42)); or to the mooring or docking of aircraft or watercraft.

(Zoning Ord. 1993, § 527(A); Ord. No. 04-05, § 1, 4-27-04)

Sec. 34-3002. General setback requirements.

(a) All buildings and structures for uses subject to this division shall comply with the setback requirements for the zoning district in which the use is located.

(b) Some zoning districts have specific setback requirements which may apply to storage areas.

(Zoning Ord. 1993, § 527(B))

Sec. 34-3003. Lighting.

Artificial lighting used to illuminate premises subject to this division shall be directed away from adjacent properties and streets, shining only on the subject site.

(Zoning Ord. 1993, § 527(C))

Sec. 34-3004. Outdoor display of merchandise for sale or rent.

(a) *Display setbacks.* No merchandise displayed out-of-doors shall be located within ten feet of any property line, or within 25 feet of any street right-of-way or street easement. Where chapter 10 requires different setbacks due to landscaping or buffering, the regulation which requires the greatest setback shall control.

(b) *Display area.*

(1) No required parking space or aisle, or required loading space, shall be used for display purposes.

(2) Areas used for display purposes do not need to be paved; provided however, that the area is maintained in a sightly, dustfree manner.

(Zoning Ord. 1993, § 527.01)

Sec. 34-3005. Storage facilities.

(a) *Indoor storage.*

(1) *Permitted districts.* Except for warehouses and miniwarehouses, indoor storage is permitted within any zoning district when accessory to the permitted principal use of the property. Warehouses and miniwarehouses are permitted only in zoning districts for which it is specifically stated that such uses are permitted.

(2) *Setbacks.* All buildings used for indoor storage which are located on the same lot as the principal building shall comply with the setback requirements for accessory buildings. Buildings used for indoor storage which are not on the same lot as the principal building, but are on the same premises, shall meet the setbacks set forth in the district regulations for principal buildings.

(b) *Open storage.*

(1) *Fencing and screening.* All commercial or industrial outdoor storage must be shielded behind a continuous visual screening at least eight feet in height when visible from a residential use or residential zoning district, and six feet in height when visible from any street right-of-way or street easement.

(2) *Storage area.* Storage areas do not need to be paved. Grass or other ground cover may be used provided it is kept in a sightly and dustfree manner.

(c) *Bulk storage of flammable liquids.*

(1) *Firewalls or dikes required.* Whenever aboveground tanks for storage of gasoline, gas, oil or other flammable liquids are located on any land where such use is permitted, such tanks shall be surrounded by an unpierced firewall or dike of such height and dimensions as to contain the maximum capacity of the tanks. All storage tanks and adjacent structures shall meet the requirements of the Board of Fire Underwriters.

(2) *Exceptions.* Storage tanks containing liquified petroleum, commonly known as bottled gas, are specifically excluded from the provisions of this subsection.

(Zoning Ord. 1993, § 527.02; Ord. No. 93-24, § 15, 9-15-93; Ord. No. 98-11, § 5, 6-23-98)

Secs. 34-3006—34-3020. Reserved.

DIVISION 37. SUBORDINATE AND TEMPORARY USES

Subdivision I. - Subordinate Uses

Subdivision II. - Temporary Uses

Subdivision I. Subordinate Uses [35]

Sec. 34-3021. Generally.

The purpose of this section is to provide for certain commercial uses provided such uses are clearly subordinate to a permitted principal use and are in compliance with the regulations set forth in this section.

(Zoning Ord. 1993, § 528; Ord. No. 93-24, § 16, 9-15-93; Ord. No. 94-24, § 46, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-3022. Subordinate commercial uses for mobile home or recreational vehicle developments.

The following uses, lawfully existing, are permitted uses provided they are in compliance with the regulations set forth in this section. Uses established subsequent to August 1, 1986, may be permitted only by special exception except when approved as part of an MHPD or RVPD.

(1) Food store group I (section 34-622(c)(16)).

(2) Laundromat.

(3) Personal services group I (section 34-622(c)(33)).

(4) Specialty retail store groups I and II (section 34-622(c)(47)).

(5) Real estate office for sale or rental of units within the development only.

(6) Parts and supplies for mobile homes or recreational vehicles.

All uses, except the real estate office, must be located within a permanent building which complies with the Standard Building Code. The total land area for the uses listed in this subsection may not exceed ten percent of the total land area of the development.

(Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-3023. Subordinate commercial uses for hotels/motels, multiple-family buildings, social services groups III and IV (section 34-622(c)(46)), health care facilities groups I, II and IV (section 34-622(c)(20)), cultural facilities (section 34-622(c)(10)), and office complexes containing 50,000 square feet or more of floor area on the same premises.

(1) The uses listed in subsection (2) of this section will be permitted when clearly subordinate to the principal use, subject to the following requirements:

a. The retail use must be totally within the building housing the principal use;

b. The retail use may not occupy more than ten percent of the total floor area of the principal use; and

c. Public access to the commercial uses must not be evident from any abutting street.

(2) Uses permitted are:

a. Personal services groups I and II (section 34-622(c)(33)).

b. Pharmacy.

c. Specialty retail store groups I and II (section 34-622(c)(47)).

d. Restaurant group II (section 34-622(c)(43)).

e. Rental or leasing establishment group I (section 34-622(c)(39)).

(Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-3024. Dogs in outdoor seating areas of restaurants.

(a) *Generally.* Pursuant to F.S. § 509.233, patrons' dogs (canis lupus familiaris) may be permitted within outdoor seating areas of restaurants subject to the approval of an outdoor dog dining permit. Service animals, as defined under F.S. ch. 413, are exempt from the provisions of this section.

(b) *Permit required.* A permit must be obtained from the Department prior to allowing patrons' dogs in outdoor seating areas:

(1) *Application.* An applicant for an outdoor dog dining permit must submit the following information on the form provided by the County:

a. The name, location, and mailing address of the restaurant.

b. The name, mailing address, and telephone contact information of the permit applicant.

c. The Division of Hotels and Restaurants of the Florida Department of Business and Professional Regulation issued license number of the restaurant.

d. A copy of a site plan, to scale, that will be designated as available to patrons' dogs, including: dimensions of the designated area; a depiction of the number and placement of tables, chairs, and restaurant equipment, if any; the entryways and exits to the designated outdoor area; the boundaries of the designated area and of other areas of outdoor dining not available for patrons' dogs; any fences or other barriers; surrounding property lines and public rights-of-way, including sidewalks and common pathways; and such other information reasonably required by the permitting authority.

e. A description of the days of the week and hours of operation that dogs will be permitted in the designated outdoor area.

(2) *Review and approval.*

a. Prior to permit approval, the Director must find that all required materials have been received and that the requested permit will not hinder the general health, safety and welfare of the public.

b. The County may impose additional conditions as necessary in order to protect the health, safety and welfare of the community.

c. The County will provide the Division of Hotels and Restaurants of the Florida Department of Business and Professional Regulation with a copy of all approved applications and permits issued.

(3) *Transfer.* A permit issued under this section is not transferable to a subsequent owner or tenant upon the sale of a public food service establishment, but will automatically expire upon the sale of the establishment. The subsequent owner or tenant is required to reapply for a new permit pursuant to this section if the subsequent owner or tenant wishes to continue to accommodate patrons' dogs. A change in occupancy will also require the issuance of a new permit under this section.

(4) *Revocation.*

a. A permit may be revoked by the County if, after notice and reasonable time in which the grounds for revocation may be corrected, the restaurant fails to comply the conditions of approval, including the standards set forth in section 34-2024(c).

b. If revoked, a permit for dogs in outdoor seating areas will not be issued to the same owner or tenant for a period of 12 months from the date of revocation.

(c) *Standards.* Each approved establishment is subject to the following conditions:

(1) All food service employees must wash their hands promptly after touching, petting, or otherwise handling dogs.

(2) Employees cannot touch, pet, or otherwise handle dogs while serving food or beverages or handling tableware or before entering other parts of the establishment.

(3) Patrons must be advised to wash their hands before eating. The establishment must provide waterless hand sanitizer at each outdoor table.

(4) Dogs must not come into contact with serving dishes, utensils, tableware, linens, paper products or any other items involved in food service operations.

(5) Dogs must be kept on a leash at all times and under reasonable control.

(6) Dogs must not be allowed on chairs, tables, or other furnishings.

(7) Table and chair surfaces and any spillage must be cleaned and sanitized with an approved product between seating of patrons.

(8) Accidents involving dog waste must be cleaned immediately and the area sanitized with an approved product. Establishments are required to keep a kit containing cleaning materials in the designated outdoor area.

(9) Signage reminding employees and patrons of adopted rules must be posted.

(10) Signage that places the public on notice that the designated outdoor area is available for the use of patrons and patrons' dogs must be posted.

(11) Dogs are not permitted to travel through any indoor or non-designated outdoor portions of the establishment. Ingress and egress to the designated, permitted, area cannot require entrance into or passage through any indoor area of the establishment.

(Ord. No. 14-13 , § 7, 6-17-14)

Secs. 34-3025—34-3040. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 14-13, § 7, adopted June 17, 2014, changed the title of Subdiv. I from "In General" to "Subordinate Uses." (Back)

Subdivision II. Temporary Uses

Sec. 34-3041. Generally.

(a) *Purpose.* The purpose of this subdivision is to specify regulations applicable to certain temporary uses which, because of their impact on surrounding land uses, require a temporary use permit.

(b) *Permit required.* No temporary use may be established until a temporary use permit has been obtained from the Department (see section 34-210).

(c) *Location.* Temporary uses are allowed as permitted in agricultural, commercial and industrial zoning districts subject to the following regulations:

(1) Temporary uses are permitted on vacant lots or in the parking lots or grassed areas of developed properties when the temporary use is ancillary to the principal use. Temporary uses are not permitted in open space or preserve areas as designated on an approved local development order.

(2) The area of the lot where the temporary use will be located must be clearly defined and must not obstruct pedestrian and vehicular movements or interfere with any preserve or water management areas.

(3) Off-street parking with a surface type specified in section 34-2017(b) shall be provided. If the temporary use will be on premises with existing parking facilities, no additional parking facilities shall be required.

(4) No part of a parking lot used to satisfy required parking for any existing use on the same premises may be used for a temporary use unless it is demonstrated that the hours of operation of the temporary use and parking demands of any permitted existing use occur at different times or as otherwise approved by the Director.

(d) *Lighting.* No permanent or temporary lighting may be installed without approval from the building department.

(e) *Time limit.*

(1) All uses must be confined to the dates specified on the temporary use permit; provided, however, that:

a. Except as provided in sections 34-3043 through 34-3049, a temporary use will not be permitted for more than 30 contiguous days; and

b. If no time period is specified on the temporary use permit, then the temporary use permit will expire and the use must be abated within 30 days from the date of issuance.

(2) A temporary use permit may not be renewed or reissued to the same applicant or on the same premises for a similar use more than four times in a calendar year or within 45 days from the date of expiration of the previous temporary use permit, except for community gardens as described in section 34-1716 and seasonal farmer's market (section 34-3048).

(3) Events that have a duration less than six hours, not occurring more than once a month, and not in conjunction with a alcoholic beverage permit, such as ribbon cuttings, company events or other similar uses, are not required to obtain a temporary use permit.

(f) *Hours of operation.* Hours of operation must be confined to those specified in the permit.

(g) *Cleanup.* The site must be cleared of all debris at the end of the temporary use and all temporary structures must be removed within 48 hours after termination of the use. A cash bond of a minimum of $25.00 and not to exceed $5,000.00 or a signed contract with a disposal firm may be required as a part of the application for a temporary use permit to ensure that the premises will be cleared of all debris during and after the event.

(h) *Traffic control.* Traffic control as may be required by the County Sheriff's Department and the County Department of transportation must be arranged and paid for by the applicant.

(i) *Damage to public right-of-way.* A cash bond of a minimum of $25.00 and not to exceed $5,000.00 may be required by the County to ensure the repair of any damage resulting to any public right-of-way as a result of the event.

(Zoning Ord. 1993, § 529; Ord. No. 95-07, § 34, 5-17-95; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 10-24 , § 1, 6-8-10; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-3042. Carnivals, fairs, circuses and amusement devices.

(a) *Location of amusement devices and other structures.*

(1) *Setback from street for amusement devices.* No use consisting of amusement devices may be located closer to a street right-of-way line or street easement than 25 feet, or a distance equal to the height of the amusement device, whichever is greater.

(2) *Setback from bodies of water for amusement devices.* No amusement device may be located closer to a bay, canal or other body of water than 50 feet from the Gulf of Mexico or 25 feet from any other body of water, or a distance equal to the height of the amusement device, whichever is greater.

(3) *Setbacks from side and rear property lines for amusement devices.* All amusement devices must be set back from side and rear property lines a minimum distance equal to the greater of:

a. The setbacks established for the zoning district in which located;

b. The height of the device; or

c. A minimum of 100 feet from any property zoned RS, TF, TFC, RM, MH, RPD or MHPD, or any existing residential use.

(4) *Setbacks from habitable structures for amusement devices.* All amusement devices must be set back from habitable structures a distance which is at least equal to the height of the device.

(5) *Placement of amusement devices in easement.* Nothing contained in this chapter may be construed as permitting placement of any amusement device within a utility easement or other easement prohibiting such placement.

(6) *General setback requirements.* Other structures associated with carnivals, fairs or circuses must be set back in accordance with the setbacks established for each individual zoning district.

(b) *Off-street parking.* Refer to sections 34-2019(3) and 34-2020(b).

(c) *Hours of operation.* The hours of operation must be limited to 10:00 a.m. to 10:00 p.m., unless otherwise extended by the Director in writing.

(d) *Excluded areas.* No temporary use permits under this section may be issued for Captiva Island or within the Gasparilla Island conservation district.

(e) *Special event permit.* In addition to a temporary use permit, a carnival, fair, circus or amusement device may be subject to the provisions of the County's special event permit, as applicable.

(Zoning Ord. 1993, § 529.01; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 12-20 , § 4, 9-11-12)

Sec. 34-3043. Christmas tree sales.

(a) Christmas tree sales may be permitted in any agricultural, commercial or industrial district, provided that:

(1) No parking lot required for another use may be used for display of trees; and

(2) Temporary off-street parking for at least five vehicles must be provided utilizing an existing or approved parking lot entrance or driveway.

(b) The maximum length of time for display and open-lot sales is 45 days.

(Zoning Ord. 1993, § 529.02; Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-3044. Temporary contractor's office and equipment storage shed.

A contractor's office or construction equipment shed may be permitted in any district where use is incidental to an ongoing construction project with an active building permit or development order. Such office or shed may not contain sleeping or cooking accommodations. The contractor's office and construction shed must be removed within 30 days of the date of final inspection for the project.

(Zoning Ord. 1993, § 529.03; Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-3045. Horse shows and exhibitions.

(a) A horse show or exhibition may be permitted at a boarding or commercial stable for special occasions, including but not limited to dressage shows, exhibitions and contests.

(b) A temporary use permit may be required for those horse shows and exhibitions, at commercial stables, where more than 15 horses (outside entrants) participate at any one time.

(c) The maximum length of time for such use may not exceed 15 days.

(Zoning Ord. 1993, § 529.04; Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-3046. Temporary use of mobile home.

(a) *Rehabilitation or construction of residence following disaster.*

(1) If fire or disaster renders a single-family residence unfit for human habitation, the temporary use of a mobile home, travel trailer or park-trailer located on the single-family lot during rehabilitation of the original residence or construction of a new residence may be permitted subject to the regulations set out in this section.

(2) The maximum duration of the use is 18 months or 540 days after the date the President of the United States issues a disaster declaration. If no disaster declaration is issued, then the maximum duration of the use is six months. The Director may extend the permit once for a period not to exceed 60 days in the event of circumstances beyond the owner's control. Application for an

extension must be made prior to expiration of the original permit. Additional extensions may be granted only by the Hearing Examiner approval.

(b) *Rehabilitation or construction of a damaged business, commercial or industrial uses following disaster.*

(1) Business, commercial or industrial uses, damaged by a major or catastrophic disaster necessary for the public health and safety or that will aid in restoring the community's economic base, may be permitted to use a mobile home or similar type structure to carry out their activities until the damaged structure(s) is rebuilt or replaced according to applicable development or redevelopment regulations.

(2) The maximum duration of the temporary use is nine months or 270 days after the date the President of the United States issues a disaster declaration. If no disaster declaration is issued, then the maximum duration of the use is six months. The Director may extend the permit once for a period not to exceed 60 days in the event of circumstances beyond the owner's control. Application for an extension must be made prior to expiration of the original permit. Additional extensions may be granted only by Hearing Examiner approval.

(c) *Construction of residence in AG district.*

(1) A temporary mobile home may be permitted to be emplaced on a lot during construction of a conventional single-family dwelling in the agricultural district.

(2) The mobile home must be removed from the property within ten days of the issuance of the certificate of occupancy, or expiration of the building permit for the conventional dwelling, whichever occurs first.

(d) *Conditions for use.*

(1) Required water and sanitary facilities must be provided.

(2) The mobile home, travel trailer or park trailer must be removed from the property within ten days after the certificate of occupancy is issued for the new or rehabilitated residence, business, commercial or industrial use or upon expiration of the temporary use permit, whichever occurs first.

(3) Placement or setting of the mobile home, travel trailer or park trailer must comply with chapter 6, article IV, pertaining to floodplain management.

(Zoning Ord. 1993, § 529.05; Ord. No. 96-17, § 5, 9-18-96)

Sec. 34-3047. Temporary telephone distribution equipment.

Telephone distribution equipment may be granted a temporary permit during planning and construction of permanent facilities, provided that:

(1) The equipment is less than six feet in height and 300 cubic feet in volume; and

(2) The maximum length of the use shall be six months, but the Director may extend the permit once for a period not to exceed six additional months in the event of circumstances beyond the control of the telephone company. Application for an extension shall be made at least 15 days prior to expiration of the original permit. Additional extensions may only be allowed by the Hearing Examiner.

(Zoning Ord. 1993, § 529.06; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-3048. Seasonal farmers' market.

(a) Farmers' market are allowed in the parking lot or grassed areas of properties developed with churches, schools, clubs (df), parks (section 34-622(c)(32)), commercial or industrial uses, or on-site recreational facilities (df). Farmers' markets are prohibited on vacant lots.

(b) Farmers' markets are permitted from October through April. A temporary use permit may be issued for no more than four days a week in the same location. A year round farmers' market requires compliance with this Code.

(c) The application for the temporary use permit must include the following:

(1) A site plan indicating the layout and boundaries of the market. The market may be located within parking areas with written consent of the property owner. The market is not permitted in open space or preserves areas, as designated on an approved local development order, or within a County right-of-way. Adequate pedestrian and vehicular access to the site must be demonstrated;

(2) The day of the week and hours of operation for the market.

(d) Each vendor is responsible for securing and displaying all necessary licenses, including but not limited to any license/approval required when offering prepared food for consumption, etc. (i.e., Florida Department of Agriculture, Food Safety, and Department of Business and Professional Regulation, etc.). Allowed products and services are limited to:

(1) Unprocessed agricultural products such as fruits, vegetables, grains, flowers, and plants;

(2) Processed agricultural products such as milk, cheese, oils, vinegars, meats, poultry, eggs, honey, spices, coffee, jams, nuts, sauces, pasta, soaps, ice cream, herbal preparations, jellies;

(3) Prepared foods such as ready-to-eat baked goods, breads, meats, cheeses, cakes, and pies;

(4) Food booths, with proper licensing, where preparation of food occurs on site;

(5) Agriculture-related crafts, such as handmade wreaths, swags, dry flower arrangements, pressed flowers, scented sticks and potpourri; candles, scented sticks;

(6) Items designed to promote water, soil, or energy conservation, such as rain barrels, organic fertilizer, compost boxes, and related educational materials;

(7) Musical entertainment may occur only at one location within the market area and must comply with the County noise ordinance; and

(8) Other goods and services determined by the Zoning Director to be substantially similar to the above vendor types.

(e) Prohibited items and vendors: Used goods, antiques, collectibles, and all other goods and services not expressly set forth above.

(f) The Department of Community Development has the authority to modify or revoke the farmers' market temporary use permit upon a finding of a violation of any condition of the temporary use permit approval. Prior to revoking a permit, the permittee will be given written notice of the violation and the action necessary to correct the same. The notice will be delivered in compliance with F.S. § 162.12. The notice will provide that failure to correct the violation will result in the revocation of the temporary use permit.

(Ord. No. 13-10 , § 10, 5-28-13)

Editor's note—

Prior to the reenactment of § 34-3048 by Ord. No. 13-10, adopted May 28, 2013, Ord. No. 11-08, § 10, adopted August 9, 2011, repealed § 34-3048, which pertained to ancillary temporary uses in parking lots. See also the Land Development Code Comparative Table.

Sec. 34-3049. Temporary mail distribution location.

(a) A shipping container or other structure approved by the building official through issuance of a temporary use permit, may be used for the temporary storage of mailed packages to be delivered to third parties off site within a designated area for a limited duration.

(b) *Time.*

(1) Temporary mail distribution is allowed from November 1 through December 31. Any shipping container, storage pod, or other structure approved by the building official must be removed from the site no later than January 14.

(2) The hours of operation are Monday through Saturday from 8:00 a.m. to 6:00 p.m.

(c) *Location.*

(1) Temporary mail distribution structures may be located in commercial, residential and industrial zoning districts.

(2) Temporary mail distribution structures may be located on a vacant lot or in parking lots or on grassed areas within developed properties. They may not be located in open space or preserve areas as designated on an approved local development order.

(3) Structures used for temporary mail distribution must comply with all setback requirements for accessory structures. No more than one temporary mail distribution structure is allowed on a vacant lot.

(4) Prior to the issuance of a temporary permit for the use in a single family residence, the Applicant must provide a notarized statement of no objection from the abutting property owners with the application for a temporary permit.

(5) Temporary mail distribution may only occur with the prior approval of the property owner. If located within a subdivision controlled by a Property Owners' Association, the applicant must provide written documentation from the property owner and association identifying the site and approving the proposed activity.

(6) No temporary mail distribution structure may be located in a public right-or-way.

(d) *Size.* A temporary mail distribution structure may not exceed 20 feet in length and must be securely placed on the ground and anchored as required by the Building Department.

(e) *Activities.*

(1) The temporary mail distribution areas may only be used for the staging of mail packages to be delivered to third parties within the community. The intended mail recipients may not make trips to the temporary mail distribution areas to receive their packages.

(2) Once mail is delivered to the distribution area, delivery of mail from the distribution area to its intended recipients may only be accomplished through the use of golf carts.

(3) No new, permanent structure or improvement may be constructed.

(4) No signage or advertisement may be located on the structure or property where the structure is located.

(5) Storage of fuel for the delivery vehicle is prohibited in or near the storage area.

(f) Unless otherwise stated in this section, the following provisions do not apply to temporary mail distribution structures: Sections 34-3041(c)(1), (3), (4), (g), (h) and (i); 34-210(d) and (e); and section 34-3050

(g) If a property owner is found in violation of these provisions, future temporary use permit for temporary mail distribution may not be issued for the property subject to the violation.

(Ord. No. 13-10 , § 10, 5-28-13)

Editor's note—

Prior to the reenactment of § 34-3049 by Ord. No. 13-10, adopted May 28, 2013, Ord. No. 11-08, § 10, adopted August 9, 2011, repealed § 34-3049, which pertained to temporary parking lots. See also the Land Development Code Comparative Table.

Sec. 34-3050. Temporary storage facilities.

The following regulations do not apply to contractor's office and equipment storage sheds (see section 34-3044),

(a) The use of vehicles, truck trailers, or shipping containers for storage of merchandise, produce, or commodities for periods of 48 hours or more is prohibited in all districts except as a temporary use.

(b) The use of vehicles, truck trailers, or shipping containers for storage of merchandise, produce, or commodities for periods of 48 hours or more may be permitted as a temporary use in a non residential district upon application and issuance of a temporary use permit (see section 34-210) so long as:

(1) The vehicles, truck trailers, or shipping containers used for storage comply with all setback requirements for accessory structures.

(2) No more than two vehicles, truck trailers, or shipping containers are permitted at one time.

(3) The maximum length of time for use of a vehicle, truck trailer or shipping container for storage of merchandise, produce, or commodities is 60 days. One extension, not to exceed 60 days, maybe approved at the Director's discretion.

(Ord. No. 00-14, § 5, 6-27-00)

Secs. 34-3051—34-3069. Reserved.

DIVISION 38. RESERVED [36]

Secs. 34-3070—34-3100. Reserved.

Secs. 34-3070—34-3100. Reserved.

FOOTNOTE(S):

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Editor's note— Ord. No. 03-16, § 6, adopted June 24, 2003, repealed Div. 38, §§ 34-3070, 34-3071, which pertained to telephone booths and pay phone stations. See the Land Development Code Comparative Table. (Back)

DIVISION 39. USE, OCCUPANCY AND CONSTRUCTION REGULATIONS

Sec. 34-3101. Compliance with applicable regulations.

No building, structure, land or water may be used or occupied, and no building, structure or part thereof may be erected, constructed, reconstructed, located, moved or structurally altered, except in conformity with the regulations specified in this chapter for the district in which it is located, the Lee Plan and all other applicable County ordinances.

(Zoning Ord. 1993, § 202.06(A); Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-3102. Number of principal buildings on lot.

(a) Except as provided in this section for the AG, RM-2 and CS-2 districts, no more than one principal building or structure may be erected on a single- or two-family residential lot.

(b) In the AG districts, a single parcel may be developed with two conventional single-family residences provided that the parcel is developed consistent with the supplemental regulations set forth in section 34-1180. In the RM-2 district, a single parcel developed under unified control may have more than one principal building on the lot provided that the property is developed as a condominium or a cooperative, or is retained under single ownership.

(c) The number or principal buildings permitted and the minimum lot sizes required in all other RM districts are governed by article VI, division 3, of this chapter.

(d) In the CS-2 district, two principal structures may be permitted in accordance with note (5) in section 34-844

(Zoning Ord. 1993, § 202.06(B); Ord. No. 94-24, § 47, 8-31-94; Ord. No. 13-10 , § 10, 5-28-13)

Sec. 34-3103. Permit for moving building.

No building or part of any building may be relocated or moved through or across any sidewalk, street, alley or highway within the unincorporated area of the County unless a permit has first been obtained from the division of development services in accordance with the procedures and application requirements for building relocation as set forth in section 34-209, as well as a structure moving permit from the Department of Transportation. Buildings or structures that have been designated as historic resources pursuant to chapter 22 must also obtain a certificate of appropriateness as provided in section 22-105.

(Zoning Ord. 1993, § 202.06(C); Ord. No. 00-14, § 5, 6-27-00)

Cross reference— Buildings and building regulations, ch. 6.

Sec. 34-3104. Clearing, grading or filling of land.

(a) No land may be cleared, graded, excavated or filled, or otherwise altered, except in conformity with the regulations contained in this chapter and all other applicable County ordinances.

(b) *Site grading and surface water management standards for single-family residential and duplex lots.*

(1) *Site grading during construction activities.* The building site must be graded and maintained during construction to:

a. Prevent erosion of soil onto adjacent or abutting properties and street rights-of-way or improved drainage conveyances; and

b. Control surface water runoff to ensure that no surface water in excess of the preconstruction discharge flows onto developed adjacent or abutting properties; and

c. Maintain the flow capacity and function of existing drainage conveyances on or abutting the site including adjacent street rights-of-way/easements or improved drainage conveyances.

(2) *Final site grading.* Final grading of a lot must:

a. Control and direct surface water runoff to ensure that surface water discharge is directed into an existing surface water management system or other offsite drainage conveyance; and

b. Preserve or relocate existing drainage conveyances necessary to maintain preconstruction flow capacity and function.

c. Final site grading plan features must be maintained in perpetuity by the property owner. A property owner may not alter or modify the lot grading in a manner that will prevent continued drainage of the site in accordance with the lot grading plan in effect at the time the certificate of occupancy was issued.

(3) *Lot grading plan.*

a. Where the proposed final grade on any part of a lot is greater than 18 inches above the centerline elevation of the adjacent street or the elevation of any adjacent developed lot as measured at the property line, a grading and drainage plan demonstrating compliance with the performance standards outlined in section 34-3104(b)(1) and (2) must be submitted with the application for building permit approval.

b. Prior to issuance of a certificate of occupancy, the building site must be graded in accordance with the grading and drainage plan and a final inspection must be approved by Lee County.

(Zoning Ord. 1993, § 202.07; Ord. No. 00-14, § 5, 6-27-00; Ord. No. 05-14 , § 6, 8-23-05)

Sec. 34-3105. Use of vehicles, truck trailers, or shipping containers for storage for non-agricultural purposes.

Except for a bonafide agricultural use located in an AG zoning district, vehicles, truck trailers, shipping containers, and other similar structures may not be used to store goods, produce or other commodities in any zoning district unless approved on a temporary basis in accordance with sections 34-3044 and 34-3050.

(Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-3106. Use of metal buildings in residential districts.

Effective December 12, 2000, the construction or use of buildings with an exterior surface of corrugated or galvanized steel or similar materials (excluding aluminum lap or clapboard-style siding), exceeding 240 square feet in total floor area or 12 feet in height above finished floor, for storage of merchandise, produce, or commodities, or for the parking of vehicles (garages) is prohibited, unless approved as a special exception, in the following residential districts: RS, RSA, RSC, TFC, TF, RM, RPD and the residential portions of an MPD.

(Ord. No. 01-03, § 5, 2-27-01)

Sec. 34-3107. Duplex and two-family attached driveways.

(a) Duplex and two-family attached units must be constructed with driveways (i.e. one for each unit) at least 20 feet wide and 20 feet long.

(b) The driveway must be constructed of concrete, asphalt or concrete pavers and comply with the provisions set forth in Lee County Administrative Code 11-12 pertaining to residential driveways.

(c) The driveway must be maintained for the life of the duplex or two-family attached dwelling in a safe and pothole free condition. Long term or permanent use of the driveway for activities other than vehicle parking and driving is prohibited.

(Ord. No. 06-10 , § 1, 6-12-06; Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-3108. Landscape for duplex and two-family attached units.

(a) Prior to issuance of a certificate of occupancy for duplex or two-family attached units, the following minimum landscaping must be installed:

(1) *Plants.*

a. *Trees.* Four native canopy trees per lot must be installed in landscape mulch beds. Two of these trees must be planted in front of the duplex or two-family attached structure. The trees must be a minimum of ten feet in height at time of planting with a two-inch caliper (measured at 12 inches above the ground) and a four-foot spread. Two cabbage palms (Sabal palmetto) grouped together with a minimum of ten feet of clear trunk may be used to replace one canopy tree. Adequate space must be provided between the building structure and the plantings to allow for future growth of the trees or palms. The trees must be installed to avoid impacts to the septic drainfields and any utilities (overhead or underground).

b. *Shrubs.* Thirty native shrubs per lot must be installed in landscape mulch beds. The shrubs must be a minimum of 24 inches in height at time of planting and a minimum of three-gallon

container size. The required shrubs must be planted in front and on the sides of the duplex structure.

c. *Plant quality.* Plant materials used must meet the standards for Florida No. 1 or better, as set forth in the "Grades and Standards for Nursery Plants", Parts I and II, Department of Agriculture and Consumer Services, State of Florida.

d. *Easements.* Plants must be installed outside of any easements, including but not limited to, public utility easements, drainage easements and access or road easements.

(2) *Mulch.* A minimum of a two-inch layer, measured after watering, of mulch or other recycled woody material must be placed and maintained around all newly installed trees, palms and shrubs. Each tree must have a ring of mulch no less than 36 inches beyond its trunk in all directions. The use of cypress mulch is strongly discouraged.

(3) *Irrigation.* To ensure landscape plant establishment, all required landscaping must be irrigated by the use of an automatic irrigation system with a controller set to conserve water. Moisture detection devices (i.e. rain sensor switch) must be installed in all automatic sprinkler systems to override the sprinkler activation mechanism during periods of increased rainfall. Irrigation systems must be designed to avoid impacts on existing native vegetation and eliminate the application of water to impervious areas, including roads, drives and other vehicle areas.

(4) *Certificate of occupancy.* The required plants, mulch and irrigation system must be installed and inspected prior to the issuance of a certificate of occupancy.

(5) *Maintenance.* The owner is responsible for maintaining the required landscaping in a healthy and vigorous condition at all times during the existence of the duplex or two-family attached structure. Tree and palm staking must be removed within 12 months after installation. All landscapes must be kept free of refuse, debris, disease, pests, weeds, and exotic pest plants (listed in LDC Section 10-420(h)).

(Ord. No. 06-10 , § 1, 6-12-06; Ord. No. 07-24 , § 7, 8-14-07)

Secs. 34-3109—34-3130. Reserved.

DIVISION 40. VISIBILITY

Sec. 34-3131. Vehicle visibility at intersections.

(a) *Corner lots.* On a corner lot, no obstruction shall be planted or erected which materially obstructs traffic visibility within the triangular space bounded by the two intersecting right-of-way lines and a straight line connecting the two points on the street right-of-way lines 25 feet from their intersection. No structural and planting masses shall be permitted between three feet and ten feet above the average grade of each street.

(b) *Driveways and parking lot entrances.* At intersections of driveways or parking lot entrances with a street right-of-way or easement, no obstruction shall be planted or erected which materially obstructs the driver's view of approaching traffic or pedestrians.

(Zoning Ord. 1993, § 202.22)

Secs. 34-3132—34-3150. Reserved.

DIVISION 41. WATER-ORIENTED ACTIVITIES

Sec. 34-3151. Water-oriented rental establishments; outdoors.

(a) *Applicability.* This section is to provide specific standards for those outdoor rental activities that are permitted to occur on property adjacent to the Gulf of Mexico and are not located in a building.

(b) *Permitted districts.* These activities are permitted only in commercial zoning districts that permit boat rentals and leasing or rental establishments, group I.

(c) *Location.* The activity or activities must be located on development properties, landward of the water body setback line for the Gulf of Mexico, unless approved by special exception and must be situated so that they are not readily visible from any public street right-of-way or easement. There may not be any indication from any street that this activity is occurring.

(d) *Setbacks.* The activity may be located no closer than ten feet to the side property lines and may not be permitted seaward of the minimum waterbody setback for the Gulf of Mexico as set forth in section 34-2194 without a special exception.

(e) *Time limitations.* The rental activity may not occur after sunset or before sunrise. Artificial lighting is prohibited.

(f) *Storage.* The equipment not being displayed for rent must be stored in an enclosed structure or removed from the property when not in use.

(g) *Signage.* Signage visible from any street right-of-way or street easement is prohibited. Only one on-site identification sign will be permitted. The sign must be located on the beach side of the building, facing the beach and may not exceed 25 square feet.

(h) *Parking.* A minimum of five parking spaces will be provided for the outdoor water-oriented rental establishments. Any other use of the property must comply with the off-street parking requirements set forth in article VII, division 26 of this chapter.

(Zoning Ord. 1993, § 202.20; Ord. No. 94-24, § 48, 8-31-94; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 11-08 , § 10, 8-9-11)

Sec. 34-3152. Non Water-Dependent Uses.

(a) *Applicability.* This section is to provide standards for properties depicted on the Water-Dependent Overlay Zones, Maps 12 in the Lee County Comprehensive Plan.

(b) *Permitted districts.* Non-water dependent uses may be permitted at existing commercial fishing, ports and docking sites and commercial marinas by special exception or through the planned development process.

(c) *Permitted uses.* A non-water dependent use is a use that can exist without water access. The following uses may be permitted by special exception or through the planned development process:

Bait and tackle shops.

Consumption on Premises in conjunction with a Restaurant—Group I, II or III.

EMS, fire or sheriff's station.

Fish Market, enclosed.

Food store—Group I limited to 500 square feet.

Gift and souvenir shop in conjunction with the existing commercial marina.

Offices, marine-oriented government.

Processing or packaging of agricultural or fish products.

Rental establishment—Group I in conjunction with the existing commercial marina.

Restaurants—Groups I, II and III that are ancillary and subordinate to the primary water dependent use.

(d) *Procedures for approval.* Applications for special exceptions or planned developments must be submitted on forms supplied by the County and must contain the required information outlined in section 34-201

(Ord. No. 11-08 , § 10, 8-9-11)

Secs. 34-3153—34-3170. Reserved.

DIVISION 42. "CLOTHING OPTIONAL" ESTABLISHMENTS FOR RESIDENTIAL DEVELOPMENTS

Sec. 34-3171. Applicability of division.

This division will apply to all businesses, clubs, recreational facilities, and residential developments wherein the wearing of clothes by members, visitors, residents, or guests is optional.

(Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-3172. Definitions.

The following words, terms and phrases will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clothing optional development means any business, club, residential development, or recreational facility, not otherwise defined as a sexually oriented business in accordance with Ordinance No. 95-18, wherein the wearing of clothes by members, visitors, residents, tenants, or guests is optional or prohibited as well as any residential development which permits members, visitors, tenants, guests, or residents to appear in a state of nudity in any common area.

Nudity means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state.

(Ord. No. 96-06, § 5, 3-20-96)

Sec. 34-3173. Special exception required.

Any clothing optional development must obtain a special exception and is subject to the following minimum regulations:

(1) Clothing optional developments which are not contained totally within an enclosed building, must be completely enclosed by a fence or wall not less than eight feet in height, which provides 100 percent opacity.

(2) Clothing optional developments may not be located closer than 1,000 feet, measured on a straight line from property line to property line, from any school (noncommercial), day care center (child), park, playground, place of worship, religious facility, or public recreation facility.

(3) Clothing optional developments may not be located closer than 500 feet, measured on a straight line from property line to property line, from any existing residence under separate ownership.

(Ord. No. 96-06, § 5, 3-20-96)

Secs. 34-3174—34-3200. Reserved.

ARTICLE VIII. NONCONFORMITIES [37]

DIVISION 1. - GENERALLY

DIVISION 2. - NONCONFORMING USE OF LAND

DIVISION 3. - NONCONFORMING BUILDINGS AND USE OF BUILDINGS

DIVISION 4. - NONCONFORMING LOTS

FOOTNOTE(S):

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Cross reference— Nonconforming signs generally, § 30-55; nonconforming signs on Captiva Island, § 30-251 et seq. (Back)

DIVISION 1. GENERALLY

Sec. 34-3201. Purpose of article.

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

(Zoning Ord. 1993, § 600)

Sec. 34-3202. Nonconforming use defined.

For purposes of this article, the term "nonconforming use" means a use or activity which was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, but which fails, by reason of such adoption, revision or amendment, to conform to the use requirements of the zoning district in which located.

(Zoning Ord. 1993, § 601)

Sec. 34-3203. Enlargement or expansion of nonconforming structure.

(a) *Structures nonconforming due to setbacks.* 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) *Structures nonconforming due to area.* 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 property development requirements 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) *Structures nonconforming due to height.* A structure which is lawful in all respects with the exception of height restrictions may be enlarged, provided that:

(1) The enlargement is otherwise permitted; and

(2) The enlargement complies with height and setback requirements.

(d) *Structures nonconforming due to bulk or lot coverage.* A structure which is lawful in all respects with the exception of bulk or lot coverage shall not be enlarged.

(Zoning Ord. 1993, § 604)

Sec. 34-3204. Mobile home and recreational vehicle unit replacements and roof repairs.

Any mobile home or recreational vehicle unit which has been lawfully placed on any rental lot within any rental park, regardless whether the park has been converted to either cooperative or condominium ownership prior to June 25, 1986, may be replaced by a unit of equal or smaller size upon proof that the placement of the unit was lawful. Such proof may consist of copies of official tax records, tag registrations or County permits, or may be by affidavit or any other competent evidence. Permits shall also be issued for reroofing and roof repairs for any existing mobile home or recreational vehicle located within a mobile home or recreational vehicle park, regardless of lot size.

(Zoning Ord. 1993, § 605)

Sec. 34-3205. Uses approved by special exception or permit.

(a) Uses approved by special exception or other permits which were issued or granted by the Board of County Commissioners before the effective date of the ordinance from which this chapter is derived, and which are no longer permitted in the zoning district where located, shall be considered to be nonconforming uses and subject to the provisions of this article.

(b) For existing Mining excavations approved by Special Exception, the provisions of section 12-121 control.

(Zoning Ord. 1993, § 606; Ord. No. 08-21 , § 3, 9-9-08)

Sec. 34-3206. Nonconformities created by eminent domain proceedings or voluntary donation of land for public purpose.

(1) A structure, lot, tract, or parcel of land that has been or will be rendered non conforming as to area, width, depth, setbacks, lot coverage or parking 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 after October 15, 1992, or by the voluntary donation of land to a governmental authority will be deemed conforming under the terms of this chapter.

(2) 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 section 34-268

(Zoning Ord. 1993, § 607; Ord. No. 95-07, § 33, 5-17-95; Ord. No. 06-25 , § 2, 11-28-06; Ord. No. 13-10 , § 10, 5-28-13)

Secs. 34-3207—34-3220. Reserved.

DIVISION 2. NONCONFORMING USE OF LAND

Sec. 34-3221. Generally.

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

(Zoning Ord. 1993, § 601.01)

Sec. 34-3222. Enlargement or replacement.

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

(Zoning Ord. 1993, § 601.01(A); Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-3223. Discontinuance.

Land used in whole or in part for a nonconforming use, which use is subsequently discontinued for a continuous period of six calendar months, may 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.

A nonconforming use, that exists on property voluntarily made the subject of a zoning action, which is not specifically permitted under the zoning approval requested and ultimately granted becomes illegal as a result of the zoning approval. A use deemed illegal under this section must be ceased and discontinued immediately upon approval of the zoning request.

(Zoning Ord. 1993, § 601.01(B); Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-3224. Erection of additional structures.

No additional structure that does not conform to the requirements of this chapter may be erected in connection with a nonconforming use of land.

(Zoning Ord. 1993, § 601.01(C); Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-3225. Non-conforming parking lots on Gasparilla Island

Any RS-1 (residential single-family) zoned property on Gasparilla Island that has been used as an accessory parking lot since on or before January 1, 1980, to support water dependent uses on the same premises, with no intervening street right-of-way, is deemed to be a non-conforming use as defined in this chapter.

(Ord. No. 11-01 , § 5, 3-8-11)

Secs. 34-3226—34-3240. Reserved.

DIVISION 3. NONCONFORMING BUILDINGS AND USE OF BUILDINGS

Sec. 34-3241. Nonconforming buildings and structures.

(a) For purposes of this division, the term "nonconforming building or structure" means a building or structure which was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, but which fails, by reason of such adoption, revision 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.

(b) A nonconforming building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) Except as provided in section 34-3203, no such building or structure may be enlarged, altered or repaired in a way which, in the opinion of the Department Director or his designee, increases its nonconformity, but 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 Department 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 must also conform to setback requirements and all other requirements for the zoning district in which the property is located.

(2) Except as provided in this section:

a. 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 may only be reconstructed at, but not to 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 local regulations and all the other provisions of this chapter. Any such alteration, demolition, reconstruction or rebuilding must be recorded with the Division of

Development Services for the purpose of establishing the value upon which subsequent alterations, demolition, reconstructions or rehabilitations will be based.

b. 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, local building and life safety regulations, and other local regulations that do not preclude reconstruction otherwise intended by the Lee Plan and Lee County Ordinance No. 95-14, as amended from time to time.

(3) A lawfully existing single-family residence 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.

(4) 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 will be reviewed by the Director of the Division of Development Services to determine applicability under this section, or whether such repairs will be considered under subsection (b)(2)a. of this section. For purposes of this section, a change in the roofline from a flat roof to a peaked roof constitutes an alteration as indicated in subsection (b)(2)a. of this section, provided that there is no increase in floor area.

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

(6) 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 County official, but which the owner wishes to repair, restore or rebuild, must be repaired, restored or rebuilt in conformance with the provisions of this chapter. Excluded from this provision are buildings that have been designated as historic by chapter 22

(7) Zoning applications that include property upon which a nonconforming structure exists at the time of the zoning application, must include a sworn statement from the property owner regarding the owner's intent with respect to bringing the nonconforming structure into compliance in the event the zoning request is granted. A finding regarding the nonconforming structure must be included in the zoning resolution or decision.

(Zoning Ord. 1993, § 603; Ord. No. 98-28, § 5, 12-8-98; Ord. No. 07-24 , § 7, 8-14-07)

Sec. 34-3242. Nonconforming uses of buildings.

A nonconforming use of a building, or building and land in combination, may be continued subject to the following provisions:

(1) *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.

(2) *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 district in which it is located. This subsection shall not apply to seasonal agricultural uses.

(3) *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 district in which located.

(Zoning Ord. 1993, § 601.02)

Secs. 34-3243—34-3270. Reserved.

DIVISION 4. NONCONFORMING LOTS

Sec. 34-3271. Nonconforming lot defined.

For purposes of this division, the term "nonconforming or substandard lot" means a lot of which the area, dimension or location was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, and which fails by reason of such adoption, revision or amendment to conform to the requirements for the zoning district in which the lot is located.

(Zoning Ord. 1993, § 602)

Sec. 34-3272. Lot of record defined; general development standards.

For the purposes of this division only, a lot of record is a lot which conformed to the minimum lot size for the use permitted for that lot in its zoning district at such time that the lot was created, but which lot fails to conform to the minimum lot size requirements which are established by this chapter.

(1) For the purpose of this division, a lot is created on such date that one of the following conditions occur:

a. The date that a deed for the lot is lawfully recorded in the public records of the County;

b. The date that a subdivision plat has been lawfully recorded in the public records of the County, if the lot is a part of the subdivision;

c. The date that a site plan for a development was approved by the Board of County Commissioners pursuant to resolution, as long as the development subsequently recorded a subdivision plat that has been approved by the Board of County Commissioners in the public records of the County, if the lot is a part of the subdivision; or

d. In the case of mobile home or recreational vehicle parks, the date when the park was approved by resolution for rezoning or a special permit for such use; provided, however, that the park subsequently obtained, on or before June 3, 1987, approval by the Board of County Commissioners of a site plan which identifies individual sites within the park and the sites meet the minimum lot size and setbacks consistent with the zoning regulations set forth in section 34-3274. Any park which was lawfully established prior to the effective date of the County's 1962 zoning regulations will be governed by the requirements of section 34-3274(1) as long as the park satisfies the remaining minimum documentary requirements and Board of County Commissioners approval set forth in this provision. Any park approved by the Board of Commissioners under Ordinance 86-36 may request to amend the approved site plan by the combination of lots creating larger lots provided the approved density is not increased. The park must obtain an administrative approval by the requirements set forth in section 34-145. For purposes of this subsection, the term "site plan" means any one or more of the following, whichever is applicable:

1. A sealed and signed survey showing individual lots by both course and distance;
2. An unrecorded subdivision plat prepared and certified by a professional engineer or surveyor;
3. A condominium plot plan prepared and recorded pursuant to F.S. ch. 718;
4. A park plan prepared and submitted with a prospectus pursuant to F.S. ch. 723, provided that the prospectus has been approved by the State Department of Business Regulation and is of sufficient accuracy, size and legibility to enable the Director to Administer this chapter;
5. A site plan approved in accordance with County Administrative Code Policy F-0015;
6. A site plan approved pursuant to a preliminary or final development order;
7. A rectified aerial with a minimum scale of one inch equals 100 feet and which has each site delineated and identified by its number and shows individual lot measurements with a reasonable degree of accuracy; or
8. Any other document which shows lot lines with enough specificity to enable the Director to apply the provisions of this chapter with respect to minimum lot size, lot widths and setback requirements.

Any of the above documents that have not been formally approved by the Board of County Commissioners will not be sufficient to satisfy the provisions of this subsection. The burden of proof that a document has received Board of County Commissioners approval is that of the owner.

(2) The remaining lot after condemnation shall be deemed a lot of record in accordance with section 34-3206

(3) Lots of record may be developed subject to the following provisions:

a. All other regulations of this chapter must be met.

b. No division of any parcel may be permitted which creates a lot with width, depth or area below the minimum requirements stated in this chapter, provided that abutting lots of record may be combined and redivided to create larger dimension lots as long as such recombination includes all parts of all lots, existing allowable density is not increased, and all setback requirements are met.

c. For mobile home or recreational vehicle lots of record, the following will also apply:

1. All mobile homes, recreational vehicles, or conventional single-family residences, including any attachments, must be placed at least five feet from any body of water or waterway.

2. All mobile homes, recreational vehicles, or conventional single-family residences, must have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each unit will be permitted to have eaves which encroach not more than one foot into the ten-foot separation.

3. Sites or lots located within a park may not be reconfigured or reduced in dimension so as to increase the density for which the park was originally created.

(4) The burden of proof that the lot is legally nonconforming, and lawfully existed at the specified date, shall be with the owner.

(Zoning Ord. 1993, § 602.01; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 11-08 , § 10, 8-9-11; Ord. No. 14-13 , § 7, 6-17-14)

Sec. 34-3273. Construction of single-family residence.

(a) A single-family residence may be constructed on a nonconforming lot of record that:

(1) Does not comply with the density requirements of the Lee Plan, provided the owner receives a favorable single-family residence determination in accordance with the Lee Plan.

Such nonconforming lots are exempt from the minimum lot area and minimum lot dimension requirements of this chapter, and it will not be necessary to obtain a variance from those requirements.

(2) Does comply with the density requirements of the Lee Plan, as long as the lot:

a. Was lawfully created prior to June 1962 and the following conditions are met:

i. Lots existing in the AG-2 or AG-3 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.

ii. Lots existing in any other zoning district which permits the construction of a 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.

b. Is part of a plat approved by the Board of County Commissioners and lawfully recorded in the public records of the County after June 1962.

(b) The use of a nonconforming lot of record for a residential use other than a single-family dwelling unit is prohibited except in compliance with the lot width, lot depth, lot area, and density requirements for the zoning district.

(c) Neither a guest house nor servants' quarters is permitted on a single lot of record less than 7,500 square feet in area, or which is occupied by a dwelling unit or units other than one single-family residence.

(d) Minimum setbacks for structures permitted under subsections (1) or (2) above, are as follows:

(1) Street setbacks must be in accordance with section 34-2192

(2) Side setbacks must be ten percent of lot width, or five feet, whichever is greater.

(3) Rear setbacks must be one-fourth of the lot depth but do not need to be greater than 20 feet.

(Zoning Ord. 1993, § 602.02; Ord. No. 96-06, § 5, 3-20-96; Ord. No. 96-17, § 5, 9-18-96; Ord. No. 00-14, § 5, 6-27-00)

Sec. 34-3274. Placement of mobile home or recreational vehicle on lot.

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 section 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 the County's 1962 zoning regulations:

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 County's 1962 zoning regulations but prior to the effective date of the County's 1968 zoning regulations:

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 records created after the effective date of the County's 1968 zoning regulations but prior to the effective date of the County's 1973 zoning regulations:

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. Minimum setbacks for both mobile homes and recreational vehicles shall be:

1. From a street right-of-way, ten feet;

2. From a rear lot line, ten feet;

3. From side lot lines, five feet or a minimum of ten feet between units; and

4. From the park perimeter, 15 feet.

(4) For lots of record created after the effective date of the County's 1973 zoning regulations but prior to the effective date of the County's 1978 zoning regulations:

a. Minimum lot areas shall be:

1. For mobile homes on central sewer, 4,000 square feet; and

2. For recreational vehicles on approved septic systems, 1,200 square feet.

b. Minimum setbacks for both mobile homes and recreational vehicles shall be:

1. From a street right-of-way, ten feet;

2. From a rear lot line, ten feet;

3. From side lot lines, five feet or a minimum of ten feet between units; and

4. From the park perimeter, 15 feet.

(5) For lots of record created after the effective date of the County's 1978 zoning regulations but prior to the effective date of the ordinance from which this chapter is derived:

a. Minimum lot areas shall be:

1. In the MH-1 district, 7,500 square feet;
2. In the MH-2 district, 5,000 square feet;
3. In the MH-3 district, 21,000 square feet;
4. In the MH-4 district, 40,000 square feet; and
5. In the RV district, 2,000 square feet.

b. Minimum setbacks shall be as set forth in the 1978 zoning regulations.

(Zoning Ord. 1993, § 602.03)

Sec. 34-3275. Commercial or industrial use.

A commercial or industrial use of land may be commenced on a single nonconforming lot of record lawfully existing on the effective date of the ordinance from which this chapter is derived, subject to the specific limitations and regulations set forth in this section; provided, however, that the lot is zoned for such use. However, the lot must be appropriately located and adequate in size and dimension to accommodate the use contemplated and all spatial requirements, i.e., proposed structures, setbacks, parking, access, surface water management facilities and, where required, buffers.

(1) If the lot was lawfully created prior to June 1962, it must be at least 4,000 square feet in area and have a minimum width of 40 feet and a minimum depth of 75 feet. Minimum setbacks for structures are as follows:

a. Street setbacks shall be as set forth in the regulations for the applicable zoning district.

b. Side setbacks shall be 20 percent of lot width, or 15 feet, whichever is less.

c. Rear setbacks shall be one-half of the lot depth less the street setback, or five feet, whichever is greater, but not more than 25 feet.

(2) If the lot was created between June 1962 and January 5, 1978, and was lawfully existing on February 4, 1978, it must be at least 7,500 square feet in area and have a minimum width of 75 feet and a minimum depth of 100 feet. Minimum setbacks for structures are as follows:

a. Street setbacks shall be as set forth in the regulations for the applicable zoning district.

b. Side setbacks shall be 15 feet.

c. Rear setbacks shall be one-half the lot depth less the street setback, or five feet, whichever is greater, but not more than 25 feet.

(3) Nothing in this section shall be construed to prohibit the rezoning of nonconforming lots of record into commercial or industrial districts where the public interest is served by such a rezoning.

(Zoning Ord. 1993, § 602.04)

APPENDIX A RECOMMENDED NATIVE PLANTS FOR LANDSCAPE USE WITHIN THE SIX MILE CYPRESS WATERSHED BASIN

The list of recommended native plants for landscape use within the Six Mile Cypress Watershed Basin is as follows:

Trees native to the Six Mile Watershed:

O	red maple (Acer rubrum)
O	pond apple (Annona glabra)*
O	swamp dogwood (Cornus foemina)
XX	persimmon (Diospyros virqiniana)
O	pop ash (Fraxinus caroliniana)
X	dahoon holly (Ilex cassine)
X	swampbay (Persea palustris)
XX	South Florida slash pine (Pinus elliottii var. densa)
XX	laurel oak (Quercus laurifolia)
XX	water oak (Quercus nigra)
XX	live oak (Quercus virqiniana)
XX	sabal or cabbage palm (Sabal palmetto)
O	coastal plain willow (Salix caroliniana)
O	pond cypress (Taxodium ascendens)
XX	bald cypress (Taxodium distichum)
O	Florida elm (Ulmus americana var. floridana)

APPENDIX A RECOMMENDED NATIVE PLANTS FOR LANDSCAPE USE WITHIN THE SIX MILE CYPRESS WATERSHED BASIN

Shrubs native to the Six Mile Watershed:

XX	groundsel tree (Baccharis halimifolia)
XX	tar-flower (Befaria racemosa)
O	buckthorn, saffron plum (Bumelia celastrina)
XX	American beautyberry (Callicarpa americana)
O	buttonbush (Cephalanthus occidentalis)
O	coral bean, cherokee bean (Erythrina herbacea)*
O	St. John's wort (Hypericum spp.)
X	gallberry (Ilex glabra)
XX	rusty lyonia (Lyonia ferruginea)
O	fetterbush (Lyonia lucida)
XX	wax myrtle (Myrica cerifera)
XX	rapenea, myrsine (Myrsine guianensis)
X	wild coffee (Psychotria nervosa)*
O	softleaf coffee (Psychotria sulzneri)*
O	winged sumac (Rhus copallina)
XX	saw palmetto (Serenoa repens)

Ferns native to the Six Mile Watershed:

APPENDIX A RECOMMENDED NATIVE PLANTS FOR LANDSCAPE USE WITHIN THE SIX MILE CYPRESS WATERSHED BASIN

leather fern	(Acrostichum danaeifolium)*
swamp fern	(Blechnum serrulatum)
strap fern	(Campyloneurum phyllitidis)
Boston fern	(Nephrolepis spp.)
cinnamon fern	(Osmunda cinnamomea)
royal fern	(Osmunda regalis)
whisk fern	(Psilotum nudum)
bracken fern	(Pteridium aquilinum)
shield fern	(Thelypteris spp.)

Groundcover plants and vines native to the Six Mile Watershed:

threeawn grass	(Aristida stricta)
butterfly-weed	(Asclepias tuberosa)
pawpaw	(Asimina reticulata)
asters	(Aster spp.)
pine-pink	(Bletia purpurea)
yellow canna	(Canna flaccida)
tickseed	(Coreopsis leavenworthii)
string lily, swamp lily	(Crinum Cellulosa)

spikerush	(Eleocharis cellulosa)
prairie iris, blue flag	(Iris hexagona)
rush	(Juncus spp.)
red root	(Lachnanthes caroliniana)
pine lily	(Lilium catesbaei)
white water-lily	(Nymphaea odorata)
maidencane	(Panicum hemitomon)
Virginia creeper	(Parthenocissus quinquefolia)
pickerelweed	(Pontederia cordata)
meadow beauty	(Rhexia spp.)
black-eyed susan	(Rudbeckia hirta)
duck potato, arrowleaf	(Sagittaria lanceolata)
bulrush	(Scirpus americanus)
soft-stem bulrush	(Scirpus validus)
blue-eyed grass	(Sisyrinchium spp.)
greenbriar	(Smilax spp.)
sand cordgrass	(Spartina bakerii)
Fakahatchee grass	(Tripsacum dactyloides)
Florida gamagrass	(Tripsacum floridanum)

wild grape	(Vitis spp.)
yellow-eyed grass	(Xyris-spp.)
knot grass	(Paspalum spp.)
muhly grass	(Muhlenbergia capillaris)

* = Represents cold sensitivity

Xeriscape legend for trees and shrubs:

XX = Very drought tolerant

X = Moderately drought tolerant

O = Unrated

Prepared by Division of Environmental Sciences staff for the Six Mile Cypress Basin Review Board (11/90).

APPENDIX B GULF OF MEXICO BEACH DESCRIPTION

GULF OF MEXICO BEACH DESCRIPTION

GASPARILLA ISLAND.

Those beaches westerly from the Lee County line on the north to a point being the southern most point of the island bearing due south provided, however, that said northern most and southern most points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

CAYO COSTA ISLAND (LA COSTA)

Those beaches westerly from that point being the northern most point of the island bearing due north to that point being the southern most point of the island bearing due south provided, however, that said northern most and southern most points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

THOSE UNNAMED ISLANDS IN THE GULF OF MEXICO OFF THE WESTERN COAST OF CAYO COSTA ISLAND.

All beaches of each island.

NORTH CAPTIVA ISLAND.

Those beaches westerly from that point being the northern most point of the island bearing due north to that point being the southern most point of the island bearing due south provided, however, that said northern most and southern most points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

CAPTIVA ISLAND.

Those beaches westerly from that point being the northern most point of the island bearing due north to that point being the southern most point of the island bearing due south provided, however, that said northern most and southern most points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

ESTERO ISLAND.

Those beaches westerly from that point being the northern most point of the island bearing due north to that point being the southern most point of the island bearing due south provided, however, that said northern most and southern most points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

LOVER'S KEY GROUP OF ISLANDS INCLUDING BLACK ISLAND.

Those beaches westerly from that point beginning at the northern most point bearing due north of the western most lands of the island group fronting on the Gulf of Mexico to a point being the southern most point of the island group bearing due south provided, however, that said northern and southern most point that are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

BIG HICKORY ISLAND.

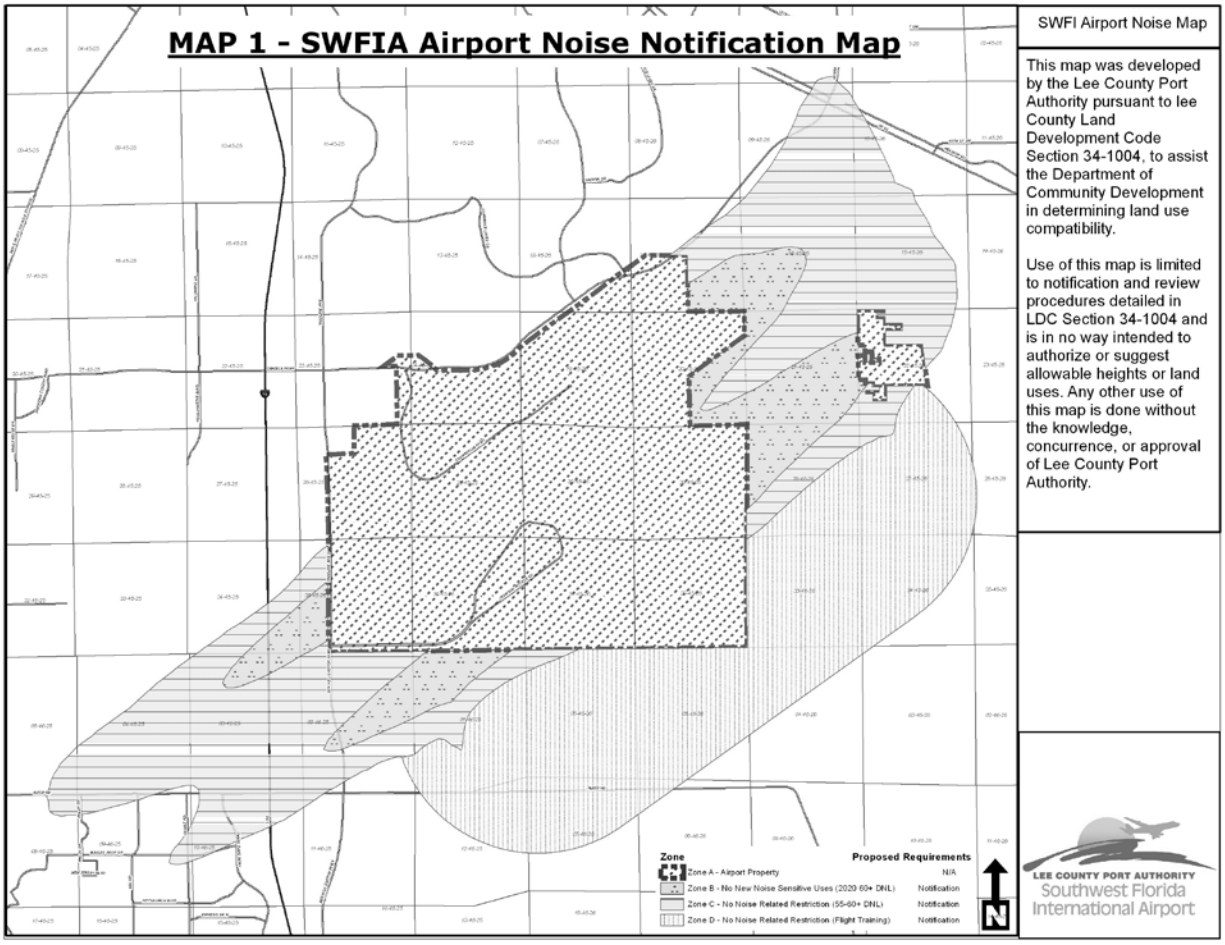
Those beaches westerly from that point being the northern most point of the island bearing due north to that point of the island in Big Hickory Pass being the southern most point bearing due south provided, however, that said northern most and southern most points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

LITTLE HICKORY ISLAND (BONITA BEACH).

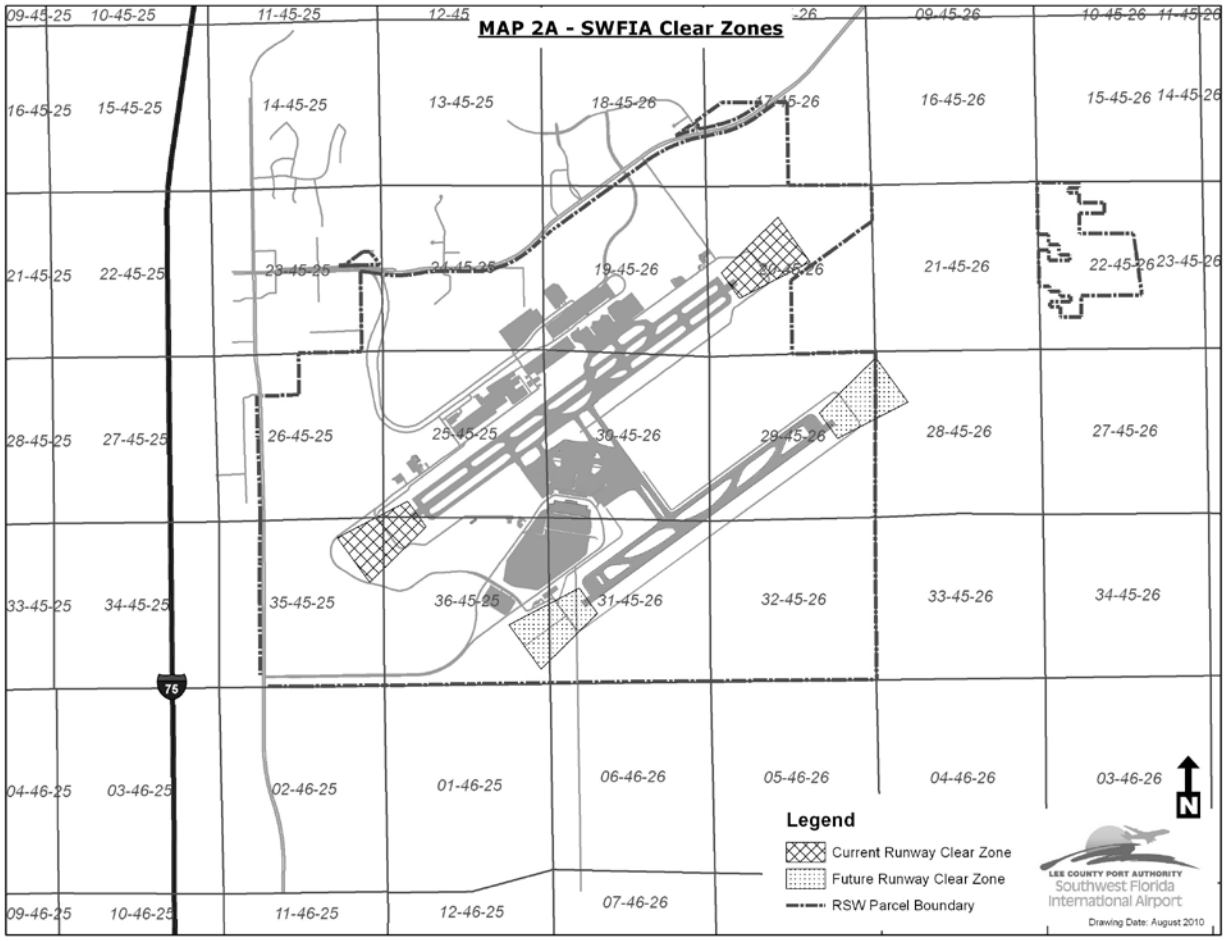
APPENDIX B GULF OF MEXICO BEACH DESCRIPTION

Those beaches westerly from that point being the northern most point of the island bearing due north to that point being the Lee County line on the south provided, however, that the said northern most and southern most points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

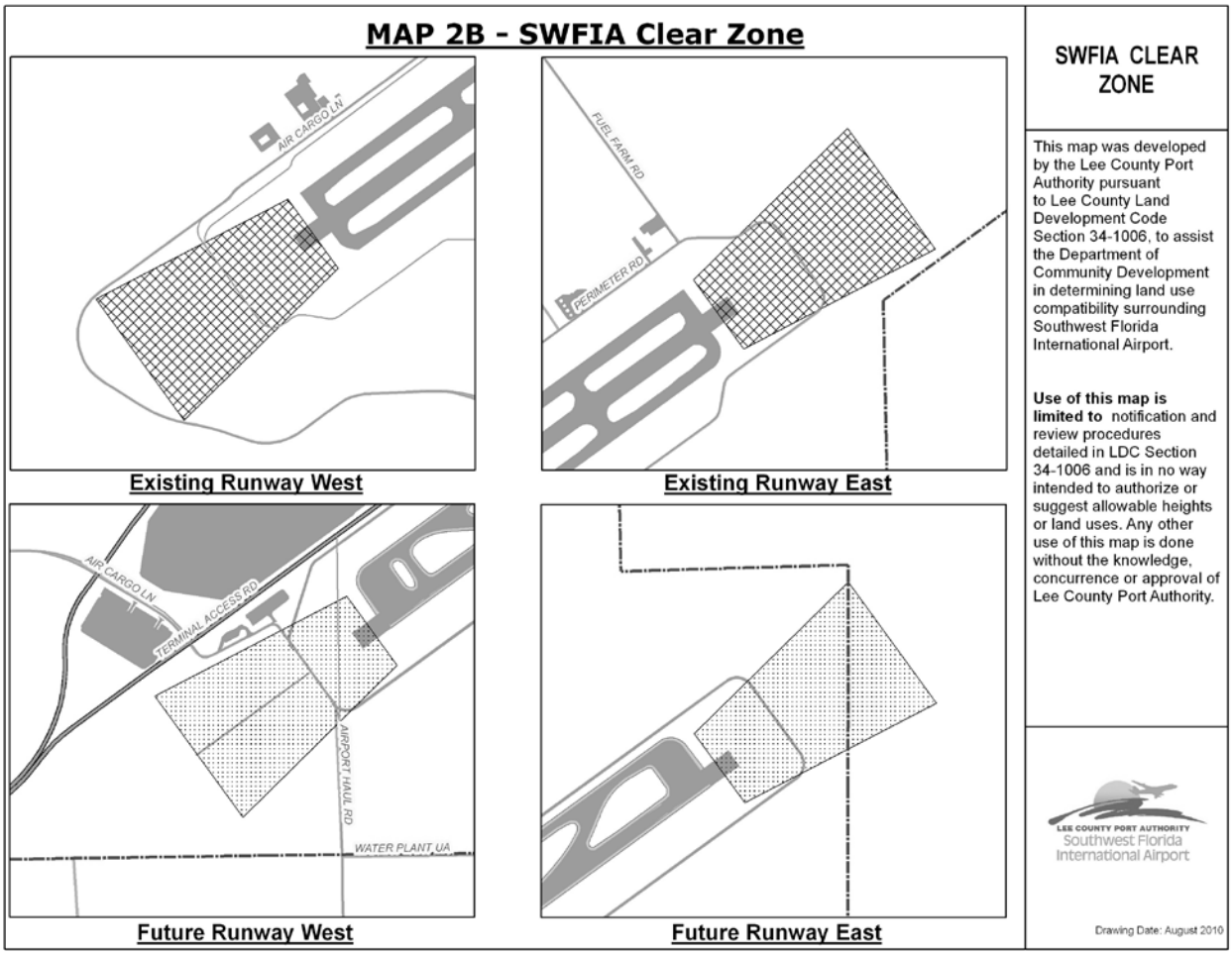
APPENDIX C AIRPORT NOISE ZONES [1]



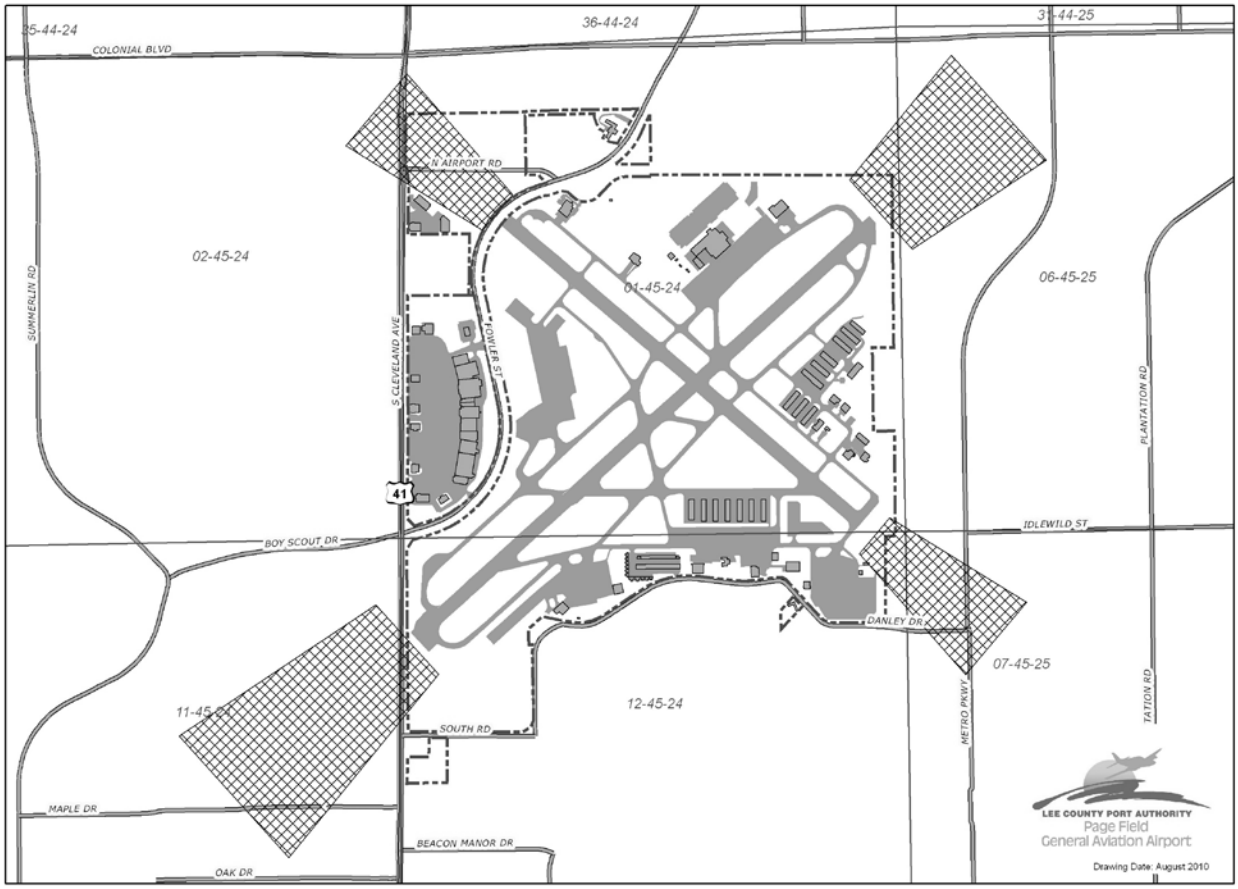
APPENDIX C AIRPORT NOISE ZONES



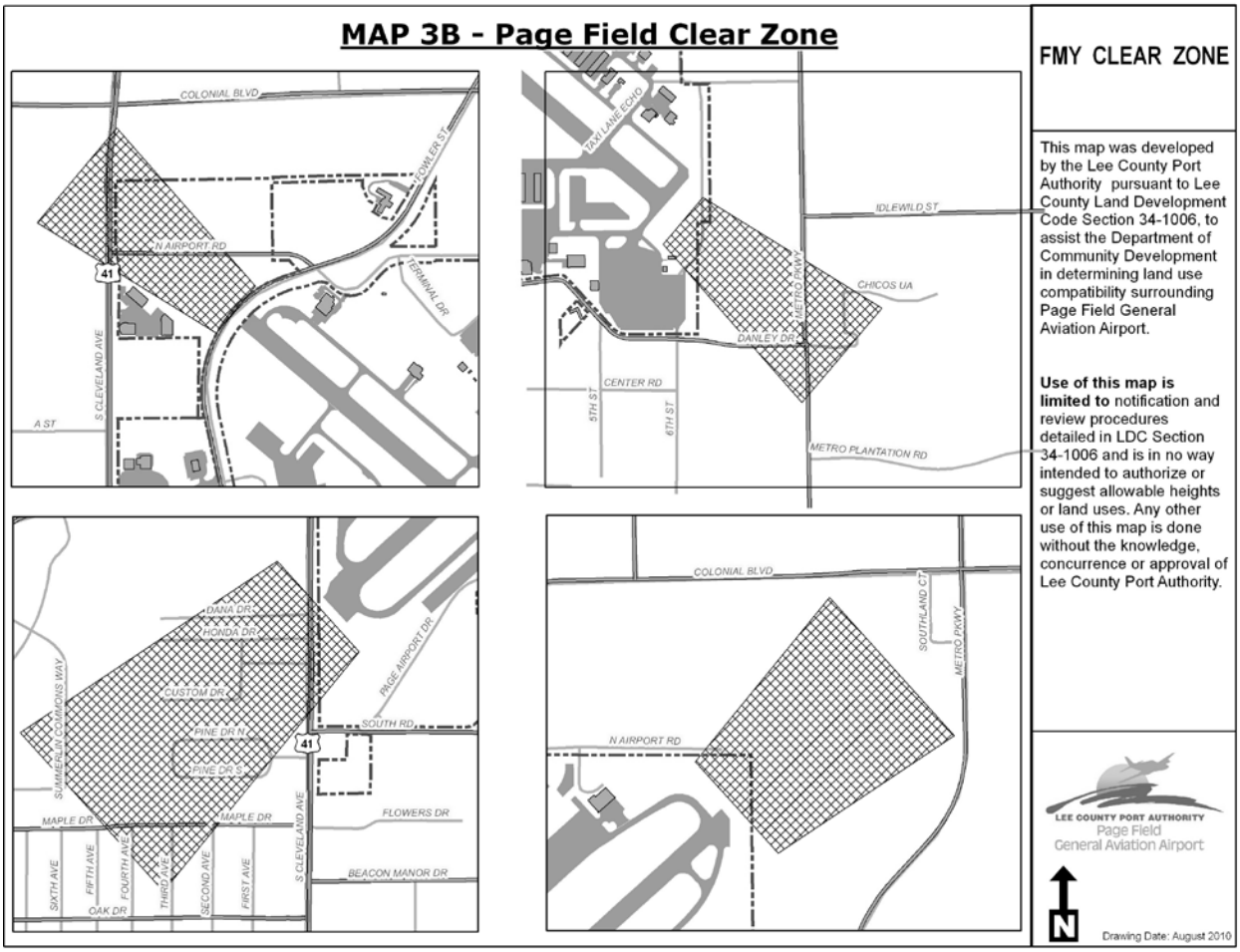
APPENDIX C AIRPORT NOISE ZONES



MAP 3A - Page Field Clear Zone



APPENDIX C AIRPORT NOISE ZONES



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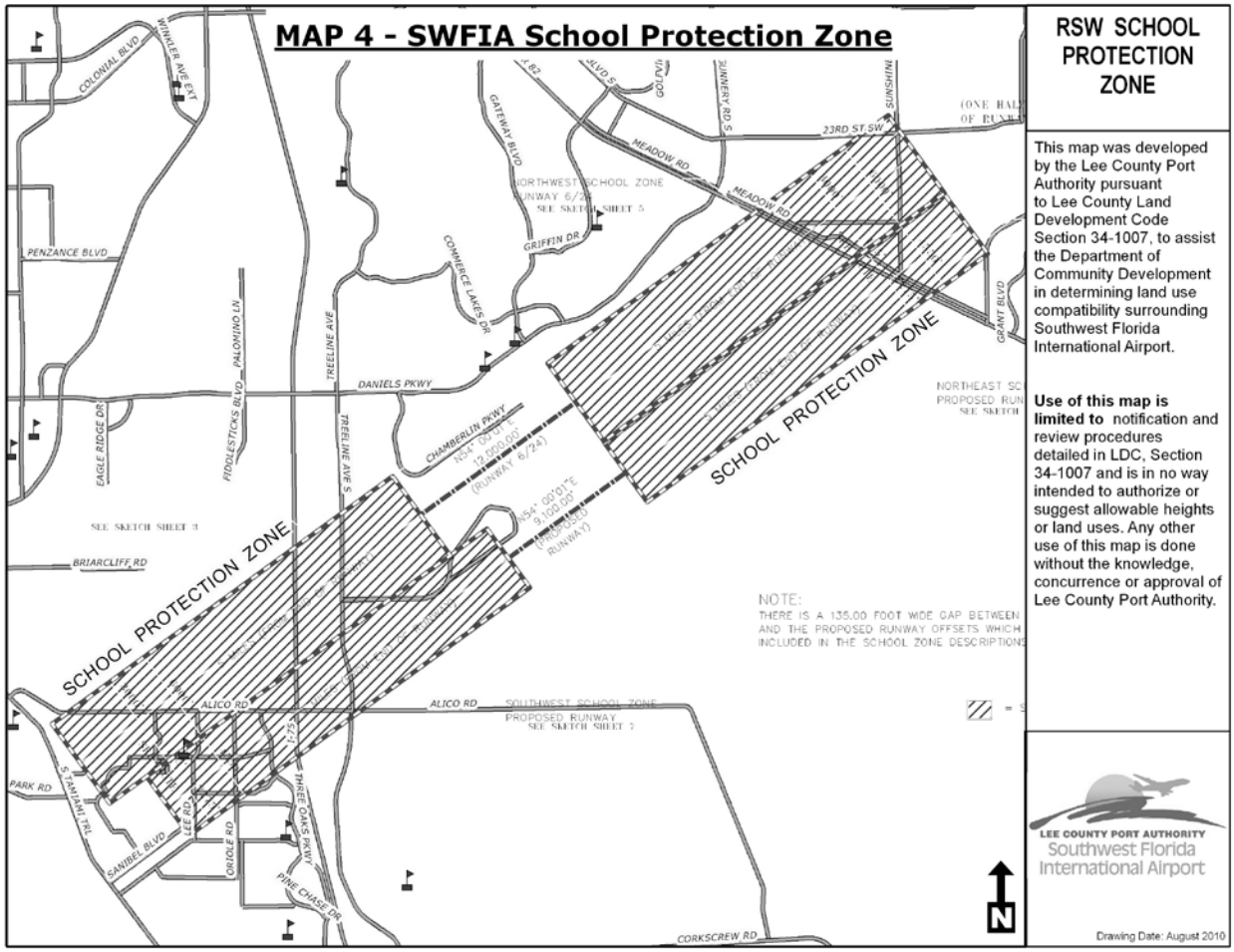

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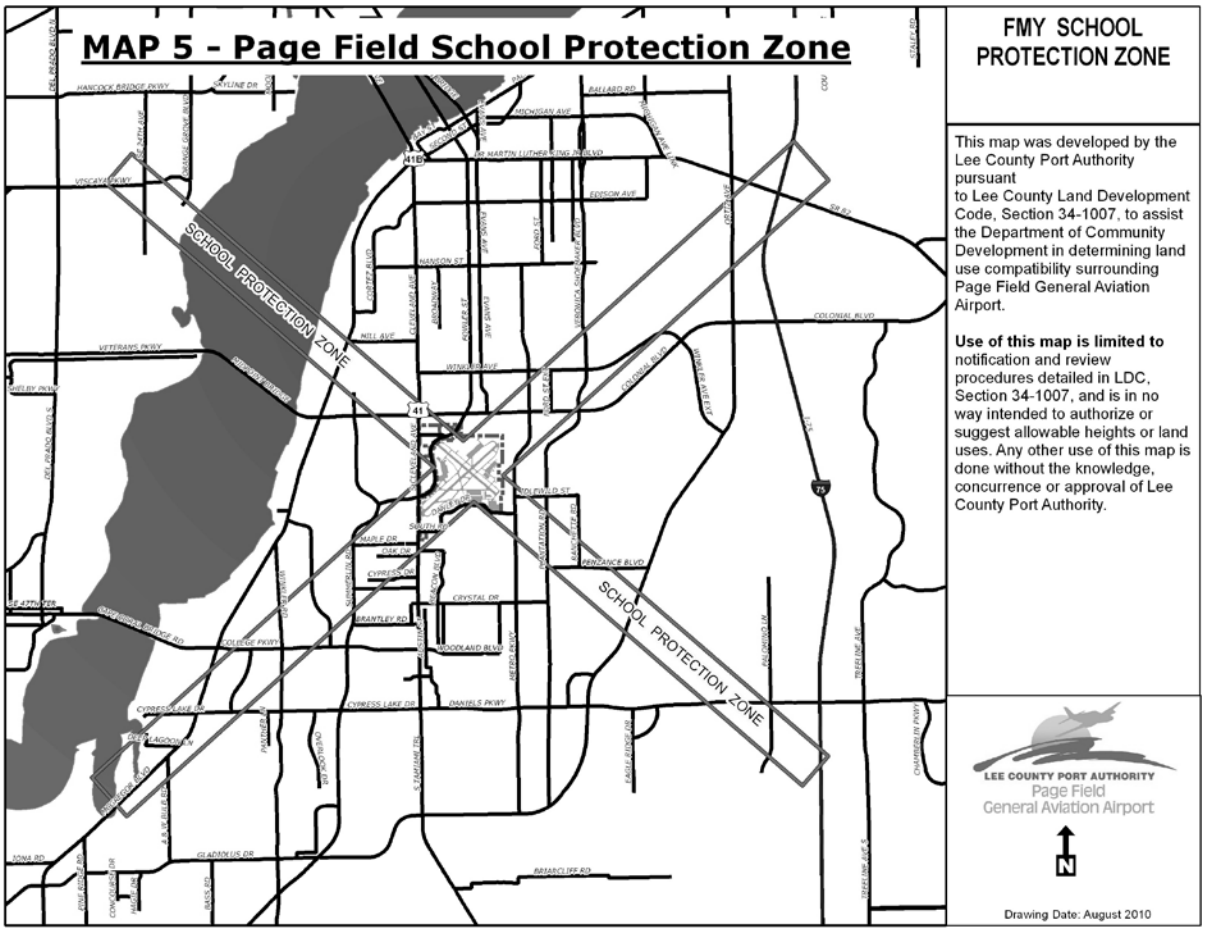

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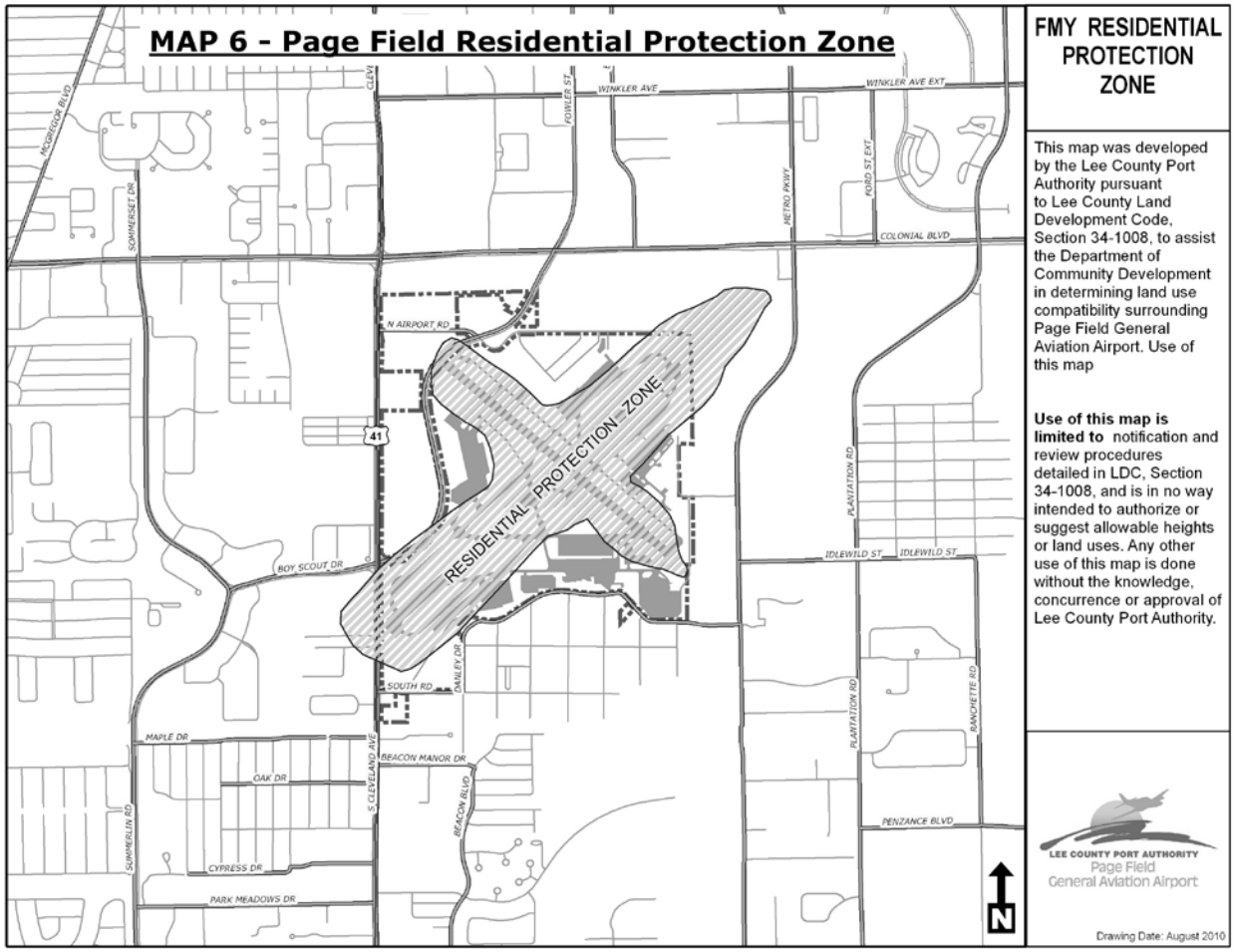

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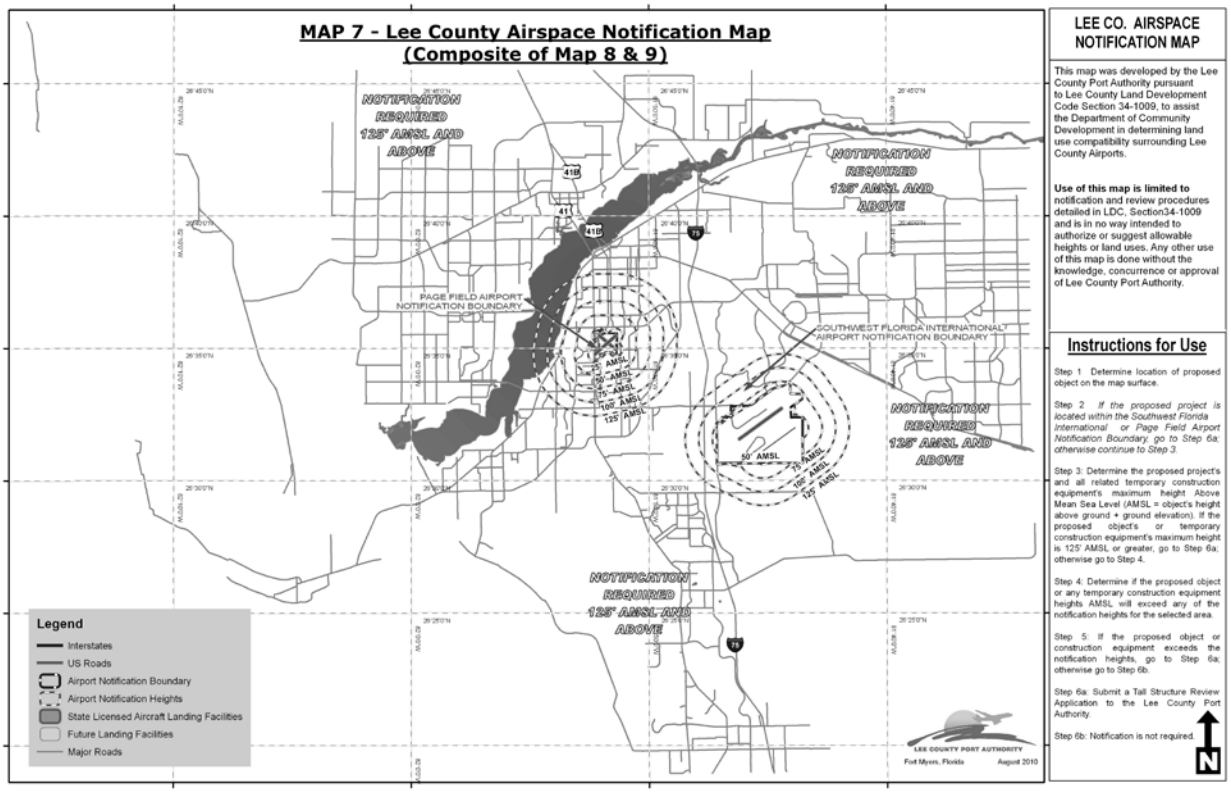
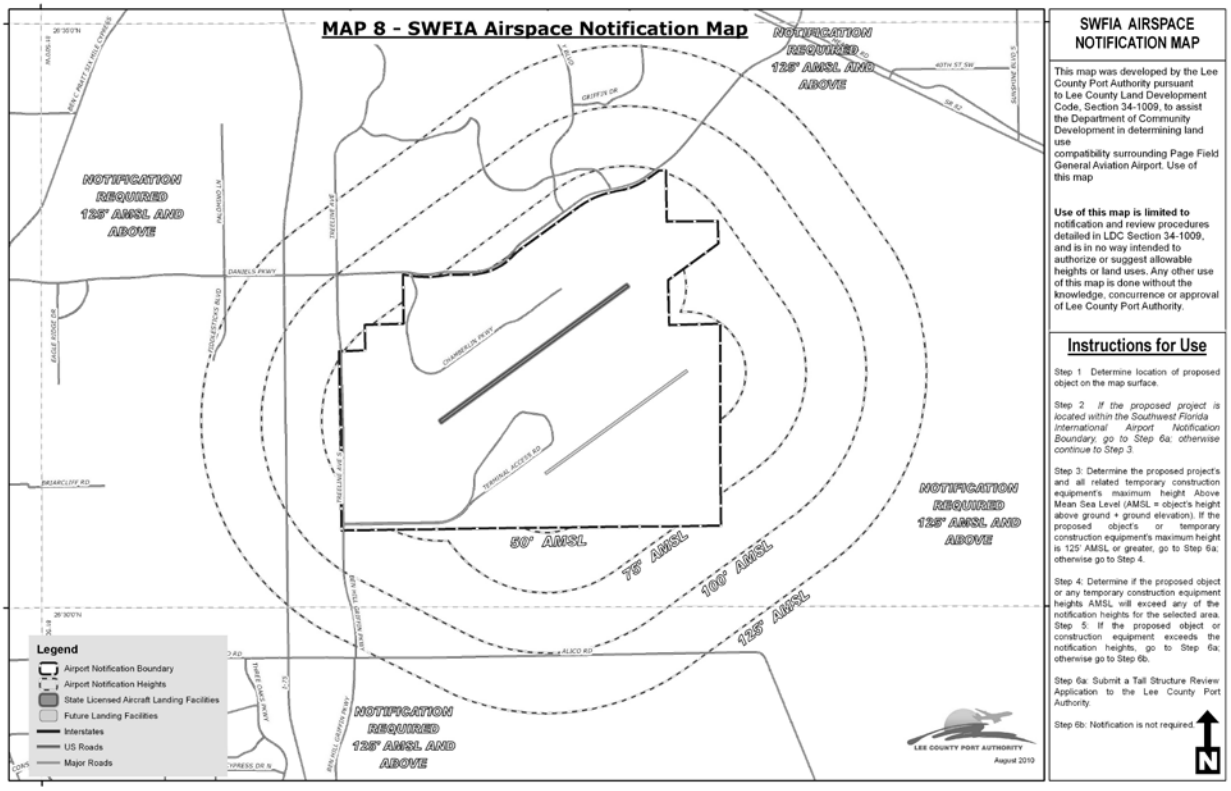
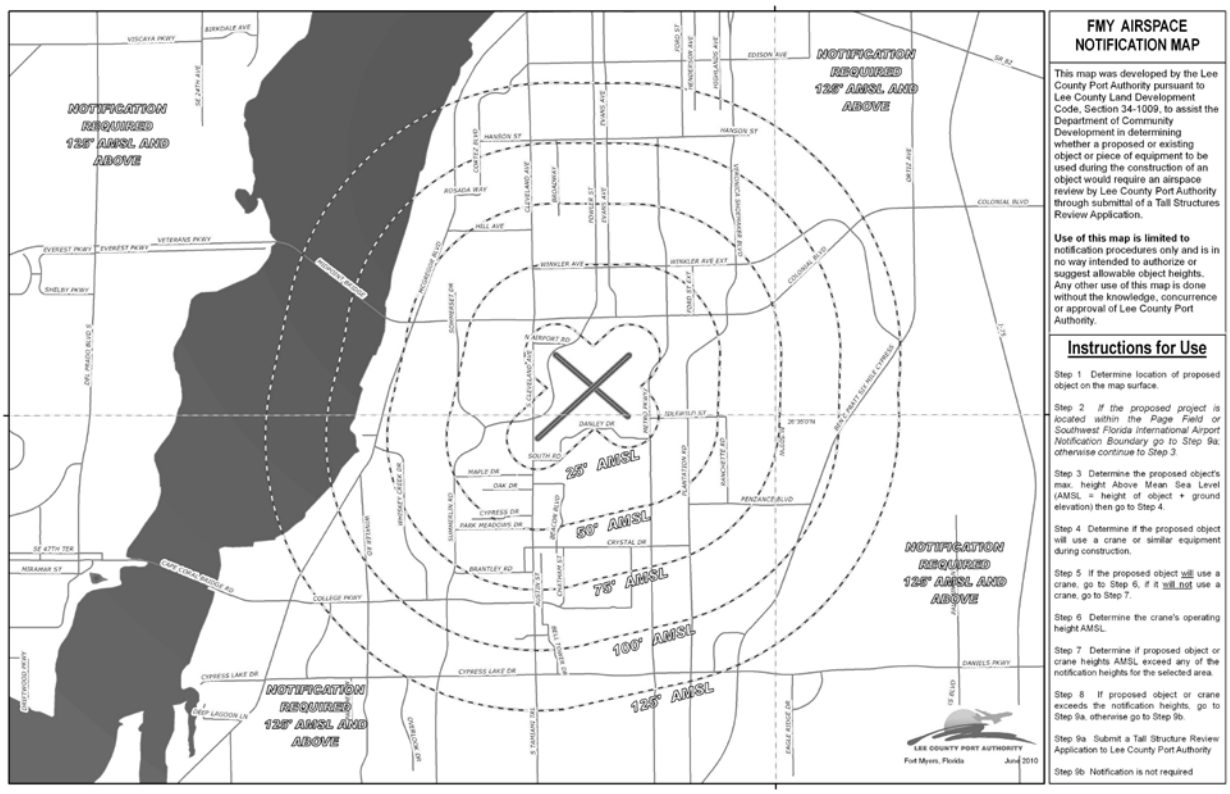




APPENDIX C AIRPORT NOISE ZONES



FMY AIRSPACE NOTIFICATION MAP

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section 34-1009, to assist the Department of Community Development in determining whether a proposed or existing object or piece of equipment to be used during the construction of an object would require an airspace review by Lee County Port Authority through submittal of a Tall Structures Review Application.

Use of this map is limited to notification procedures only and is in no way intended to authorize or suggest allowable object heights. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

Instructions for Use

Step 1 Determine location of proposed object on the map surface.

Step 2 *If the proposed project is located within the Page Field or Southwest Florida International Airport Notification Boundary go to Step 9a; otherwise continue to Step 3.*

Step 3 Determine the proposed object's max. height Above Mean Sea Level (AMSL = height of object + ground elevation) then go to Step 4.

Step 4 Determine if the proposed object will use a crane or similar equipment during construction.

Step 5 If the proposed object will use a crane, go to Step 6, if it will not use a crane, go to Step 7.

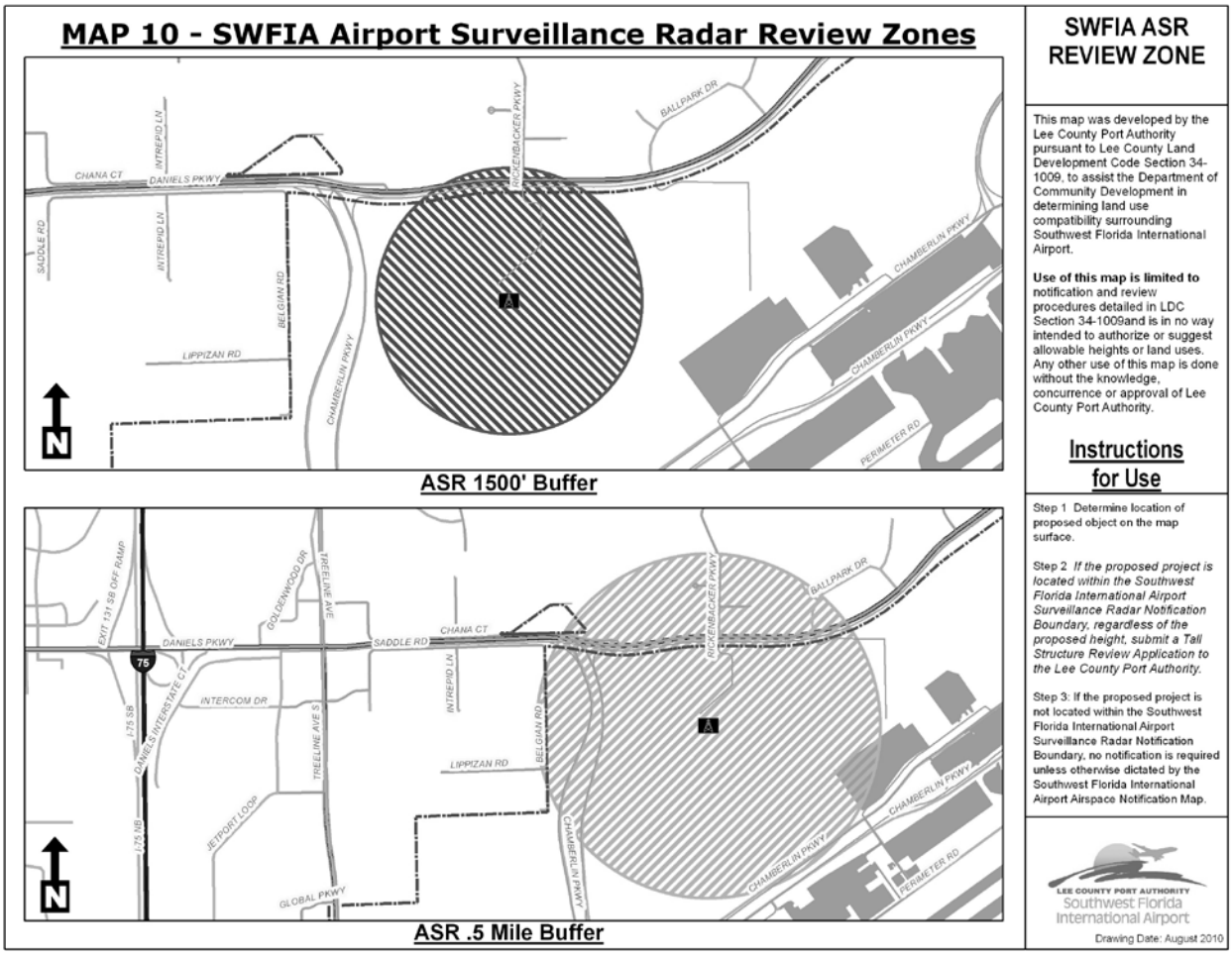
Step 6 Determine the crane's operating height AMSL.

Step 7 Determine if proposed object or crane heights AMSL exceed any of the notification heights for the selected area.

Step 8 If proposed object or crane exceeds the notification heights, go to Step 9a, otherwise go to Step 9b.

Step 9a Submit a Tall Structure Review Application to Lee County Port Authority

Step 9b Notification is not required



(Ord. No. 05-15 , § 2, 8-23-05; Ord. No. 11-08 , § 11, 8-9-11)

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Lee County Land Development Code Appendix C is hereby amended to repeal Ord. No. 05-15 and replace with Ord. 11-08. (Back)

APPENDIX D RESERVED [1]

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Ordinance No. 96-17, § 3, adopted September 18, 1996, repealed Appendix D in its entirety. Formerly, such appendix pertained to wetlands vegetation list. (Back)

APPENDIX E PROTECTED TREE LIST

LEE COUNTY PROTECTED TREE LIST [1]

Scientific Name	Family Name	Common Name
	ACERACEAE (MAPLE FAMILY)	
Acer rubrum		Red Maple
	ANACARDIACEAE (CASHEW FAMILY)	
Rhus copallina		Southern Sumac
	ANNONACEAE (CUSTARD-APPLE FAMILY)	
Annona glabra		Pond Apple
	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
	BORAGINACEAE (BORAGE FAMILY)	
Cordia sebestena		Geiger Tree
	BURSERACEAE (TORCHWOOD FAMILY)	
Bursera simaruba		Gumbo limbo
	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
Quercus myrtifolia		Myrtle Oak
Quercus nigra		Water Oak
Quercus virginiana		Live Oak
Quercus virginiana geminata		Sand Live Oak

	HAMAMELIDACEAE (WITCH-HAZEL FAMILY)	
Liquidambar styraciflua		Sweet Gum
	JUGLANDACEAE (WALNUT AND HICKORY FAMILY)	
Carya aquatica		Water Hickory
Carya glabra		Pignut Hickory
	LAURACEAE (LAUREL FAMILY)	
Persea borbonia		Red Bay
Persea palustris		Swamp Bay
	MAGNOLIACEAE (MAGNOLIA FAMILY)	
Magnolia grandiflora		Southern Magnolia
Magnolia virginiana		Sweetbay
	MELIACEAE FAMILY (MAHOGANY FAMILY)	
Swietenia mahogoni		West Indian Mahogany
	MORACEAE (MULBERRY FAMILY)	
Ficus aurea		Strangler Fig
Ficus citrifolia		Short-leaf Fig

Morus rubra		Red Mulberry
	MYRTACEAE (MYRTLE FAMILY)	
Eugenia axillaris		White Snapper
Eugenia confusa		Ironwood
Eugenia rhombea		Red Stopper
Eugenia myrtoides		Spanish Stopper
Myrcianthes fragans		Simpson Stopper
	NYSSACEAE (SOUR GUM FAMILY)	
Nyssa sylvatica		Black Gum/Black Tupelo
	OLACACEAE (XIMENIA FAMILY)	
Ximenia americana		Tallowood
	OLEACEAE (OLIVE FAMILY)	
Forestiera segregata		Florida Privet
Fraxinus caroliniana		Pop Ash
	PINACEAE (PINE FAMILY)	
Pinus elliottii var densa		South Florida Slash Pine
Pinus palustris		Long-leaf Pine

	PLATANACEAE (SYCAMORE FAMILY)	
Platanus occidentalis		Sycamore
	POLYGONACEAE (BUCKWHEAT FAMILY)	
Coccoloba diversifolia		Pigeon Plum
Coccoloba uvifera		Sea Grape
	RHIZOPHORACEAE (RED MANGROVE FAMILY)	
Rhizophora mangle		Red Mangrove
	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

FOOTNOTE(S):

--- (**1**) ---

Note— All members of these families are not included on the Lee County Protected Tree List, only those species listed in this appendix. (Back)

APPENDIX F PROPOSED GROUNDWATER LAND USE CATEGORY

PROPOSED GROUNDWATER RESOURCE LAND USE CATEGORY

(Named Creeks and Rivers for 25-foot Setback)

Name	Sections	Township	Range
Spanish Creek	10	43	27
Cypress Creek	4, 9	43	27
Telegraph Creek/adjoining tributaries	11, 12 2, 11, 12 2, 11 12	43 43 43 43	26 26 26 26
Stricklin Gully	3, 9, 10	43	26
Trout Creek/adjoining tributaries	4, 8, 9 4, 9 8	43 43 43	26 26 26
Owl Creek	7 1, 12	43 43	26 25
Daughtrey Creek, east branch	8	43	25
Chapel Branch Creek	8	43	25
Bayshore Creek	9	43	25
Popash Creek	10	43	25
Stroud Creek	2, 3, 10	43	25
Thompson Cutoff	11	43	25

APPENDIX G RESERVED [1]

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Ordinance No. 96-17, § 3, adopted September 18, 1996, repealed Appendix G in its entirety. Formerly, such appendix pertained to activities subject to state mangrove alteration guidelines. (Back)

APPENDIX H PROTECTED SPECIES LIST

LEE COUNTY PROTECTED SPECIES LIST [1]

Scientific Name	Common Name	FLUCCS	Month Beginning	Month Ending	Rec. Buffer Guidelines (feet)	Buffer For	Aspects to be Included in Survey
**1. *Reptile.*							
Alligator mississipiensis	American alligator	500 series, 610, 621, 630, 641, 653			500	Nest	Nests, sunning areas
Crocodylus acutus	American crocodile	642, 651			500	Nests	Nests, sunning areas
Drymarchon corais couperi	Eastern indigo snake	320 series, 411, 412, 414, 421, 425, 426, 427, 428			150	Gopher tortoise burrows	Burrows, feeding
Gopherus polyphemus	Gopher tortoise	320 series, 411, *412, 421, 426, 427, 432, 743			150	Burrows	Burrows, feeding
Rana areolata	Gopher frog	320 series, 411, 412, 421, 426, 560, 620, 630			150	Gopher tortoise burrows	Burrows, feeding paths to wetlands
**2. *Bird.*							

Ajaia ajaja	Roseate spoonbill	500 series, 612, 642, 652, 653, 654			250	Feeding	Feeding
Aphelocoma coerulescens coerulescens	Florida scrub jay	412, 421, 432			500	Nest	Feeding, nests
Aramus guarauna	Limpkin	500 series, 617, 621, 630, 641, 643			150	Nests	Feeding (harbor apple snails), nests
Athene cunicularia floridana	Burrowing owl	191, 192, 310			150	Burrows	Burrows
Charadrius alexandrinus tenitrostris	Southeastern snowy plover	651, 652, 710			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			250	Nests	Nests, feeding
Egretta rufescens	Reddish egret	500 series, 610, 640, 650			250	Nests	Nests, feeding
Egretta thula	snowy egret	500 series, 600 series			250	Nests	Nests, feeding
Egretta tricolor	Tricolored heron	500 series, 600 series			250	Nests	Nests, feeding

Falco peregrinus tundrius	Arctic peregrine falcon	620, 650	Sept.	April	150	Feeding	Feeding
Falco sparverius paulus	Southeastern American kestrel	321, 411, 435	March	July	500	Nests	Nests, feeding
Grus canadensis pratensis	Florida sandhill crane	(211, 212)**, 310, 321, 641			500	Nests	Nests, feeding
Haematopus palliatus	American oystercatcher	651, 652, 645, 710			250	Nests	Nests, feeding
Mycteria americana	Wood stork	560, 610, 621, 630, 640, 650			500	Nests	Nests, feeding
Pelecanus occidentalis	Brown pelican	612, 650			250	Nests	Nests
Picoides borealis	Red-cockaded woodpecker	411			750	Nests	Nests, feeding
Polyborus plancus audubonii	Audobon's crested caracara	321, 428			750	Nests	Nests, feeding
Rostrhamus sociabilis	Snail kite	520, 641, 643			250	Feeding	Feeding (harbor apple snails areas)
Sterna antillarum	Least tern	191, 261, 651, 652	April	Sept.	250	Nests	Nests, feeding

Sterna douballii	Roseate tern	651, 652, 710	Jan.	April	250	Feeding	Feeding
**3. *Mammal.*							
Felis concolor coryi	Florida panther	(211)***, 212, 411, 414, 425, 427, 428, 434, 617, 621, 624, 630			750	Dens	Dens, feeding
Mustela vison evergladensis	Everglades mink	500 series, 620, 630, 641, 643			250	Dens	Dens, feeding
Sciurus niger avicennia	Big Cypress fox squirrel	411, 610, 620			125	Nests	Nests, feeding
Ursus americanus floridanus	Florida black bear	321, 411, 414, 425, 427, 428, 438, 612, 617, 621, 624, 630			750	Dens	Dens, feeding
**4. *Plant.*							
Asclepias curtissii	Curtis milkweed	320 series			10	Plant	Sighting
Burmannia flava	Fakahatchee burmannia	320 series, 411, 412			10	Plant	Sighting
Celtis iguanaea	Iguana hackberry	322, 426			10	Plant	Sighting

Celtis pallida	Spiny hackberry	322, 426			10	Plant	Sighting
Cereus gracillis	Prickly-apple	322, 426, 612			10	Plant	Sighting
Chrysophyllum olivaeforme	Satinleaf	411, 426			10	Plant	Sighting
Deeringothamnus pulchellus	Beautiful pawpaw	321, 411			10	Plant	Sighting
Eragrostis tracyi	Sanibel love grass	710			10	Plant	Sighting
Erondia littoralis	Golden creeper	322			10	Plant	Sighting
Gossypium hirsutum	Wild cotton	611			10	Plant	Sighting
Jacquina keyensis	Joewood	322, 426			10	Plant	Sighting
Myrcianthes fragrans var. simpsonii	Simpon's stopper	427, 428			10	Plant	Sighting
Ophioglossum palmatum	Hand adder's tongue fern	427			10	Plant	Sighting
Tillandsia flexuosa	Twisted air plant	426, 427, 610			10	Plant	Sighting
Zamia floridana	Florida coontie	320 series, 411, 412, 421, 426			10	Plant	Sighting

*Mesic and xeric 411 only.

**Only when associated with vegetated nonforested wetlands.

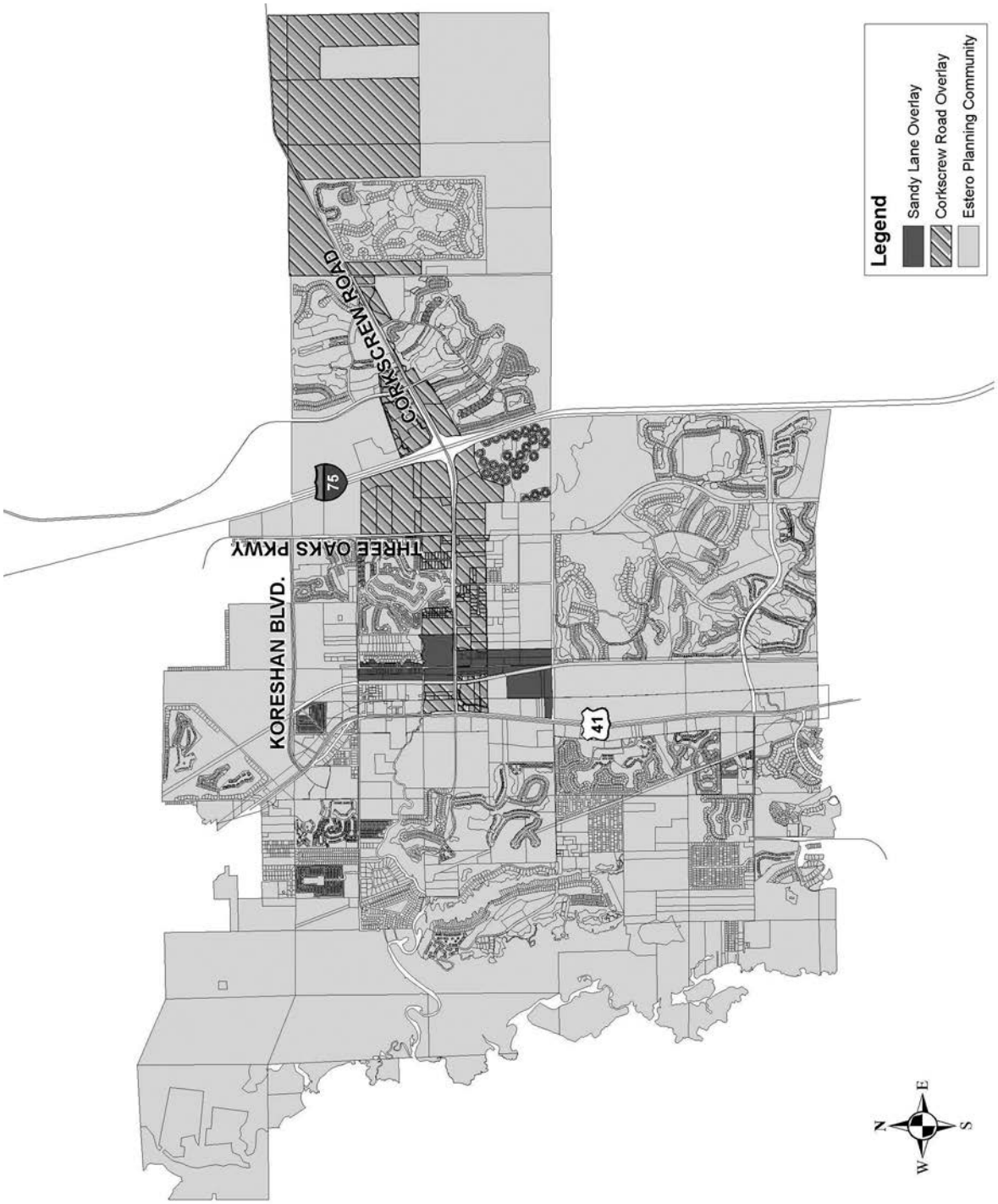
***Only when associated with large adjacent woodlands.

FOOTNOTE(S):

--- (**1**) ---

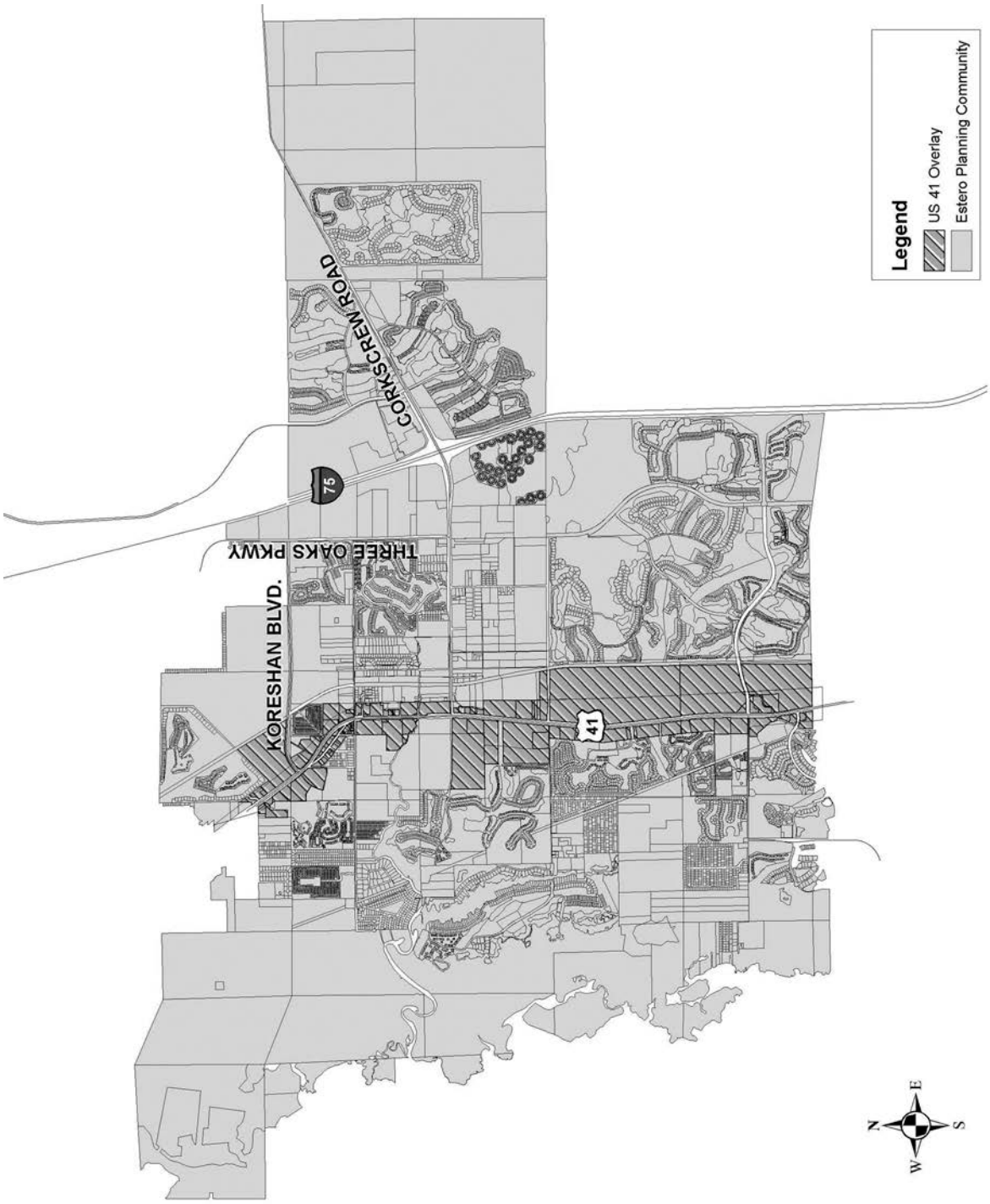
Editor's note— Appendix H derived from Ord. No. 94-10, § 8, 4-20-94. (Back)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS [1]



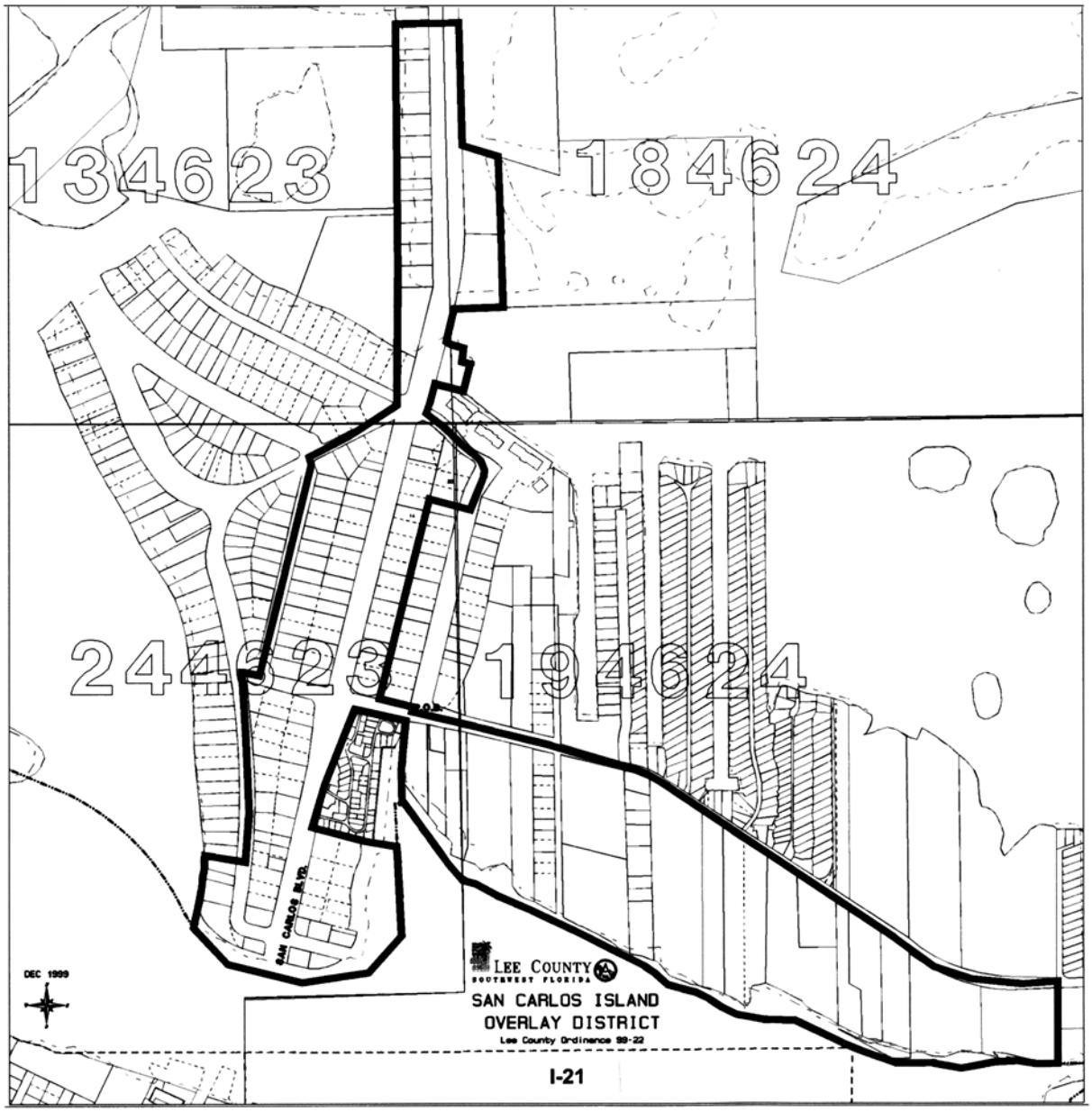
Map 1 - Estero Planning Community, Corkscrew/Sandy Lane Overlay

(Ord. No. 05-29 , § 4, 12-13-05)



Map 2 - Estero Planning Community, US 41 Overlay

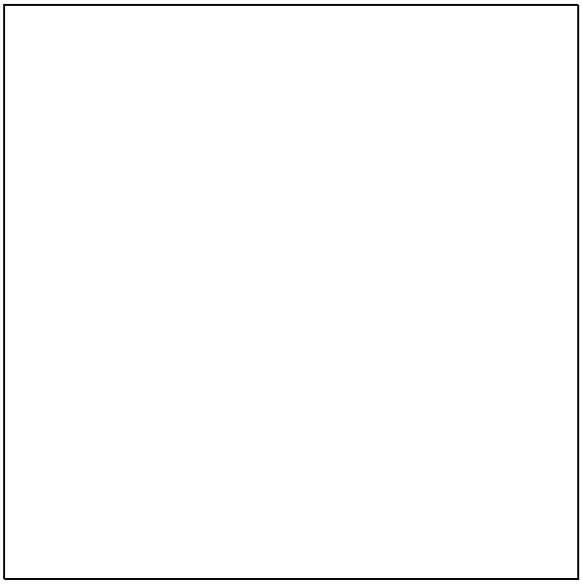
(Ord. No. 05-29 , § 4, 12-13-05)

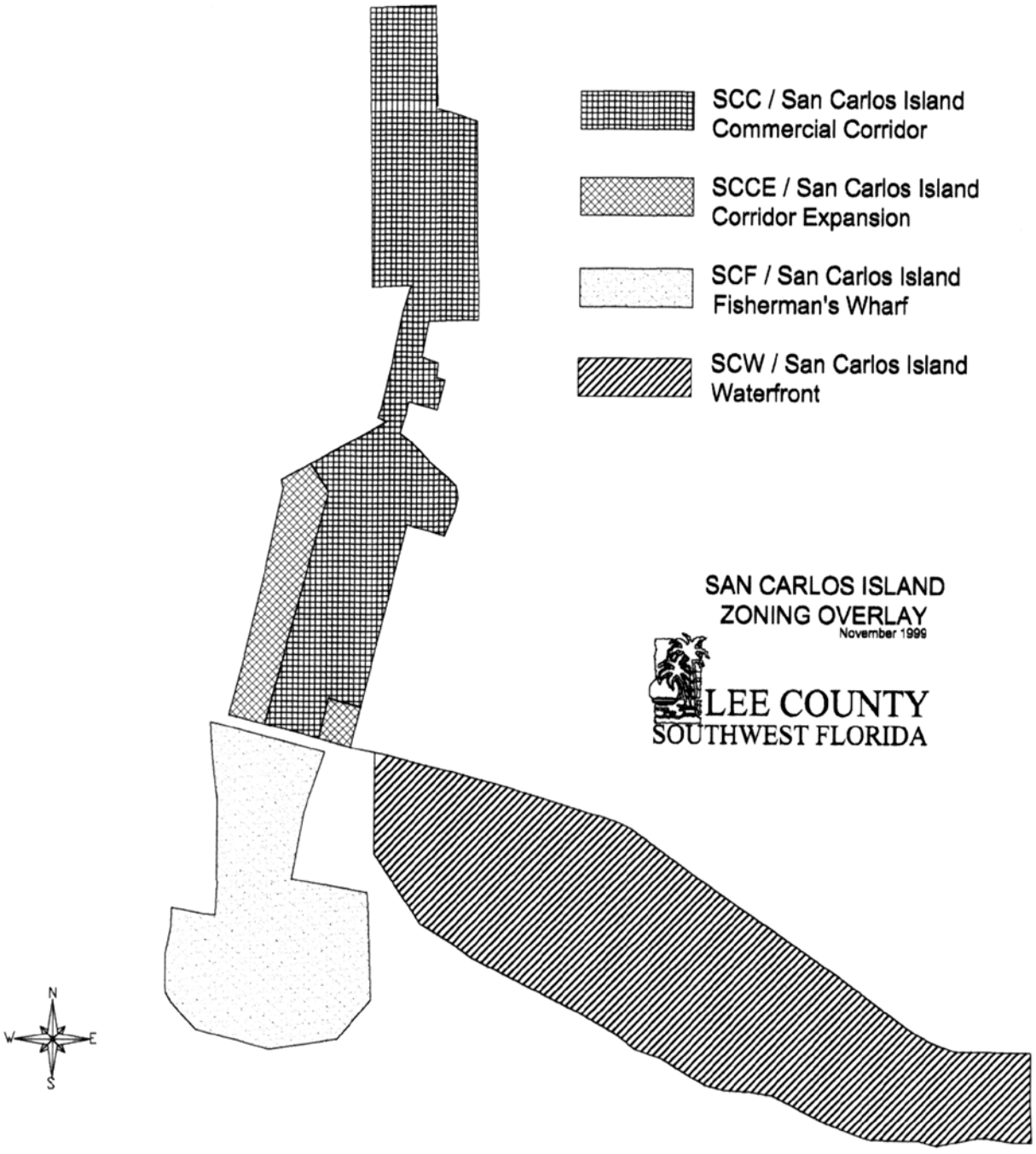


Map 3 - San Carlos Island Overlay District

(Ord. No. 05-29 , § 4, 12-13-05)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

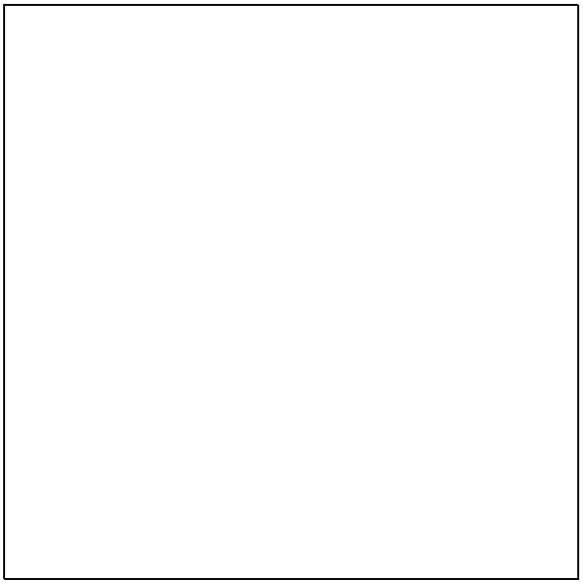


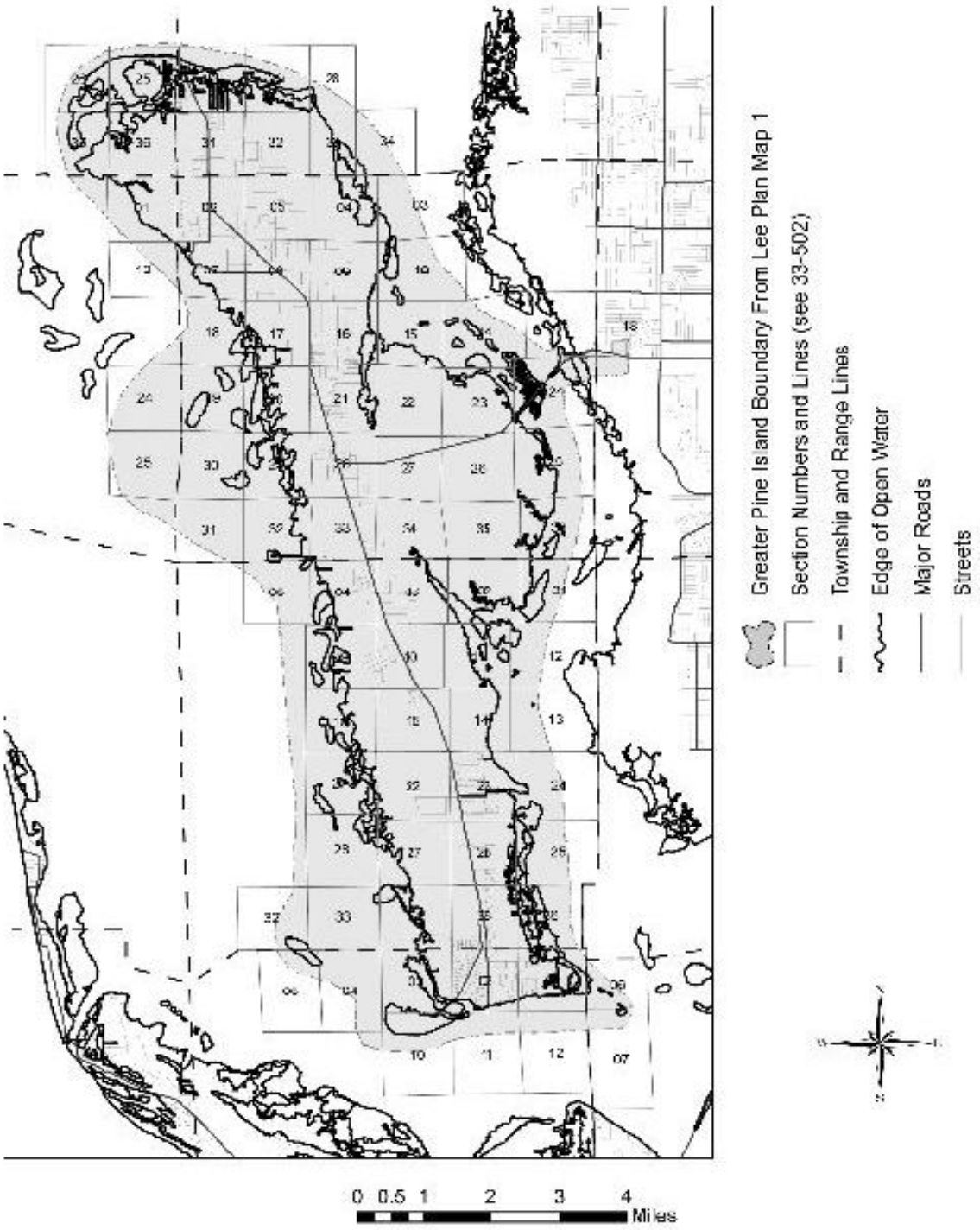


Map 4 - San Carlos Island Zoning Overlay

(Ord. No. 05-29 , § 4, 12-13-05)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS





Map 5 - Greater Pine Island Community Plan

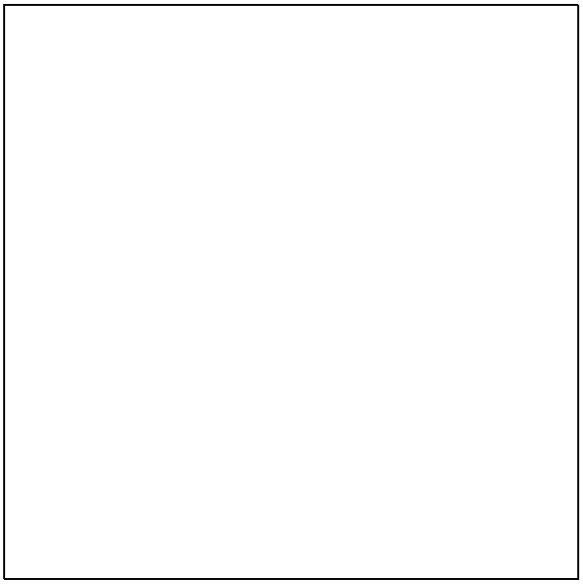
(Ord. No. 07-19 , § 7, 5-29-07)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

Legal Description

Block C thru U, Page Park, a subdivision, located in Section 12, Township 45 South, Range 24 East, according to the plat thereof on file and recorded in Plat Book 8, Pages 92 thru 97 inclusive, of the Public Records of Lee County, Florida

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS



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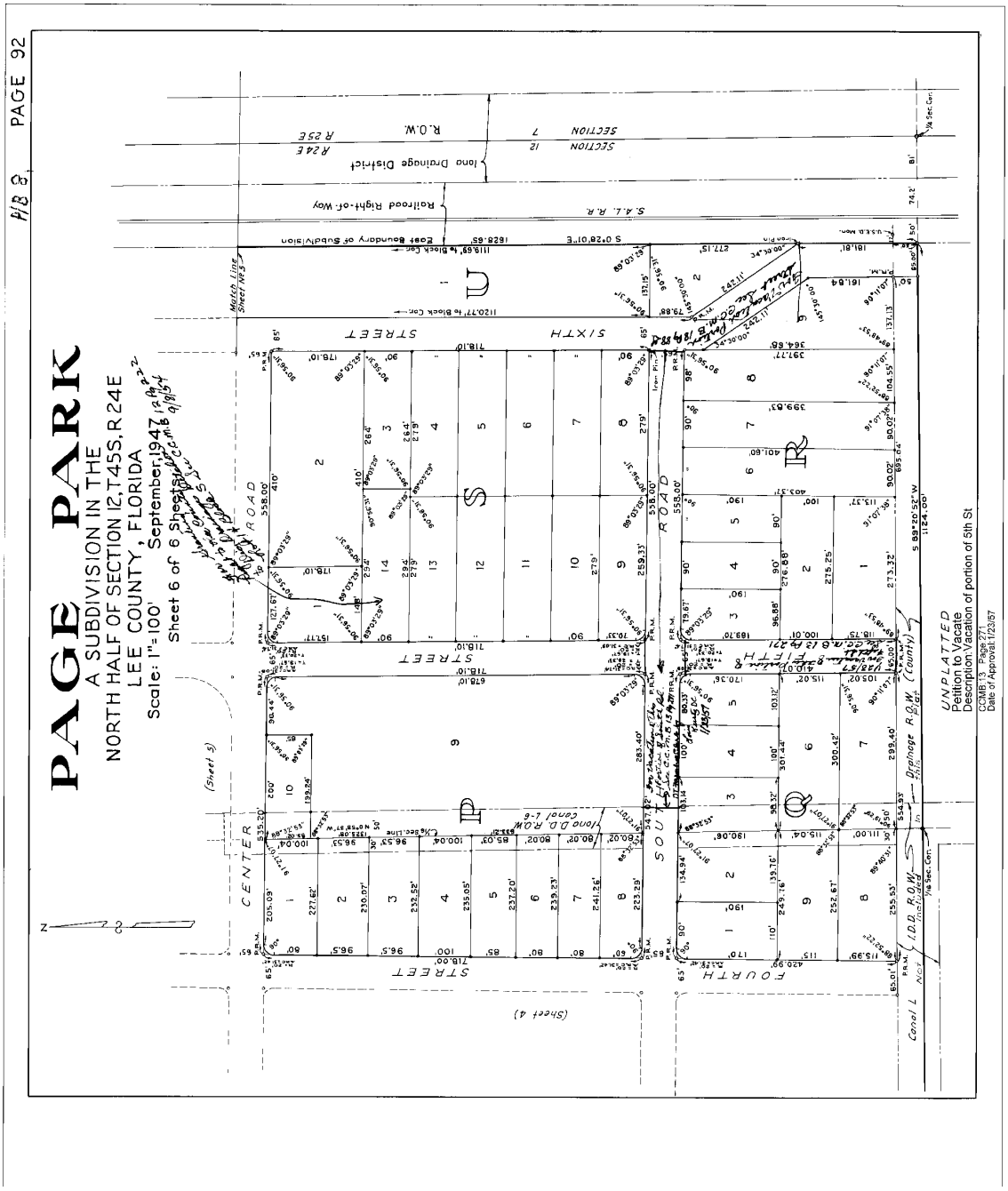

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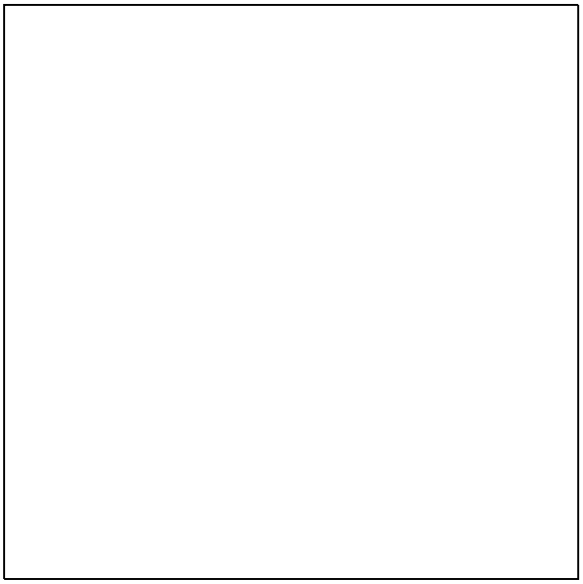

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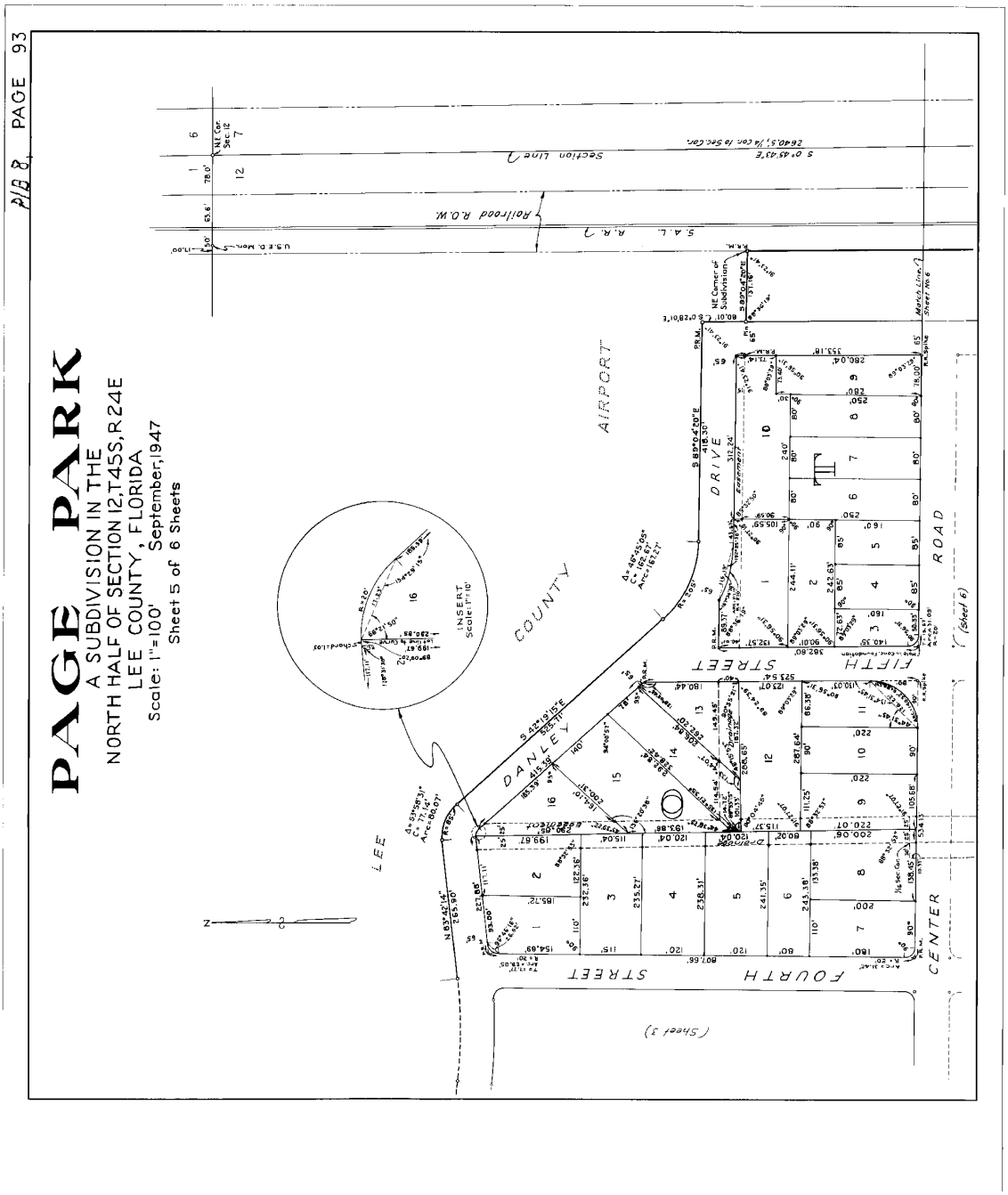

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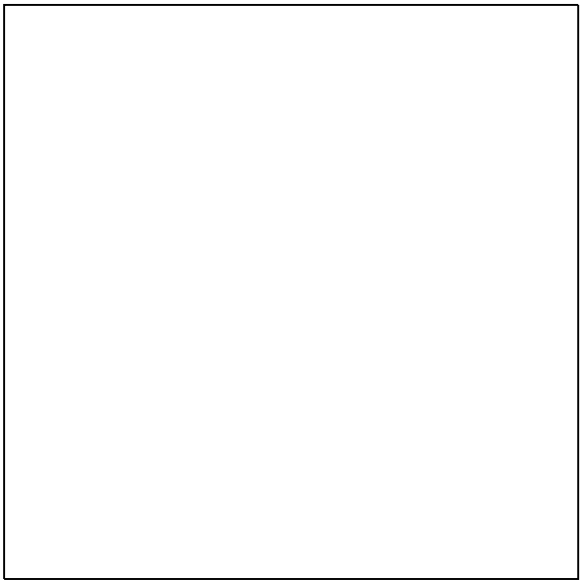

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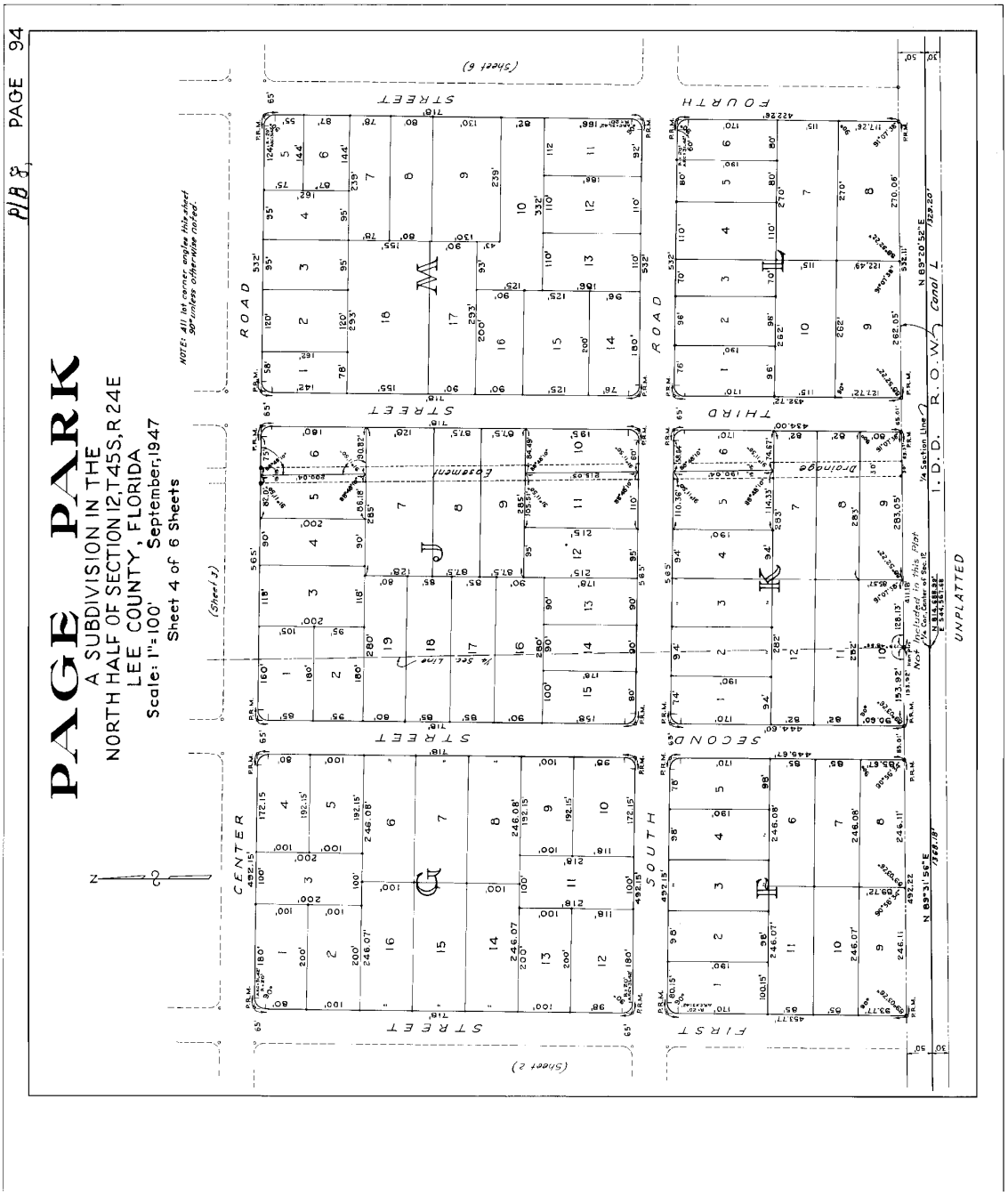

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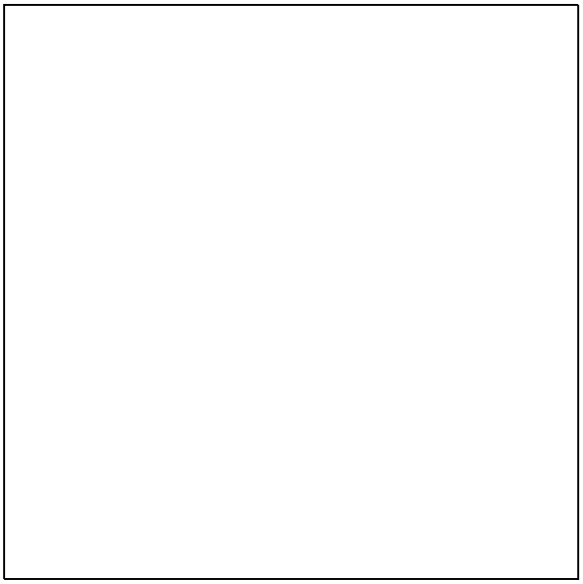

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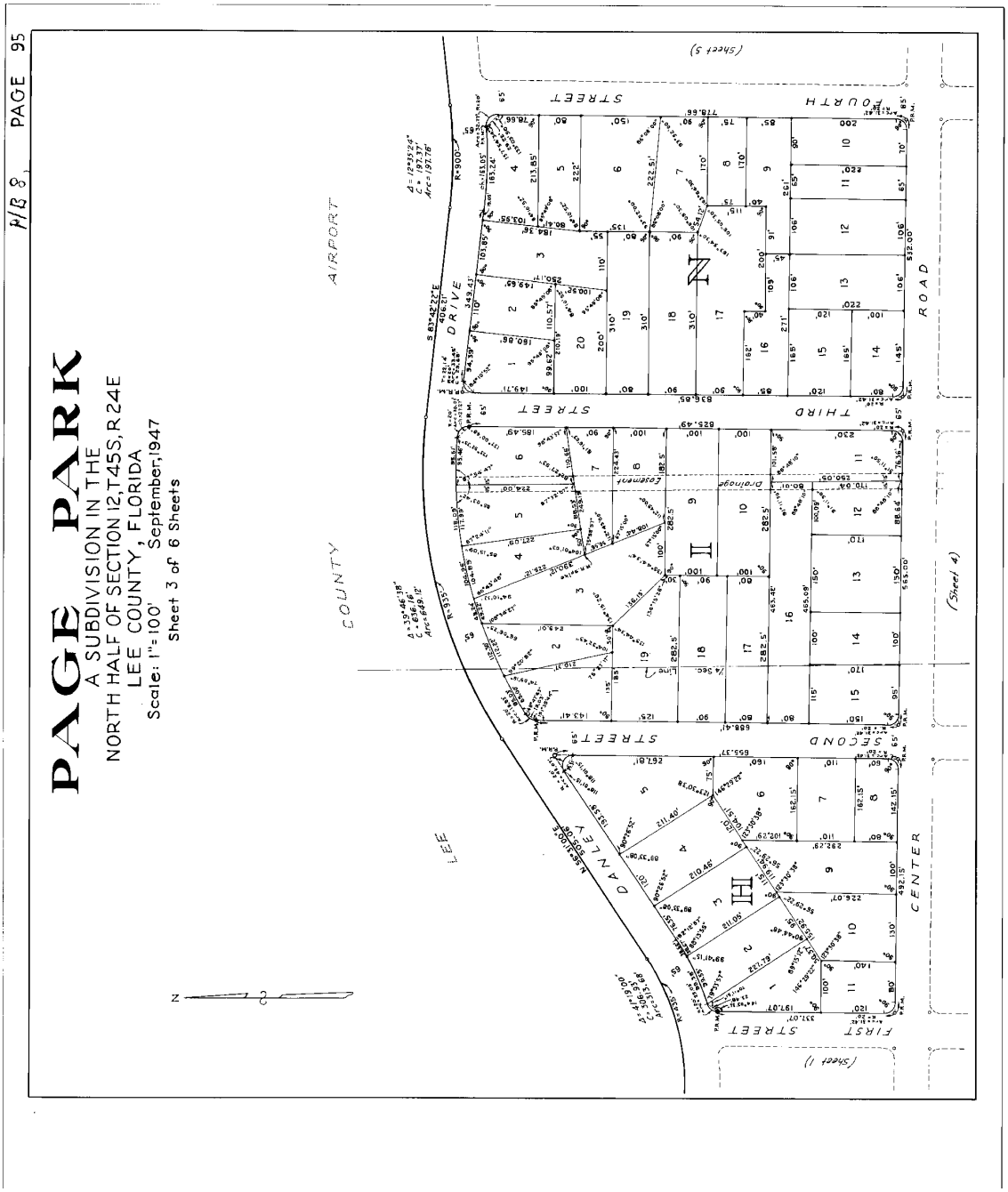

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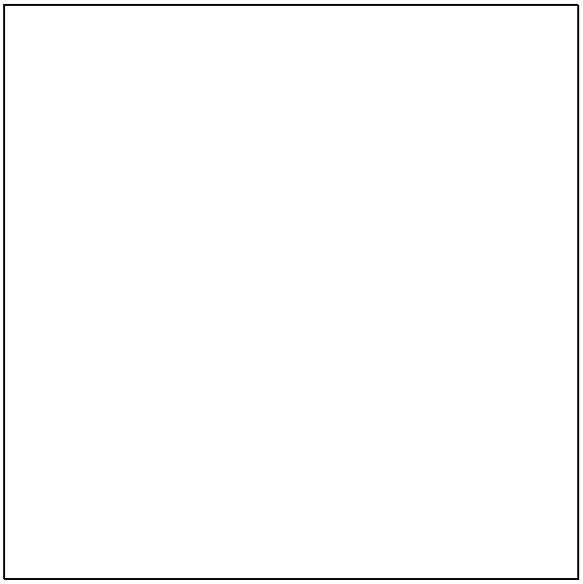

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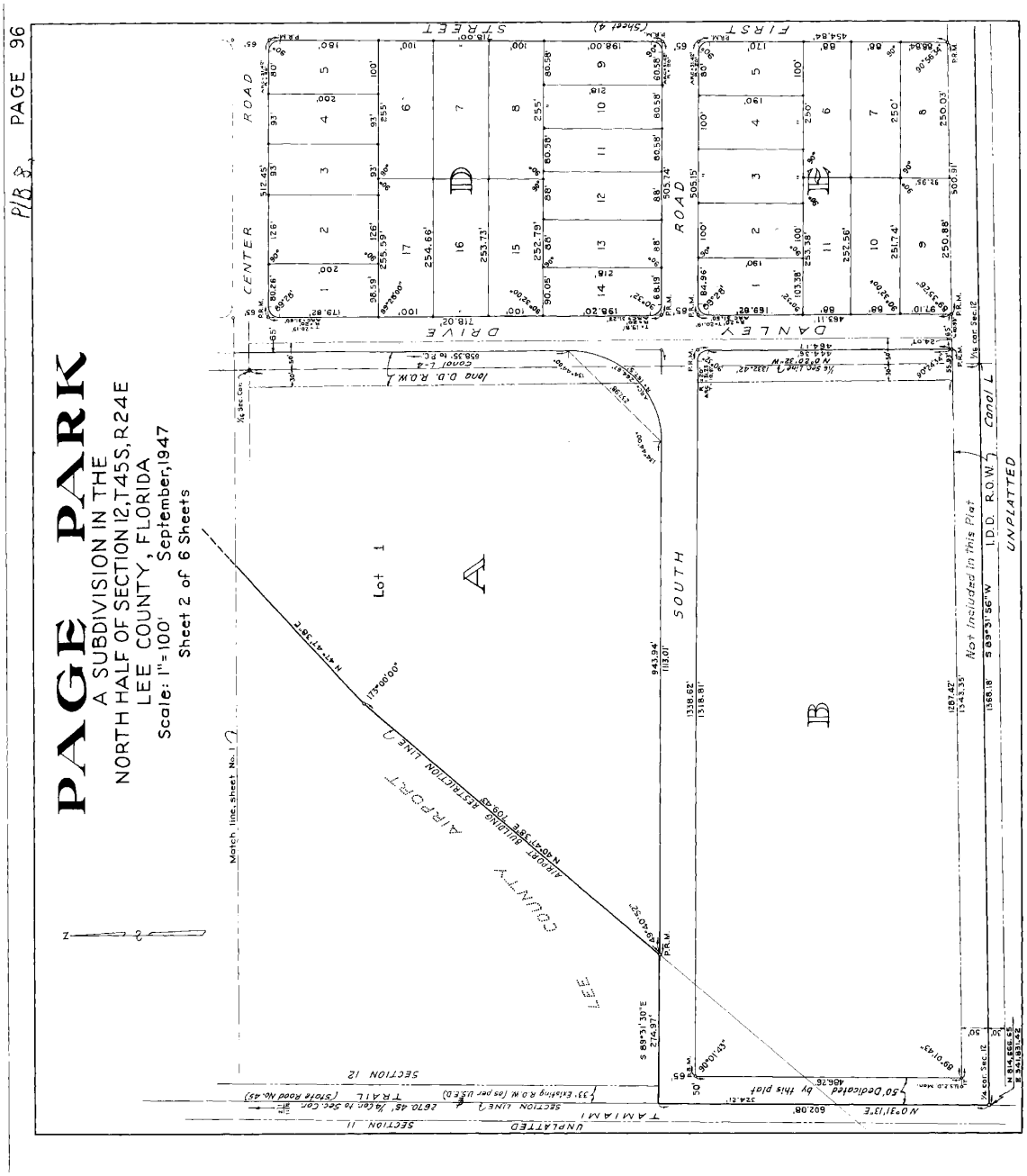

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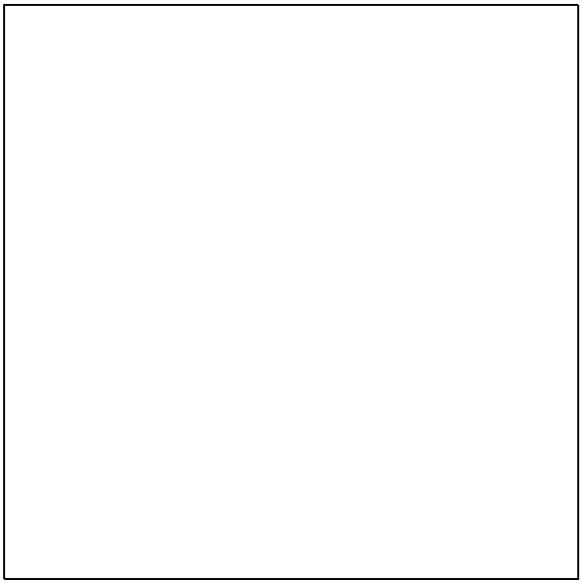


PAGE PARK

A SUBDIVISION IN THE
NORTH HALF OF SECTION 12, T45S, R24E
LEE COUNTY, FLORIDA
Scale: 1"=100' September, 1947
Sheet 1 of 6 Sheets

DESCRIPTION

Beginning at the Quarter Section Corner on the West line of Section 12, T45S, R 24E (Coordinates N 814,686.65, E 541,831.42) run N 0°30'13" E along the West line of said Section for 602.08'; thence S 89°31'30"E for 274.97'; thence N 40°47'38"E for 709.43'; thence N 47°47'38"E parallel to and 750' at right angle from the Center Line of the NE/SW Runway of the Lee County Airport, for 1029.55'; thence S 78°41'52"E for 207.41'; thence S 82°10'00"E for 132.78'; thence Southeasterly to Northeasterly along an arc of a curve to the left, of radius 435' and Central Angle 41°19'00", for 313.68'; thence N 56°31'00"E for 505.06'; thence Northeasterly to Southeasterly along an arc of a curve to the right, of radius 935' and Central angle of 39°46'38" for 649.12'; thence S 83°42'22"E for 406.21'; thence Southeasterly along an arc of a curve to the left, of radius 900' and Central Angle of 12°35'24", for 197.76'; thence N 83°42'14"E for 265.90'; thence Northeasterly to Southeasterly along an arc of a curve to the right, of radius 85' and Central Angle of 53°58'31" for 80.07'; thence S 42°19'15"E for 525.71'; thence Southeasterly along an arc of curve to the left, of radius 205' and Central Angle of 46°45'05" for 167.27'; thence S 89°04'20"E for 418.30'; thence S 0°28'01"E for 80.01'; thence S 89°04'20"E for 157.16' more or less to the West Right of Way line of the Seaboard Air Line Railroad; thence S 0°28'01"E along said Right of Way for 1628.65' more or less to a point on the east and west quarter section line of Section 12 (Coordinates N 814,716.84, E 547,020.72); thence S 89°05'52"W for 2,455.20' to the quarter corner in the center of Sec. 12 (Coordinates N 814,688.99; E 544,567.68); thence S 89°31'58"W for 2236.36' more or less, to the point of beginning; subject to the existing Right-of-Way by usage of State Road No. 45 (Tamiami Trail) over the westerly 33' thereof and the easement Rights-of-Way of the Iona D.D. over the southerly 50' and easterly 30' of the SW¼ of the NW¼, the southerly 50' and westerly 50' of the SE¼ of the NW¼, the southerly 50' and easterly 30' of the SW¼ of the NE¼, and the westerly 50' of the SE¼ of the NE¼. The parcel hereinabove described contains 286.38 acres more or less, and all bearings and coordinates referred to in its description are for the Florida Mercator (West Zone) Coordinate System with central meridian of Long. 82°00'00", as established in Section 12 by the U.S. Engineer Department.

NOTES

PRM. Indicates 4"x4"x24" Concrete Monument Permanent Reference Mark set.

Indicates ⅝" round by 24" long reinforcing steel pin set.

On curved lot lines both chord and arc lengths are shown with angles to chords.

DEDICATION

LEE COUNTY, a County under the laws of Florida, the owner of the hereon described lands has caused this plat of PAGE PARK to be made and does hereby dedicate to the perpetual use of the Public all streets, drives and/or roads shown hereon, provided that such streets drives and/or roads shall revert to Lee County, its successors and assigns in event such streets, drives and/or roads are vacated, abandoned or otherwise cease to be used as Public thouroughfares or are discontinued by law; and further, Lee County reserves for itself, its successors and assigns the rights of way upon, under and over that portion of each lot platted that is within five (5) feet of the center line of any water supply main, sanitary or storm sewer main constructed prior to January 1, 1947 for the operation, maintenance, reconstruction and/or removal of said mains; and further, Lee County reserves for itself, its successors and assigns the rights of way upon, under and over such portion of each lot platted as is within the areas designated "Drainage Easement" or "Iona D.D. R.O.W." for the operation, maintenance and/or construction of drainage facilities.

IN WITNESS WHEREOF, Lee County has caused this dedication to be signed in its name and its seal affixed by its duly authorized officers, by and with the authority of its Board of Commissioners upon this 22nd day of October A.D. 1947.

LEE COUNTY, FLORIDA
by _____
Chairman, Board of Commissioners

D. J. Farabee
Clerk

Match line, Sheet No. 2

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF LEE

I HEREBY CERTIFY that on this 22nd day of October A.D. 1947 before me personally appeared N.M. Stringfellow, and D.T. Farabee respectively Chairman and Clerk of the Board of Commissioners of Lee County, a County under the laws of Florida, to me known to be the persons described in and who executed the foregoing dedication and severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said County and that the said dedication is the act and deed of said County.

WITNESS my hand and official seal at Fort Myers, said County and State, the day and year last aforesaid.

Wm. Wood
Notary Public State of Florida at large
My Commission expires Dec. 14 1947

APPROVALS

This plat accepted this 22nd day of October, A.D. 1947 in open meeting of the Board of County Commissioners of Lee County, Florida.

Approved: _____
Chairman

D. J. Farabee
Clerk

I HEREBY CERTIFY that this plat of PAGE PARK has been examined by me and from my examination I find that said plat complies in form with the requirements of Chapter 10275, Laws of Florida, Acts of 1925.

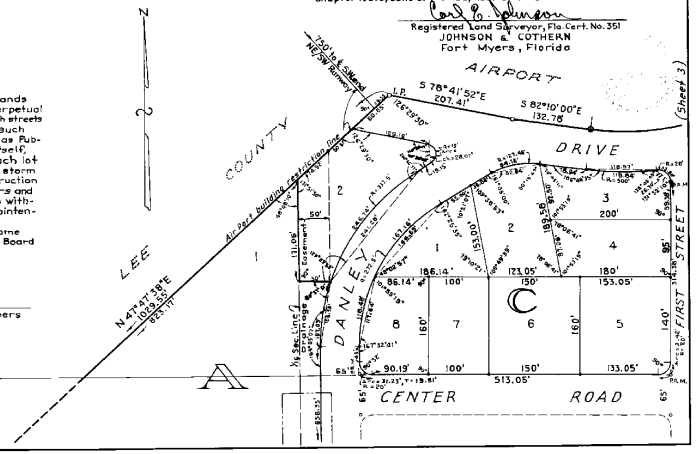
I FURTHER CERTIFY that said plat was filed for record at 9:07 A.M. this 29 day of November, A.D. 1947 and duly recorded in Plat Book No. 8 on Pages 92 to 97 inclusive, of the Public Records of Lee County, Florida.

117215

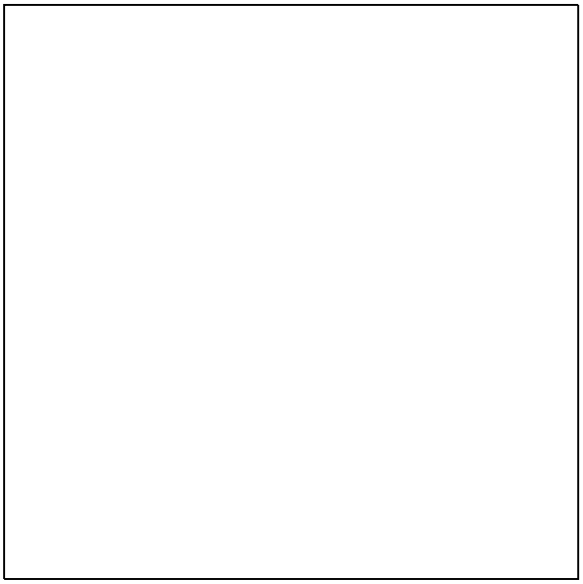
D. J. Farabee
Clerk of Circuit Court in and for Lee County, Florida

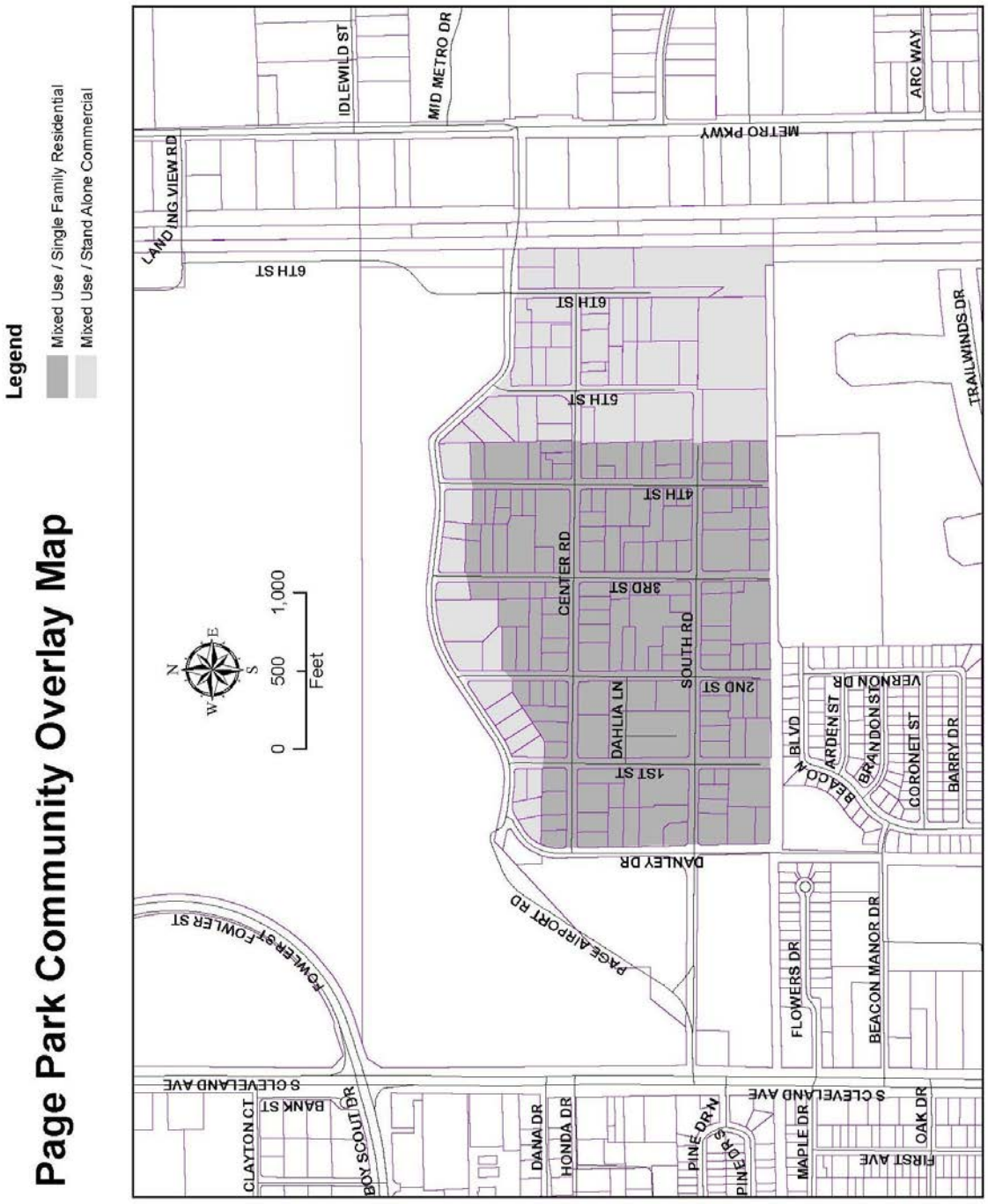
I hereby certify that this plat of PAGE PARK is true and correct according to a recent survey made and platted under my direction and that Permanent Reference Monuments (PRM's) have been set in accordance with the provisions of Sec. 7, Chapter 10275, Laws of Florida, Acts of 1925.

Carl O. Johnson
Registered Land Surveyor, Fla. Cert. No. 351
JOHNSON & COTHERN
Fort Myers, Florida



APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

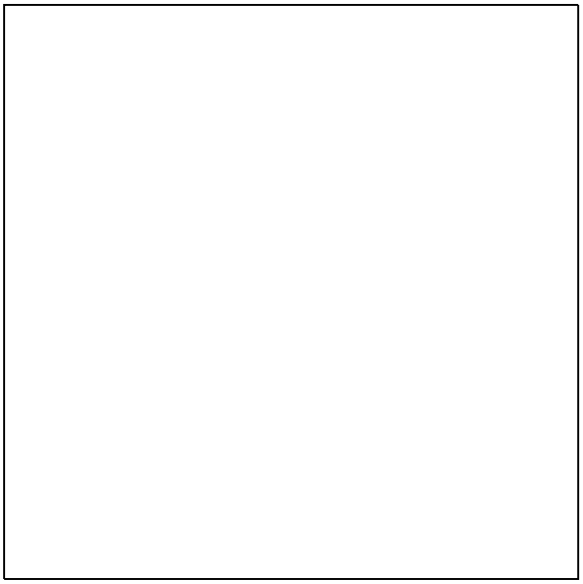


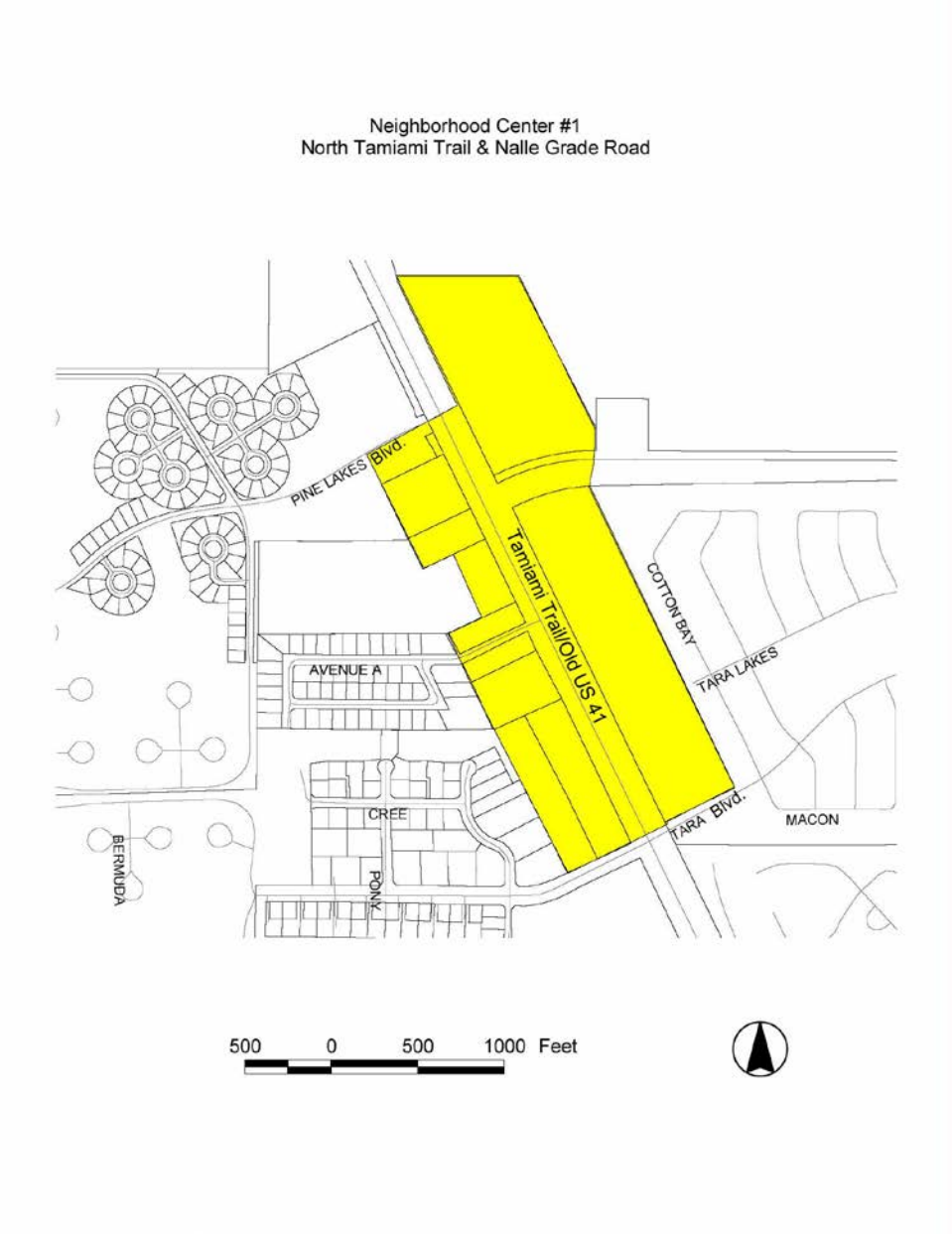


Map 6 - Page Park Community Overlay Map

(Ord. No. 10-32 , § 2, 9-14-10)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

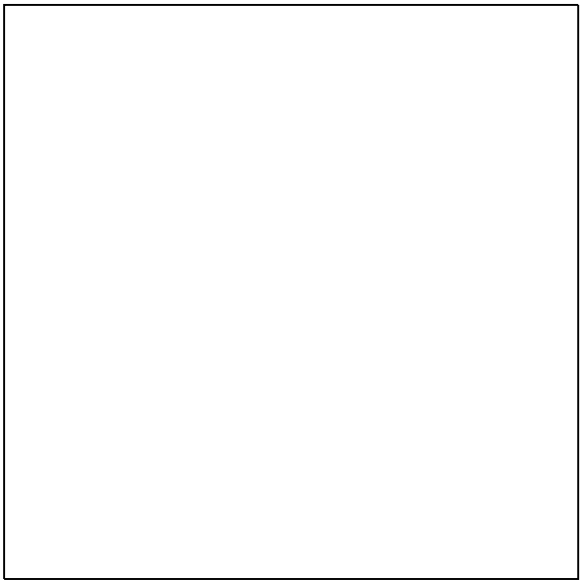


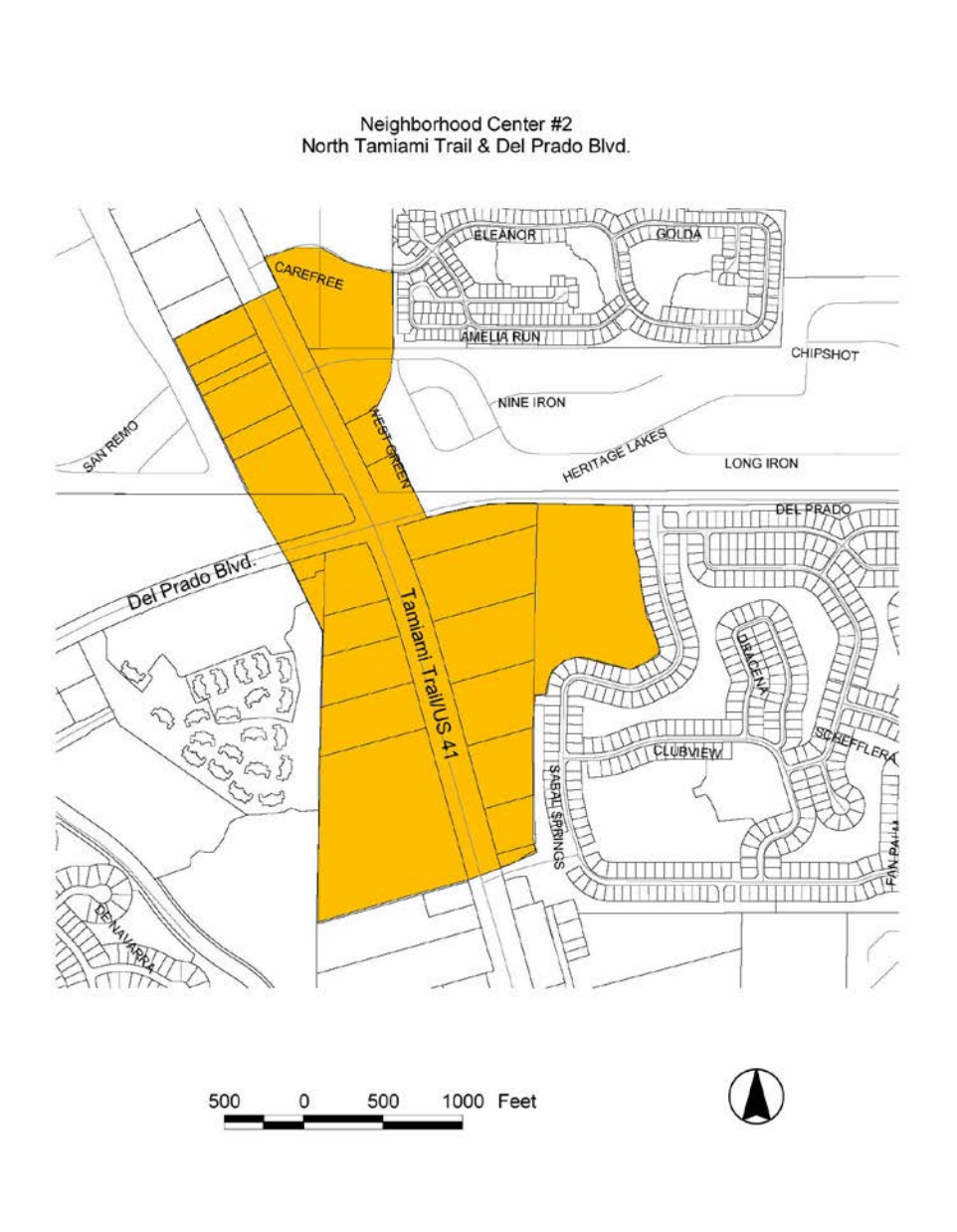


Map 7 - North Fort Myers Planning Community, Neighborhood Center #1

(Ord. No. 12-01 , § 7, 1-10-12)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

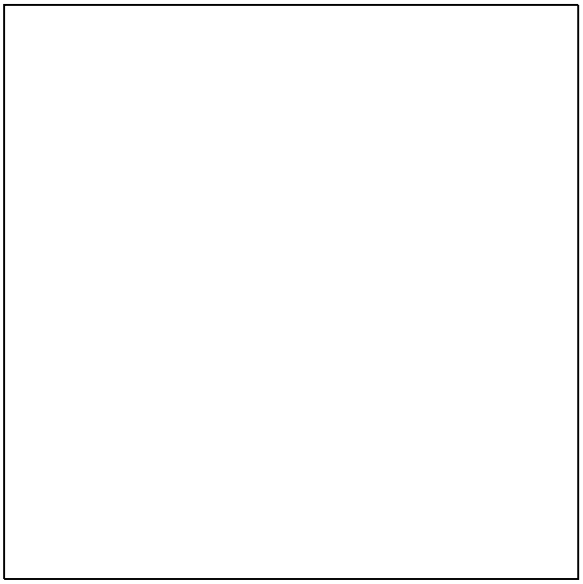


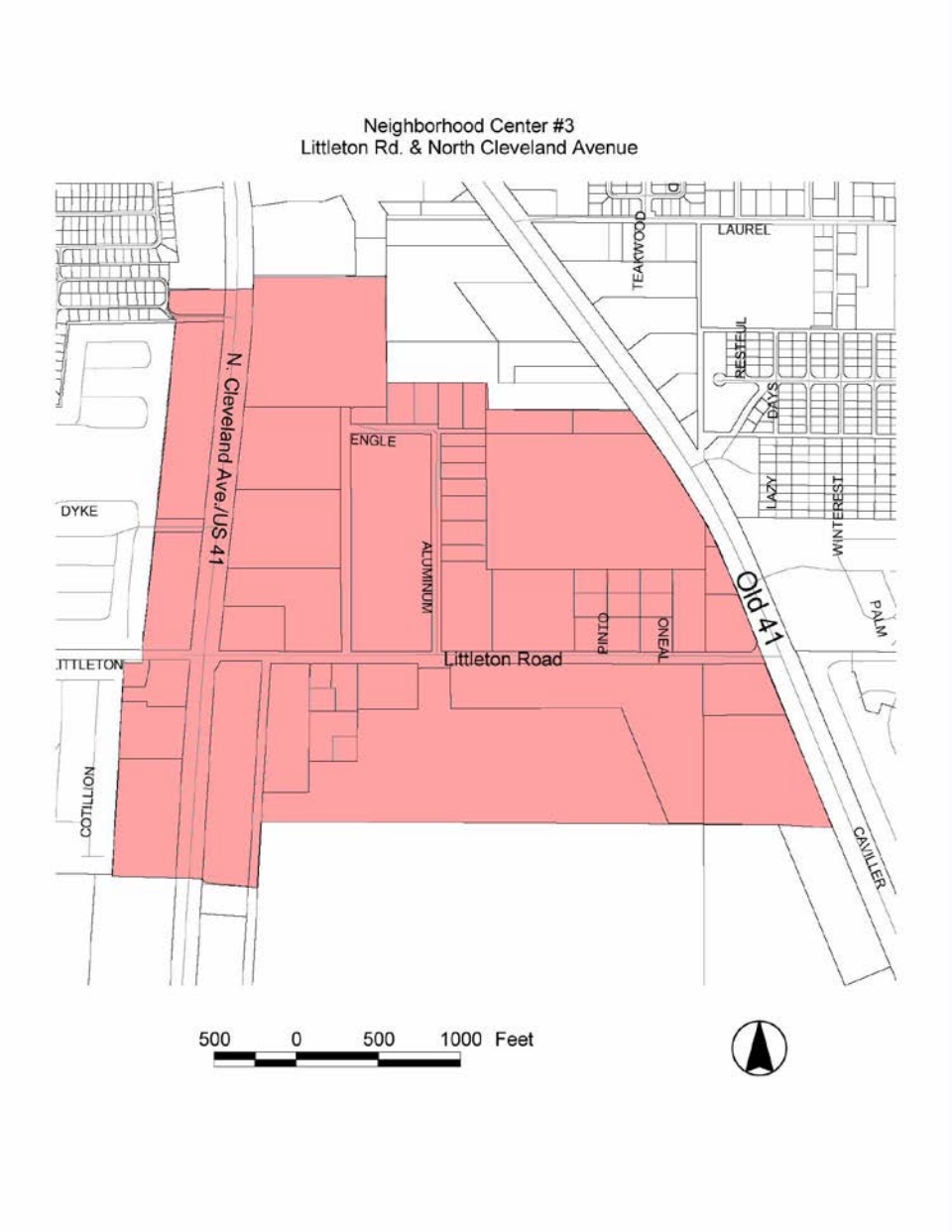


Map 8 - North Fort Myers Planning Community, Neighborhood Center #2

(Ord. No. 12-01 , § 7, 1-10-12)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

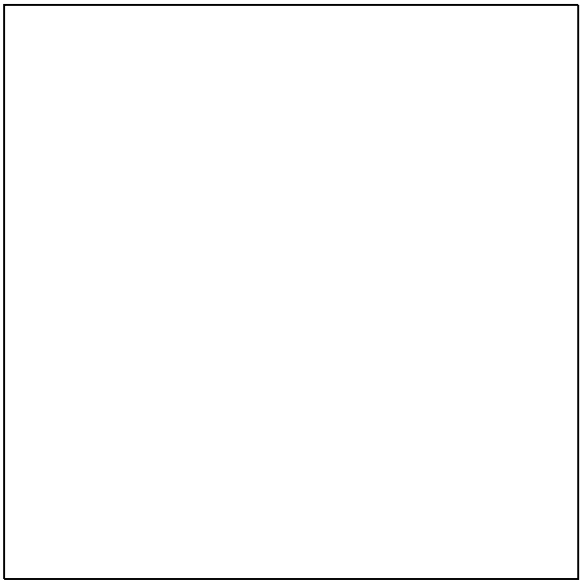


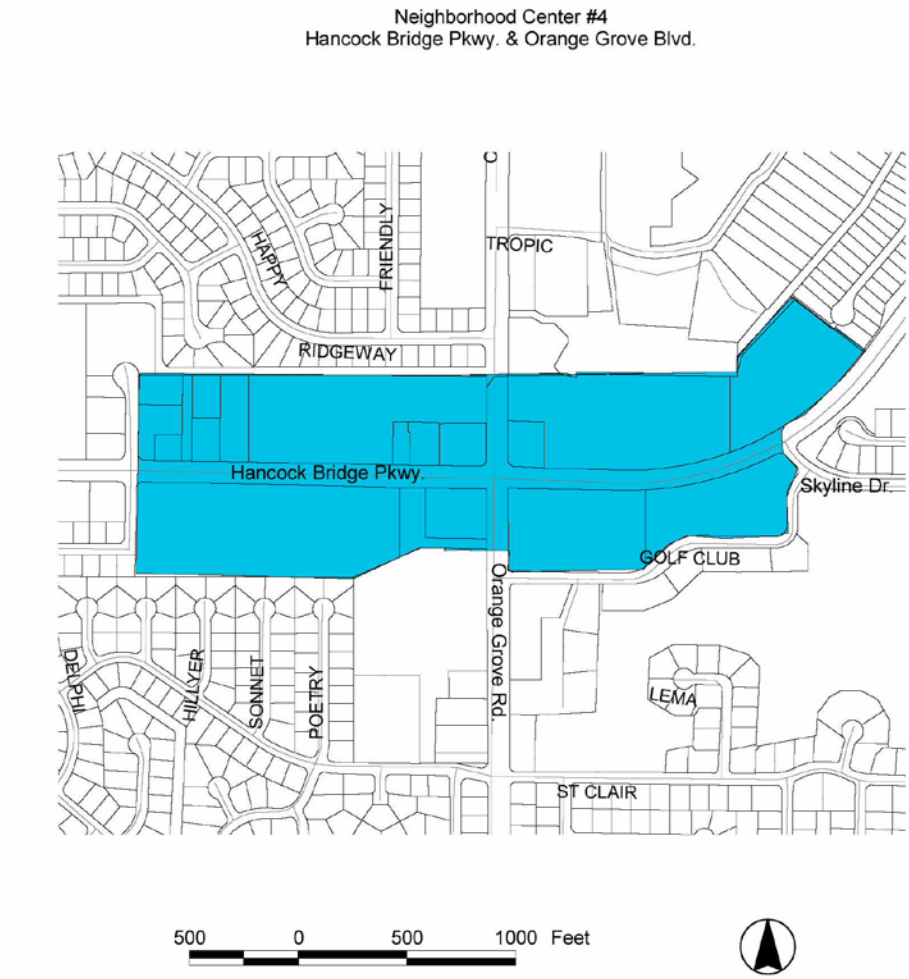


Map 9 - North Fort Myers PlanningCommunity, Neighborhood Center #3

(Ord. No. 12-01 , § 7, 1-10-12)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

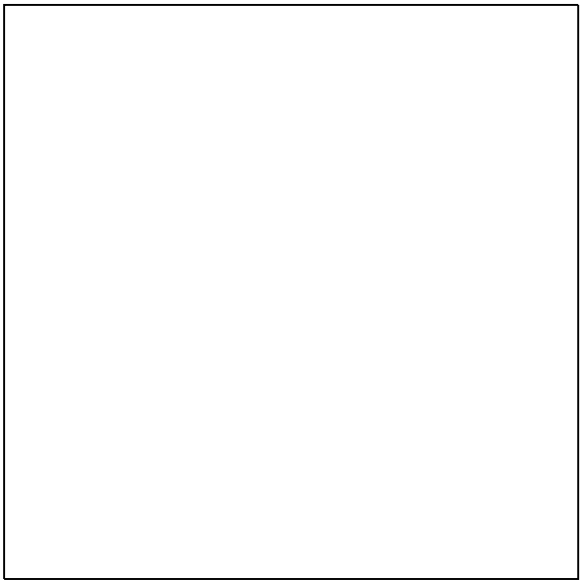


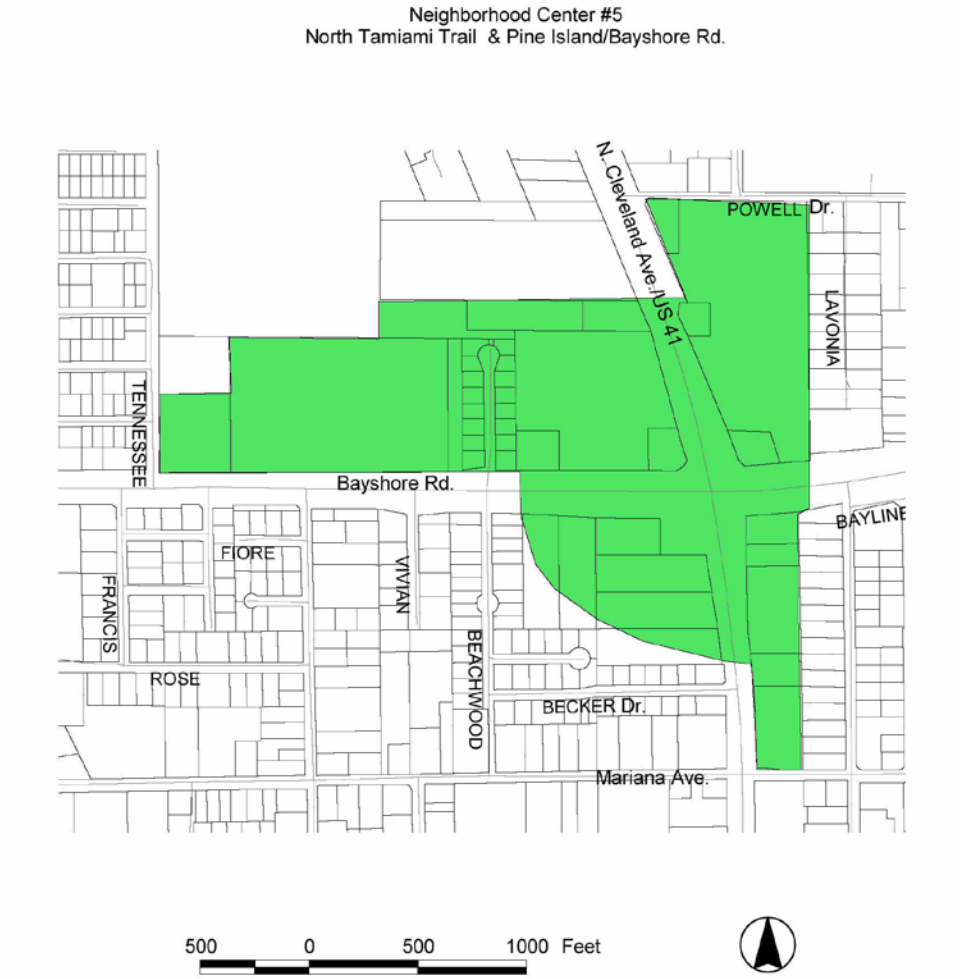


Map 10 - North Fort Myers Planning Community, Neighborhood Center #4

(Ord. No. 12-01 , § 7, 1-10-12)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

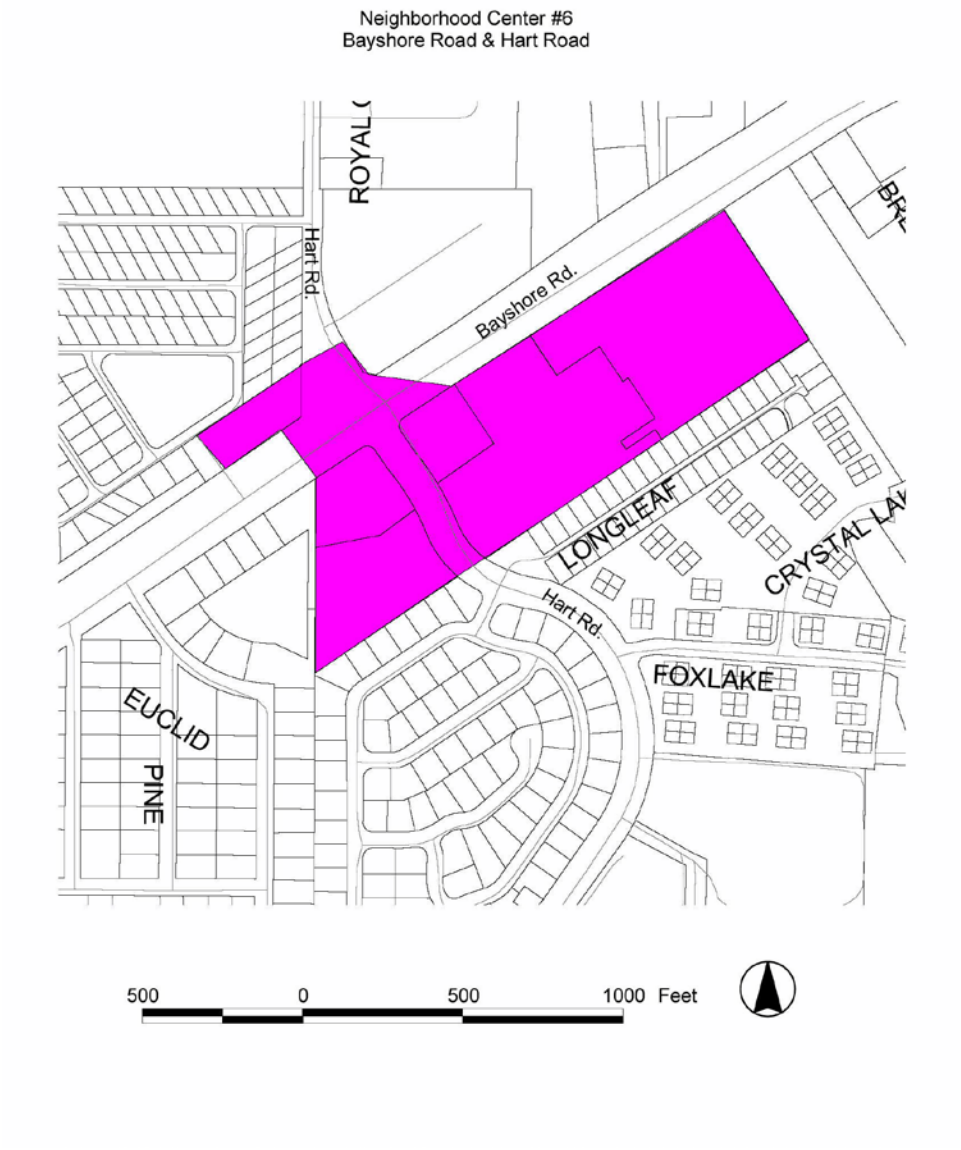




Map 11 - North Fort Myers Planning Community, Neighborhood Center #5

(Ord. No. 12-01 , § 7, 1-10-12)

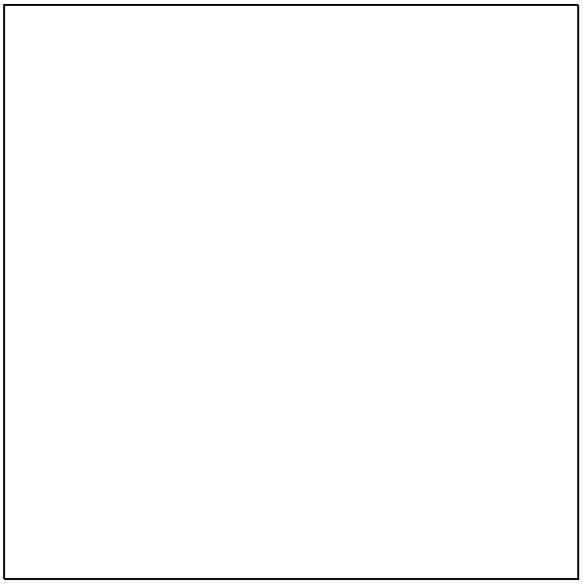
APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

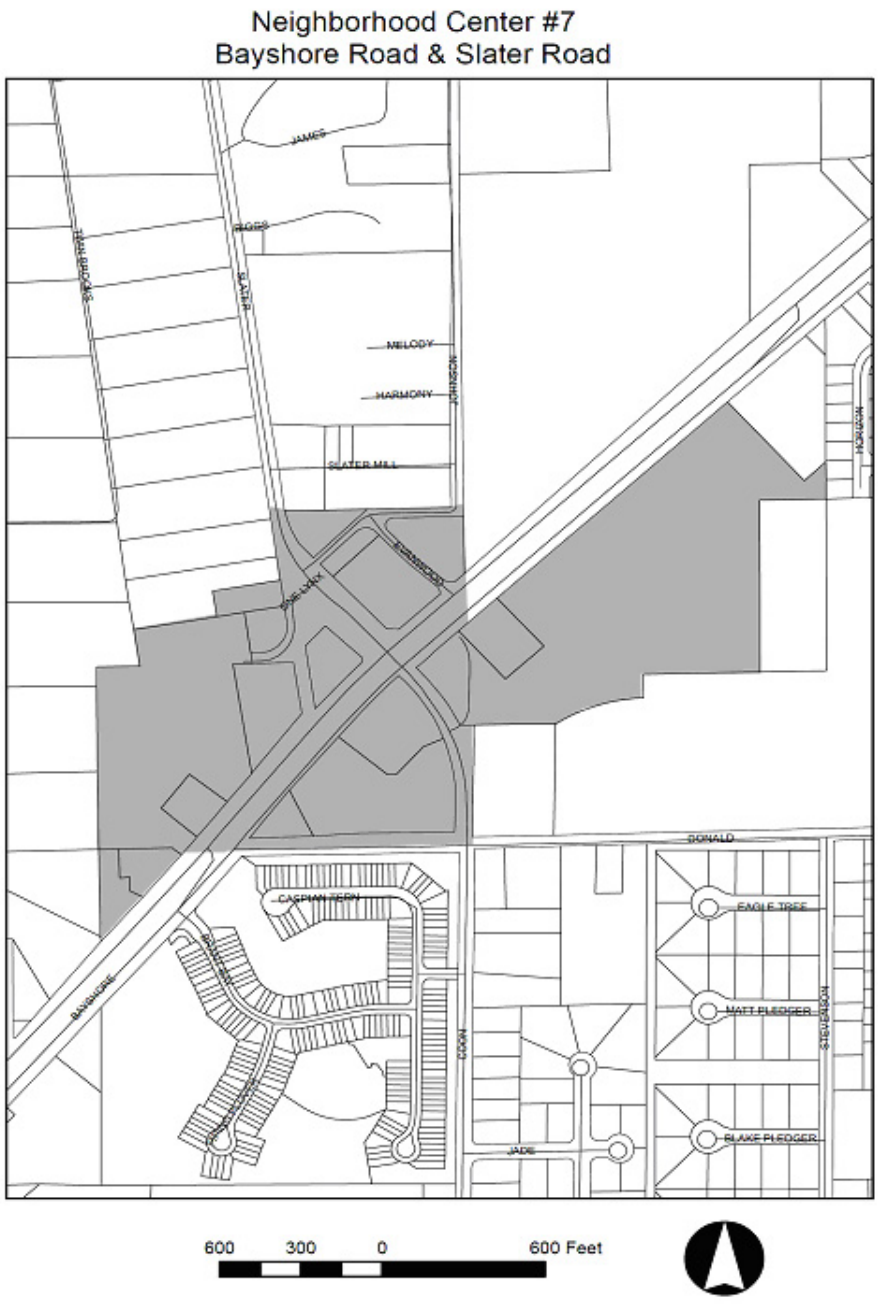


Map 12 - North Fort Myers Planning Community, Neighborhood Center #6

(Ord. No. 12-01 , § 7, 1-10-12)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

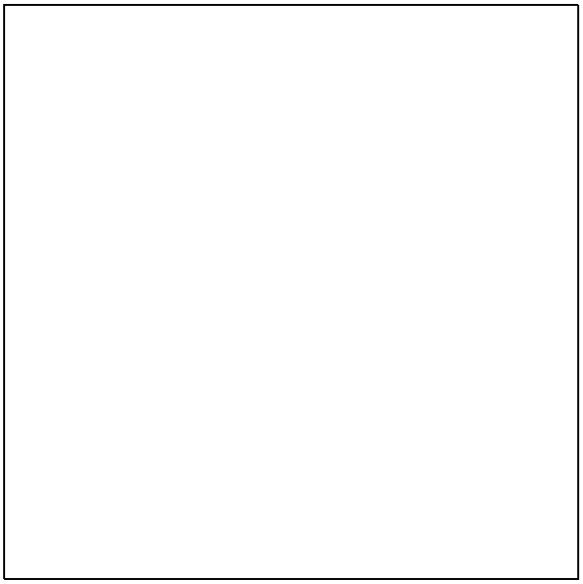


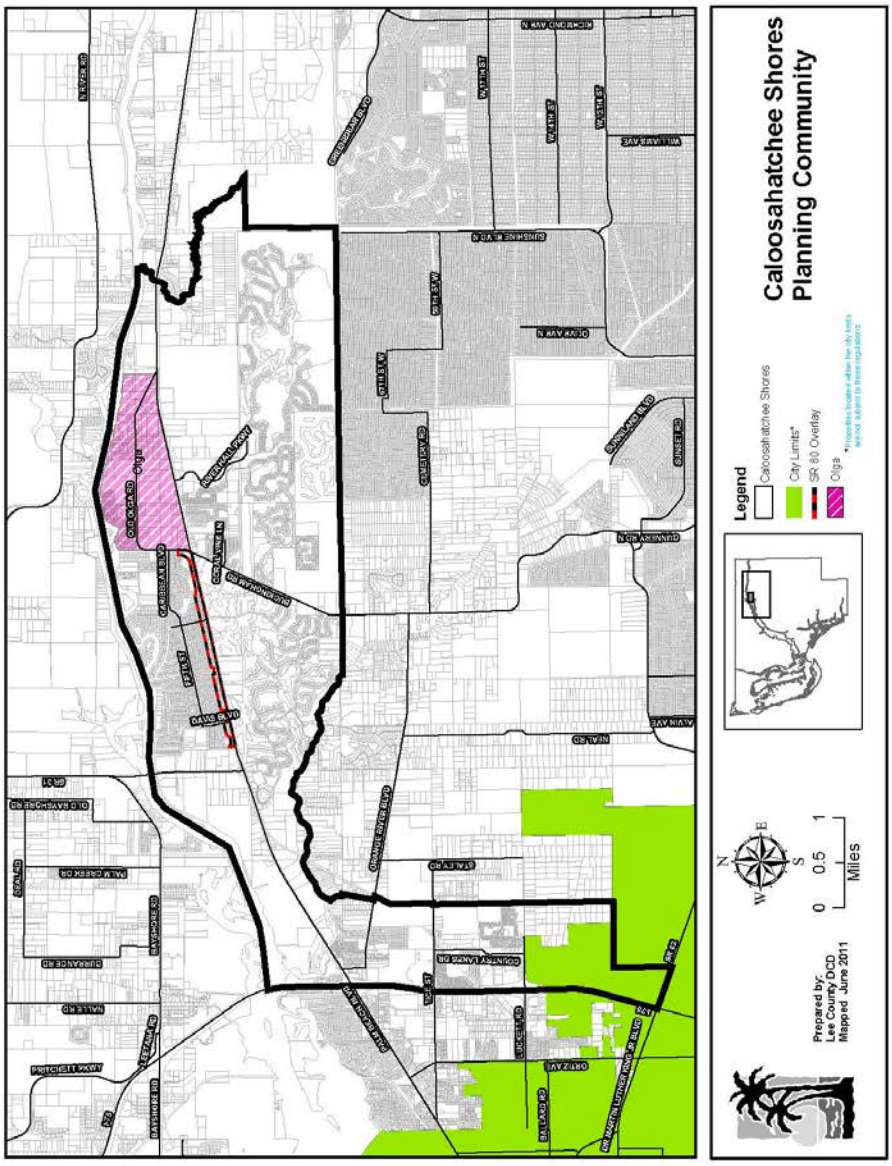


Map 13 - North Fort Myers Planning Community, Neighborhood Center #7

(Ord. No. 12-01 , § 7, 1-10-12)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

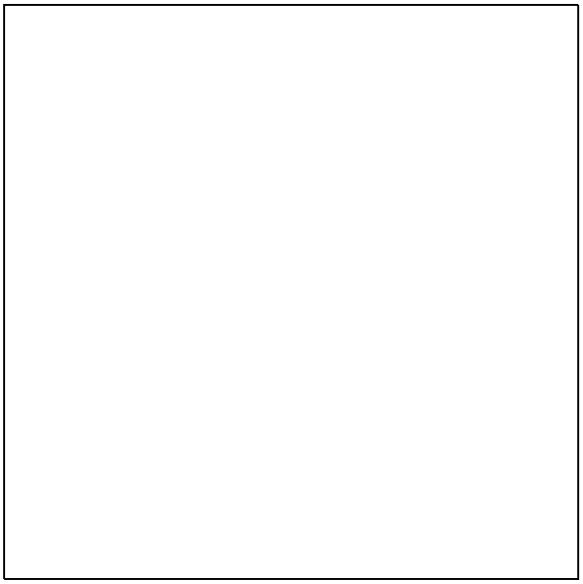


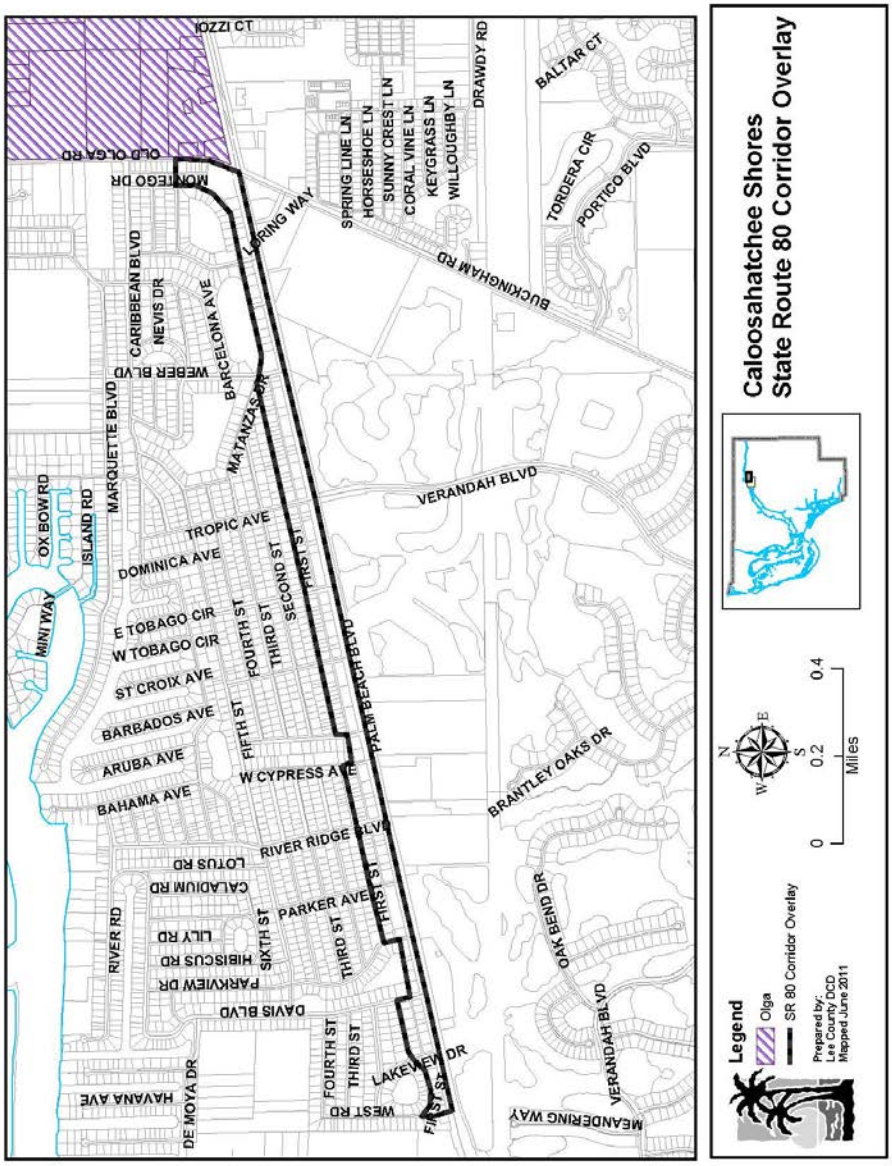


Map 14 - Caloosahatchee Shores Planning Community

(Ord. No. 12-01 , § 7, 1-10-12)

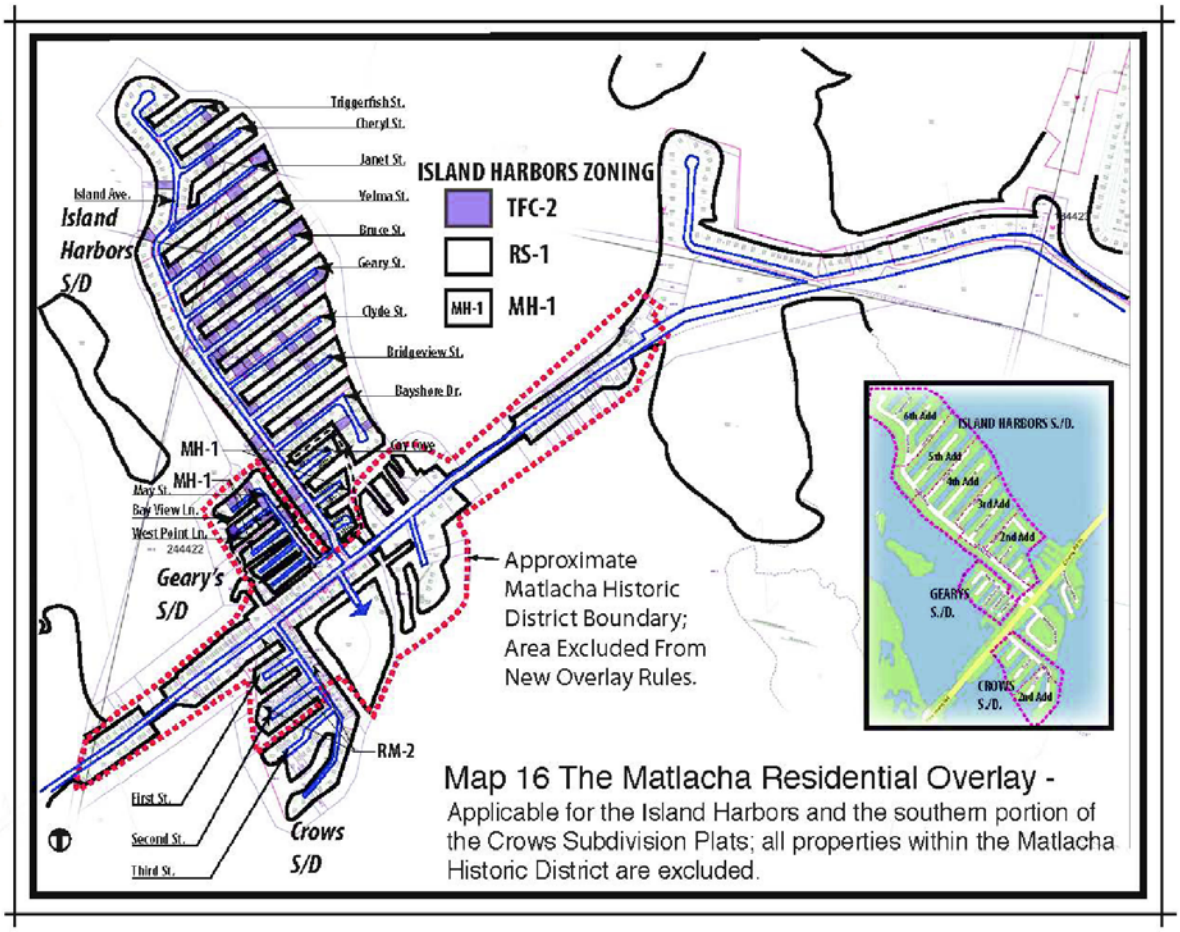
APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS





Map 15 - Caloosahatchee Shores Planning Community: State Route 80 Corridor Overlay

(Ord. No. 12-01 , § 7, 1-10-12)

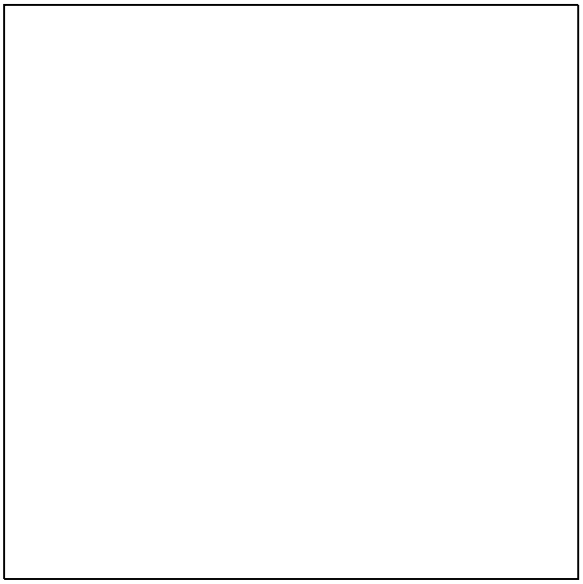


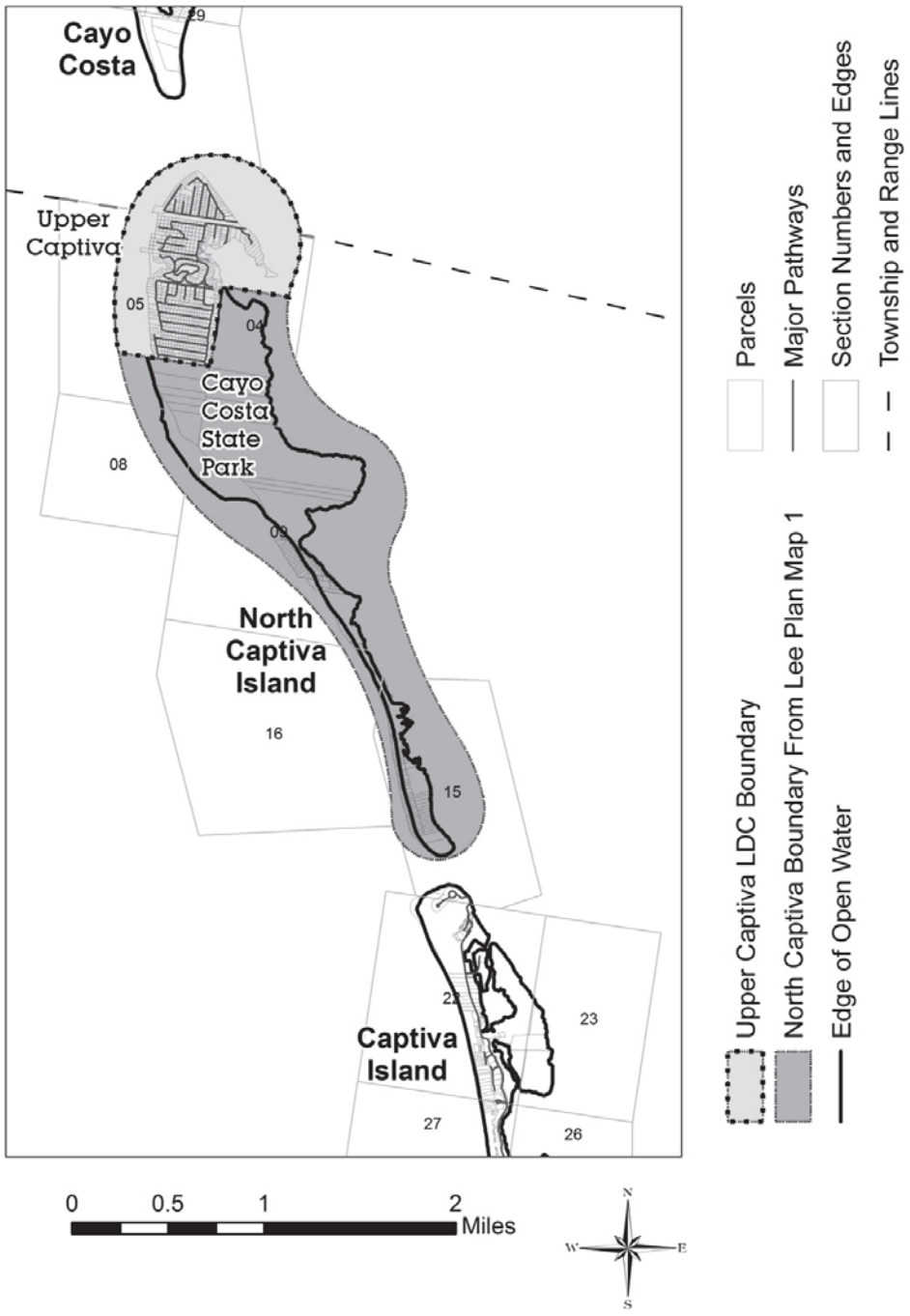
Map 16 - Matlacha Residential Overlay

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

(Ord. No. 12-14 , § 5, 6-12-12)

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS





Map 17 - Upper Captiva LDC Boundary

(Ord. No. 14-13 , § 8, 6-17-14)

SAN CARLOS ISLAND OVERLAY DISTRICT LEGAL DESCRIPTION

APPENDIX I PLANNING COMMUNITY AND REDEVELOPMENT OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS

PORTIONS OF SECTIONS 13 AND 24, TOWNSHIP 46 SOUTH, RANGE 23 EAST, AND PORTIONS OF SECTIONS 18 AND 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST, LEE COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE POINT OF INTERSECTION OF THE CENTERLINE OF BUTTONWOOD STREET WITH THE CENTERLINE OF MAIN STREET, THENCE SOUTHEASTERLY AND EASTERLY ALONG THE CENTERLINE OF MAIN STREET TO AN INTERSECTION WITH THE EAST LINE OF GOVERNMENT LOT 3 OF SECTION 19, TOWNSHIP 46 SOUTH, RANGE 24 EAST; THENCE SOUTHERLY ALONG SAID EAST LINE TO AN INTERSECTION WITH THE NORTHERLY CITY LIMIT LINE OF THE CITY OF FORT MYERS BEACH; THENCE WESTERLY, NORTHWESTERLY AND WESTERLY ALONG SAID NORTHERLY CITY LIMIT LINE TO AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WESTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 1820 AT PAGE 4100 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA; THENCE NORTHERLY ALONG SAID WESTERLY LINE TO AN INTERSECTION WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF MAIN STREET; THENCE WESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF WAY LINE OF SAN CARLOS BOULEVARD; THENCE SOUTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE TO AN INTERSECTION WITH THE NORTHERLY LINE OF LOT 6, BLOCK 8 OF SAN CARLOS ON THE GULF, A SUBDIVISION RECORDED IN PLAT BOOK 6 AT PAGE 6 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE SOUTHEASTERLY ALONG SAID NORTHERLY LINE, AND ALONG THE NORTHERLY LINE OF LOT 25 OF SAID BLOCK 8, AND THE SOUTHEASTERLY EXTENSION THEREOF TO AN INTERSECTION WITH THE AFOREMENTIONED NORTHERLY CITY LIMIT LINE; THENCE SOUTHERLY, SOUTHWESTERLY, WESTERLY AND NORTHWESTERLY ALONG SAID NORTHERLY CITY LIMIT LINE TO AN INTERSECTION WITH THE NORTHWESTERLY EXTENSION OF THE NORTHERLY LINE OF LOT 2, BLOCK I OF THE AFOREMENTIONED SAN CARLOS ON THE GULF SUBDIVISION; THENCE SOUTHEASTERLY ALONG SAID NORTHERLY LINE TO AN INTERSECTION WITH THE CENTERLINE OF SAN CARLOS DRIVE; THENCE NORTHERLY ALONG THE CENTERLINE OF SAN CARLOS DRIVE TO AN INTERSECTION WITH THE CENTERLINE OF MAIN STREET; THENCE SOUTHEASTERLY ALONG THE CENTERLINE OF MAIN STREET TO AN INTERSECTION WITH THE CENTERLINE OF SOUTH STREET; THENCE NORTHEASTERLY ALONG THE CENTERLINE OF SOUTH STREET TO AN INTERSECTION WITH THE CENTERLINE OF SAN CARLOS COURT; THENCE NORTHEASTERLY ALONG THE CENTERLINE OF SAN CARLOS COURT TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAN CARLOS BOULEVARD; THENCE NORTHEASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE TO AN INTERSECTION WITH A PORTION OF THE NORTHERLY BOUNDARY OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 2781 AT PAGE 1581 OF SAID PUBLIC RECORDS; THENCE WESTERLY ALONG SAID NORTHERLY BOUNDARY TO AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 1736 AT PAGE 652 OF SAID PUBLIC RECORDS; THENCE NORTHERLY ALONG SAID WEST LINE TO AN INTERSECTION WITH THE NORTH LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 2166 AT PAGE 3633 OF SAID PUBLIC RECORDS; THENCE EASTERLY ALONG SAID NORTH LINE AND THE EASTERLY EXTENSION THEREOF TO AN INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF SAN CARLOS BOULEVARD; THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE TO AN INTERSECTION WITH THE NORTH LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 2905 AT PAGE 365 OF SAID PUBLIC RECORDS; THENCE SOUTHEASTERLY ALONG SAID NORTH LINE TO AN INTERSECTION WITH THE NORTHERLY EXTENSION OF THE EAST LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 2855 AT PAGE 1363 OF SAID PUBLIC RECORDS; THENCE SOUTHERLY ALONG SAID EAST LINE TO AN INTERSECTION WITH THE SOUTH LINE OF SAID PARCEL; THENCE WESTERLY ALONG SAID SOUTH LINE TO AN INTERSECTION WITH THE AFOREMENTIONED EASTERLY RIGHT-OF-WAY LINE OF SAN CARLOS BOULEVARD; THENCE SOUTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE TO AN INTERSECTION WITH THE NORTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 2152 AT

PAGE 4275 OF SAID PUBLIC RECORDS; THENCE SOUTHEASTERLY ALONG SAID NORTHERLY LINE TO AN INTERSECTION WITH THE EASTERLY LINE OF SAID PARCEL; THENCE SOUTHWESTERLY, THEN SOUTHEASTERLY AND THEN SOUTHWESTERLY ALONG SAID EASTERLY LINE TO AN INTERSECTION WITH THE SOUTHERLY LINE OF SAID PARCEL; THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE TO AN INTERSECTION WITH THE AFOREMENTIONED EASTERLY RIGHT-OF-WAY LINE OF SAN CARLOS BOULEVARD; THENCE SOUTHWESTERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE TO AN INTERSECTION WITH THE CENTERLINE OF BUTTONWOOD STREET; THENCE SOUTHEASTERLY AND THEN SOUTHWESTERLY ALONG THE CENTERLINE OF BUTTONWOOD STREET TO AN INTERSECTION WITH THE SOUTHEASTERLY EXTENSION OF THE NORTHERLY LINE OF LOT 24, BLOCK 9, OF THE AFOREMENTIONED SAN CARLOS ON THE GULF SUBDIVISION; THENCE NORTHWESTERLY ALONG SAID NORTHERLY LINE TO AN INTERSECTION WITH THE WESTERLY LINE OF SAID LOT 24; THENCE SOUTHWESTERLY ALONG THE WESTERLY LINE OF LOTS 24 THROUGH 38 OF SAID BLOCK 9 TO AN INTERSECTION WITH THE SOUTHERLY LINE OF SAID LOT 38; THENCE SOUTHEASTERLY ALONG SAID SOUTHERLY LINE TO AN INTERSECTION WITH THE CENTERLINE OF BUTTONWOOD STREET; THENCE SOUTHWESTERLY ALONG SAID CENTERLINE TO AN INTERSECTION WITH THE CENTERLINE OF MAIN STREET AND THE POINT OF BEGINNING.

(Ord. No. 05-29 , § 4, 12-13-05)

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Ord. No. 98-28, § 6, adopted Dec. 8, 1998, amended App. I, in its entirety. Subsequently, Ord. No. 99-22, § 4, adopted Dec. 14, 1999, amended App. I, in its entirety. Subsequently, Ord. No. 05-29, § 4, adopted Dec. 13, 2005, repealed App. I, in its entirety, and enacted provisions designated as a new App. I to read as herein set out. See also the Code Comparative Table. Ord. No. 13-10, § 11, adopted May 28, 2013, changed the title of App. I from "Redevelopment Overlay District Boundaries" to "Planning Community and Redevelopment Overlay District Boundaries and Legal Descriptions." (Back)

APPENDIX J DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE [1]

HARLEM HEIGHTS

Beginning at the northeast corner of Section 32, Township 45, Range 24; thence west along the north section line of said section to the northeast corner of Section 31, Township 45, Range 24; thence west along the north section line of said section approximately 50 feet to the western right-of-way boundary of Pine Ridge Road; thence south along the western right-of-way boundary of Pine Ridge Road approximately 3,320 feet; thence west 660 feet; thence south 1,980 feet to the south section line of said section; thence east 660 feet to the southeast corner of said section; thence east 4,850 feet along south section line of Section 32, Township 45, Range 24 to the eastern boundary of a slough generally known as Cow Slough; thence in a northwesterly direction along the eastern boundary of Cow Slough approximately 3,340 feet to the southern right-of-way boundary of Gladiolus Drive; thence in a northeasterly direction along the southern boundary of Gladiolus Drive approximately 1,350 feet to the east section line of said section; thence north along the east section line of said section approximately 1,440 feet to the northeast corner of said section, the Point of Beginning.

CHARLESTON PARK

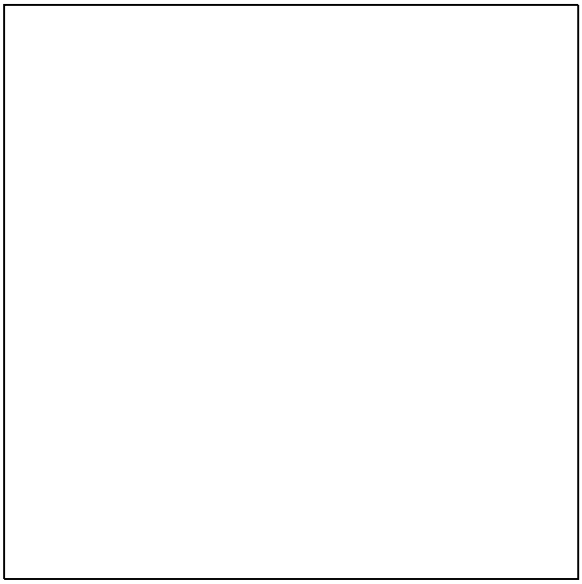
The portion of Census Tract 303, Section 25, Township 43 South, Range 25 East (illustrated on page two attached) and generally bound as follows: beginning at the intersection of State Road 80 and First Street proceed southward on First Street past the intersection of First Street and Avenue D to where First Street deadends. Proceed from this point directly eastward to where Third Street deadends. From this aforementioned location proceed northward to the intersection of Railroad Avenue and Third Street. From this point proceed directly northward to State Road 80. From this point proceed eastward to the intersection of State Road 80 and First Street, the point of beginning. The streets to be included in the Charleston Park Target area in their entirety are as follows: First Street, Second Street, Third Street, Solomon Avenue, Avenue A, Avenue B, Avenue C, Avenue D, Charleston Park Drive and the Section of State Road 80 mentioned above.

FORT MYERS/LEE COUNTY ENTERPRISE ZONE (formerly the Dunbar Enterprise Zone)

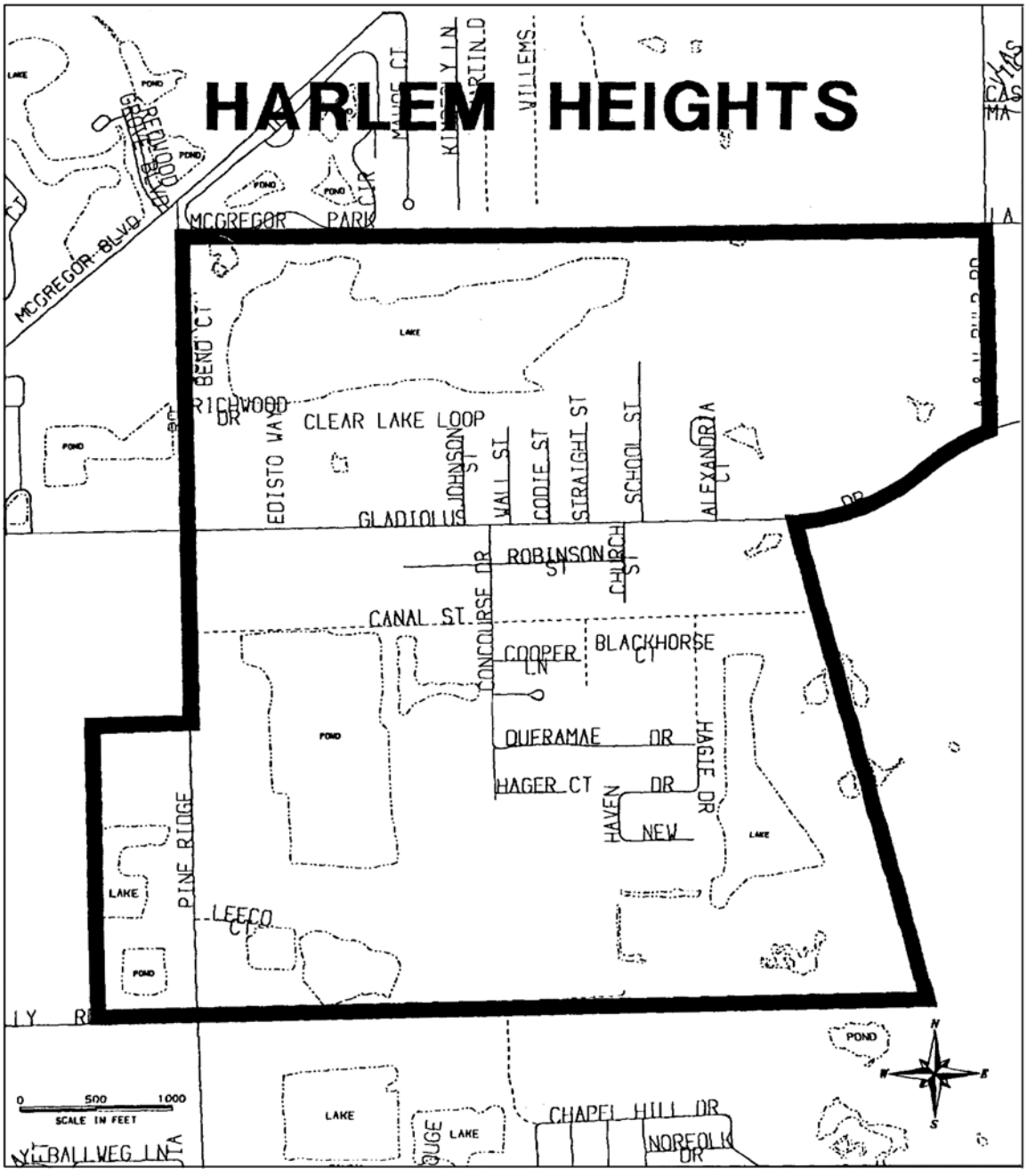
The Fort Myers/Lee County Enterprise Zone Program Area includes the entire geographic area of Census Block Groups Numbered: 001001, 003013, 003014, 003023, 003024, 004011, 004012, 004013, 005022, 005025, 005026, 005043, 006001, 006002, 006003, 006004, 007002, 007003, 011001, 011002, 0011003, 011004, 011005, 007004, 005021, 005024, 003022, 005023, 005042, 005041, and the non-residential portion of Census Block Group 012011.

(Ord. No. 11-08 , § 12, 8-9-11)

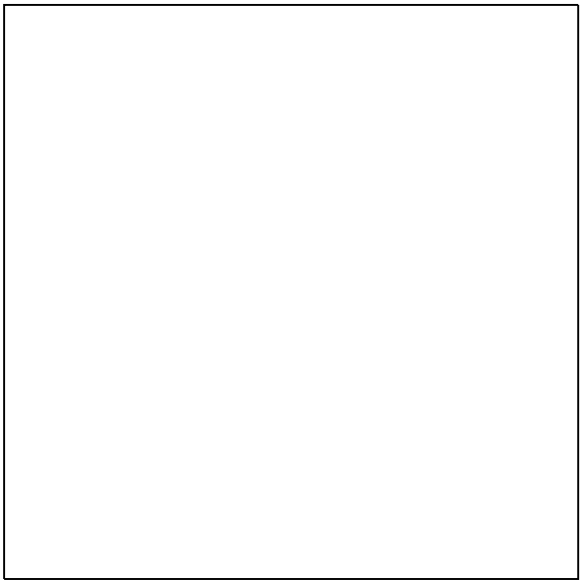
APPENDIX J DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE



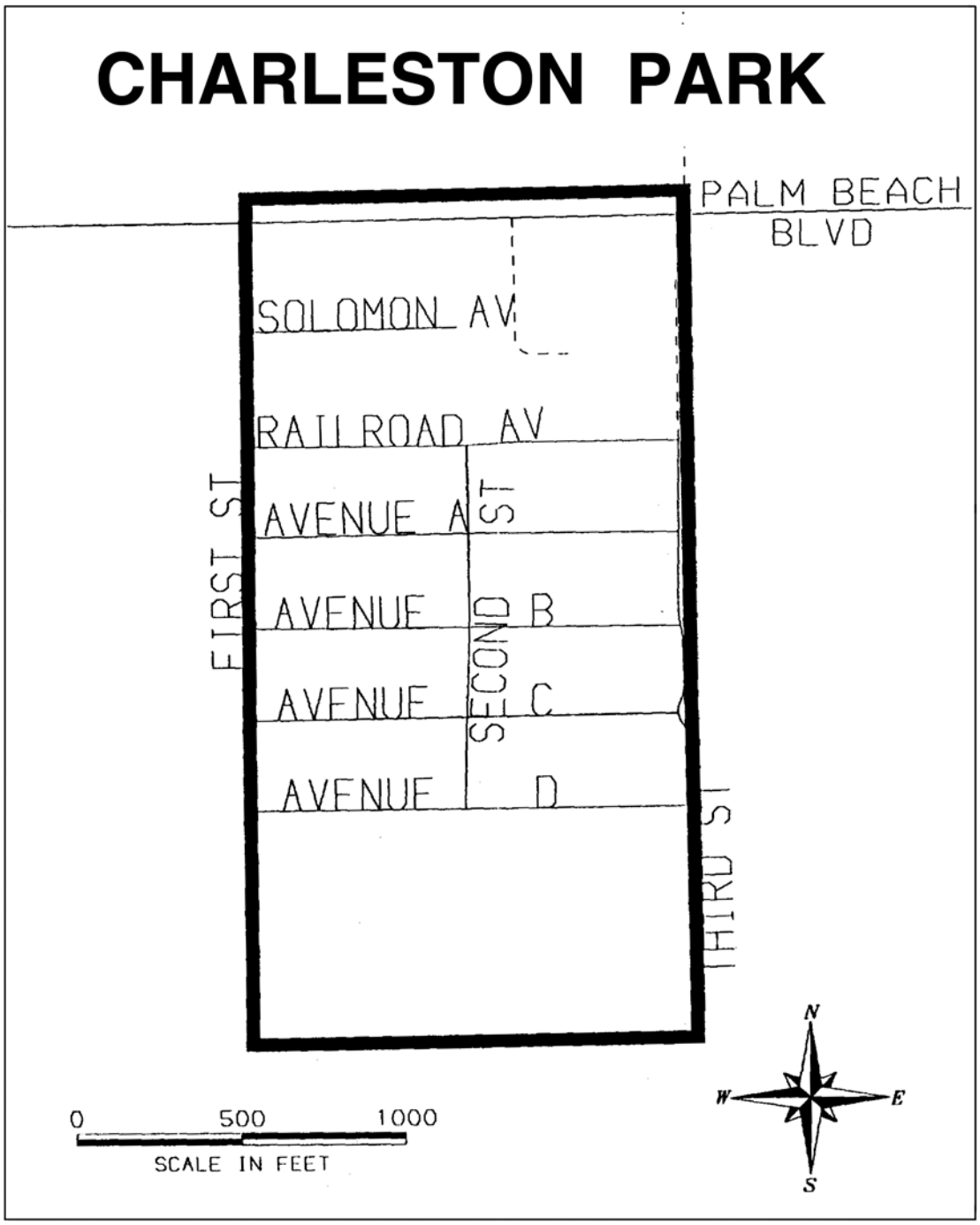
APPENDIX J DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE



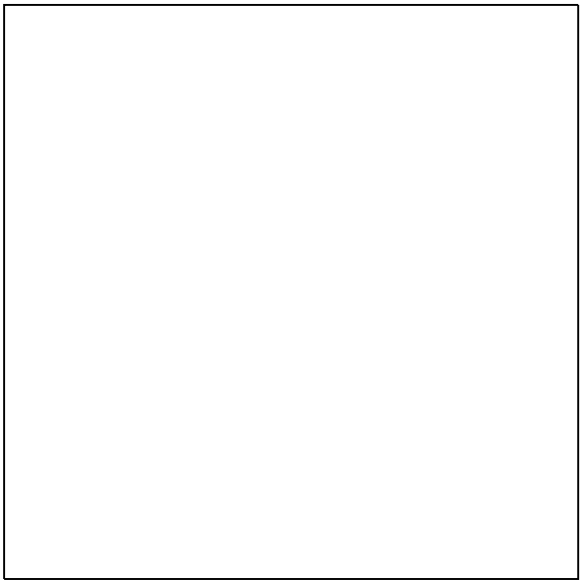
APPENDIX J DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE



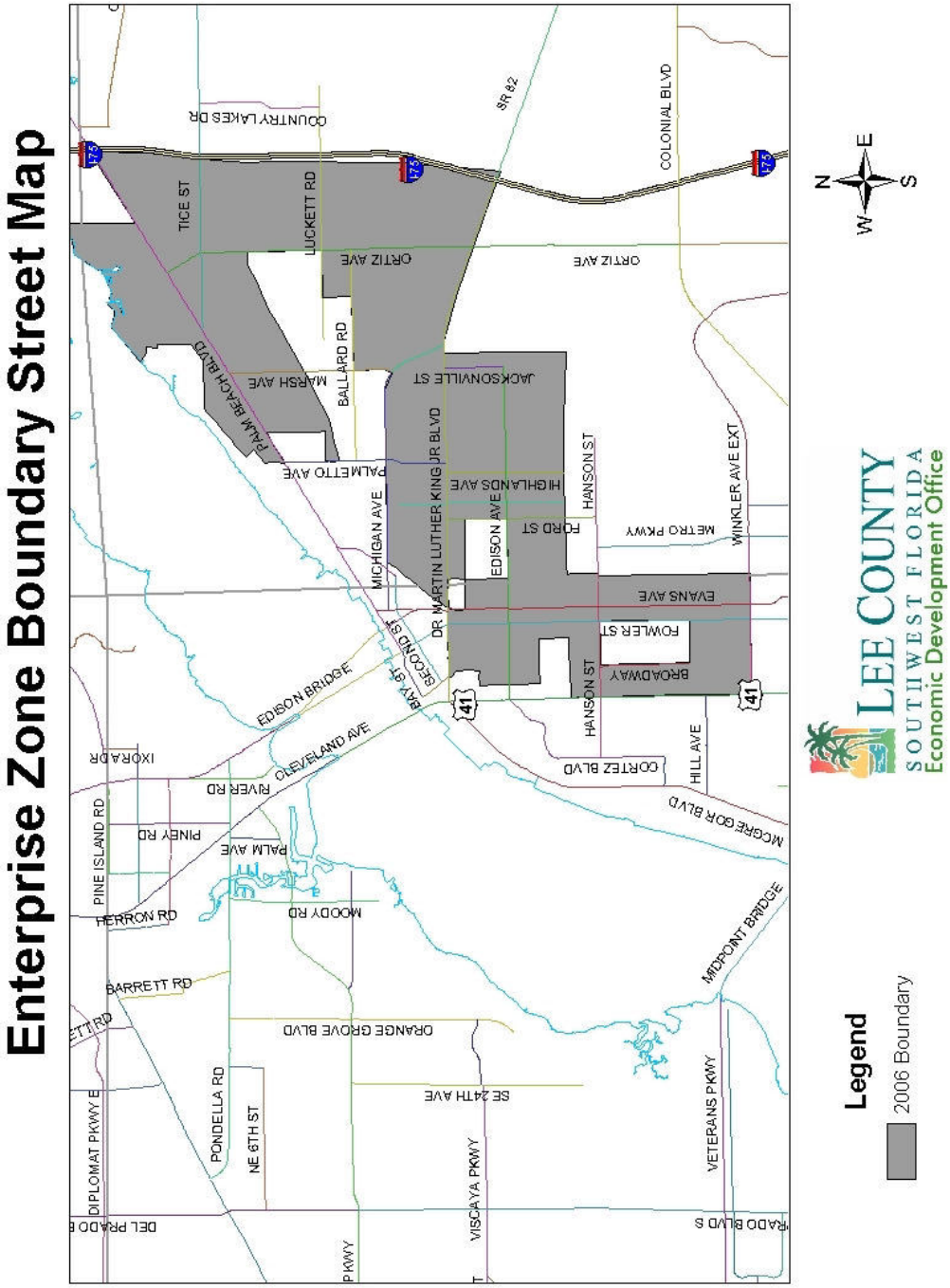
APPENDIX J DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE



APPENDIX J DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE



APPENDIX J DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE



(Ord. No. 06-24, § 2, 11-14-06)

FOOTNOTE(S):

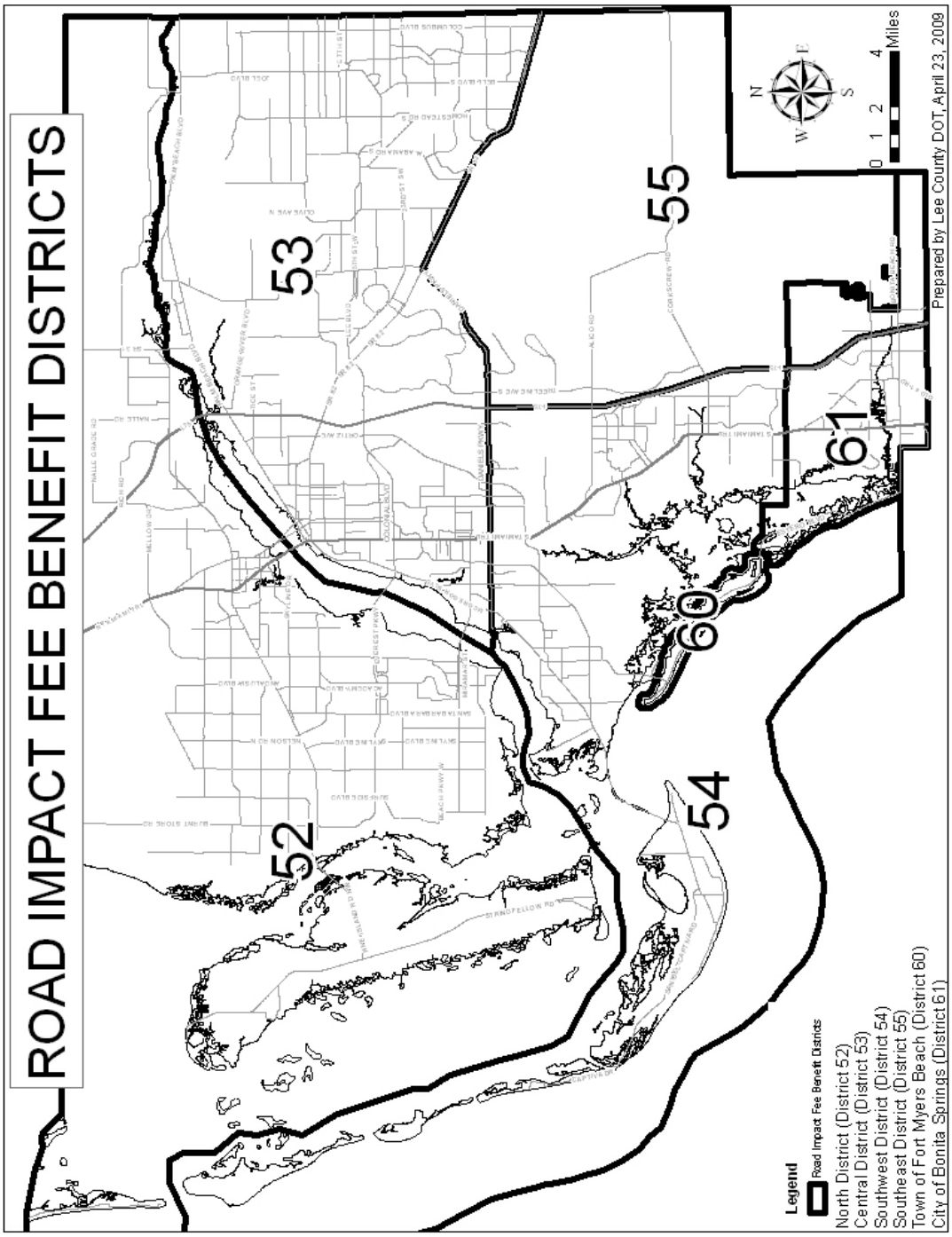
APPENDIX J DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE

--- (**1**) ---

Editor's note— Appendix J was added by Ord. No. 95-22, § 2, adopted Nov. 1, 1995 and subsequently amended by Ord. No. 06-24, § 2, adopted Nov. 14, 2006. (Back)

APPENDIX K ROAD IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS [1]

Map 1



APPENDIX K ROAD IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS

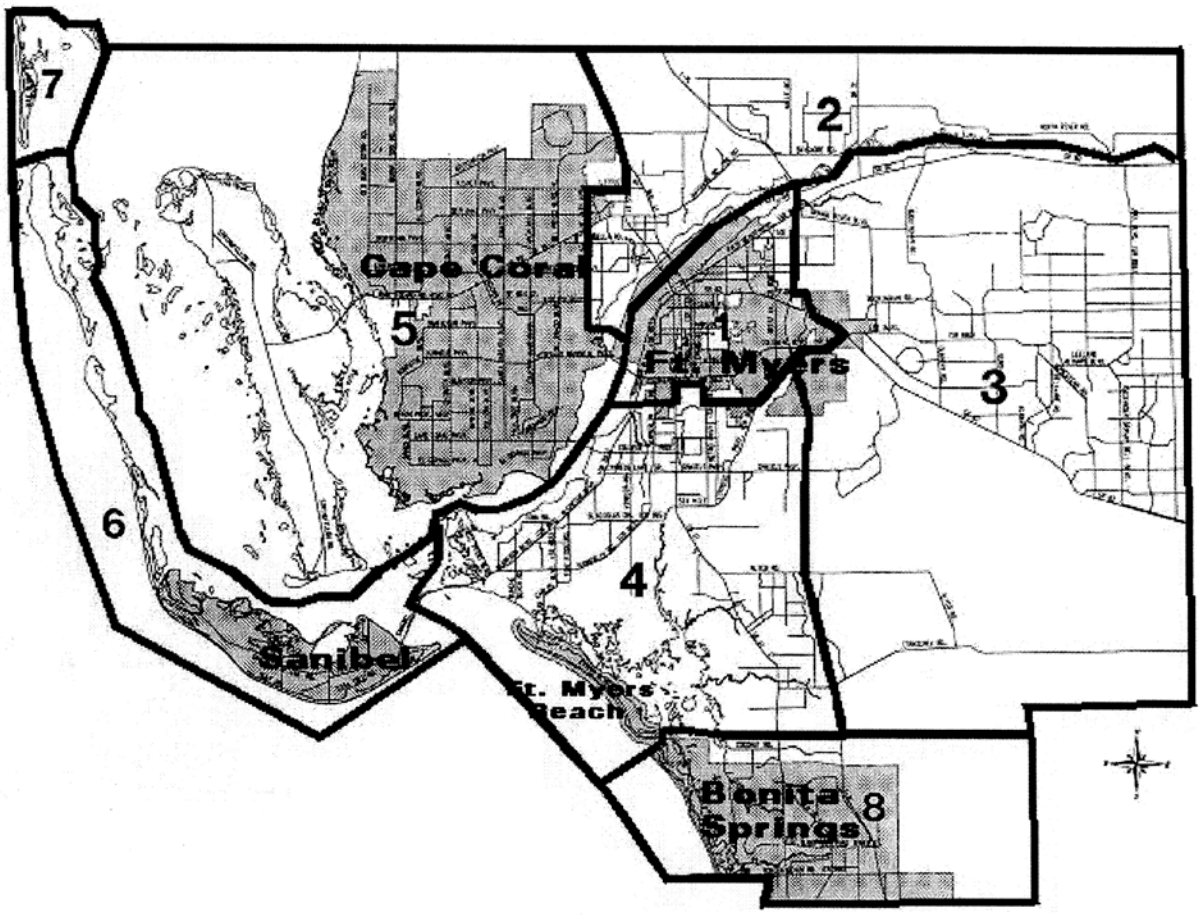
Central District. (District 53) Bounded on the north and west by the Okeechobee Waterway; on the south by Cypress Lake Drive, Daniels Parkway and SR 82; and on the east by the Hendry County line.

Southeast District. (District 55) Bounded on the west by Interstate 75 (I-75); on the north by the Central District; on the east by the Hendry County line and the Collier County line; and on the south by the Collier County line.

Southwest District. (District 54) Bounded on the east by I-75; on the south by Collier County line; on the west by the Gulf of Mexico; and on the north by the navigational channel into Boca Grande Pass, the Intracoastal Waterway within Pine Island Sound and San Carlos Bay, the Okeechobee Waterway, and the southern boundary of the Central District.

North District. Bounded on the north by the (District 52) Charlotte County line; on the east by the Hendry County line; on the south by the Intracoastal Waterway within San Carlos Bay, the Okechobee Waterway and the main navigational channel into Boca Grande Pass; and on the west by the Gulf Mexico from the Boca Grande Pass to the Charlotte County line.

Map 2



District 1. Bounded on the north and west by the Okeechobee Waterway (located within the bounds of the Caloosahatchee River); including Lofton's Island. The eastern and southern borders follow I-75 from the Okeechobee Waterway south to the northern section line of Section 22, Township 44, Range 25, then east along said section line to the northeast corner of Section 23, Township 44, Range 25, then south along said section line to the Buckingham Road ROW (SR 82A), then west along said ROW to its intersection with the

State Road 82 ROW, then southeast along said ROW to the intersection of the proposed State Road 884 ROW extension, follow the SR 884 ROW extension to its intersection with the western boundary of the Six Mile Cypress Slough and the City of Fort Myers city limits, then following the city limits line southwesterly to its intersection with Six Mile Cypress Parkway, continue southwesterly along the Six Mile Cypress Parkway to the southern section lines of Section 4, Township 45, Range 25, then west along the southern sections 4, 5, and 6, Township 45, Range 25 to the southwest corner of Section 6, Township 45, Range 25, then north along the western section line of Section 6, Township 45, Range 25 to the City of Fort Myers city limits, then follow the Fort Myers city limits to the southern section line of Section 2, Township 45, Range 24, then west along the southern section lines of Sections 2 and 3, Township 45, Range 24 to the Okeechobee Waterway.

District 2. Bounded on the north by the Charlotte County line, and on the east by the Hendry County line. The southern boundary is the Okeechobee Waterway beginning in the west at the Cape Coral/North Fort Myers line, then following the waterway east to the Hendry County line. The western border of District 2 follows U.S. 41 south from the Charlotte county line to Littleton Road, runs west on Littleton Road to 24th Street and south along 24th Street to the Cape Coral/North Fort Myers city boundary to the Okeechobee Waterway.

District 3. Bounded on the north by the Okeechobee Water east of the Hendry County line, and on the east by the Hendry County Line, on the south by the northern boundary of District 8, and on the west by I-75 from the northern boundary of District 8 to the intersection of the District 1 border and I-75, then follow the eastern border of District 1 to the Okeechobee Waterway.

District 4. Bounded on the north, between the Okeechobee Waterway and I-75, by the southern boundary of District 1, on the east by I-75 from the intersection of the southern District 1 boundary and I-75 to the north boundary of District 8. Bounded on the south by the District 8 boundary, and on the west by the Gulf of Mexico from I-75, west to the main navigational channel entering San Carlos Bay, then following that channel to channel marker 101, then turning northeast following the Okeechobee Waterway to meet the southern boundary of District 1.

District 5. Represents the city of Cape Coral, Pine Island, Matlacha and is bounded on the north by Charlotte Harbor and the Charlotte County line, on the East by the western boundary of District 2 and the Okeechobee Waterway, on the south by the Intracoastal Waterway within San Carlos Bay, and on the west by the Intracoastal Waterway within Pine Island Sound and Charlotte Harbor.

District 6. Represents Sanibel, North Captiva and Cayo Costa and is bounded on the north by the navigational channel into Boca Grande Pass, on the east by the Intracoastal Waterway within Pine Sound and San Carlos Bay and western boundary of District 4, and on the south by the Gulf of Mexico, from the western boundary of District 4 to the main navigational channel into Boca Grande Pass.

District 7. Represents Gasparilla Island bounded by the Charlotte County line on the north, on the east by the Intracoastal Waterway within Charlotte Harbor from the Charlotte County Line to Boca Grande Pass including Cayo Pelau, on the south by the main navigational channel into Boca Grande Pass, and on the west by the Gulf of Mexico from Boca Grande Pass to the Charlotte County Line.

District 8. Bounded on the north by a line defined by the northern section lines of sections 7, 8, 9, 10, 11, and 12 of township 47 south, range 26 east, sections 7, 8, 9, 10, 11, and 12 of township 47 south, range 25 east, then proceeding westerly into Estero Bay, running north of Monkey Joe Key and then southwest through Big Carlos Pass. Bounded on the west by the Gulf of Mexico, and on the south and east by the Collier County Line.

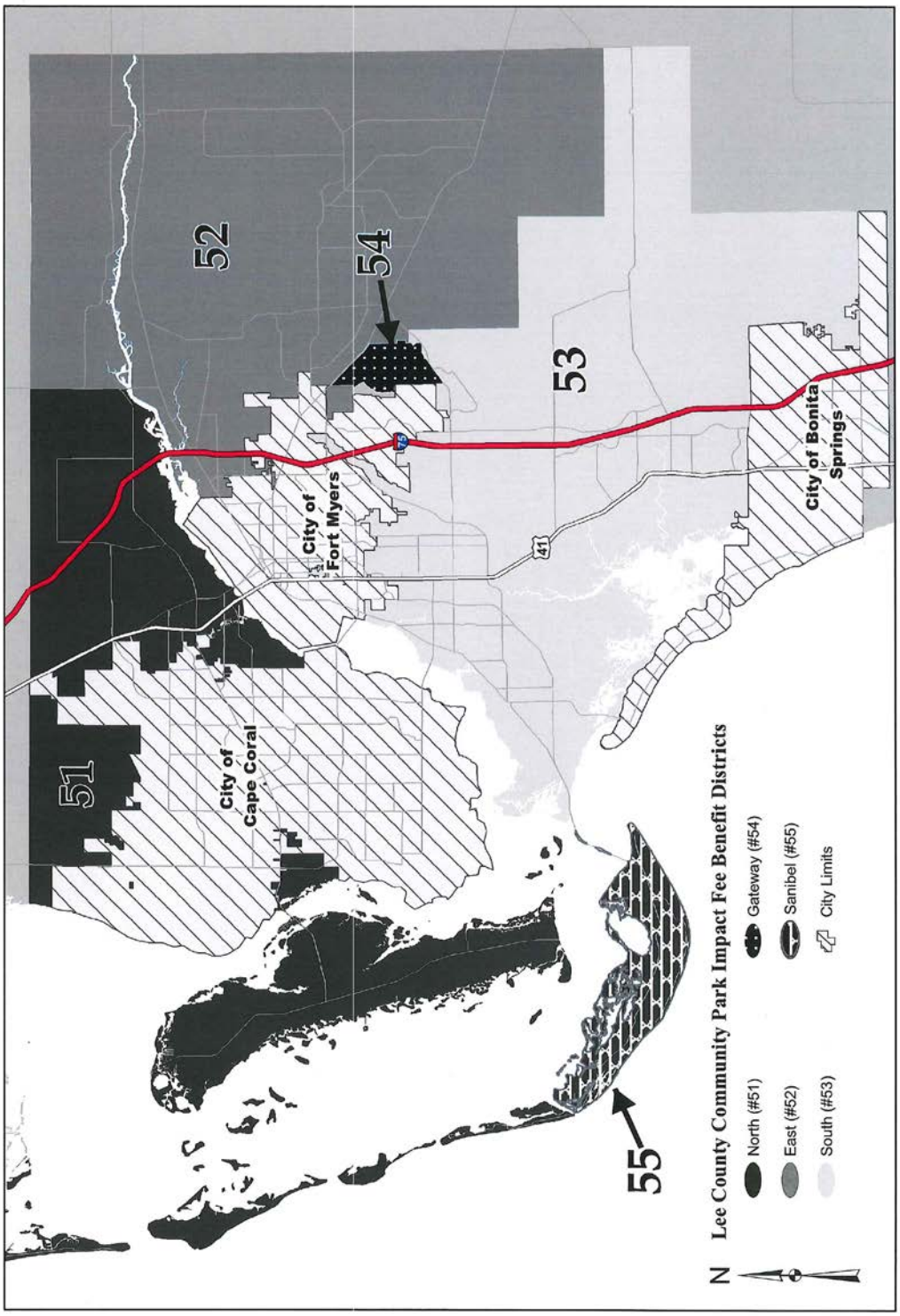
(Ord. No. 98-11, § 6, 6-23-98; Ord. No. 03-22, § 2, 10-28-03; Ord. No. 09-23, § 11, 6-23-09)

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Appendix K was added by Ord. No. 95-22, § 2, adopted Nov. 1, 1995. Subsequently, Ord. No. 03-22, § 2, adopted Oct. 28, 2003, amended App. K, in its entirety, to read as herein set out. See also the Code Comparative Table. (Back)

APPENDIX L COMMUNITY PARK IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS [1]



APPENDIX L COMMUNITY PARK IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS

North *(#51).*
Bounded on the North by Charlotte County Line. Bounded on the East by the Eastern Boundary of Range 25. Bounded on the South by Okeechobee Waterway (Caloosahatchee River), then from Section 21, Township 44 South, Range 24 East follow Cape Coral City Limits to the North and West ending at Charlotte Harbor. Continue South along the Cape Coral City Limits to the West Boundary of South (#53). Continue along said West Boundary to the South Boundary of the Intracoastal Waterway (ICW). Continue along said South Boundary and the North and West City Limits of Sanibel to the Gulf of Mexico at the South end of Captiva. Continue North along the Gulf of Mexico, along the West side of Captiva Island, North Captiva Island, Cayo Costa Island and Gasparilla Island to the Charlotte County Line. Also included are enclaves within Cape Coral City Limits East of the East Boundary of Range 24.

East *(#52).*
Bounded on the North by Charlotte County Line. Bounded on the East by Hendry County and Collier County Lines. Bounded on the West by SR 31 from the Charlotte/Lee Line South to Okeechobee Waterway (Caloosahatchee River). Continuing to follow the City Limits of Fort Myers to the Southeast Corner of Section 36, Township 44 South, Range 25 East. Continue following the boundary of the Gateway Services District to the South Line of Section 8, Township 45 South, Range 26 East. Continue along the South Line of said Section to the Southeast corner of said Section. Continue South along the Section Lines to the Southwest corner of Section 33, Township 45 South, Range 26 East. Continue East on the South Boundary of Township 45 South, Range 26 East to the Southeast Corner of Section 36, Township 45 South, Range 26 East. Continue South along the West Boundary of Township 46 South, Range 27 East to the Southwest Corner of Section 18, Township 46 South, Range 27 East. Continue East to the County Line.

South *(#53).*
Bounded on the North by the City of Fort Myers City Limits and the Southerly Boundary of Gateway Services District to the North Line of Section 17, Township 45, Range 26. Continue East along said Section Line to the Northeast corner of said Section. Continue South along the Section Lines to the Southwest Corner of Section 33, Township 45 South, Range 26 East. Continue East on the South Boundary of the Township 45 South, Range 26 East to the Southeast Corner of Section 36, Township 45 South, Range 26 East. Continue South along the West Boundary of Township 46 South, Range 27 East to the Southwest Corner of Section 18, Township 46 South, Range 27 East. Continue East to the County Line. Continue along said County Line to the Southeast Corner of Section 36, Township 46 South, Range 27 East. Continue West along said County Line to the Southwest Corner of Section 36, Township 46 South, Range 27 East. Continue South along said County Line to the Southeast Corner of Section 36, Township 47 South, Range 26 East. Continue West and North along the City of Bonita Springs City Limits and the City of Fort Myers Beach City Limits and then bounded by San Carlos Bay. Western Boundary San Carlos Bay, the Intracoastal Waterway (ICW), and Cape Coral City Limits. South (#53) also includes enclaves in City of Fort Myers City Limits and Six Mile Cypress Slough.

Gateway *(#54).*
This district represents the Gateway Services District outside the City of Fort Myers City Limits.

Sanibel *(#55).*
All the area within the Sanibel City Limits.

(Ord. No. 05-07 , § 2, 5-24-05; Ord. No. 11-08 , § 13, 8-9-11; Ord. No. 14-19 , § 2(Exhs. A and B), 9-16-14)

FOOTNOTE(S):

APPENDIX L COMMUNITY PARK IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS

--- (**1**) ---

Editor's note— Appendix L was added by Ord. No. 98-11, § 7, adopted June 23, 1998. (Back)

APPENDIX M LEE COUNTY WIND BORNE DEBRIS REGION AND BASIC WIND SPEED MAP [1]

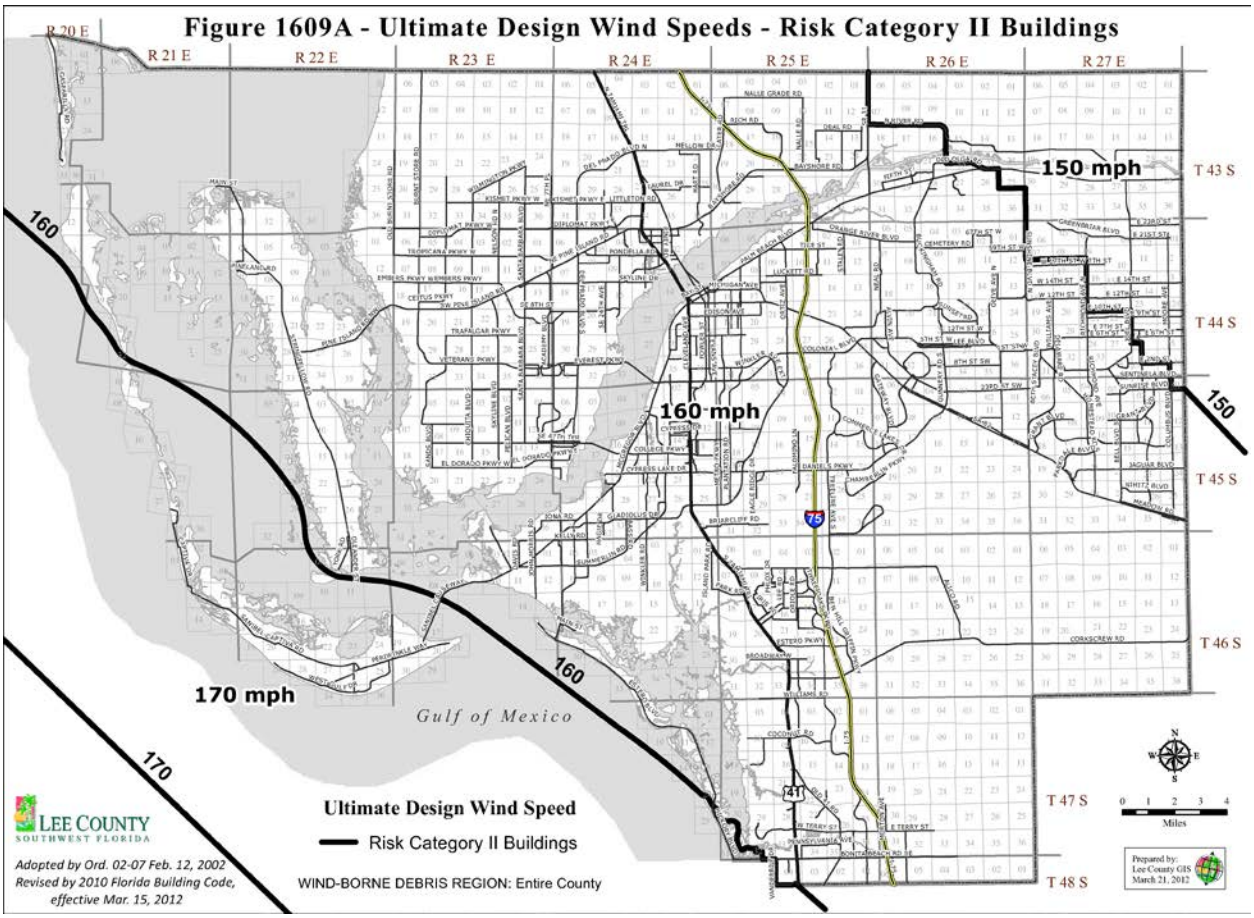


Figure 1609A

(Ord. No. 12-16 , § 2, 8-28-12)

APPENDIX M LEE COUNTY WIND BORNE DEBRIS REGION AND BASIC WIND SPEED MAP

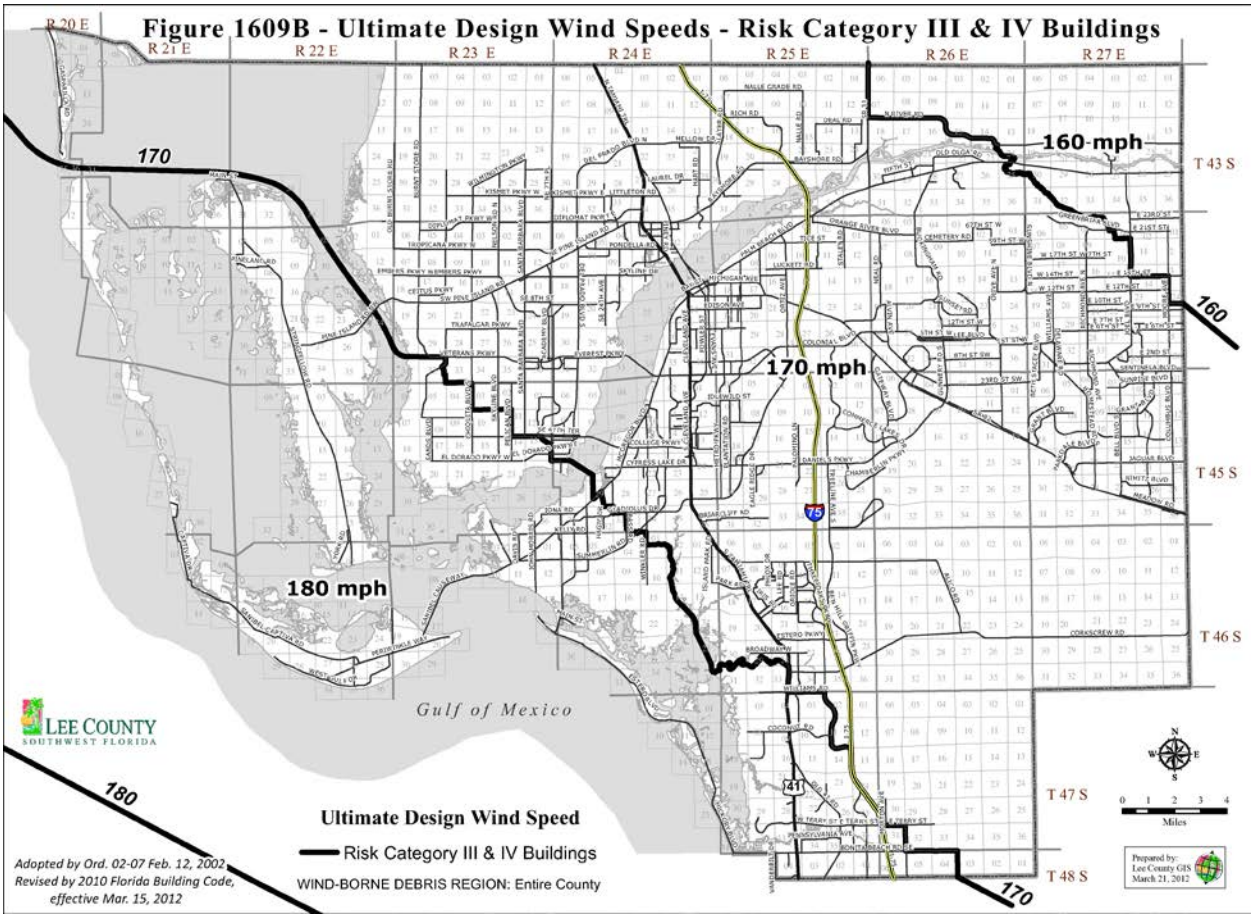


Figure 1609B

(Ord. No. 12-16 , § 2, 8-28-12)

APPENDIX M LEE COUNTY WIND BORNE DEBRIS REGION AND BASIC WIND SPEED MAP

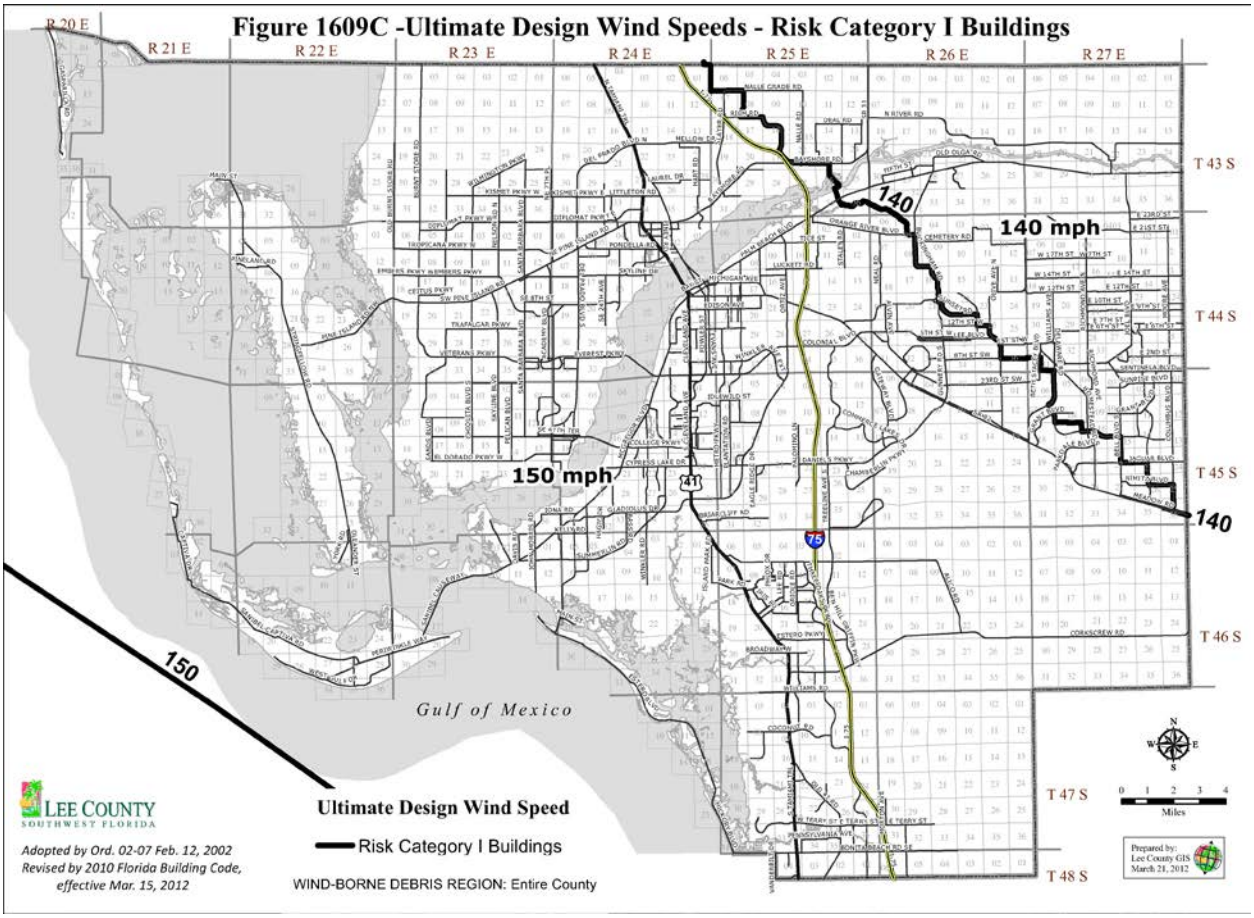


Figure 1609C

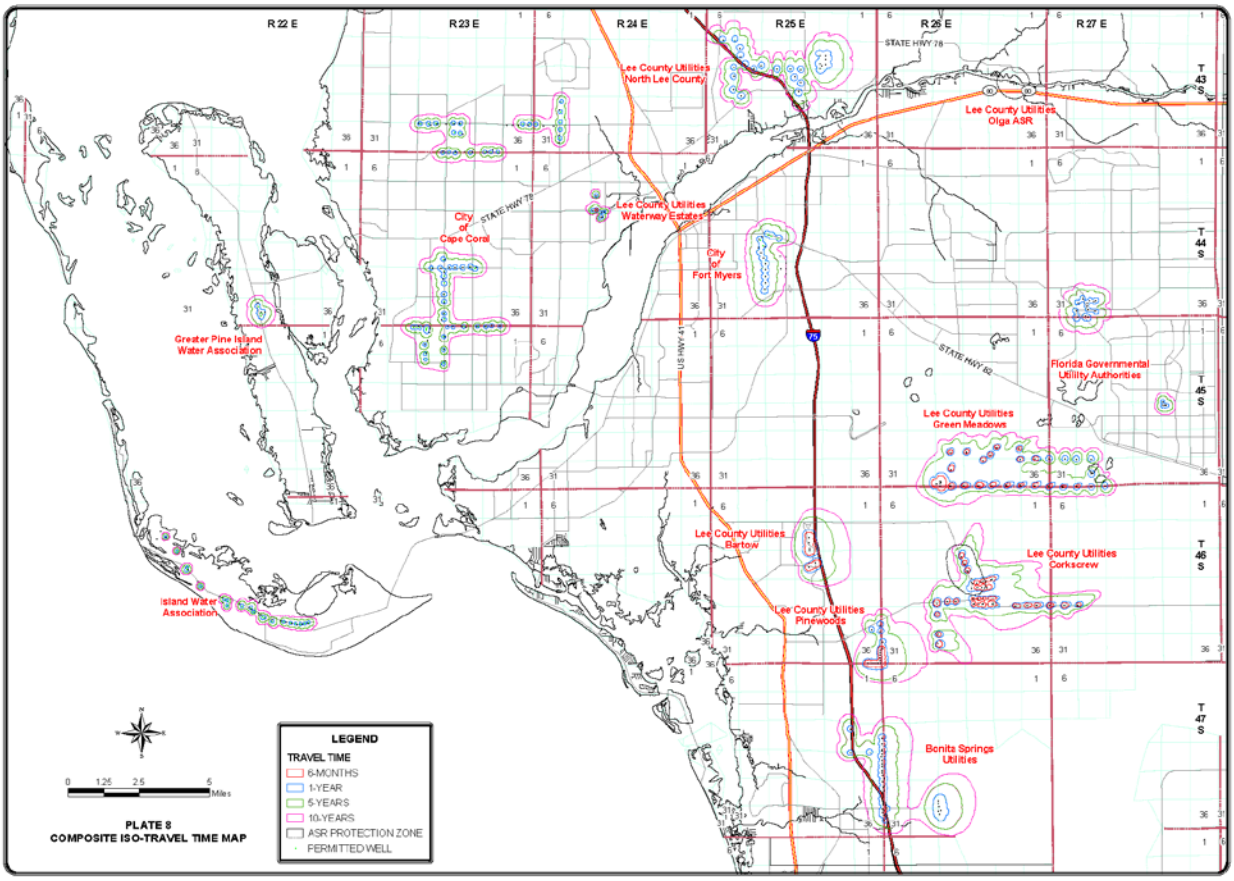
(Ord. No. 12-16 , § 2, 8-28-12)

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Appendix M was added by Ord. No. 02-07, § 3, adopted Feb. 2, 2002. (Back)

APPENDIX N WELLFIELD PROTECTION ZONES [1]



(Ord. No. 07-35 , § 2, 12-4-07; Ord. No. 14-07 , § 3, 3-18-14)

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Appendix N was added by Ord. No. 07-35, § 2, adopted December 4, 2007. (Back)

APPENDIX O CHEMICAL CONSTITUENT LIST [1]

Table 1 - Chemical Constituent List

Mining Monitoring Parameters	MDL	Units	Surface Water	Ground Water
Chlorophyll a, corrected for Pheophytin	0.5	mg/M3	X	
Pheophytin	0.5	mg/M3	X	
Biochemical Oxygen Demand, 5 day (BOD5)	0.3	mg/L	X	
Cadmium	0.3	µg/L	X	
Chloride	1.2	mg/L	X	X
Color	1.5	CU	X	
Specific Conductance, 25°C	1	µmhos/cm	X	
Copper	1.0	µg/L	X	
Oxygen, Dissolved	0.1	mg/L	X	
Enterococci	10	colonies/100mL	X	
Fecal coliform	10	colonies/100mL	X	
Ammonia	0.014	mg/L as N	X	
Nitrite	0.002	mg/L as N	X	
Nitrate	0.01	mg/L as N	X	
Nitrate + Nitrite (NOX)	0.01	mg/L as N	X	
Phosphorus, Ortho	0.004	mg/L as P	X	

APPENDIX O CHEMICAL CONSTITUENT LIST

Lead	1.0	µg/L	X	
pH, Field (electrometric)	0.1	units	X	
Silica	0.05	mg/L as SiO2	X	
Phosphorus, Total	0.01	mg/L as P	X	
Field Temperature		°C	X	
Nitrogen, Kjeldahl, Total (TKN)	0.05	mg/L as N	X	
Nitrogen, Total	0.11	mg/L as N	X	
Total Suspended Solids	0.6	mg/L	X	
Turbidity	0.2	NTU	X	
Zinc	0.005	mg/L	X	
Stage		Feet NVGD	X	
Zinc	0.005	mg/L	X	
Sulfate	1	mg/L		X
Total Dissolved Solids (TDS)	6	mg/L		X
Iron	0.04	mg/L		X
Florida PRO	0.05	mg/L	X	X
Water Table Elevation		Feet NVGD		X
Total Organic Carbon (TOC)	0.5	mg/L	X	X

(Ord. No. 08-21 , § 4, 9-9-08)

APPENDIX O CHEMICAL CONSTITUENT LIST

FOOTNOTE(S):

--- (**1**) ---

Editor's note— Appendix O was added by Ord. No. 08-21, § 4, adopted September 9, 2008. (Back)

CODE COMPARATIVE TABLE LAWS OF FLORIDA

This table shows the location within this Land Development Code of those sections of Laws of Florida which were codified in the former Code of Ordinances.

Laws of Fla. Chapter	Section	Section this Code
80-473	1	34-2251
	3	34-2254
	5, 6	34-2252, 34-2253
83-385	1	34-2255
86-341	1	34-2255

CODE COMPARATIVE TABLE ORDINANCES

This is a chronological listing of the land development ordinances of the county used in this Land Development Code. Repealed or superseded ordinances at the time of the codification and any omitted materials are not reflected in this table.

Ordinance Number	Date	Section	Section this Code
71-2	2-24-71	I	30-221, 30-222
			30-226, 30-227
			30-281—30-284
		II	30-311—30-313
		III	30-228
		IV	30-251—30-254
		V	30-224
		VI	30-223
		VIII	30-225
74-5	1-30-74	1	30-284
78-7	5-10-78	1—6	34-1541—34-1548
78-25	11-25-78	1	34-2271
		2	34-2272

79-19	9- 5-79	1	34-2272
82-44	12- 1-82	2—5	34-1541—34-1548
		7—9	34-1541—34-1548
83-34	11- 2-83	1	6-71
		2	6-73
		3	6-72
		4—6	6-74—6-76
		7	6-78
		8	6-77
		9	6-80
		10(1)	6-81
		11	6-79
84-17	7-11-84	1	6-401—6-404
		2	6-405
		3	6-406—6-412
			6-443
		4	6-441, 6-442
			6-444—6-446

		5	6-471—6-475
85-20	7-10-85	1—7	10-388
85-21	7-10-85	1, 2	26-111, 26-112
		4	26-116
		5	26-115
		6, 7	26-113, 26-114
		8	26-114
85-25	8- 7-85	1	26-41
		2, 3	26-44, 26-45
		4	26-71—26-73
		5	26-43
		6	26-47
		8	26-42
85-26	8-21-85	1, 2	30-1, 30-2
		3	30-4—30-7
		4	30-151—30-153
		5	30-181—30-183
		6	30-91—30-96

		7	30-51—30-54
		8	30-55
		9	30-8
		10	30-3
85-46	10-23-85	2—4	10-531—10-533
		5—7	10-539—10-541
		8	10-538
		9	10-537
		10—12	10-534—10-536
86-15	6-11-86	1, 2	14-111, 14-112
		3	14-116
		4	14-115
		5—10	14-117—14-122
		11, 12	14-113, 14-114
86-18	7- 2-86	2—4	2-141—2-143
		5, 6	2-148, 2-149
		7—9	2-144—2-146
		11	2-147

86-25	7-23-86	2—5	6-501—6-504
		7	6-505
		10	6-506
86-31	10-29-86	1	14-296
		3	14-292
		4	14-291
		5	14-293
		6	14-298
		7	14-297
		8	14-299
		9, 10	14-331, 14-332
		11, 12	14-334, 14-335
		13	14-294
		14	14-300
		15	14-295
86-32	10-29-86	1	14-457
		2, 3	14-451, 14-452
		4	14-455
		12	14-456

86-34	11-19-86	1	14-377
		3	14-372
		4	14-371
		5	14-373
		6	14-411
		7	14-378
		8—10	14-381—14-383
		11	14-412
		13	14-384
		14, 15	14-379, 14-380
		16, 17	14-414, 14-415
		18	14-374
		19	14-385
		20	14-376
87-20	9- 8-87	2	6-405
		3	6-471—6-475
87-25	10-13-87	2	6-73
		3	6-72

87-30	11-24-87	1, 2	10-297
87-31	11-24-87	1	34-2272
88-12	3-22-88	2, 3	30-2
		4—6	30-4—30-7
		7—11	30-151—30-153
		12—15	30-181—30-183
		16	30-55
88-33	7-20-88	2	26-46
		3	30-51—30-54
		4	10-538
		5	14-332
		7	14-413
88-34	7-20-88	1	2-149
88-35	7-20-88	3	2-191
88-41	8-17-88	2	6-405
		4	6-441, 6-442
			6-444—6-446

		5	6-471—6-475
88-47	9-28-88	4A	6-71
		4B	6-80
88-51	10-19-88	2	2-143
		3, 4	2-148
		5, 6	2-149
88-56	11-16-88	2	26-41
		3	26-71—26-73
		4	26-71—26-73
88-62	12-21-88	3—5	22-1—22-3
		6A—6E	22-71—22-75
		7A—7D	22-201—22-204
		8	22-101
		8A—8E	22-102—22-106
		9A—9E	22-241—22-245
		10	22-42
		11A—11E	22-171—22-175
		12	22-41

		13	22-4
89-08	4- 5-89	2	6-80
		3	6-82
89-09	4- 5-89	1, 2	14-71, 14-72
		3—6	14-75—14-78
		7	14-74
		8	14-73
89-14	6- 7-89	1	2-341, 2-342
		2, 3	2-343, 2-344
		4—14	2-344—2-354
89-15	6- 7-89	1	2-381, 2-382
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			34-694
			34-714
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		as	34-1012
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			10-619(e), (f)
		2 Added	14-1(h)
		3	22-103(d)
		4 Added	30-56(h)
		5	32-603
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		Added	34-1517(a)(4)
			34-1805
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CODE COMPARATIVE TABLE ZONING CODE

This table gives the location within this Land Development Code of those ordinances adopted through Ordinance Number 94-02 adopted January 19, 1994, by the county and included in the zoning ordinance. The zoning ordinance section number and its location in this Land Development Code is as follows.

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34	VII	3		Adult Entertainment	202.02
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				34-1202	202.02.B.
					202.02.B.1.
					202.02.B.2.
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				34-1204	202.02.C.
				34-1204(a)	202.02.C.1.
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				34-1204(c)	202.02.C.3.
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34	VII	5		Alcoholic Beverages	202.03

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				34-1261	202.03.B.
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				34-1263(b)(2)	202.03.C.2.b.
				34-1263(c)	202.03.C.3.
				34-1263(d)	202.03.C.4.
					202.03.C.4.a.

				34-1263(e)	202.03.C.4.b.
				34-1263(e)(1)	202.03.C.4.b.1.)
				34-1263(e)(2)	202.03.C.4.b.2.)
				34-1263(e)(3)	202.03.C.4.b.3.)
				34-1263(e)(4)	202.03.C.4.c.
				34-1264	202.03.D.
				34-1264(a)	202.03.D.1.
				34-1264(a)(1)	202.03.D.1.a.
				34-1264(a)(1)a.	202.03.D.1.a.1.)
				34-1264(a)(1)b.	202.03.D.1.a.2.)
				34-1264(a)(1)c.	202.03.D.1.a.3.)
				34-1264(a)(1)d.	202.03.D.1.a.4.)
				34-1264(a)(1)e.	202.03.D.1.a.5.)
				34-1264(a)(1)f.	202.03.D.1.a.6.)
				34-1264(a)(1)g.	202.03.D.1.a.7.)
				34-1264(a)(1)h.	202.03.D.1.a.8.)
				34-1264(a)(2)	202.03.D.1.b.
				34-1264(a)(2)a.	202.03.D.1.b.
				34-1264(a)(2)a.1.	202.03.D.1.b.1.)
				34-1264(a)(2)a.2.	202.03.D.1.b.2.)

				34-1264(a)(2)b.	202.03.D.1.b.
				34-1264(a)(2)c.	202.03.D.1.b.
				34-1264(a)(3)	202.03.D.1.c.
				34-1264(a)(3)a.	202.03.D.1.c.1.)
				34-1264(a)(3)b.	202.03.D.1.c.2.)
				34-1264(a)(3)c.	202.03.D.1.c.3.)
				34-1264(b)	202.03.D.2.
				34-1264(b)(1)	202.03.D.2.a.
				34-1264(b)(1)a.	202.03.D.2.a.1.)
				34-1264(b)(1)a.1.	202.03.D.2.a.1.)a.)
				34-1264(b)(1)a.2.	202.03.D.2.a.1.)b.)
				34-1264(b)(1)a.3.	202.03.D.2.a.1.)c.)
				34-1264(b)(1)b.	202.03.D.2.a.2.)
				34-1264(b)(2)	202.03.D.2.b.
				34-1264(b)(2)a.	202.03.D.2.b.1.)
				34-1264(b)(2)a.1.	202.03.D.2.b.1.)a.)
				34-1264(b)(2)a.2.	202.03.D.2.b.1.)b.)
				34-1264(b)(2)a.3.	202.03.D.2.b.1.)c.)
				34-1264(b)(2)a.4.	202.03.D.2.b.1.)d.)
				34-1264(b)(2)b.	202.03.D.2.b.2.)

				34-1264(b)(2)b.1.	202.03.D.2.b.2.)a.)
				34-1264(b)(2)b.2.	202.03.D.2.b.2.)b.)
				34-1264(b)(2)b.3.	202.03.D.2.b.2.)c.)
				34-1264(b)(2)c.	202.03.D.2.b.3.)
				34-1264(b)(2)d.	202.03.D.2.b.4.)
				34-1264(b)(2)d.1.	202.03.D.2.b.4.)a.)
				34-1264(b)(2)d.2.	202.03.D.2.b.4.)b.)
				34-1264(b)(2)e.	202.03.D.2.b.5.)
				34-1264(b)(2)f.	202.03.D.2.b.6.)
				34-1264(b)(3)	202.03.D.2.c.
				34-1264(c)	202.03.D.3.
				34-1264(c)(1)	202.03.D.3.a.
				34-1264(c)(1)a.	202.03.D.3.a.1.)
				34-1264(c)(1)a.1.	202.03.D.3.a.1.)a.)
				34-1264(c)(1)a.2.	202.03.D.3.a.1.)b.)
				34-1264(c)(1)a.3.	202.03.D.3.a.1.)c.)
				34-1264(c)(1)a.4.	202.03.D.3.a.1.)d.)
				34-1264(c)(1)a.5.	202.03.D.3.a.1.)e.)
				34-1264(c)(1)a.6.	202.03.D.3.a.1.)f.)
				34-1264(c)(1)a.6.i.	202.03.D.3.a.1.)f.)i.)

				34-1264(c)(1)a.6.ii.	202.03.D.3.a.1.)f.)ii.)
				34-1264(c)(1)a.6.iii.	202.03.D.3.a.1.)f.)iii.)
				34-1264(c)(1)a.6.iv.	202.03.D.3.a.1.)f.)iv.)
				34-1264(c)(1)a.7.	202.03.D.3.a.1.)g.)
				34-1264(c)(1)a.8.	202.03.D.3.a.1.)h.)
				34-1264(c)(1)b.	202.03.D.3.a.2.)
				34-1264(c)(1)b.1.	202.03.D.3.a.2.)a.)
				34-1264(c)(1)b.2.	202.03.D.3.a.2.)b.)
				34-1264(c)(1)c.	202.03.D.3.a.3.)
				34-1264(c)(1)c.1.	202.03.D.3.a.3.)a.)
				34-1264(c)(1)c.2.	202.03.D.3.a.3.)b.)
				34-1264(c)(2)	202.03.D.3.b.
				34-1264(c)(2)a.	202.03.D.3.b.
				34-1264(c)(2)b.	202.03.D.3.b.
				34-1264(d)	202.03.D.4.
				34-1264(d)(1)	202.03.D.4.a.
				34-1264(d)(1)a.	202.03.D.4.a.1.)
				34-1264(d)(1)b.	202.03.D.4.a.2.)
				34-1264(d)(1)c.	202.03.D.4.a.3.)
				34-1264(d)(1)d.	202.03.D.4.a.4.)

				34-1264(d)(1)e.	202.03.D.4.a.5.)
				34-1264(d)(1)f.	202.03.D.4.a.6.)
				34-1264(d)(2)	202.03.D.4.b.
				34-1264(d)(2)a.	202.03.D.4.b.
				34-1264(d)(2)a.1.	202.03.D.4.b.1.)
				34-1264(d)(2)a.2.	202.03.D.4.b.2.)
				34-1264(d)(2)a.3.	202.03.D.4.b.3.)
				34-1264(d)(2)a.4.	202.03.D.4.b.4.)
				34-1264(d)(2)b.	202.03.D.4.b.
				34-1264(d)(2)c.	202.03.D.4.b.
				34-1264(e)	202.03.D.5.
				34-1264(e)(1)	202.03.D.5.a.
				34-1264(e)(2)	202.03.D.5.b.
				34-1264(f)	202.03.D.6.
				34-1264(g)	202.03.D.7.
				34-1264(h)	202.03.D.8.
				34-1264(h)(1)	202.03.D.8.a.
				34-1264(h)(2)	202.03.D.8.b.
				34-1264(i)	202.03.D.9.
				34-1264(i)(1)	202.03.D.9.a.

				34-1264(i)(1)a.	202.03.D.9.a.1.)
				34-1264(i)(1)b.	202.03.D.9.a.2.)
				34-1264(i)(1)c.	202.03.D.9.a.3.)
				34-1264(i)(1)d.	202.03.D.9.a.4.)
				34-1264(i)(1)e.	202.03.D.9.a.5.)
				34-1264(i)(1)f.	202.03.D.9.a.6.)
				34-1264(i)(1)g	202.03.D.9.a.7.)
				34-1264(i)(2)	202.03.D.9.b.
				34-1264(i)(3)	202.03.D.9.c.
				34-1264(i)(4)	202.03.D.9.d.
				34-1264(j)	202.03.D.10
				34-1265—34-1290	Reserved
34	VII	6		Animals	202.04
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				34-1292	202.04.B.
				34-1292(1)	202.04.B.1.
				34-1292(1)a.	202.04.B.1.a.
				34-1292(1)b.	202.04.B.1.b.
				34-1292(1)c.	202.04.B.1.c.
				34-1292(2)	202.04.B.2.

				34-1292(2)a.	202.04.B.2.a.
				34-1292(2)b.	202.04.B.2.b.
				34-1292(2)c.	202.04.B.2.c.
				34-1292(3)	202.04.B.3.
				34-1292(3)a.	202.04.B.3.a.
				34-1292(3)b.	202.04.B.3.b.
				34-1292(3)c.	202.04.B.3.c.
				34-1292(3)d.	202.04.B.3.d.
				34-1292(3)e.	202.04.B.3.e.
				34-1292(3)f.	202.04.B.3.f.
				34-1292(3)g.	202.02.B.3.g.
				34-1293	202.04.C.
				34-1293(a)	202.04.C.1.
				34-1293(a)(1)	202.04.C.1.a.
				34-1293(a)(2)	202.04.C.1.b.
				34-1293(b)	202.04.C.2.
				34-1294	202.04.D.
				34-1295	202.04.E.
				34-1296	202.04.F.
				34-1296(a)	202.04.F.1.

				34-1296(b)	202.04.F.2.	
				34-1297	202.04.G.	Amended 94-02
				34-1297(1)	202.04.G.1.	Amended 94-02
				34-1297(2)	202.04.G.2.	Amended 94-02
				34-1297(3)	202.04.G.3.	Amended 94-02
				34-1297(4)	202.04.G.4.	Amended 94-02
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34	VII	1		34-1144	202.05	
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34	VII	21		Marine Facilities	202.05	
				34-1861	202.05	
				34-1861(a)	202.05.A.	
				34-1861(b)	202.05.B.	
				34-1861(c)	202.05.C.	
				34-1861(d)	202.05.D.	
				34-1861(d)(1)	202.05.D.1.	
				34-1861(d)(2)	202.05.D.2.	
				34-1861(d)(3)	202.05.D.3.	

34	VII	39		Use, Occupancy and Construction Regulations	202.06/202.07
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				34-3102(b)	202.06.B.
				34-3102(c)	202.06.B.
				34-3103	202.06.C.
				34-3104	202.07
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34	VII	29		Private Clubs, Fraternal Clubs and	202.08
				Membership	
				34-2111	202.08
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34	VII	12		Density	202.09
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			II	Residential Development	
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				34-1492(1)b.	202.09.B.2.a.2.)
				34-1492(1)c.	202.09.B.2.a.3.)
				34-1492(1)d.	202.09.B.2.a.4.)
				34-1492(1)e.	202.09.B.2.a.5.)
				34-1492(1)f.	202.09.B.2.a.6.)
				34-1492(1)g.	202.09.B.2.a.7.)
				34-1492(1)h.	202.09.B.2.a.8.)
				34-1492(1)i.	202.09.B.2.a.9.)
				34-1492(2)	202.09.B.2.b.
				34-1492(3)	202.09.B.2.c.
				34-1492	202.09.B.3.
				34-1493	202.09.C.
				34-1493(1)	202.09.C.1.
				34-1493(1)a.	202.09.C.1.a.
				34-1493(1)a.1.	202.09.C.1.a.1.)
				34-1493(1)a.2.	202.09.C.1.a.2.)
				34-1493(1)a.3.	202.09.C.1.a.3.)

				34-1493(1)b.	202.09.C.1.b.	
				34-1493(1)b.1.	202.09.C.1.b.1.)	
				34-1493(1)b.1.i.	202.09.C.1.b.1.)a.)	
				34-1493(1)b.1.ii.	202.09.C.1.b.1.)b.)	
				34-1493(1)b.2.	202.09.C.1.b.2.)	
				34-1493(1)b.2.i.	202.09.C.1.b.2.)a.)	
				34-1493(1)b.2.ii.	202.09.C.1.b.2.)b.)	
				34-1493(1)b.2.iii.	202.09.C.1.b.2.)c.)	
				34-1493(1)b.3.	202.09.C.1.b.3.)	
				34-1493(2)	202.09.C.2.	
				34-1493(2)a.	202.09.C.2.a.	
				34-1493(2)b.	202.09.C.2.b.	
				34-1493(2)c.	202.09.C.2.c.	
				34-1493(2)c.1.	202.09.C.2.c.1.)	
				34-1493(2)c.1.i.	202.09.C.2.c.1.)a.)	
				34-1493(2)c.1.ii.	202.09.C.2.c.1.)b.)	
				34-1493(2)c.2.	202.09.C.2.c.2.)	
				34-1494	202.09.C.3.	Amended 94-02
				34-1494(a)	202.09.C.3.a.	Amended 94-02

				34-1494(b)	202.09.C.3.b.	Amended 94-02
				34-1494(b)(1)	202.09.C.3.b.1.)	Amended 94-02
				34-1494(b)(2)	202.09.C.3.b.2.)	Amended 94-02
				34-1494(b)(3)	202.09.C.3.b.3.)	Amended 94-02
				34-1494(c)	202.09.C.3.c.	Amended 94-02
				34-1495	202.09.D.	
				34-1495(1)	202.09.D.1.	
				34-1495(2)	202.09.D.2.	
				34-1495(3)	202.09.D.3.	
				34-1495(3)a.	202.09.D.3.a.	
				34-1495(3)b.	202.09.D.3.b.	
				34-1495(3)b.1.	202.09.D.3.b.1.)	
				34-1495(3)b.2.	202.09.D.3.b.2.)	
				34-1495(3)c.	202.09.D.3.c.	
				34-1496—34-1510	Reserved	
			III	Housing Density Bonus		
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				34-1512		

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				34-1512(b)	
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				34-1513(a)	
				34-1513(b)	
				34-1514	
				34-1515	
				34-1515(a)	
				34-1515(b)	
				34-1515(c)	
				34-1515(d)	
				34-1516	
				34-1516(a)	
				34-1516(b)	
				34-1516(b)(1)	
				34-1516(b)(2)	
				34-1516(b)(3)	
				34-1516(b)(4)	
				34-1516(b)(5)	
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				34-1517(a)	
				34-1517(b)	
				34-1517(c)	
				34-1517(d)	
				34-1517(e)	
				34-1517(f)	
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				34-1518(a)(1)	
				34-1518(a)(2)	
				34-1518(b)	
				34-1518(b)(1)	
				34-1518(b)(1)a.	
				34-1518(b)(1)b.	
				34-1518(b)(1)c.	
				34-1518(b)(1)d.	
				34-1518(b)(1)e.	
				34-1518(b)(1)f.	
				34-1518(b)(2)	
				34-1518(c)	
				34-1518(d)	

				34-1518(e)	
				34-1518(e)	
				34-1519	
				34-1519(a)	
				34-1519(b)	
				34-1519(c)	
				34-1519(d)	
				34-1519(e)	
				34-1519(f)	
				34-1520	
				34-1520(a)	
				34-1520(b)	
				34-1520(c)	
				34-1520(d)	
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				34-1521—34-1540	Reserved
			IV	Captiva Island	
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				34-1544	
				34-1544(a)	
				34-1544(a)(1)	
				34-1544(a)(2)	
				34-1544(a)(3)	
				34-1544(a)(4)	
				34-1544(a)(5)	
				34-1544(b)	
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				34-1546(1)	
				34-1546(2)	
				34-1547	
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				34-1549—34-1570	Reserved
34	VII	21		Marine Facilities	202.10
				34-1863	202.10
				34-1864—34-1890	Reserved
34	VII	13		Environmentally Sensitive Areas	202.11
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				34-1571(1)	202.11.A.1.
				34-1571(1)a.	202.11.A.1.a.
				34-1571(1)b.	202.11.A.1.b.
				34-1571(1)c.	202.11.A.1.c.
				34-1571(2)	202.11.A.2.
				34-1571(2)a.	202.11.A.2.a.
				34-1571(2)b.	202.11.A.2.b.
				34-1571(2)c.	202.11.A.2.c.
				34-1571(2)d.	202.11.A.2.d.
				34-1571(2)e.	202.11.A.2.e.
				34-1571(2)e.1.	202.11.A.2.e.
				34-1571(2)e.2.	202.11.A.2.e.
				34-1571(2)e.3.	202.11.A.2.e.
				34-1571(2)e.4.	202.11.A.2.e.
				34-1571(2)e.5.	202.11.A.2.e.
				34-1571(2)e.6.	202.11.A.2.e.
				34-1571(2)e.7.	202.11.A.2.e.
				34-1572	202.11.B.
				34-1573	202.11.B.1.
					202.11.B.1.a.

				34-1574	202.11.B.1.b.
				34-1574(a)	202.11.B.1.b.
				34-1574(b)	202.11.B.1.b.
				34-1575	202.11.B.2.
					202.11.B.2.a.
				34-1575(a)	202.11.B.2.a.1.)
				34-1575(b)	202.11.B.2.a.2.)
				34-1575(c)	202.11.B.2.a.3.)
				34-1575(d)	202.11.B.2.a.4.)
				34-1575(d)(1)	202.11.B.2.a.4.)a.)
				34-1575(d)(2)	202.11.B.2.a.4.)b.)
				34-1575(d)(3)	202.11.B.2.a.4.)c.)
				34-1576	202.11.B.2.b.
				34-1576(1)	202.11.B.2.b.1.)
				34-1576(2)	202.11.B.2.b.2.)
				34-1576(3)	202.11.B.2.b.3.)
				34-1576(4)	202.11.B.2.b.4.)
				34-1577	202.11.B.2.c.
				34-1577(a)	202.11.B.2.c.1.)
				34-1577(b)	202.11.B.2.c.2.)

				34-1578	202.11.B.2.d.
				34-1578(a)	202.11.B.2.d.1.)
				34-1578(b)	202.11.B.2.d.2.)
				34-1579—34-1610	Reserved
34	VII	14		Essential Services and Facilities	202.12
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				34-1612	202.12.B.
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				34-1613	202.12.B.2.
				34-1613(a)	202.12.B.2.a.
				34-1613(b)	202.12.B.2.b.
				34-1613(c)	202.12.B.2.c.
				34-1613(d)	202.12.B.2.d.
				34-1614	202.12.B.3.
				34-1615	202.12.B.4.
				34-1616	202.12.B.5.
				34-1617	202.12.B.6.
				34-1618—34-1650	Reserved
34	VII	15		Excavation Activities	202.13
			I	Generally	

				34-1651	202.13
				34-1651(a)	202.13.A.
				34-1651(a)(1)	202.13.A.1.
				34-1651(a)(2)	202.13.A.2.
				34-1651(b)	202.13.B.
				34-1651(b)(1)	202.13.B.1.
				34-1651(b)(2)	202.13.B.2.
				34-1651(c)	202.13.C.
				34-1651(c)(1)	202.13.C.1.
				34-1651(c)(2)	202.13.C.2.
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34	VII	17		Fences, Walls, Gates and Gatehouses	202.14
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				34-1742(a)	202.14.B.
				34-1742(b)	202.14.B.
				34-1742(b)(1)	202.14.B.1.
				34-1742(b)(2)	202.14.B.2.
				34-1743	202.14.C.
				34-1743(a)	202.14.C.1.

				34-1743(b)	202.14.C.2.
				34-1744	202.14.D.
				34-1744(a)	202.14.D.1.
				34-1744(a)(1)	202.14.D.1.a.
				34-1744(a)(2)	202.14.D.1.b.
				34-1744(a)(3)	202.14.D.1.c.
				34-1744(b)	202.14.D.2.
				34-1744(b)(1)	202.14.D.2.a.
				34-1744(b)(2)	202.14.D.2.b.
				34-1744(b)(3)	202.14.D.2.c.
				34-1744(b)(4)	202.14.D.2.d.
				34-1744(c)	202.14.D.3.
				34-1745	202.14.E.
					202.14.E.1.
				34-1746	202.14.E.2.
				34-1747	202.14.F.
				34-1748	202.14.G.
				34-1748(a)	202.14.G.1.
				34-1748(b)	202.14.G.1.
				34-1749	202.14.G.2.

				34-1749(1)	202.14.G.2.a.
				34-1749(1)a.	202.14.G.2.a.1.)
				34-1749(1)b.	202.14.G.2.a.2.)
				34-1749(1)c.	202.14.G.2.a.3.)
				34-1749(2)	202.14.G.2.b.
				34-1749(2)a.	202.14.G.2.b.1.)
				34-1749(2)b.	202.14.G.2.b.2.)
				34-1750	202.14.G.3.
				34-1750(1)	202.14.G.3.a.
				34-1750(2)	202.14.G.3.b.
				34-1751—34-1770	Reserved
34	VII	25		Off-Street Loading	202.15
				34-1981	202.15.A.
				34-1982	202.15.B.
				34-1982(a)	202.15.B.1.
				34-1982(b)	202.15.B.2.
				34-1982(c)	202.15.B.3.
				34-1983	202.15.C.
				34-1984	202.15.D.
				34-1985	202.15.E.

				34-1986	202.15.F.
				34-1986(a)	202.15.F.1.
				34-1986(b)	202.15.F.2.
					202.15.F.2.a.
				34-1986(c)	202.15.F.2.b.
				34-1986(c)(1)	202.15.F.2.b.1.)
				34-1986(c)(2)	202.15.F.2.b.2.)
				34-1986(c)(3)	202.15.F.2.b.3.)
				34-1987	202.15.G.
				34-1987(a)	202.15.G.1.
				34-1987(a)(1)	202.15.G.1.a.
				34-1987(a)(2)	202.15.G.1.b.
				34-1987(a)(3)	202.15.G.1.c.
				34-1987(b)	202.15.G.2.
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34	VII	26		Off-Street Parking	202.16
				34-2011	202.16.A.
				34-2011(a)	202.16.A.1.
				34-2011(b)	202.16.A.2.
				34-2011(b)(1)	202.16.A.2.a.

				34-2011(b)(2)	202.16.A.2.b.
				34-2011(b)(3)	202.16.A.2.c.
				34-2011(c)	202.16.A.3.
				34-2012	202.16.B.
					202.16.B.1.
					202.16.B.2.
					202.16.B.3.
					202.16.B.4.
					202.16.B.5.
					202.16.B.6.
					202.16.B.7.
					202.16.B.8.
				34-2013	202.16.C.
				34-2013(a)	202.16.C.1.
				34-2013(b)	202.16.C.2.
				34-2013(b)(1)	202.16.C.2.
				34-2013(b)(2)	202.16.C.2.
				34-2013(b)(3)	202.16.C.2.
				34-2013(c)	202.16.C.3.
				34-2014	202.16.D.

				34-2015	202.16.E.
				34-2015(1)	202.16.E.1.
				34-2015(2)	202.16.E.2.
				34-2015(2)a.	202.16.E.2.a.
				34-2015(2)b.	202.16.E.2.b.
				34-2015(2)c.	202.16.E.2.c.
				34-2015(2)d.	202.16.E.2.d.
				34-2015(2)e.	202.16.E.2.e.
				34-2016	202.16.F.
				34-2016(1)	202.16.F.1.
				34-2016(1)a.	202.16.F.1.a.
				34-2016(1)b.	202.16.F.1.b.
				34-2016(1)b.1.	202.16.F.1.b.
				34-2016(1)b.2.	202.16.F.1.b.
				34-2016(1)b.3.	202.16.F.1.b.
				34-2016(2)	202.16.F.2.
				34-2016(2)a.	202.16.F.2.a.
				34-2016(2)a.1.	202.16.F.2.a.1.)
				34-2016(2)a.2.	202.16.F.2.a.2.)
				34-2016(2)b.	202.16.F.2.b.

				34-2016(2)b.1.	202.16.F.2.b.1.)
				34-2016(2)b.2.	202.16.F.2.b.2.)
				34-2016(2)c.	202.16.F.2.c.
				34-2016(3)	202.16.F.3.
				34-2017	202.16.G.
				34-2017(a)	202.16.G.1.
				34-2017(a)(1)	202.16.G.1.a.
				34-2017(a)(2)	202.16.G.1.b.
				34-2017(b)	202.16.G.2.
				34-2017(b)(1)	202.16.G.2.
				34-2017(b)(2)	202.16.G.2.
				34-2017(c)	202.16.G.3.
				34-2017(d)	202.16.G.4.
				34-2017(d)(1)	202.16.G.4.a.
				34-2017(d)(2)	202.16.G.4.b.
				34-2017(d)(3)	202.16.G.4.c.
				34-2017(d)(4)	202.16.G.4.d.
				34-2018	202.16.H.
				34-2018(a)	202.16.H.1.
				34-2018(b)	202.16.H.2.

				34-2018(c)	202.16.H.3.
				34-2019	202.16.I.
				34-2019(1)	202.16.I.1.
				34-2019(2)	202.16.I.2.
				34-2019(2)a.	202.16.I.2.a.
				34-2019(2)b.	202.16.I.2.b.
				34-2019(2)c.	202.16.I.2.c.
				34-2019(2)d.	202.16.I.2.d.
				34-2019(2)e.	202.16.I.2.e.
				34-2019(2)f.	202.16.I.2.f.
				34-2020	202.16.J.
				34-2020(1)	202.16.J.1.
				34-2020(1)a.	202.16.J.1.a.
				34-2020(1)b.	202.16.J.1.b.
				34-2020(1)b.1.	202.16.J.1.b.1.)
				34-2020(1)b.2.	202.16.J.1.b.2.)
				34-2020(1)c.	202.16.J.1.c.
				34-2020(1)c.1.	202.16.J.1.c.1.)
				34-2020(1)c.2.	202.16.J.1.c.2.)
				34-2020(1)c.3.	202.16.J.1.c.3.)

				34-2020(1)c.4.	202.16.J.1.c.4.)
				34-2020(1)d.	202.16.J.1.d.
				34-2020(1)e.	202.16.J.1.e.
				34-2020(1)f.	202.16.J.1.f.
				34-2020(1)g.	202.16.J.1.g.
				34-2020(1)h.	202.16.J.1.h.
				34-2020(2)	202.16.J.2.
				34-2020(2)a.	202.16.J.2.a.
				34-2020(2)b.	202.16.J.2.b.
				34-2020(2)c.	202.16.J.2.c.
				34-2020(2)d.	202.16.J.2.d.
				34-2020(2)e.	202.16.J.2.e.
				34-2020(2)f.	202.16.J.2.f.
				34-2020(2)g.	202.16.J.2.g.
				34-2020(2)h.	202.16.J.2.h.
				34-2020(2)h.1.	202.16.J.2.h.1.)
				34-2020(2)h.2.	202.16.J.2.h.2.)
				34-2020(2)h.3.	202.16.J.2.h.3.)
				34-2020(2)h.3.i.	202.16.J.2.h.3.)a.)
				34-2020(2)h.3.ii	202.16.J.2.h.3.)b.)

				34-2020(2)i.	202.16.J.2.i.
				34-2020(2)j.	202.16.J.2.j.
				34-2020(2)k.	202.16.J.2.k.
				34-2020(2)l.	202.16.J.2.l.
				34-2020(2)l.1.	202.16.J.2.l.1.)
				34-2020(2)l.2.	202.16.J.2.l.2.)
				34-2020(2)l.3.	202.16.J.2.l.3.)
				34-2020(2)m.	202.16.J.2.m.
				34-2020(2)m.1.	202.16.J.2.m.1.)
				34-2020(2)m.2.	202.16.J.2.m.2.)
				34-2020(2)m.3.	202.16.J.2.m.3.)
				34-2020(2)m.4.	202.16.J.2.m.4.)
				34-2020(2)n.	202.16.J.2.n.
				34-2020(2)n.1.	202.16.J.2.n.1.)
				34-2020(2)n.2.	202.16.J.2.n.2.)
				34-2020(3)	202.16.J.3.
				34-2020(3)a.	202.16.J.3.a.
				34-2020(3)b.	202.16.J.3.b.
				34-2020(3)c.	202.16.J.3.c.
				34-2020(3)d.	202.16.J.3.d.

				34-2020(3)e.	202.16.J.3.e.
				34-2020(3)f.	202.16.J.3.f.
				34-2020(3)g.	202.16.J.3.g.
				34-2020(3)h.	202.16.J.3.h.
				34-2020(4)	202.16.J.4.
				34-2020(4)a.	202.16.J.4.a.
				34-2020(4)b.	202.16.J.4.b.
				34-2020(4)c.	202.16.J.4.c.
				34-2020(4)d.	202.16.J.4.d.
				34-2020(4)e.	202.16.J.4.e.
				34-2020(4)f.	202.16.J.4.f.
				34-2020(4)f.1.	202.16.J.4.f.1.)
				34-2020(4)f.2.	202.16.J.4.f.2.)
				34-2020(4)f.2.i.	202.16.J.4.f.2.)
				34-2020(4)f.2.ii.	202.16.J.4.f.2.)
				34-2020(4)f.2.iii.	202.16.J.4.f.2.)
				34-2020(4)g.	202.16.J.4.g.
				34-2020(4)h.	202.16.J.4.h.
				34-2020(4)i.	202.16.J.4.i.
				34-2020(4)j.	202.16.J.4.j.

				34-2020(4)j.1.	202.16.J.4.j.1.)
				34-2020(4)j.2.	202.16.J.4.j.2.)
				34-2020(4)j.3.	202.16.J.4.j.3.)
				34-2020(4)j.4.	202.16.J.4.j.4.)
				34-2020(4)j.5.	202.16.J.4.j.5.)
				34-2020(4)j.6.	202.16.J.4.j.6.)
				34-2020(4)k.	202.16.J.4.k.
				34-2020(4)l.	202.16.J.4.l.
				34-2020(4)m.	202.16.J.4.m.
				34-2020(4)n.	202.16.J.4.n.
				34-2020(4)o.	202.16.J.4.o.
				34-2020(4)p.	202.16.J.4.p.
				34-2020(4)q.	202.16.J.4.q.
				34-2020(4)r.	202.16.J.4.r.
				34-2020(4)r.1.	202.16.J.4.r.1.)
				34-2020(4)r.2.	202.16.J.4.r.2.)
				34-2020(4)r.3.	202.16.J.4.r.3.)
				34-2020(5)	202.16.J.5.
				34-2020(5)a.	202.16.J.5.a.
				34-2020(5)a.(i)	202.16.J.5.a.(i)

				34-2020(5)a.(ii)	202.16.J.5.a.(ii)	
				34-2020(5)a.(iii)	202.16.J.5.a.(iii)	
				34-2020(5)a.1.	202.16.J.5.a.1.)	
				34-2020(5)a.2.	202.16.J.5.a.2.)	
				34-2020(5)a.3.	202.16.J.5.a.3.)	
				34-2020(5)b.	202.16.J.5.b.	
				34-2020(5)b.1.	202.16.J.5.b.1.)	
				34-2020(5)b.2.	202.16.J.5.b.2.)	
				34-2020(5)b.3.	202.16.J.5.b.3.)	
				34-2020(6)	202.16.J.6.	
				34-2020(7)	202.16.J.7.	
				34-2021	202.16.K.	
					202.16.K.1.	
				34-2022	202.16.L.	
				34-2022(a)	202.16.L.1.	
				34-2022(b)	202.16.L.2.	
				34-2022(b)(1)	202.16.L.2.a.	
				34-2022(b)(2)	202.16.L.2.b.	
				34-2022(b)(3)	202.16.L.2.c.	
				34-2022(b)(4)	202.16.L.2.d.	

				34-2022(b)(5)	202.16.L.2.e.
				34-2022(b)(6)	202.16.L.2.f.
				34-2022(b)(7)	202.16.L.2.g.
				34-2022(b)(8)	202.16.L.2.h.
				34-2022(b)(9)	202.16.L.2.i.
				34-2022(b)(10)	202.16.L.2.j.
				34-2022(b)(11)	202.16.L.2.k.
				34-2022(b)(12)	202.16.L.2.l.
				34-2022(b)(13)	202.16.L.2.m.
				34-2022(b)(14)	202.16.L.2.n.
				34-2022(b)(15)	202.16.L.2.o.
				34-2022(b)(16)	202.16.L.2.p.
				34-2022(b)(17)	202.16.L.2.q.
				34-2023—34-2050	Reserved
34	VI	1		34-623	202.17
				34-624—34-650	Reserved
34	VII	30		Property Development Regulations	202.18
			I	In General	
				34-2141	202.18
				34-2142	202.18.E.

				34-2143—34-2170	Reserved
			II	Height	202.18.A.
				34-2171	202.18.A.1.
				34-2171(a)	202.18.A.1.
				34-2171(b)	202.18.A.1.
				34-2172	202.18.A.2.
				34-2172(a)	202.18.A.2.a.
				34-2172(b)	202.18.A.2.b.
				34-2173	202.18.A.3.
				34-2173(a)	202.18.A.3.a.
				34-2173(a)(1)	202.18.A.3.a.1.)
				34-2173(a)(2)	202.18.A.3.a.2.)
				34-2173(a)(3)	202.18.A.3.a.3.)
				34-2173(b)	202.18.A.3.b.
				34-2173(b)(1)	202.18.A.3.b.1.)
				34-2173(b)(2)	202.18.A.3.b.2.)
				34-2173(b)(3)	202.18.A.3.b.3.)
				34-2174	202.18.A.4.
				34-2174(a)	202.18.A.4.
				34-2174(a)(1)	202.18.A.4.a.

				34-2174(a)(2)	202.18.A.4.b.	
				34-2174(a)(3)	202.18.A.4.c.	
				34-2174(b)	202.18.A.4.	
				34-2175	202.18.A.5.	
				34-2175(1)	202.18.A.5.a.	
				34-2175(2)	202.18.A.5.b.	
				34-2175(3)	202.18.A.5.c.	
				34-2175(4)	202.18.A.5.d.	
				34-2175(5)	202.18.A.5.e.	
				34-2175(6)	202.18.A.5.f.	
				34-2176—34-2190	Reserved	
			III	Setbacks	202.18.B.	
				34-2191	202.18.B.1.	
				34-2191(1)	202.18.B.1.a.	
				34-2191(1)a.	202.18.B.1.a.	
				34-2191(1)b.	202.18.B.1.a.	
				34-2191(1)(2)	202.18.B.1.b.	
				34-2191(1)(3)	202.18.B.1.c.	
				34-2191(1)(4)	202.18.B.1.d.	
				34-2191(1)(4)a.	202.18.B.1.d.	

				34-2191(1)(4)b.	202.18.B.1.d.
				34-2192	202.18.B.2.
				34-2192(a)	202.18.B.2.a.
				34-2192(b)	202.18.B.2.b.
				34-2192(b)(1)	202.18.B.2.b.1.)
				34-2192(b)(1)a.	202.18.B.2.b.1.)a.)
				34-2192(b)(1)b.	202.18.B.2.b.1.)b.)
				34-2192(b)(1)c.	202.18.B.2.b.1.)c.)
				34-2192(b)(1)d.	202.18.B.2.b.1.)d.)
				34-2192(b)(2)	202.18.B.2.b.2.)
				34-2192(b)(2)a.	202.18.B.2.b.2.)
				34-2192(b)(2)b.	202.18.B.2.b.2.)
				34-2192(b)(2)b.1.	202.18.B.2.b.2.)a.)
				34-2192(b)(2)b.2.	202.18.B.2.b.2.)b.)
				34-2192(b)(3)	202.18.B.2.b.3.)
				34-2192(b)(3)a.	202.18.B.2.b.3.)a.)
				34-2192(b)(3)b.	202.18.B.2.b.3.)b.)
				34-2192(b)(3)c.	202.18.B.2.b.3.)c.)
				34-2192(b)(4)	202.18.B.2.b.4.)
				34-2192(b)(4)a.	202.18.B.2.b.4.)a.)

				34-2192(b)(4)b.	202.18.B.2.b.4.)b.)	
				34-2192(b)(4)c.	202.18.B.2.b.4.)c.)	
				34-2192(b)(4)d.	202.18.B.2.b.4.)d.)	
				34-2192(b)(4)e.	202.18.B.2.b.4.)e.)	
				34-2192(b)(4)f.	202.18.B.2.b.4.)f.)	
				34-2192(c)	202.18.B.2.c.	
				34-2192(c)(1)	202.18.B.2.c.	
				34-2192(c)(2)	202.18.B.2.c.	
				34-2193	202.18.B.3.	
				34-2193(a)	202.18.B.3.a.	
				34-2193(a)(1)	202.18.B.3.a.1.)	
				34-2193(a)(2)	202.18.B.3.a.2.)	
				34-2193(b)	202.18.B.3.b.	
				34-2193(c)	202.18.B.3.c.	
				34-2194	202.18.B.4.	
				34-2194(a)	202.18.B.4.a.	
				34-2194(b)	202.18.B.4.b.	
				34-2194(c)	202.18.B.4.c.	
				34-2194(c)(1)	202.18.B.4.c.1.)	
				34-2194(c)(1)a.	202.18.B.4.c.1.)a.)	

				34-2194(c)(1)b.	202.18.B.4.c.1.)b.)
				34-2194(c)(1)c.	202.18.B.4.c.1.)c.)
				34-2194(c)(1)c.1.	202.18.B.4.c.1.)c.)i.)
				34-2194(c)(1)c.2.	202.18.B.4.c.1.)c.)ii.)
				34-2194(c)(2)	202.18.B.4.c.2.)
				34-2194(c)(3)	202.18.B.4.c.3.)
				34-2194(c)(3)a.	202.18.B.4.c.3.)a.)
				34-2194(c)(3)b.	202.18.B.4.c.3.)b.)
				34-2194(c)(3)b.1.	202.18.B.4.c.3.)b.)i.)
				34-2194(c)(3)b.2.	202.18.B.4.c.3.)b.)ii.)
				34-2194(c)(3)b.3.	202.18.B.4.c.3.)b.)iii.)
				34-2194(c)(3)c.	202.18.B.4.c.3.)c.)
				34-2194(c)(3)c.1.	202.18.B.4.c.3.)c.)
				34-2194(c)(3)c.2.	202.18.B.4.c.3.)c.)
				34-2195	202.18.B.5.
				34-2196	202.18.B.6.
				34-2196(1)	202.18.B.6.a.
				34-2196(2)	202.18.B.6.b.
				34-2196(3)	202.18.B.6.c.
				34-2196(4)	202.18.B.6.d.

				34-2197—34-2220	Reserved
			IV	Lots	
				34-2221	202.18.C.
				34-2221(1)	202.18.C.1.
				34-2221(1)a.1.	202.18.C.1.a.
				34-2221(1)a.2.	202.18.C.1.a.1.)
				34-2221(1)a.3.	202.18.C.1.a.2.)
				34-2221(1)a.2.	202.18.C.1.a.3.)
				34-2221(1)a.4.	202.18.C.1.a.4.)
				34-2221(1)b.	202.18.C.1.b.
				34-2221(1)b.1.	202.18.C.1.b.1.)
				34-2221(1)b.2.	202.18.C.1.b.2.)
				34-2221(1)b.3.	202.18.C.1.b.3.)
				34-2221(1)b.3.i.	202.18.C.1.b.3.)a.)
				34-2221(1)b.3.ii.	202.18.C.1.b.3.)b.)
				34-2221(1)b.4.	202.18.C.1.b.4.)
				34-2221(1)c.	202.18.C.1.c.
				34-2221(2)	202.18.C.2.
				34-2221(3)	202.18.C.3.
				34-2221(4)	202.18.C.4.

				34-2221(4)a.	202.18.C.4.a.)
				34-2221(4)b.	202.18.C.4.b.)
				34-2221(4)c.	202.18.C.4.c.)
				34-2221(4)d.	202.18.C.4.d.)
				34-2221(4)e.	202.18.C.4.e.)
				34-2222	202.18.D.
				34-2222(1)	202.18.D.1.
				34-2222(2)	202.18.D.2.
				34-2223—34-2250	Reserved
			V	Gasparilla Island	
				34-2251	
				34-2252	
				34-2252(a)	
				34-2252(b)	
				34-2252(c)	
				34-2253	
				34-2254	
				34-2255	
				34-2255(a)	
				34-2255(b)	

				34-2255(c)	
				34-2255(d)	
				34-2255(e)	
				34-2255(f)	
				34-2255(g)	
				34-2255(g)(1)	
				34-2255(g)(2)	
				34-2255(g)(3)	
				34-2255(h)	
				34-2255(i)	
				34-2255(j)	
				34-2255(j)(1)	
				34-2255(j)(1)a.	
				34-2255(j)(1)b.	
				34-2255(j)(1)c.	
				34-2255(j)(2)	
				34-2255(j)(3)	
				34-2256—34-2270	Reserved
			VI	McGregor Boulevard	
				34-2271	

				34-2272	
				34-2272(1)	
				34-2272(2)	
				34-2272(2)a.	
				34-2272(2)b.	
				34-2272(2)c.	
				34-2272(2)d.	
				34-2272(2)e.	
				34-2272(2)f.	
				34-2272(2)g.	
				34-2272(2)h.	
				34-2273—34-2350	Reserved
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				34-790(b)(2)	431.04.G.2.b.
				34-790(b)(3)	431.04.G.2.c.
				34-790(b)(4)	431.04.G.2.d.
				34-790(b)(5)	431.04.G.2.e.
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				34-811(b)(2)	440.01
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				34-841(g)	450.01.F.
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				34-901(a)(3)	470.01
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				34-901(a)(3)b.	470.01.2.
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				34-901(a)(3)b.2.	470.01.2.
				34-901(a)(3)b.3.	470.01.2.
				34-901(a)(3)b.4.	470.01.2.

				34-901(a)(3)b.5.	470.01.2.
				34-901(a)(3)b.6.	470.01.2.
				34-901(a)(3)b.7.	470.01.2.
				34-901(a)(3)b.8.	470.01.2.
				34-901(a)(3)b.9.	470.01.2.
				34-901(a)(3)b.10.	470.01.2.
				34-901(a)(3)c.	470.01.3.
				34-901(a)(3)c.1.	470.01.3.
				34-901(a)(3)c.2.	470.01.3.
				34-901(a)(3)c.3.	470.01.3.
				34-901(a)(3)c.4.	470.01.3.
				34-901(a)(3)c.5.	470.01.3.
				34-901(a)(3)c.6.	470.01.3.
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				34-901(a)(3)f.	470.01.6.
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				34-931(b)(2)	480.01.B.
				34-931(b)(3)	480.01.B.
				34-931(c)	480.01.C.
				34-931(c)(1)	480.01.C.
				34-931(c)(2)	480.01.C.
				34-931(c)(3)	480.01.C.
				34-931(d)	480.01.D.
				34-931(e)	480.01.E.

				34-931(e)(1)	480.01.E.
				34-931(e)(2)	480.01.E.
				34-931(e)(3)	480.01.E.
				34-931(f)	480.01.F.
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				34-931(f)(2)	480.01.F.
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				34-935(b)	480.04.B.

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				34-935(b)(1)	480.04.B.1.b.
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				34-935(b)(1)a.	480.04.B.1.a.
				34-935(b)(1)b.	480.04.B.1.b.
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				34-935(b)(2)	480.04.B.2.
				34-935(b)(2)	480.04.B.2.a.
				34-935(b)(2)	480.04.B.2.b.
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				34-935(b)(2)b.	480.04.B.2.b.
				34-935(b)(2)c.	480.04.B.2.c.
				34-935(b)(2)d.	480.04.B.2.d.
				34-935(b)(3)	480.04.B.3.
				34-935(b)(4)	480.04.B.4.
				34-935(b)(4)	480.04.B.4.1.)
				34-935(b)(4)	480.04.B.4.2.)
				34-935(b)(5)	480.04.B.5.

				34-935(b)(6)	480.04.B.6.
				34-935(c)	480.04.C.
				34-935(c)(1)	480.04.C.1.
				34-935(c)(2)	480.04.C.2.
				34-935(d)	480.04.D.
				34-935(e)	480.04.E.
				34-935(e)(1)	480.04.E.1.
				34-935(e)(1)a.	480.04.E.1.
				34-935(e)(1)b.	480.04.E.1.
				34-935(e)(2)	480.04.E.2.
				34-935(e)(2)a.	480.04.E.2.a.
				34-935(e)(2)b.	480.04.E.2.b.
				34-935(e)(2)c.	480.04.E.2.c.
				34-935(e)(3)	480.04.E.3.
				34-935(e)(3)a.	480.04.E.3.
				34-935(e)(3)b.	480.04.E.3.
				34-935(e)(4)	480.04.E.4.
				34-935(f)	480.04.F.
				34-935(f)(1)	480.04.F.1.
				34-935(f)(2)	480.04.F.2.

				34-935(f)(3)	480.04.F.3.
				34-935(f)(3)a.	480.04.F.3.a.
				34-935(f)(3)b.	480.04.F.3.b.
				34-935(f)(3)c.	480.04.F.3.c.
				34-935(f)(3)d.	480.04.F.3.d.
				34-935(f)(3)e.	480.04.F.3.e.
				34-935(g)	480.04.G.
				34-935(g)(1)	480.04.G.1)
				34-935(g)(1)a.	480.04.G.1)a.
				34-935(g)(1)b.	480.04.G.1)b.
				34-935(g)(1)c.	480.04.G.1)c.
				34-935(g)(2)	480.04.G.2)
				34-935(g)(3)	480.04.G.3)
				34-935(g)(4)	480.04.G.4)
				34-935(g)(4)a.	480.04.G.4)
				34-935(g)(4)b.	480.04.G.4)
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				34-936(b)	480.05.A.2.

				34-936(c)	480.05.A.3.
				34-936(d)	480.05.A.4.
				34-936(e)	480.05.A.5.
				34-936(f)	480.05.A.6.
				34-936(g)	480.05.A.7.
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				34-937(2)	480.05.B.2.
				34-937(3)	480.05.B.3.
				34-937(3)a.	480.05.B.3.a.
				34-937(3)b.	480.05.B.3.b.
				34-937(3)c.	480.05.B.3.c.
				34-937(3)d.	480.05.B.3.d.
				34-937(3)e.	480.05.B.3.e.
				34-937(4)	480.05.B.4.
				34-937(5)	480.05.B.5.
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				34-937(5)b.	480.05.B.5.b.
				34-937(6)	480.05.B.6.
				34-937(7)	480.05.B.7.

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				34-938(3)	480.05.C.3.
				34-938(4)	480.05.C.4.
				34-938(5)	480.05.C.5.
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				34-939(b)	480.05.D.2.
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				34-939(b)(2)	480.05.D.2.b.
				34-939(b)(3)	480.05.D.2.c.
				34-939(b)(3)a.	480.05.D.2.c.1.)
				34-939(b)(3)b.	480.05.D.2.c.2.)
				34-939(b)(3)c.	480.05.D.2.c.3.)
				34-939(b)(3)d.	480.05.D.2.c.4.)
				34-939(b)(4)	480.05.D.2.d.
				34-939(b)(4)a.	480.05.D.2.d.1.)
				34-939(b)(4)a.1.	480.05.D.2.d.1.)a.)

				34-939(b)(4)a.2.	480.05.D.2.d.1.)b.)
				34-939(b)(4)b.	480.05.D.2.d.2.)
				34-939(b)(5)	480.05.D.2.e.
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				34-939(b)(6)a.	480.05.D.2.f.1.)
				34-939(b)(6)b.	480.05.D.2.f.2.)
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				34-939(b)(7)b.	480.05.D.2.g.2.)
				34-939(b)(7)c.	480.05.D.2.g.3.)
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				34-983(1)c.	491.C.1.
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				34-983(1)e.	491.C.1.
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				34-983(1)g.	491.C.1.
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				34-983(1)i.	491.C.1.
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				34-1004(1)a.1.ii.	492.C.1.a.1.)b.)
				34-1004(1)a.1.iii.	492.C.1.a.1.)c.)
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				34-1004(1)b.	492.C.1.b.
				34-1004(1)b.1.	492.C.1.b.1.)
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				34-1004(1)b.1.ii.	492.C.1.b.1.)b.)
				34-1004(1)b.2.	492.C.1.b.2.)
				34-1004(1)c.	492.C.1.c.
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				34-1004(1)d.1.	492.C.1.d.1.)
				34-1004(1)d.1.i.	492.C.1.d.1.)a.)
				34-1004(1)d.1.ii.	492.C.1.d.1.)b.)
				34-1004(1)d.1.iii.	492.C.1.d.1.)c.)
				34-1004(1)d.2.	492.C.1.d.2.)
				34-1004(1)d.2.i.	492.C.1.d.2.)a.)

				34-1004(1)d.2.ii.	492.C.1.d.2.)b.)	
				34-1004(1)d.2.iii.	492.C.1.d.2.)c.)	
				34-1004(1)d.3.	492.C.1.d.3.)	
				34-1004(1)d.3.i.	492.C.1.d.3.)a.)	
				34-1004(1)d.3.ii.	492.C.1.d.3.)b.)	
				34-1004(1)d.3.iii.	492.C.1.d.3.)c.)	
				34-1004(1)e.	492.C.1.e.	
				34-1004(1)f.	492.C.1.f.	
				34-1004(1)g.	492.C.1.g.	
				34-1004(1)g.1.	492.C.1.g.	
				34-1004(1)g.2.	492.C.1.g.	
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				34-1004(1)i.	492.C.1.i.	
				34-1004(1)j.	492.C.1.j.	
				34-1004(1)k.	492.C.1.k.	
				34-1004(1)k.1.	492.C.1.k.1.)	
				34-1004(1)k.2.	492.C.1.k.2.)	
				34-1004(1)k.2.i.	492.C.1.k.2.)a.)	
				34-1004(1)k.2.ii.	492.C.1.k.2.)b.)	
				34-1004(1)k.2.iii.	492.C.1.k.2.)c.)	

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				34-1005(a)(2)	492.D.1.b.	
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				34-1005(a)(5)	492.D.1.e.	
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				34-1005(a)(6)	492.D.1.f.	
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				34-1006(b)(1)b.	492.E.1.a.1.)
				34-1006(b)(2)	492.E.1.a.2.)
				34-1006(b)(2)a.	492.E.1.a.2.)
				34-1006(b)(2)b.	492.E.1.a.2.)
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				34-1006(b)(3)a.	492.E.1.a.3.)
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				34-1008(e)(2)d.	492.G.5.b.2.)b.)
				34-1008(e)(2)e.	492.G.5.b.2.)c)
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				34-1036(3)c.	493.D.3.c.
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				34-1041(2)	493.F.2.
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				34-1094(a)(2)	
				34-1094(b)	
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				34-1094(b)(2)	
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				34-1094(b)(2)b.	
				34-1094(c)	
				34-1094(d)	
				34-1094(d)(1)	
				34-1094(d)(2)	
				34-1094(d)(2)a.	
				34-1094(d)(2)b.	
				34-1094(d)(2)c.	
				34-1094(e)	
				34-1094(f)	
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				34-1094(f)(2)	

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				34-1094(f)(2)b.	
				34-1094(g)	
				34-1094(g)(1)	
				34-1094(g)(2)	
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			III	Pondella Road Overlay Widening District	
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				34-1114(a)	
				34-1114(a)(1)	
				34-1114(a)(2)	
				34-1114(b)	
				34-1114(b)(1)	
				34-1114(b)(2)	

				34-1114(b)(2)a.	
				34-1114(b)(2)b.	
				34-1114(c)	
				34-1114(d)	
				34-1114(d)(1)	
				34-1114(d)(2)	
				34-1114(d)(2)a.	
				34-1114(d)(2)b.	
				34-1114(d)(2)c.	
				34-1114(e)	
				34-1114(f)	
				34-1114(f)(1)	
				34-1114(f)(2)	
				34-1114(f)(2)a.	
				34-1114(f)(2)b.	
				34-1114(g)	
				34-1114(g)(1)	
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				34-1114(h)	
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				34-1122(a)	494.A.
				34-1122(b)	494.A.
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				34-1123	494.B.1.
				34-1123	494.B.2.
				34-1123	494.B.3.
				34-1123	494.B.4.
				34-1123	494.B.5.
				34-1123	494.B.6.
				34-1123	494.B.7.
				34-1123	494.B.8.
				34-1124	494.C.
				34-1124(1)	494.C.1.
				34-1124(2)	494.C.2.
				34-1124(2)a.	494.C.2.a.
				34-1124(2)b.	494.C.2.b.
				34-1124(3)	494.C.3.
				34-1124(4)	494.C.4.

				34-1125	494.D.
				34-1125(a)	494.D.
				34-1125(b)	494.D.
				34-1125(b)(1)	494.D.1.
				34-1125(b)(2)	494.D.2.
				34-1125(b)(3)	494.D.3.
				34-1126	494.E.
				34-1126(a)	494.E.
				34-1126(b)	494.E.
				34-1126(c)	494.E.
				34-1127	494.F.
				34-1128	494.G.
				34-1128(a)	494.G.1.
				34-1128(b)	494.G.2.
				34-1128(c)	494.G.3.
				34-1128(c)(1)	494.G.3.a.
				34-1128(c)(2)	494.G.3.b.
				34-1128(c)(2)a.	494.G.3.b.1)
				34-1128(c)(2)b.	494.G.3.b.2)
				34-1128(c)(2)c.	494.G.3.b.3)

				34-1128(c)(2)d.	494.G.3.b.4)
				34-1128(c)(2)e.	494.G.3.b.5)
				34-1128(c)(2)f.	494.G.3.b.6)
				34-1128(c)(2)g.	494.G.3.b.7)
				34-1128(c)(2)h.	494.G.3.b.8)
				34-1128(c)(2)h.1.	494.G.3.b.8)
				34-1128(c)(2)h.2.	494.G.3.b.8)
				34-1128(c)(2)h.3.	494.G.3.b.8)
				34-1128(c)(2)h.4.	494.G.3.b.8)
				34-1128(c)(2)h.5.	494.G.3.b.8)
				34-1128(c)(2)h.6.	494.G.3.b.8)
				34-1128(c)(2)i.	494.G.3.b.9)
				34-1128(d)	494.G.4.
				34-1128(e)	494.G.5.
				34-1128(e)(1)	494.G.5.
				34-1128(e)(2)	494.G.5.
				34-1128(e)(2)a.	494.G.5.a.
				34-1128(e)(2)b.	494.G.5.b.
				34-1128(e)(2)c.	494.G.5.c.
				34-1128(f)	(new)

				34-1128(f)(1)	494.G.5.
				34-1128(f)(2)	494.G.5.
				34-1128(g)	494.G.6.
				34-1129	494.H.
				34-1129(1)	494.H.1.
				34-1129(2)	494.H.2.
				34-1130	494.I.
				34-1131	494.J.
				34-1132	494.K.
				34-1133—34-1140	Reserved
34	VII	1		34-1142	500
				34-1142(a)	500
				34-1142(b)	500
				34-1142(c)	500
		2			501
				34-1171	501.A.
				34-1172	501.B.
				34-1173	501.C.
				34-1173(a)	501.C.1.
				34-1173(b)	501.C.2.

				34-1173(b)(1)	501.C.2.a.
				34-1173(b)(2)	501.C.2.b.
				34-1173(b)(2)a.	501.C.2.b.1.)
				34-1173(b)(2)b.	501.C.2.b.2.)
				34-1173(b)(2)c.	501.C.2.b.3.)
				34-1173(b)(2)d.	501.C.2.b.4.)
				34-1173(b)(3)	501.C.2.c.
				34-1173(c)	501.C.3.
				34-1173(c)(1)	501.C.3.a.
				34-1173(c)(2)	501.C.3.b.
				34-1174	501.D.
				34-1174(a)	501.D.1.
				34-1174(a)(1)	501.D.1.a.
				34-1174(a)(2)	501.D.1.b.
				34-1174(a)(3)	501.D.1.c.
				34-1174(a)(4)	501.D.1.d.
				34-1174(a)(5)	501.D.1.e.
				34-1174(b)	501.D.2.
				34-1174(b)(1)	501.D.2.a.
				34-1174(b)(2)	501.D.2.b.

				34-1174(b)(2)a.	501.D.2.b.1.)	
				34-1174(b)(2)b.	501.D.2.b.2.)	
				34-1174(b)(2)c.	501.D.2.b.3.)	
				34-1174(b)(3)	501.D.2.c.	
				34-1174(b)(3)a.	501.D.2.c.1.)	
				34-1174(b)(3)b.	501.D.2.c.2.)	
				34-1174(b)(3)c.	501.D.2.c.3.)	
				34-1174(b)(3)c.1.	501.D.2.c.3.)i.)	
				34-1174(b)(3)c.2.	501.D.2.c.3.)ii.)	
				34-1174(b)(3)d.3.	501.D.2.c.4.)	
				34-1174(b)(3)e.4.	501.D.2.c.5.)	
				34-1174(c)	501.D.3.	
				34-1174(d)	501.D.4.	
				34-1174(d)(1)	501.D.4.a.	
				34-1174(d)(2)	501.D.4.b.	
				34-1174(d)(3)	501.D.4.c.	
				34-1174(d)(3)a.	501.D.4.c.1.)	
				34-1174(d)(3)b.	501.D.4.c.2.)	
				34-1174(e)	501.D.5.	
				34-1175	501.E.	

				34-1175(a)	501.E.1.
				34-1175(a)(1)	501.E.1.a.
				34-1175(a)(1)	501.E.1.b.
				34-1175(a)(3)	501.E.1.c.
				34-1175(b)	501.E.1.
				34-1176	501.E.2.
				34-1176(a)	501.E.2.a.
				34-1176(b)	501.E.2.b.
				34-1176(b)(1)	501.E.2.b.1.)
				34-1176(b)(1)a.	501.E.2.b.1.)a.)
				34-1176(b)(1)a.1.	501.E.2.b.1.)a.)
				34-1176(b)(1)a.2.	501.E.2.b.1.)a.)
				34-1176(b)(1)a.3.	501.E.2.b.1.)a.)
				34-1176(b)(1)a.4.	501.E.2.b.1.)a.)
				34-1176(b)(1)b.	501.E.2.b.1.)b.)
				34-1176(b)(1)b.1.	501.E.2.b.1.)b.)i.)
				34-1176(b)(1)b.2.	501.E.2.b.1.)b.)ii.)
				34-1176(b)(1)c.	501.E.2.b.1.)c.)
				34-1176(b)(1)c.1.	501.E.2.b.1.)c.)i.)
				34-1176(b)(1)c.2.	501.E.2.b.1.)c.)ii.)

				34-1176(b)(2)	501.E.2.b.2.)
				34-1176(c)	501.E.2.c.
				34-1176(c)(1)	501.E.2.c.1.)
				34-1176(c)(2)	501.E.2.c.2.)
				34-1176(c)(3)	501.E.2.c.3.)
				34-1176(c)(4)	501.E.2.c.4.)
				34-1176(d)	501.E.2.d.
				34-1176(e)	501.E.2.e.
34	VII	10		Care Facilities and Centers	502/506/512/534
				34-1411	502
				34-1411(a)	502.A.
				34-1411(a)	502.A.1.
				34-1411(b)	502.B.
				34-1411(b)(1)	502.B.1.
				34-1411(b)(2)	502.B.2.
				34-1411(b)(3)	502.B.3.
				34-1411(b)(4)	502.B.4.
				34-1411(c)	502.C.
				34-1411(d)	502.D.
				34-1411(d)(1)	502.D.1.)

				34-1411(d)(2)	502.D.2.)
34	VII	4		Aircraft Landing Facilities, Private	503
				34-1231	503.A.
				34-1231(a)	503.A.1.
				34-1231(a)(1)	503.A.1.a.
				34-1231(a)(2)	503.A.1.b.
				34-1231(a)(2)a.	503.A.1.b.
				34-1231(a)(2)b.	503.A.1.b.
				34-1231(b)	503.A.2.
				34-1231(b)(1)	503.A.2.a.
				34-1231(b)(2)	503.A.2.b.
				34-1231(b)(3)	503.A.2.c.
				34-1231(b)(3)a.	503.A.2.c.
				34-1231(b)(3)b.	503.A.2.c.
				34-1232	503.B.
				34-1233	503.C.
					503.C.1.
				34-1234	503.C.2.
				34-1235	503.C.3.
				34-1235(a)	503.C.3.a.

				34-1235(b)	503.C.3.b.
				34-1236	503.C.4.
				34-1237	503.C.5.
				34-1238—34-1260	Reserved
34	VII	8		Automotive Businesses; Display, Rental,	504
				Repair or Storage of Vehicles or Equipment	
				34-1351	504
				34-1351(a)	504.A.1.a.
				34-1351(b)	504.A.1.b.
34	VII	9		Bus Depots, Stations and Terminals	505
				34-1381	505.A.
				34-1382	505.B.
				34-1382(1)	505.B.1.
				34-1382(2)	505.B.2.
				34-1382(3)	505.B.3.
				34-1382(4)	505.B.4.
				34-1382(5)	505.B.5.
				34-1382(6)	505.B.6.
				34-1383	505.C.
				34-1383(a)	505.C.

				34-1383(b)	505.C.
				34-1383(c)	505.C.
				34-1384	505.D.
				34-1384(a)	505.D.1.
				34-1384(a)(1)	505.D.1.a.
				34-1384(a)(2)	505.D.1.b.
				34-1384(a)(3)	505.D.1.c.
				34-1384(a)(4)	505.D.1.d.
				34-1384(a)(5)	505.D.1.e.
				34-1384(a)(6)	505.D.1.f.
				34-1384(b)	505.D.2.
				34-1387	505.E.
				34-1388—34-1410	Reserved
				34-1385	505.F.
				34-1385(a)	505.F.1.
				34-1385(a)(1)	505.F.1.a.
				34-1385(a)(2)	505.F.1.b.
				34-1385(a)(3)	505.F.1.c.
				34-1385(b)	505.F.2.
				34-1386	505.G.

34	VII	10		Care Facilities and Centers	506
				34-1412	506
					506.A.
34	VII	8		Automotive Businesses; Display, Rental,	507
				Repair or Storage of Vehicles or Equipment	
				34-1352	507
				34-1352(a)	507.A.
				34-1352(b)	507.B.
				34-1352(b)(1)	507.B.
				34-1352(b)(2)	507.B.
				34-1352(c)	507.C.
				34-1352(c)(1)	507.C.1.
				34-1352(c)(2)	507.C.2.
				34-1352(d)	507.D.
				34-1352(d)(1)	507.D.1.
				34-1352(d)(2)	507.D.2.
				34-1352(e)	507.E.
				34-1352(f)	507.F.
				34-1353—34-1380	Reserved

34	VII	15	II	Mining	508
				34-1671	508.A.
				34-1672	508.B.
				34-1673	508.C.
				34-1673(a)	508.C.
				34-1673(b)	508.C.
				34-1673(b)(1)	508.C.1.
				34-1673(b)(2)	508.C.2.
				34-1673(b)(3)	508.C.3.
				34-1673(b)(4)	508.C.4.
				34-1674	508.D.
				34-1675	508.E.
				34-1675(a)	508.E.1.
				34-1675(b)	508.E.2.
				34-1676	508.F.
				34-1676(1)	508.F.1.
				34-1676(2)	508.F.2.
				34-1676(3)	508.F.3.
				34-1676(4)	508.F.4.
				34-1676(5)	508.F.5.

				34-1676(6)	508.F.6.
				34-1682	508.G.
				34-1682(1)	508.G.1.
				34-1682(2)	508.G.2.
				34-1682(2)a.	508.G.2.a.
				34-1682(2)a.1.	508.G.2.a.1.)
				34-1682(2)a.2.	508.G.2.a.2.)
				34-1682(2)a.3.	508.G.2.a.3.)
				34-1682(2)a.4.	508.G.2.a.4.)
				34-1682(2)b.	508.G.2.b.
				34-1682(2)b.1.	508.G.2.b.1.)
				34-1682(2)b.2.	508.G.2.b.2.)
				34-1682(2)b.3.	508.G.2.b.3.)
				34-1682(3)	508.G.3.
				34-1682(4)	508.G.4.
				34-1682(4)a.	508.G.4.a.
				34-1682(4)b.	508.G.4.b.
				34-1682(5)	508.G.5.
				34-1682(5)a.	508.G.5.a.
				34-1682(5)b.	508.G.5.b.

					508.G.5.b.1.)
				34-1682(6)	508.G.6.
				34-1682(7)	508.G.7.
				34-1682(7)a.	508.G.7.a.
				34-1682(7)b.	508.G.7.a.
				34-1683—34-1710	Reserved
				34-1677	508.H.
				34-1677(a)	508.H.1.
				34-1677(a)(1)	508.H.1.a.
				34-1677(a)(1)a.	508.H.1.a.1.)
				34-1677(a)(1)b.	508.H.1.a.2.)
				34-1677(a)(2)	508.H.1.b.
				34-1677(b)	508.H.2.
				34-1677(b)(1)	508.H.2.a.
				34-1677(b)(1)a.	508.H.2.a.1.)
				34-1677(b)(1)b.	508.H.2.a.2.)
				34-1677(b)(1)c.	508.H.2.a.3.)
				34-1677(b)(2)	508.H.2.b.
				34-1677(b)(3)	508.H.2.c.
				34-1677(b)(3)a.	508.H.2.c.1.)

				34-1677(b)(3)b.	508.H.2.c.2.)
				34-1677(b)(3)c.	508.H.2.c.3.)
				34-1677(b)(3)d.	508.H.2.c.4.)
				34-1677(b)(4)	508.H.2.d.
				34-1677(b)(5)	508.H.2.e.
				34-1677(b)(6)	508.H.2.f.
				34-1677(b)(6)a.	508.H.2.f.1.)
				34-1677(b)(6)a.1.	508.H.2.f.1.)a.)
				34-1677(b)(6)a.2.	508.H.2.f.1.)b.)
				34-1677(b)(6)b.	508.H.2.f.2.)
				34-1677(b)(6)c.	508.H.2.f.3.)
				34-1677(b)(6)d.	508.H.2.f.4.)
				34-1677(b)(6)e.	508.H.2.f.5.)
				34-1677(b)(6)f.	508.H.2.f.6.)
				34-1677(b)(7)	508.H.2.g.
				34-1677(b)(7)(a)	508.H.2.g.1.)
				34-1677(b)(7)(b)	508.H.2.g.2.)
				34-1677(b)(7)(c)	508.H.2.g.3.)
				34-1677(b)(7)(d)	508.H.2.g.4.)
				34-1677(b)(8)	508.H.2.h.

				34-1677(c)	508.H.3.
				34-1677(c)(1)	508.H.3.a.
				34-1677(c)(2)	508.H.3.b.
				34-1677(c)(2)a.	508.H.3.b.1.)
				34-1677(c)(2)b.	508.H.3.b.2.)
				34-1677(c)(2)c.	508.H.3.b.3.)
				34-1678	508.I.
				34-1678(a)	508.I.
				34-1678(b)	508.I.
				34-1678(c)	508.I.
				34-1679	508.J.
				34-1679(a)	508.J.1.
				34-1679(b)	508.J.2.
				34-1679(c)	508.J.3.
				34-1680	508.K.
				34-1681	508.L.
34	VII	2		34-1177	509
				34-1177(a)	509.A.
				34-1177(b)	509.B.
				34-1177(c)	509.C.

				34-1177(d)	509.D.
				34-1177(e)	509.E.
				34-1177(e)(1)	509.E.1.
				34-1177(e)(2)	509.E.2.
				34-1177(f)	509.F.
				34-1177(g)	509.G.
				34-1177(g)(1)	509.G.1.
				34-1177(g)(2)	509.G.2.
				34-1177(h)	509.H.
				34-1177(i)	509.I.
				34-1177(i)(1)	509.I.
				34-1177(i)(2)	509.I.
				34-1178	511
				34-1178(a)	511.A.
				34-1178(b)	511.B.
				34-1178(b)(1)	511.B.1.
				34-1178(b)(2)	511.B.2.
				34-1178(b)(3)	511.B.3.
34	VII	10		Care Facilities and Centers	512
				34-1413	512

					512.A.
				34-1413(1)	512.A.1.
				34-1413(2)	512.A.2.
				34-1413(3)	512.A.3.
				34-1413(4)	512.A.4.
				34-1413(5)	512.A.5.
				34-1413(6)	512.A.6.
				34-1413(7)	512.A.7.
34	VII	18		Home Occupation	513
				34-1771	513.A.
				34-1772	513.B.
				34-1772(a)	513.B.1.
				34-1772(b)	513.B.2.
				34-1772(c)	513.B.3.
				34-1772(d)	513.B.4.
				34-1772(e)	513.B.5.
				34-1772(f)	513.B.6.
				34-1772(g)	513.B.7.
				34-1773—34-1800	Reserved
34	VII	19		Hotels and Motels	514

				34-1801	514.A.
				34-1801(1)	514.A.
				34-1801(2)	514.A.
				34-1801(3)	514.A.
				34-1802	514.B.
				34-1802(1)	514.B.1.
				34-1802(1)a.	514.B.1.a.
				34-1802(1)b.	514.B.1.b.
				34-1802(1)c.	514.B.1.c.
				34-1802(2)	514.B.2.
				34-1802(2)a.	514.B.2.a.
				34-1802(2)b.	514.B.2.b.
				34-1802(2)c.	514.B.2.c.
				34-1802(3)	514.B.3.
				34-1802(3)a.	514.B.3.
				34-1802(3)b.	514.B.3.
				34-1802(4)	514.B.4.
				34-1802(5)	514.B.5.
				34-1802(6)	514.B.6.
				34-1803	514.C.

				34-1804	514.D.
				34-1805	514.E.
				34-1806—34-1830	Reserved
34	VII	20		Junk, Scrap or Salvage Yards; Dumps	515
				Sanitary Landfills	
				34-1831	515.A.
				34-1831(a)	515.A.
				34-1831(b)	515.A.
				34-1832	515.B.
				34-1833	515.C.
				34-1834	515.D.
				34-1835	515.E.
				34-1836	515.F.
				34-1837—34-1860	Reserved
34	VII	7		Animal Clinic and Facilities	516
				34-1321	516
				34-1322	516.A.
				34-1322(1)	516.A.1.
				34-1322(2)	516.A.2.
				34-1322(2)a.	516.A.2.a.

				34-1322(2)b.	516.A.2.b.
				34-1323—34-1350	Reserved
34	VII	21		Marine Facilities	517
				34-1862	517
				34-1862(a)	517.A.
				34-1862(b)	517.B.
				34-1862(c)	517.C.
34	VII	22		Migrant and Transient Farm Labor Facilities	518
				34-1891	518.A.
				34-1892	518.B.
				34-1893	518.C.
				34-1893(1)	518.C.1.
				34-1893(2)	518.C.2.
				34-1893(3)	518.C.3.
				34-1893(4)	518.C.4.
				34-1893(5)	518.C.5.
				34-1893(6)	518.C.6.
				34-1893(7)	518.C.7.
				34-1894	518.D.
				34-1894(a)	518.D.1.

				34-1894(b)	518.D.2.
				34-1894(c)	518.D.3.
				34-1894(c)(1)	518.D.3.a.
				34-1894(c)(2)	518.D.3.b.
				34-1894(c)(3)	518.D.3.c.
				34-1894(c)(4)	518.D.3.d.
				34-1894(c)(5)	518.D.3.e.
				34-1894(c)(6)	518.D.3.f.
				34-1894(d)	518.D.4.
				34-1894(d)(1)	518.D.4.a.
				34-1894(d)(2)	518.D.4.b.
				34-1894(d)(3)	518.D.4.c.
				34-1894(e)	518.D.5.
				34-1894(e)(1)	518.D.5.a.
				34-1894(e)(2)	518.D.5.b.
				34-1895—34-1920	Reserved
34	VII	23		Mobile Homes	519
				34-1922	519.A.
				34-1923	519.B.
				34-1923(1)	519.B.1.

				34-1923(2)	519.B.2.
				34-1924—34-1950	Reserved
				34-1921	519.C.
34	VII	24		Model Homes, Units and Display Centers	520
				34-1951	520.A.
				34-1952	520.B.
				34-1953	520.C.
				34-1954	520.D.
				34-1954(a)	520.D.1.
				34-1954(b)	520.D.2.
				34-1954(b)(1)	520.D.2.a.
				34-1954(b)(2)	520.D.2.b.
				34-1954(b)(3)	520.D.2.c.
				34-1954(c)	520.D.3.
				34-1954(c)(1)	520.D.3.a.
				34-1954(c)(2)	520.D.3.a.
				34-1954(d)	520.D.4.
				34-1954(d)(1)	520.D.4.a.
				34-1954(d)(2)	520.D.4.b.
				34-1954(e)	520.D.5.

				34-1954(f)	520.D.6.
				34-1955	520.E.
					520.E.1.
					520.E.2.
				34-1955(a)	520.E.1.a.
					520.E.1.b.
				34-1955(b)	520.E.2.a.
				34-1955(c)	520.E.2.b.
				34-1955(d)	520.E.2.c.
				34-1955(e)	520.E.2.d.
				34-1956—34-1980	Reserved
34	VII	27		Place of Worship and Religious Facilities	521
				34-2051	521.A.
				34-2051(a)	521.A.1.
				34-2051(a)(1)	521.A.1.a.
				34-2051(a)(1)a.	521.A.1.a.
				34-2051(a)(1)b.	521.A.1.a.
				34-2051(a)(1)c.	521.A.1.a.
				34-2051(a)(2)	521.A.1.b.
				34-2051(a)(3)	521.A.1.c.

				34-2051(a)(4)	521.A.1.d.
				34-2051(a)(4)a.	521.A.1.d.
				34-2051(a)(4)b.	521.A.1.d.
				34-2051(a)(4)c.	521.A.1.d.
				34-2051(a)(4)d.	521.A.1.d.
				34-2051(b)	521.A.2.
					521.A.2.a.
				34-2052	521.A.3.
				34-2052(a)	521.A.3.a.
				34-2052(b)	521.A.3.a.
				34-2052(c)	521.A.3.b.
				34-2052(c)(1)	521.A.3.b.
				34-2052(c)(2)	521.A.3.b.
				34-2052(c)(3)	521.A.3.b.
				34-2052(c)(4)	521.A.3.b.
				34-2052(c)(5)	521.A.3.b.
				34-2052(c)(6)	521.A.3.b.
				34-2053	521.B.
				34-2054—34-2080	Reserved
34	VII	16		Farm Produce Stands	522

				34-1711	522.A.
				34-1712	522.B.
				34-1713	522.C.
				34-1713(a)	522.C.1.
				34-1713(a)(1)	522.C.1.a.
				34-1713(a)(2)	522.C.1.b.
				34-1713(a)(3)	522.C.1.c.
				34-1713(b)	522.C.2.
				34-1713(b)(1)	522.C.2.a.
				34-1713(b)(2)	522.C.2.b.
				34-1713(b)(3)	522.C.2.c.
				34-1713(b)(4)	522.C.2.d.
				34-1713(b)(5)	522.C.2.e.
				34-1714	522.D.
				34-1714(1)	522.D.1.
				34-1714(2)	522.D.2.
				34-1714(3)	522.D.3.
				34-1714(4)	522.D.4.
				34-1715	522.E.
				34-1715(1)	522.E.1.

				34-1715(2)	522.E.2.
				34-1716—34-1740	Reserved
34	VII	28		Plant Nurseries	523
				34-2081	523
					523.A.
				34-2081(1)	523.A.1.
				34-2081(2)	523.A.2.
				34-2082—34-2110	Reserved
34	VII	32		Schools	524
				34-2381	524.A.
				34-2381(a)	524.A.
				34-2381(b)	524.B.
				34-2381(b)(1)	524.B.1.
				34-2381(b)(2)	524.B.2.
				34-2381(c)	524.C.
				34-2382—34-2410	Reserved
34	VII	34		Special Setbacks	525
				34-2441	525.A.
				34-2442	525.B.
				34-2443	525.C.

				34-2443(a)	525.C.1.
				34-2443(a)(1)	525.C.1.
				34-2443(a)(2)	525.C.1.
				34-2443(a)(3)	525.C.1.
				34-2443(a)(4)	525.C.1.
				34-2443(a)(5)	525.C.1.
				34-2443(b)	525.C.2.
				34-2443(b)(1)	525.C.2.
				34-2443(b)(2)	525.C.2.
				34-2443(b)(3)	525.C.2.
				34-2443(b)(4)	525.C.2.
				34-2443(c)	525.D.
				34-2444—34-2470	Reserved
34	VII	35		Sports/Amusement Parks and	526
				Recreational Facilities	
				34-2471	526.A.
				34-2472	526.B.
				34-2472(a)	526.B.1.
				34-2472(a)(1)	526.B.1.a.
				34-2472(a)(2)	526.B.1.b.

				34-2472(a)(3)	526.B.1.c.
				34-2472(a)(4)	526.B.1.d.
				34-2472(b)	526.B.2.
				34-2472(b)(1)	526.B.2.a.
				34-2472(b)(2)	526.B.2.b.
				34-2473	526.C.
					526.C.1.
				34-2474	526.C.2.
				34-2474(a)	526.C.2.
				34-2474(a)(1)	526.C.2.a.
				34-2474(a)(2)	526.C.2.b.
				34-2474(a)(3)	526.C.2.c.
				34-2474(b)	(new)
				34-2474(b)(1)	526.C.2.c.1.)
				34-2474(b)(2)	526.C.2.c.2.)
				34-2474(b)(3)	526.C.2.c.3.)
				34-2474(b)(4)	526.C.2.c.4.)
				34-2474(b)(5)	526.C.2.c.5.)
				34-2474(b)(6)	526.C.2.c.6.)
				34-2474(b)(7)	526.C.2.c.7.)

				34-2474(b)(8)	526.C.2.c.8.)
				34-2474(b)(8)a.	526.C.2.c.8.)a.)
				34-2474(b)(8)b.	526.C.2.c.8.)b.)
				34-2474(b)(8)c.	526.C.2.c.8.)c.)
				(no number)	526.D.
				34-2475	526.D.1.
				34-2476	526.D.2.
				34-2476(a)	526.D.2.a.
				34-2476(b)	526.D.2.b.
				34-2476(c)	526.D.2.c.
				34-2477	526.D.3.
				34-2478	526.D.4.
				34-2478(a)	526.D.4.
				34-2478(b)	526.D.4.
				34-2478(b)(1)	526.D.4.a.
				34-2478(b)(2)	526.D.4.b.
				34-2478(b)(3)	526.D.4.c.
				34-2479	526.D.5.
				34-2480—34-3000	Reserved
34	VII	36		Storage Facilities and Outdoor Display	527

				of Merchandise	
				34-3001	527.A.
				34-3001(a)	527.A.
				34-3001(b)	527.A.
				34-3002	527.B.
				34-3002(a)	527.B.1.
				34-3002(b)	527.B.2.
				34-3003	527.C.
				34-3004	527.01
				34-3004(a)	527.01.A.
				34-3004(b)	527.01.B.
				34-3004(b)(1)	527.01.B.1.
				34-3004(b)(2)	527.01.B.2.
				34-3005	527.02
				34-3005(a)	527.02.A.
				34-3005(a)(1)	527.02.A.1.
				34-3005(a)(2)	527.02.A.2.
				34-3005(b)	527.02.B.
				34-3005(b)(1)	527.02.B.1.
				34-3005(b)(2)	527.02.B.2.

				34-3005(c)	527.02.C.
				34-3005(c)(1)	527.02.C.1.
				34-3005(c)(2)	527.02.C.2.
				34-3006—34-3020	Reserved
34	VII	37		Subordinate and Temporary Uses	528/529
			I	In General	
				34-3021	528
				34-3021(a)	528.A.
				34-3021(b)	528.B.
				34-3021(b)(1)	528.B.
				34-3021(b)(2)	528.B.
				34-3021(b)(3)	528.B.
				34-3021(b)(4)	528.B.
				34-3021(b)(5)	528.B.
				34-3021(b)(6)	528.B.
				34-3021(c)	528.C.
				34-3021(c)(1)	528.C.
				34-3021(c)(1)a.	528.C.1.
				34-3021(c)(1)b.	528.C.2.
				34-3021(c)(1)c.	528.C.3.

				34-3021(c)(2)	528.C.3.
				34-3021(c)(2)a.	528.C.3.
				34-3021(c)(2)b.	528.C.3.
				34-3021(c)(2)c.	528.C.3.
				34-3021(c)(2)d.	528.C.3.
				34-3021(c)(2)e.	528.C.3.
				34-3022—34-3040	Reserved
			II	Temporary Uses	
				34-3041	529
				34-3041(a)	529.A.
				34-3041(b)	529.B.
				34-3041(c)	529.C.
				34-3041(d)	529.D.
				34-3041(d)(1)	529.D.
				34-3041(d)(2)	529.D.
				34-3041(e)	529.E.
				34-3041(f)	529.F.
				34-3041(g)	529.G.
				34-3041(h)	529.H.
				34-3042	529.01

				34-3042(a)	529.01.A.
				34-3042(a)(1)	529.01.A.1.)
				34-3042(a)(2)	529.01.A.2.)
				34-3042(a)(3)	529.01.A.3.)
				34-3042(a)(3)a.	529.01.A.3.)a.)
				34-3042(a)(3)b.	529.01.A.3.)b.)
				34-3042(a)(3)c.	529.01.A.3.)c.)
				34-3042(a)(4)	529.01.A.4.)
				34-3042(a)(5)	529.01.A.5.)
				34-3042(a)(6)	529.01.A.6.)
				34-3042(b)	529.01.B.
				34-3042(c)	529.01.C.
				34-3042(d)	529.01.D.
				34-3042(e)	529.01.D.
				34-3043	529.02
				34-3043(a)	529.02.A.
				34-3043(a)(1)	529.02.A.1.
				34-3043(a)(2)	529.02.A.2.
				34-3043(b)	529.02.B.
				34-3044	529.03

				34-3045	529.04
				34-3045(a)	529.04
				34-3045(b)	529.04
				34-3045(c)	529.04
				34-3046	529.05
				34-3046(a)	529.05.A.
				34-3046(a)(1)	529.05.A.1.
				34-3046(a)(2)	529.05.A.2.
				34-3046(b)	529.05.B.
				34-3046(b)(1)	529.05.B.1.
				34-3046(b)(2)	529.05.B.2.
				34-3046(c)	529.05.C.
				34-3046(c)(1)	529.05.C.1.
				34-3046(c)(2)	529.05.C.2.
				34-3046(c)(3)	529.05.C.3.
				34-3047	529.06
				34-3047(1)	529.06.A.
				34-3047(2)	529.06.B.
				34-3048	529.07
				34-3048(a)	529.07.A.

				34-3048(a)(1)	529.07.A.1.
				34-3048(a)(2)	529.07.A.2.
				34-3048(a)(3)	529.07.A.3.
				34-3048(a)(4)	529.07.A.4.
				34-3048(a)(5)	529.07.A.5.
				34-3048(b)	529.07.B.
				(no number)	529.08
				34-3049	529.09
				34-3050—34-3070	Reserved
34	VII	11		Communications Towers	530
				34-1441	530.A.
				34-1441(a)	530.A.
				34-1441(b)	530.A.
				34-1441(c)	530.A.
				34-1442	530.B.
				34-1442(a)	530.B.1.
				34-1442(b)	530.B.2.
				34-1443	530.C.
				34-1444	530.D.
				34-1445	530.E.

				34-1446	530.F.
				34-1447—34-1470	Reserved
34	VII	38		Units of High Impact	531
				34-3071	531.A.
				34-3072	531.B.
				34-3073	531.C.
				34-3073(a)	531.C.1.
				34-3073(b)	531.C.2.
				34-3073(b)(1)	531.C.2.a.
				34-3073(b)(2)	531.C.2.b.
				34-3074	531.D.
				34-3074(1)	531.D.1.
				34-3074(2)	531.D.2.
				34-3074(3)	531.D.3.
				34-3074(4)	531.D.4.
				34-3075—34-3100	Reserved
34	VII	2		34-1179	532
				34-1179(a)	532.A.
				34-1179(b)	532.B.
				34-1179(b)(1)	532.B.1.

				34-1179(b)(2)	532.B.2.
				34-1179(b)(3)	532.B.3.
				34-1179(b)(4)	532.B.4.
				34-1179(b)(5)	532.B.5.
				34-1179(b)(6)	532.B.6.
				34-1179(b)(7)	532.B.7.
				34-1180	533
				34-1180(a)	533.A.
				34-1180(b)	533.B.
				34-1180(b)(1)	533.B.1.
				34-1180(b)(2)	533.B.2.
				34-1180(b)(3)	533.B.3.
				34-1180(b)(4)	533.B.4.
				34-1180(b)(5)	533.B.5.
				34-1180(b)(6)	533.B.6.
				34-1181—34-1200	Reserved
34	VII	10		Care Facilities Centers	534
				34-1414	534
				34-1414(a)	534.A.
				34-1414(a)(1)	534.A.1.

				34-1414(a)(2)	534.A.2.
				34-1414(b)	534.B.
				34-1414(b)(1)	534.B.1.
				34-1414(b)(2)	534.B.2.
				34-1414(b)(3)	534.B.3.
				34-1414(b)(4)	534.B.4.
				34-1414(c)	534.C.
				34-1414(d)	534.D.
				34-1414(e)	534.E.
				34-1415—34-1440	Reserved
34	VIII			Nonconformities	Ch. VI
		1		Generally	
				34-3201	600
				34-3202	601
		2		Nonconforming Use of Land	
				34-3221	601.01
				34-3222	601.01.A.
				34-3223	601.01.B.
					601.01.B.1.
				34-3224	601.01.C.

				34-3225—34-3240	Reserved
		3		34-3242	601.02
				34-3242(1)	601.02.A.
				34-3242(2)	601.02.B.
				34-3242(3)	601.02.C.
				34-3242(3)a.	601.02.C.1.
				34-3242(3)b.	601.02.C.2.
				34-3243—34-3270	Reserved
		4		Nonconforming Lots	
				34-3271	602
				34-3272	602.01
				34-3272(1)	602.01.A.
				34-3272(1)a.	602.01.A.1.
				34-3272(1)b.	602.01.A.2.
				34-3272(1)c.	602.01.A.3.
				34-3272(1)d.	602.01.A.4.
				34-3272(1)d.1.	602.01.A.4.a.
				34-3272(1)d.2.	602.01.A.4.b.
				34-3272(1)d.3.	602.01.A.4.c.
				34-3272(1)d.4.	602.01.A.4.d.

				34-3272(1)d.5.	602.01.A.4.e.
				34-3272(1)d.6.	602.01.A.4.f.
				34-3272(1)d.7.	602.01.A.4.g.
				34-3272(1)d.8.	602.01.A.4.h.
				34-3272(2)	602.01.B.
				34-3272(3)	602.01.C.
				34-3272(3)a.	602.01.C.1.
				34-3272(3)b.	602.01.C.2.
				34-3272(3)c.	602.01.C.3.
				34-3272(3)c.1.	602.01.C.3.a.
				34-3272(3)c.2.	602.01.C.3.b.
				34-3272(3)c.3.	602.01.C.3.c.
				34-3272(4)	602.01.D.
				34-3273	602.02.
				34-3273(a)	602.02.A.
				34-3273(b)	602.02.B.
				34-3273(b)(1)	602.02.B.1.
				34-3273(b)(2)	602.02.B.2.
				34-3273(b)(3)	602.02.B.3.
				34-3273(c)	602.02.C.

				34-3274	602.03
				34-3274(1)	602.03.A.
				34-3274(1)a.	602.03.A.1.
				34-3274(1)b.	602.03.A.2.
				34-3274(2)	602.03.B.
				34-3274(2)a.	602.03.B.1.
				34-3274(2)b.	602.03.B.2.
				34-3274(2)c.	602.03.B.3.
				34-3274(3)	602.03.C.
				34-3274(3)a.	602.03.C.1.
				34-3274(3)a.1.	602.03.C.1.a.
				34-3274(3)a.2.	602.03.C.1.b.
				34-3274(3)a.3.	602.03.C.1.c.
				34-3274(3)b.	602.03.C.2.
				34-3274(3)b.1.	602.03.C.2.a.
				34-3274(3)b.2.	602.03.C.2.b.
				34-3274(3)b.3.	602.03.C.2.c.
				34-3274(3)b.4.	602.03.C.2.d.
				34-3274(4)	602.03.D.
				34-3274(4)a.	602.03.D.1.

				34-3274(4)a.1.	602.03.D.1.a.
				34-3274(4)a.2.	602.03.D.1.b.
				34-3274(4)b.	602.03.D.2.
				34-3274(4)b.1.	602.03.D.2.a.
				34-3274(4)b.2.	602.03.D.2.b.
				34-3274(4)b.3.	602.03.D.2.c.
				34-3274(4)b.4.	602.03.D.2.d.
				34-3274(5)	602.03.E.
				34-3274(5)a.	602.03.E.1.
				34-3274(5)a.1.	602.03.E.1.a.
				34-3274(5)a.2.	602.03.E.1.b.
				34-3274(5)a.3.	602.03.E.1.c.
				34-3274(5)a.4.	602.03.E.1.d.
				34-3274(5)a.5.	602.03.E.1.e.
				34-3274(5)b.	602.03.E.2.
				34-3275	602.04
				34-3275(1)	602.04.A.
				34-3275(1)a.	602.04.A.1.
				34-3275(1)b.	602.04.A.2.
				34-3275(1)c.	602.04.A.3.

				34-3275(2)	602.04.B.
				34-3275(2)a.	602.04.B.1.
				34-3275(2)b.	602.04.B.2.
				34-3275(2)c.	602.04.B.3.
				34-3275(3)	602.04.C.
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				34-3241(b)	603.B.
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				34-3241(b)(2)	603.B.2.
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				34-3241(b)(2)b.	603.B.2.b.)
				34-3241(b)(3)	603.B.3.
				34-3241(b)(4)	603.B.4.
				34-3241(b)(5)	603.B.5.
				34-3241(b)(6)	603.B.6.
		1		34-3203	604
				34-3203(a)	604.A.
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				34-3203(a)(2)	604.A.2.

				34-3203(b)	604.B.
				34-3203(b)(1)	604.B.1.
				34-3203(b)(2)	604.B.2.
				34-3203(b)(3)	604.B.3.
				34-3203(c)	604.C.
				34-3203(c)(1)	604.C.1.
				34-3203(c)(2)	604.C.2.
				34-3203(d)	604.D.
				34-3204	605
				34-3205	606
				34-3206	607
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34	VI	1		34-614	700
				34-614(a)	700
				34-614(a)(1)	700.A.
				34-614(a)(2)	700.B.
				34-614(a)(3)	700.C.
				34-614(b)	700.01
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				34-614(c)(2)	700.02.B.
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				34-615(a)	701
				34-615(a)(1)	701.A.
				34-615(a)(1)a.	701.A.1.
				34-615(a)(1)b.	701.A.2.
				34-615(a)(1)c.	701.A.3.
				34-615(a)(1)d.	701.A.4.
				34-615(a)(1)e.	701.A.5.
				34-615(a)(1)f.	701.A.6.
				34-615(a)(1)g.	701.A.7.
				34-615(a)(1)h.	701.A.8.
				34-615(a)(2)	701.B.
				34-615(b)	701.01
				34-615(b)(1)	701.01.A.
				34-615(b)(1)a.	701.01.A.1.
				34-615(b)(1)b.	701.01.A.2.
				34-615(b)(2)	701.01.B.
				34-615(b)(2)a.	701.01.B.1.

				34-615(b)(2)b.	701.01.B.2.
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				34-618	704
				34-618(1)	704.A.
				34-618(2)	704.B.
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				34-618(8)	704.H.
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34	II	6		Applications and Procedures	800
				34-201	800
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				34-201(a)(1)	800.A.1.

				34-201(a)(1)a.	800.A.1.a.
				34-201(a)(1)a.1.	800.A.1.a.1.)
				34-201(a)(1)a.2.	800.A.1.a.2.)
				34-201(a)(1)a.3.	800.A.1.a.3.)
				34-201(a)(1)a.4.	800.A.1.a.4.)
				34-201(a)(1)a.5.	800.A.1.a.5.)
				34-201(a)(1)b.	800.A.1.b.
				34-201(a)(1)b.1.	800.A.1.b.1.)
				34-201(a)(1)b.2.	800.A.1.b.2.)
				34-201(a)(1)b.3.	800.A.1.b.3.)
				34-201(a)(1)c.	800.A.1.c.
				34-201(a)(1)c.1.	800.A.1.c.1.)
				34-201(a)(1)c.2.	800.A.1.c.2.)
				34-201(a)(2)	800.A.2.
				34-201(a)(2)a.	800.A.2.a.
				34-201(a)(2)b.	800.A.2.b.
				34-201(b)	800.B.
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				34-201(b)(2)	800.B.2.
				34-201(b)(2)a.	800.B.2.a.

				34-201(b)(2)b.	800.B.2.b.
				34-201(b)(2)c.	800.B.2.c.
				34-201(b)(2)d.	800.B.2.d.
				34-201(b)(3)	800.B.3.
				34-201(b)(4)	800.B.4.
				34-201(b)(5)	800.B.5.
				34-201(b)(6)	800.B.6.
				34-201(b)(7)	800.B.7.
				34-202	800.01.
				34-202(a)	800.01.A.
				34-202(a)(1)	800.01.A.1.
				34-202(a)(2)	800.01.A.2.
				34-202(a)(3)	800.01.A.3.
				34-202(a)(4)	800.01.A.4.
				34-202(a)(5)	800.01.A.5.
				34-202(b)	800.01.B.
				34-202(b)(1)	800.01.B.1.
				34-202(b)(2)	800.01.B.2.
				34-202(b)(3)	800.01.B.3.
				34-202(b)(4)	800.01.B.4.

				34-202(b)(5)	800.01.B.5.
				34-202(b)(6)	800.01.B.6.
				34-202(b)(7)	800.01.B.7.
				34-202(b)(8)	800.01.B.8.
				34-202(b)(9)	800.01.B.9.
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				34-203	800.02
				34-203(a)	800.02.A.
34	IV	1		34-341(b)	800.02.B.
					800.02.B.1.
				34-341(b)(1)	800.02.B.1.a.
				34-341(b)(2)	800.02.B.1.b.
				34-341(b)(3)	800.02.B.1.c.
				34-341(b)(4)	800.02.B.1.d.
				34-341(b)(5)	800.02.B.1.e.
				34-341(b)(6)	800.02.B.1.f.
				34-341(b)(7)	800.02.B.1.g.
				34-341(b)(8)	800.02.B.1.h.
				34-341(b)(9)	800.02.B.1.i.
				34-341(b)(10)	800.02.B.1.j.

				34-341(b)(11)	800.02.B.1.k.
				34-341(b)(12)	800.02.B.1.l.
				34-341(b)(13)	800.02.B.1.m.
34	II	6		34-203(b)	800.02.B.2.
				34-203(b)(1)	800.02.B.2.a.
				34-203(b)(2)	800.02.B.2.b.
				34-203(b)(3)	800.02.B.2.c.
				34-203(b)(3)a.	800.02.B.2.c.1.)
				34-203(b)(3)b.	800.02.B.2.c.2.)
				34-203(b)(3)c.	800.02.B.2.c.3.)
				34-203(b)(3)d.	800.02.B.2.c.4.)
				34-203(b)(4)	800.02.B.2.d.
				34-203(b)(5)	800.02.B.2.e.
				34-203(c)	800.02.C.
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				34-203(c)(2)	800.02.C.2.
				34-203(d)	800.02.D.
				34-203(d)(1)	800.02.D.1.
				34-203(d)(2)	800.02.D.2.
				34-203(d)(2)a.	800.02.D.2.a.

				34-203(d)(2)b.	800.02.D.2.b.
				34-203(d)(2)c.	800.02.D.2.c.
				34-203(d)(2)d.	800.02.D.2.d.
				34-203(d)(2)e.	800.02.D.2.e.
				34-203(d)(2)f.	800.02.D.2.f.
				34-203(e)	800.02.E.
				34-203(e)(1)	800.02.E.1.
				34-203(e)(1)a.	800.02.E.1.a.
				34-203(e)(1)b.	800.02.E.1.b.
				34-203(e)(1)c.	800.02.E.1.c.
				34-203(e)(1)d.	800.02.E.1.d.
				34-203(e)(2)	800.02.E.2.
				34-203(e)(2)a.	800.02.E.2.a.
				34-203(e)(2)b.	800.02.E.2.b.
				34-203(e)(2)c.	800.02.E.2.c.
				34-203(e)(2)d.	800.02.E.2.d.
				34-203(e)(3)	800.02.E.3.
				34-203(f)	800.02.E.4.
				34-203(g)	800.02.F.
				34-203(g)(1)	800.02.F.1.

				34-203(g)(1)a.	800.02.F.1.a.
				34-203(g)(1)b.	800.02.F.1.b.
				34-203(g)(1)b.1.	800.02.F.1.b.1.)
				34-203(g)(1)b.2.	800.02.F.1.b.2.)
				34-203(g)(1)b.3.	800.02.F.1.b.3.)
				34-203(g)(1)b.4.	800.02.F.1.b.4.)
				34-203(g)(2)	800.02.F.2.
				34-203(g)(2)a.	800.02.F.2.a.
				34-203(g)(2)b.	800.02.F.2.b.
				34-203(g)(2)c.	800.02.F.2.c.
				34-203(g)(3)	800.02.F.3.
				34-203(g)(3)a.	800.02.F.3.a.
				34-203(g)(3)b.	800.02.F.3.b.
				34-203(g)(3)c.	800.02.F.3.c.
				34-203(g)(4)	800.02.F.4.
				34-203(g)(4)a.	800.02.F.4.a.
				34-203(g)(4)b.	800.02.F.4.b.
				34-203(g)(4)c.	800.02.F.4.c.
				34-203(g)(5)	800.02.F.5.
				34-203(g)(5)a.	800.02.F.5.a.

				34-203(g)(5)a.1.	800.02.F.5.a.1.)
				34-203(g)(5)a.2.	800.02.F.5.a.2.)
				34-203(g)(5)a.3.	800.02.F.5.a.3.)
				34-203(g)(5)b.	800.02.F.5.b.
				34-203(g)(6)	800.02.F.6.
					800.02.F.6.a.
					800.02.F.6.b.
				34-203(g)(7)	800.02.F.7.
				34-203(g)(7)a.	800.02.F.7.a.
				34-203(g)(7)b.	800.02.F.7.b.
				34-203(g)(7)c.	800.02.F.7.c.
				34-203(g)(7)d.	800.02.F.7.d.
				34-203(g)(7)e.	800.02.F.7.e.
				34-204	802
					802.A.
				34-205	802.B.
				34-205(a)	802.B.1.
				34-205(a)(1)	802.B.1.a.
				34-205(a)(2)	802.B.1.b.
				34-205(a)(3)	802.B.1.c.

				34-205(b)	802.B.2.
				34-206	802.C.
				34-207	802.D.
				34-207(a)	802.D.1.
				34-207(a)(1)	802.D.1.
				34-207(a)(2)	802.D.1.
				34-207(b)	802.D.2.
				34-208	802.E.
				34-208(1)	802.E.1.
				34-208(1)a.	802.E.1.a.
				34-208(1)b.	802.E.1.b.
				34-208(2)	802.E.2.
				34-208(2)a.	802.E.2.a.
				34-208(2)b.	802.E.2.b.
				34-208(3)	802.E.3.
				34-209	802.F.
				34-209(a)	802.F.1.
				34-209(a)(1)	802.F.1.a.
				34-209(a)(2)	802.F.1.b.
				34-209(b)	802.F.2.

				34-209(b)(1)	802.F.2.a.
				34-209(b)(2)	802.F.2.b.
				34-209(b)(3)	802.F.2.c.
				34-209(b)(4)	802.F.2.d.
				34-209(b)(5)	802.F.2.e.
				34-209(b)(6)	802.F.2.f.
				34-209(b)(7)	802.F.2.g.
				34-209(b)(7)a.	802.F.2.g.1.)
				34-209(b)(7)b.	802.F.2.g.2.)
				34-209(b)(7)c.	802.F.2.g.3.)
				34-209(b)(7)d.	802.F.2.g.4.)
				34-209(b)(8)	802.F.2.h.
				34-209(b)(9)	802.F.2.i.
				34-209(b)(10)	802.F.2.j.
				34-209(b)(11)	802.F.2.k.
				34-209(b)(12)	802.F.2.l.
				34-209(b)(13)	802.F.2.m.
				34-209(b)(14)	802.F.2.n.
				34-209(b)(15)	802.F.2.o.
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				34-209(b)(16)a.	802.F.2.p.1.)
				34-209(b)(16)b.	802.F.2.p.2.)
				34-209(b)(16)c.	802.F.2.p.3.)
				34-209(b)(16)d.	802.F.2.p.4.)
				34-209(b)(16)e.	802.F.2.p.5.)
				34-209(b)(16)f.	802.F.2.p.6.)
				34-209(c)	802.F.3.
				34-209(c)(1)	802.F.3.a.
				34-209(c)(2)	802.F.3.b.
				34-209(c)(3)	802.F.3.c.
				34-209(d)	802.F.4.
				34-209(d)(1)	802.F.4.a.
				34-209(d)(2)	802.F.4.b.
				34-209(d)(3)	802.F.4.c.
				34-209(d)(4)	802.F.4.d.
				34-209(e)	802.F.5.
				34-209(e)(1)	802.F.5.a.
				34-209(e)(1)a.	802.F.5.a.1.)
				34-209(e)(1)b.	802.F.5.a.2.)
				34-209(e)(1)c.	802.F.5.a.3.)

				34-209(e)(2)	802.F.5.b.
				34-209(f)	802.F.6.
				34-209(f)(1)	802.F.6.a.
				34-209(f)(2)	802.F.6.b.
				34-209(f)(3)	802.F.6.c.
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				34-210(a)	803.A.
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				34-210(c)(1)	803.C.1.
				34-210(c)(2)	803.C.2.
				34-210(c)(3)	803.C.3.
				34-210(d)	803.D.
				34-210(d)(1)	803.D.1.
				34-210(d)(2)	803.D.2.
				34-210(d)(3)	803.D.3.
				34-210(d)(4)	803.D.4.
				34-210(d)(5)	803.D.5.
				34-210(d)(6)	803.D.6.
				34-210(d)(7)	803.D.7.

				34-210(e)	803.E.
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				34-341	804.01
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				34-341(c)	804.01.B.
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		3		Design Standards	804.02
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				34-411(a)	804.02.A.1.
				34-411(b)	804.02.A.2.
				34-411(c)	804.02.A.3.
				34-411(d)	804.02.A.4.
				34-411(d)(1)	804.02.A.4.a.)
				34-411(d)(2)	804.02.A.4.b.)
				34-411(d)(3)	804.02.A.4.c.)
				34-411(e)	804.02.A.5.
				34-411(f)	804.02.A.6.
				34-411(g)	804.02.A.7.

				34-411(h)	804.02.A.8.
				34-411(i)	804.02.A.9.
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				34-411(l)	804.02.A.12.
				34-411(m)	804.02.A.13.
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				34-411(o)	804.02.A.15.
				34-411(p)	804.02.A.16.
				34-411(q)	804.02.A.17.
				34-413	804.02.B.
				34-413(1)	804.02.B.1.
				34-413(2)	804.02.B.2.
				34-413(3)	804.02.B.3.
				34-413(4)	804.02.B.4.
				34-414	804.02.C.
				34-414(a)	804.02.C.1.
				34-414(a)(1)	804.02.C.1.a.
				34-414(a)(2)	804.02.C.1.b.
				34-414(a)(3)	804.02.C.1.c.

				34-414(b)	804.02.C.2.
				34-414(c)	804.02.C.3.
				34-414(c)(1)	804.02.C.3.a.
				34-414(c)(2)	804.02.C.3.b.
				34-414(c)(3)	804.02.C.3.c.
				34-414(c)(4)	804.02.C.3.d.
				34-414(d)	804.02.C.4.
				34-415	804.02.D.
				34-415(a)	804.02.D.1.
				34-415(a)(1)	804.02.D.1.a.
				34-415(a)(2)	804.02.D.1.b.
				34-415(a)(3)	804.02.D.1.c.
				34-415(b)	804.02.D.2.
				34-415(c)	804.02.D.3.
				34-416—34-440	Reserved
				34-412	804.02.E.
				34-412(a)	804.02.E.1.
				34-412(b)	804.02.E.2.
				34-412(c)	804.02.E.3.
		2		Application and Procedure for Approval	

				34-371	804.03
				34-374	804.03.A.
				34-374(a)	804.03.A.1.
				34-374(b)	804.03.A.2.
				34-374(c)	804.03.A.3.
				34-374(d)	804.03.A.4.
				34-372	804.03.B.
				34-373	804.03.C.
				34-373(a)	804.03.C.1.
				34-373(a)(1)	804.03.C.1.a.
				34-373(a)(1)a.	804.03.C.1.a.1.)
				34-373(a)(1)b.	804.03.C.1.a.2.)
				34-373(a)(1)c.	804.03.C.1.a.3.)
				34-373(a)(1)d.	804.03.C.1.a.4.)
				34-373(a)(1)e.	804.03.C.1.a.5.)
				34-373(a)(2)	804.03.C.1.b.
				34-373(a)(2)a.	804.03.C.1.b.1.)
				34-373(a)(2)a.1.	804.03.C.1.b.1.)a.)
				34-373(a)(2)a.1.i.	804.03.C.1.b.1.)a.)i.
				34-373(a)(2)a.1.ii.	804.03.C.1.b.1.)a.)ii.

				34-373(a)(2)a.1.iii.	804.03.C.1.b.1.)a.)iii.
				34-373(a)(2)a.1.iv.	804.03.C.1.b.1.)a.)iv.
				34-373(a)(2)a.1.v.	804.03.C.1.b.1.)a.)v.
				34-373(a)(2)a.1.vi.	804.03.C.1.b.1.)a.)vi.
				34-373(a)(2)a.1.vii.	804.03.C.1.b.1.)a.)vii.
				34-373(a)(2)a.1.viii.	804.03.C.1.b.1.)a.)viii.
				34-373(a)(2)a.1.ix.	804.03.C.1.b.1.)a.)ix.
				34-373(a)(2)a.1.x.	804.03.C.1.b.1.)a.)x.
				34-373(a)(2)a.1.xi.	804.03.C.1.b.1.)a.)xi.
				34-373(a)(2)a.2.	804.03.C.1.b.1.)b.)
				34-373(a)(2)a.3.	804.03.C.1.b.1.)c.)
				34-373(a)(2)a.3.i.	804.03.C.1.b.1.)c.)i.
				34-373(a)(2)a.3.ii.	804.03.C.1.b.1.)c.)ii.
				34-373(a)(2)a.3.iii.	804.03.C.1.b.1.)c.)iii.
				34-373(a)(2)a.3.iv.	804.03.C.1.b.1.)c.)iv.
				34-373(a)(2)a.4.	804.03.C.1.b.1.)d.)
				34-373(a)(2)a.5.	804.03.C.1.b.1.)e.)
				34-373(a)(2)b.	804.03.C.1.b.2.)
				34-373(a)(2)c.	804.03.C.1.b.3.)
				34-373(a)(2)d.	804.03.C.1.b.4.)

				34-373(a)(2)e.	804.03.C.1.b.5.)
				34-373(a)(2)f.	804.03.C.1.b.6.)
				34-373(a)(2)g.	804.03.C.1.b.7.)
				34-373(a)(2)h.	804.03.C.1.b.8.)
				34-373(a)(3)	804.03.C.1.c.
				34-373(a)(3)a.	804.03.C.1.c.1.)
				34-373(a)(3)b.	804.03.C.1.c.2.)
				34-373(b)	804.03.C.2.
				34-373(b)(1)	804.03.C.2.a.
				34-373(b)(2)	804.03.C.2.b.
				34-373(b)(2)a.	804.03.C.2.b.1.)
				34-373(b)(2)b.	804.03.C.2.b.2.)
				34-373(b)(2)c.	804.03.C.2.b.3.)
				34-373(b)(2)d.	804.03.C.2.b.4.)
				34-373(b)(2)e.	804.03.C.2.b.5.)
				34-373(b)(2)f.	804.03.C.2.b.6.)
				34-373(b)(2)g.	804.03.C.2.b.7.)
				34-373(b)(3)	804.03.C.2.c.
				34-373(b)(3)a.	804.03.C.2.c.1.)
				34-373(b)(3)b.	804.03.C.2.c.2.)

				34-373(b)(3)b.1.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.i.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.ii.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.iii.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.iv.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.v.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.vi.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.vii.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.viii.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.ix.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.x.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.xi.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.xii.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.xiii.	804.03.C.2.c.2.)
				34-373(b)(3)b.2.xiv.	804.03.C.2.c.2.)
				34-373(b)(4)	804.03.C.2.d.
				34-375	804.03.D.
				34-376	804.03.E.
				34-376(a)	804.03.E.1.

				34-376(b)	804.03.E.2.
				34-376(c)	804.03.E.3.
				34-377	804.03.F.
				34-377(a)	804.03.F.1.
				34-377(a)(1)	804.03.F.1.a.
				34-377(a)(2)	804.03.F.1.b.
				34-377(a)(2)a.	804.03.F.1.b.1.)
				34-377(a)(2)b.	804.03.F.1.b.2.)
				34-377(a)(2)c.	804.03.F.1.b.3.)
				34-377(a)(3)	804.03.F.1.c.
				34-377(a)(4)	804.03.F.1.d.
				34-377(a)(4)a.	804.03.F.1.d.1.)
				34-377(a)(4)b.	804.03.F.1.d.2.)
				34-377(b)	804.03.F.2.
				34-377(b)(1)	804.03.F.2.a.
				34-377(b)(1)a.	804.03.F.2.a.1.)
				34-377(b)(1)b.	804.03.F.2.a.2.)
				34-377(b)(1)	804.03.F.2.a.3.)
					804.03.F.2.a.4.)
				34-377(b)(2)	804.03.F.2.b.

				34-377(b)(3)	804.03.F.2.c.
				34-377(b)(4)	804.03.F.2.d.
				34-377(b)(4)a.	804.03.F.2.d.1.)
				34-377(b)(4)b.	804.03.F.2.d.2.)
				34-378	804.03.G.
				34-378(a)	804.03.G.a.
				34-378(a)(1)	804.03.G.a.1.)
				34-378(a)(2)	804.03.G.a.2.)
				34-378(a)(3)	804.03.G.a.3.)
				34-378(a)(4)	804.03.G.a.4.)
				34-378(a)(5)	804.03.G.a.5.)
				34-378(b)	804.03.G.b.
				34-378(c)	804.03.G.c.
				34-378(d)	804.03.G.d.
				34-378(d)(1)	804.03.G.d.1.)
				34-378(d)(2)	804.03.G.d.2.)
				34-378(d)(3)	804.03.G.d.3.)
				34-379	804.03.H.
				34-380	804.03.I.
				34-380(a)	804.03.I.1.

				34-380(b)	804.03.I.2.
				34-380(c)	804.03.I.3.
				34-380(d)	804.03.I.4.
				34-380(e)	804.03.I.5.
				34-381	804.03.J.
				34-381(a)	804.03.J.1.
				34-381(a)(1)	804.03.J.1.a.
				34-381(a)(2)	804.03.J.1.b.
				34-381(a)(3)	804.03.J.1.c.
				34-381(a)(4)	804.03.J.1.d.
				34-381(a)(4)a.	804.03.J.1.d.1.)
				34-381(a)(4)b.	804.03.J.1.d.2.)
				34-381(b)	804.03.J.2.
				34-381(b)(1)	804.03.J.2.a.
				34-381(b)(2)	804.03.J.2.b.
				34-381(b)(3)	804.03.J.2.c.
				34-381(b)(4)	804.03.J.2.d.
				34-381(b)(5)	804.03.J.2.e.
				34-381(b)(6)	804.03.J.2.f.
				34-381(b)(7)	804.03.J.2.g.

				34-381(b)(8)	804.03.J.2.h.
				34-382	804.03.K.
				34-383—34-410	Reserved
		4		Residential Planned Developments in Rural or Outer Islands	
				(no number)	805
				34-441	805.A.
				34-441(1)	805.A.1.
				34-441(2)	805.A.2.
				34-441(3)	805.A.3.
				34-442	805.B.
				34-442(1)	805.B.1.
				34-442(1)a.	805.B.1.a.
				34-442(1)b.	805.B.1.b.
				34-442(1)c.	805.B.1.c.
				34-442(1)d.	805.B.1.d.
				34-442(1)e.	805.B.1.e.
				34-442(1)f.	805.B.1.f.
				34-442(1)g.	805.B.1.g.
				34-442(1)h.	805.B.1.h.
				34-442(1)i.	805.B.1.i.

				34-442(1)j.	805.B.1.j.
				34-442(1)k.	805.B.1.k.
				34-442(1)l.	805.B.1.l.
				34-442(1)m.	805.B.1.m.
				34-442(1)n.	805.B.1.n.
				34-442(1)o.	805.B.1.o.
				34-442(1)p.	805.B.1.p.
				34-442(1)q.	805.B.1.q.
				34-442(1)r.	805.B.1.r.
				34-442(2)	805.B.2.
				34-442(2)a.	805.B.2.a.
				34-442(2)b.	805.B.2.b.
				34-442(2)c.	805.B.2.c.
				34-442(2)d.	805.B.2.d.
				34-442(2)e.	805.B.2.e.
				34-442(3)	805.B.3.
				34-442(3)a.	805.B.3.a.
				34-442(3)b.	805.B.3.b.
				34-442(3)c.	805.B.3.c.
				34-442(3)d.	805.B.3.d.

				34-442(3)e.	805.B.3.e.
				34-442(3)f.	805.B.3.f.
				34-443—34-490	Reserved
34	II	3		Local Planning Agency	900
				34-111	900
				34-112	900.A.
					900.A.1.
				34-112(a)	900.A.1.a.
				34-112(a)(1)	900.A.1.a.1.)
				34-112(a)(2)	900.A.1.a.2.)
				34-112(b)	900.A.1.b.
				34-112(c)	900.A.1.c.
				34-112(d)	900.A.1.d.
				34-113	900.A.2.
				34-113(a)	900.A.2.a.
				34-113(b)	900.A.2.b.
34	II	3		34-114	900.A.3.
				34-114(a)	900.A.3.a.
				34-114(a)(1)	900.A.3.a.1.)
				34-114(a)(2)	900.A.3.a.2.)

				34-114(b)	900.A.3.b.
				34-114(c)	900.A.3.c.
				34-114(c)(1)	900.A.3.c.1.)
				34-114(c)(2)	900.A.3.c.2.)
				34-114(c)(3)	900.A.3.c.3.)
				34-114(c)(4)	900.A.3.c.4.)
				34-114(d)	900.A.3.d.
				34-114(d)(1)	900.A.3.d.1.)
				34-114(d)(1)a.	900.A.3.d.1.)a.)
				34-114(d)(1)b.	900.A.3.d.1.)b.)
				34-114(d)(2)	900.A.3.d.2.)
				34-114(d)(2)a.	900.A.3.d.2.)a.)
				34-114(d)(2)b.	900.A.3.d.2.)b.)
				34-114(e)	900.A.3.e.
				34-114(e)(1)	900.A.3.e.1.)
				34-114(e)(2)	900.A.3.e.2.)
34	II	4		Hearing Examiner	900.B.
				34-141	(new)
				34-142	900.B.1.
				34-143	900.B.2.

				34-144	900.B.3.
				34-144(a)	900.B.3.a.
				34-144(b)	900.B.3.b.
				34-144(c)	900.B.3.c.
				34-144(d)	900.B.3.d.
				34-144(d)(1)	900.B.3.d.1.)
				34-144(d)(2)	900.B.3.d.2.)
				34-144(e)	900.B.3.e.
				34-115	900.01
				34-115(a)	900.01.A.
				34-115(a)(1)	900.01.A.1.
				34-115(a)(2)	900.01.A.2.
				34-115(a)(3)	900.01.A.3.
				34-115(a)(4)	900.01.A.4.
				34-115(a)(5)	900.01.A.5.
				34-115(b)	900.01.B.
				34-115(b)(1)	900.01.B.1.
				34-115(b)(2)	900.01.B.2.
				34-115(b)(3)	900.01.B.3.
				34-115(b)(4)	900.01.B.4.

				34-115(b)(5)	900.01.B.5.
				34-115(b)(6)	900.01.B.6.
				34-115(c)	900.01.C.
				34-116—34-140	Reserved
34	II	4		34-145	900.02
				34-145(a)	900.02.A.
				34-145(a)(1)	900.02.A.1.
				34-145(a)(1)a.	900.02.A.1.a.
				34-145(a)(1)a.1.	900.02.A.1.a.1.)
				34-145(a)(1)a.2.	900.02.A.1.a.2.)
				34-145(a)(1)b.	900.02.A.1.b.
				34-145(a)(1)c.	900.02.A.1.c.
				34-145(a)(1)d.	900.02.A.1.d.
				34-145(a)(1)e.	900.02.A.1.e.
				34-145(a)(1)f.	900.02.A.1.f.
				34-145(a)(2)	900.02.A.2.
				34-145(a)(2)a.	900.02.A.2.a.
				34-145(a)(2)a.1.	900.02.A.2.a.1.)
				34-145(a)(2)a.2.	900.02.A.2.a.2.)
				34-145(a)(2)a.3.	900.02.A.2.a.3.)

				34-145(a)(2)b.	900.02.A.2.b.
				34-145(a)(3)	900.02.A.3.
				34-145(a)(3)a.	900.02.A.3.a.
				34-145(a)(3)b.	900.02.A.3.b.
				34-145(a)(4)	900.02.A.4.
				34-145(a)(4)a.	900.02.A.4.a.
					900.02.A.4.a.1.)
				34-145(a)(4)b.	900.02.A.4.b.
				34-145(b)	900.02.B.
				34-145(b)(1)	900.02.B.1.
				34-145(b)(2)	900.02.B.2.
					900.02.B.2.a.
				34-145(b)(2)a.	900.02.B.2.a.1.)
				34-145(b)(2)b.	900.02.B.2.a.2.)
				34-145(b)(2)c.	900.02.B.2.a.3.)
				34-145(b)(2)d.	900.02.B.2.a.4.)
				34-145(b)(2)e.	900.02.B.2.a.5.)
				34-145(b)(2)f.	900.02.B.2.a.6.)
				34-145(b)(2)g.	900.02.B.2.a.7.)
				34-145(b)(3)	900.02.B.3.

				34-145(b)(3)a.	900.02.B.3.a.
				34-145(b)(3)b.	900.02.B.3.b.
				34-145(b)(3)c.	900.02.B.3.c.
				34-145(b)(3)d.	900.02.B.3.d.
				34-145(b)(3)e.	900.02.B.3.e.
				34-145(b)(4)	900.02.B.4.
				34-145(b)(4)a.	900.02.B.4.a.
				34-145(b)(4)b.	900.02.B.4.b.
				34-145(b)(4)c.	900.02.B.4.c.
				34-145(b)(4)d.	900.02.B.4.d.
				34-145(b)(5)	900.02.B.5.
					900.02.B.5.a.
				34-145(c)	900.02.C.
				34-145(c)(1)	900.02.C.1.
				34-145(c)(2)	900.02.C.2.
					900.02.C.2.a.
				34-145(c)(2)a.	900.02.C.2.a.1.)
				34-145(c)(2)b.	900.02.C.2.a.2.)
				34-145(c)(2)c.	900.02.C.2.a.3.)
				34-145(c)(2)d.	900.02.C.2.a.4.)

				34-145(c)(2)e.	900.02.C.2.a.5.)
				34-145(c)(2)f.	900.02.C.2.a.6.)
				34-145(c)(2)g.	900.02.C.2.a.7.)
				34-145(c)(2)h.	900.02.C.2.a.8.)
				34-145(c)(2)i.	900.02.C.2.a.9.)
				34-145(c)(2)j.	900.02.C.2.a.10.)
				34-145(c)(2)k.	900.02.C.2.a.11.)
				34-145(c)(2)l.	900.02.C.2.a.12.)
				34-145(c)(2)n.	900.02.C.2.a.13.)
				34-145(c)(2)n.	900.02.C.2.a.14.)
				34-145(c)(2)o.	900.02.C.2.a.15.)
				34-145(c)(3)	900.02.C.3.
				34-145(c)(3)a.	900.02.C.3.a.
				34-145(c)(3)b.	900.02.C.3.b.
				34-145(c)(3)c.	900.02.C.3.c.
				34-145(c)(4)	900.02.C.4.
				34-145(c)(4)a.	900.02.C.4.a.
				34-145(c)(4)b.	900.02.C.4.b.
				34-145(c)(4)c.	900.02.C.4.c.
				34-145(c)(4)d.	900.02.C.4.d.

				34-145(c)(5)	900.02.C.5.
					900.02.C.5.a.
				34-145(d)	900.02.D.
				34-145(d)(1)	900.02.D.1.
				34-145(d)(1)a.	900.02.D.1.a.
				34-145(d)(1)b.	900.02.D.1.b.
				34-145(d)(1)b.1.	900.02.D.1.b.1.)
				34-145(d)(1)b.2.	900.02.D.1.b.2.)
				34-145(d)(1)c.	900.02.D.1.b.3.)
				34-145(d)(1)d.	900.02.D.1.b.4.)
				34-145(d)(1)e.	900.02.D.1.b.5.)
				34-145(d)(2)	900.02.D.2.
					900.02.D.2.a.
				34-145(d)(3)	900.02.D.3.
				34-145(d)(3)a.	900.02.D.3.a.
				34-145(d)(3)b.	900.02.D.3.b.
				34-145(d)(3)c.	900.02.D.3.c.
				34-145(d)(4)	900.02.D.4.
				34-145(e)	900.02.E.
				34-145(e)(1)	900.02.E.1.

				34-145(e)(2)	900.02.E.2.
					900.02.E.2.a.
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