

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

1 **Sections:**

2

3 **Section 1.1.** Title

4 **Section 1.2.** Authority

5 **Section 1.3.** Purpose and Intent

6 **Section 1.4.** Jurisdiction and Applicability

7 **Section 1.5.** Compliance with regulations

8 **Section 1.6.** Violations, enforcement, and penalties

9 **Section 1.7.** Buildings under construction

10 **Section 1.8.** Outstanding permits

11 **Section 1.9.** Time limitation of approvals

12 **Section 1.10.** Annexed lands

13 **Section 1.11.** Comprehensive Plan and Future Land Use Map

14 **Section 1.12.** Official Zoning Map

15 **Section 1.13.** Transitional rules

16 **Section 1.14.** General rules of construction

17 **Section 1.15.** Measurements

18 **Section 1.16.** Interpretation of zoning district boundaries

19 **Section 1.17.** Severability

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21 **Section 1.1. Title.**

22

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

25

26 **Section 1.2. Authority.**

27

28 These regulations are enacted pursuant to the requirements and authority of Section 163.3161 et seq.,
29 Florida Statutes (the Local Government Comprehensive Planning and Land Development Regulation Act),
30 the Charter of the City of Cape Coral, and the powers and authority in Chapters 60, 162, 166, 171, 177,
31 286, 380, and 823, Florida Statutes, as amended.

32

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

34

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

39

40 A. Continue to foster community pride and a sense of stewardship in the City;

41

42 B. Preserve and implement the comprehensive plan;

43

44 C. Ensure the application and administration of these regulations continues to improve the overall
45 quality of life and promote development of the City;

46

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

- 47 D. Establish zoning districts as a means of achieving unified civic design and proper relationship between
48 the uses of land by regulating the location and use of buildings and other structures;
49
50 E. To minimize and reduce conflicts among various land uses through the application of regulations
51 designed to assure harmonious relationships among land uses;
52
53 F. To ensure safe and convenient traffic circulation, adequate utilities, recreation areas, and the
54 development of economically stable and healthful neighborhoods;
55
56 G. To prevent periodic and seasonal flooding by providing flood control and drainage facilities;
57
58 H. To discourage haphazard, premature, uneconomical, or scattered land development; and
59
60 I. To ensure that the citizens and taxpayers of the city will not have to bear the costs resulting from
61 haphazard land development or the lack of adequate and necessary physical improvements incidental
62 to land development.
63

64 **Section 1.4. Jurisdiction and applicability.**

- 65
66 A. These regulations shall govern the development and use of land, buildings, and structures within the
67 municipal boundary of the City.
68
69 B. No building, structure, water, or land shall be used, occupied, or developed unless in conformity with
70 all provisions of the zoning district in which it is located, all other applicable regulations, and all
71 development approvals.
72

73 **Section 1.5. Compliance with regulations.**

- 74
75 A. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered
76 except in conformance with:
77
78 1. The applicable zoning district regulations;
79
80 2. The bulk, area, and dimensional regulations of the zoning district;
81
82 3. The off-street parking and loading regulations for the use in the building in question;
83
84 4. The floor area regulations of the zoning district;
85
86 5. The established flood criteria, as indicated on the most current edition of the federal flood
87 insurance rate maps and the requirements in Article 9 applicable to the development site; and
88
89 6. All other applicable laws, rules, and regulations.
90
91 B. No building shall be erected or enlarged after the effective date of these regulations, which reduces
92 any level of service standard established in the City of Cape Coral adopted comprehensive plan.

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

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Section 1.6. Violations, enforcement, and penalties.

The procedures for enforcement and penalties for violations of this Code are set forth in Chapter 2, Article 5, Divisions 3 and 4 of the City of Cape Coral Code of Ordinances. The provisions of this Code are supplemental to any other procedures and remedies available to the City of Cape Coral. Nothing contained in this Code prohibits the City of Cape Coral from enforcing its codes or ordinances by other Code Enforcement provisions of the City of Cape Coral Code of Ordinances or other applicable law.

Section 1.7. Buildings under construction.

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

Section 1.8. Outstanding permits.

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

Section 1.9. Time limitation of approvals.

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

Section 1.10. Annexed lands.

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

Section 1.11. Comprehensive Plan and Future Land Use Map.

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

Section 1.12. Official Zoning Map.

- A. The Official Zoning Map is established and incorporated into these regulations by this reference. The Official Zoning Map shows the boundaries of all Zoning Districts as adopted by the City Council pursuant to the procedures of these regulations.

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

- 139 B. The Official Zoning Map shall be the official record of zoning status of land within the city. The Official
140 Zoning District Map shall be maintained by the city electronically. The city is divided into districts, or
141 zones, as provided by this ordinance. The electronic format of the map will reside within the city
142 Geographic Information System (GIS) as the zoning layer and shall be maintained by the Department
143 of Community Development - Planning Division. The map will be updated on a continuous basis
144 following approval of zoning changes by City Council. The electronic format of the map will be
145 viewable via the Internet and paper copies can be produced on demand.
146
- 147 C. Pursuant to Laws of Fla. Ch. 78-540, § 8, the city shall exercise extraterritorial zoning powers within
148 an area extending 600 feet into the tidal waters adjacent to the corporate city limits. All such areas
149 shall have the same zoning as the adjacent uplands.
150
- 151 D. The Official Zoning Map, as amended from time to time, shall be kept on file and made available for
152 public reference in the Office of the City Clerk and the Community Development Department.
153 Amendments to zoning on the Official Zoning District Map shall be consistent with the adopted Cape
154 Coral Comprehensive Plan, including the Future Land Use Map and its accompanying text.
155 Amendments shall be made on or after the effective date of such zoning change. The Director of the
156 Department of Community Development shall ensure that amended zoning district boundaries are
157 accurately placed on the zoning map. The City Clerk shall keep records on file which identify the official
158 action by which a map amendment was made, the date of such action, the land area affected and the
159 date of posting.
160
- 161 E. Should the map or any portion thereof become damaged, destroyed, or lost the City Council is
162 authorized, by ordinance, to replace the map or damaged portion and the new map shall supersede
163 the one replaced. The new map may correct drafting or other errors, but no replacement shall have
164 the effect of changing the official zoning status of property unless the prior map has been totally
165 destroyed. The City Clerk shall preserve any records relating to its adoption and amendment.
166
- 167 F. Unauthorized changes. Substantial changes of the nature affecting the zoning of property is strictly
168 prohibited and unlawful, unless in conformity with the requirements and procedures of this ordinance
169 or applicable law.
170

171 **Section 1.13. Transitional rules.**
172

- 173 A. Existing unlawful uses, lots, and structures. A structure, lot, or use not lawfully existing at the time of
174 the adoption of these regulations is lawful only if it conforms with all of the requirements of these
175 regulations. All other violations of prior regulations of the City as of the effective date of this ordinance
176 shall continue to be violations and shall not be considered to be legal nonconformities under this code
177 unless such violation(s) becomes lawful by adoption of this code.
178
- 179 B. Existing approved uses. An existing use which is lawful on the date of adoption of these regulations,
180 whether as a “permitted use”, or a “special exception use” in the zoning district in which it is located,
181 shall not be deemed nonconforming solely because the procedure for approval has changed through
182 the adoption of these regulations.
183

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

- 184 C. Previously granted variances. Unless becoming conforming pursuant to Subsection A, above, all
185 variances granted under any prior edition of the Land Development Code and which are still in effect
186 upon adoption of these regulations shall remain in full force and effect, including any conditions
187 attached thereto, and the owner may proceed to develop the property in accordance with the
188 approved variance.
189
- 190 D. Previously approved special exceptions. All special exceptions approved prior to the adoption of these
191 regulations, and any conditions attached thereto, shall remain in full force and effect, and the owner
192 may proceed to develop the property in accordance with the previous approval. However, if
193 construction has not commenced before the approval expires or if the approval is abandoned, the
194 provisions of these regulations shall govern.
195
- 196 E. Prior zoning districts. Unless provided otherwise on the Official Zoning Map, upon adoption of these
197 regulations, all existing zoning classifications shall be reclassified with one of the zoning classifications
198 set forth in Article 4, Zoning Districts, as follows:
199
- 200 1. Residential zoning districts.
- 201 a. Single-family residential (R-1)
202
203 b. Multi-family residential low density (RML)
204
205 c. Multi-family medium density (RMM)
206
207 d. Residential Estate (RE)
208
209 e. Agriculture (A)
210
211
- 212 2. Non-residential zoning districts.
- 213 a. Commercial (C)
214
215 b. Professional Office (P)
216
217 c. Industrial (I)
218
219 d. Institutional (INST)
220
221 e. Preservation (PV)
222
223
- 224 3. Mixed Use zoning districts.
- 225 a. Commercial Corridor (CC)
226
227 b. Neighborhood Commercial (NC)
228
229

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

230 c. Mixed Use Seven Islands (MX7)

231

232 d. Mixed Use Bimini (MXB)

233

234 d. South Cape (SC)

235

236 e. Planned Unit Development (PUD)

237

238 F. Prior approved PDP projects and PUD zoning.

239

240 1. PUD zoning is consistent with all Future Land Use Classifications under the Comprehensive Plan,
241 except for the Preservation FLUC. All uses in a PUD zoning category must be consistent with the
242 underlying FLUC.

243

244 2. No existing sites with active and valid PDP approval will be rezoned to the PUD zoning category at
245 the time of adoption of this code. Sites with PDP approvals may be designated with a new or
246 different Comprehensive Plan Future Land Use Classification or a new or different zoning district
247 in conjunction with adoption of this code without effect to the status of the approved PDP.

248

249 3, All planned development projects (PDPs) approved prior to the adoption of these regulations, and
250 any approved site plan and conditions attached thereto, shall remain in full force and effect upon
251 adoption of this code. All such approved PDPs may be developed in accordance with the previous
252 approval, unless:

253

254 a. The existing PDP approval expires or substantial construction pursuant to the PDP approval
255 has not commenced before the approval expires or if the approval is abandoned, the
256 provisions of these regulations shall govern;

257

258 b. The owner chooses to develop the site under the FLUC and zoning district in effect for the site
259 at the time of application and the scope of the development does not require an amendment
260 to the existing PDP or require a new PUD approval;

261

262 c. A PUD is approved by City Council to replace an existing PDP approval; or

263

264 d. The owner applies for and the City Council has approved a PUD for a substantial change or
265 modification to the prior PDP approval. For purposes of this section, a substantial change or
266 modification is one that exceeds the scope of administrative amendments to a PUD approval
267 in Section 3.4.7.K. of this code.

268

269 **Section 1.14. General rules of construction.**

270

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

272

273 A. These regulations shall be deemed the minimum requirements for the promotion of the health,
274 safety, order, convenience, and general welfare of the community.

275

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

- 276 B. These regulations shall be construed to achieve the purposes and intent for which they are adopted.
277
- 278 C. Nothing in these regulations is intended to repeal any easement, covenant, deed restriction, or other
279 private agreement; however, where these regulations are more restrictive or impose higher standards
280 or requirements than such easement, covenant, deed restriction, or other private agreement, these
281 regulations shall govern.
282
- 283 D. In the event of a conflict:
284
- 285 1. Between the text of these regulations and any caption, figure, illustration, table, or map, the text
286 of these regulations shall control;
287
- 288 2. Between a chart and an illustration, the chart shall control. All illustrations included in these
289 regulations are for illustrative purposes only;
290
- 291 3. When limitations, restrictions, or standards apply to an individual lot, use, or structure the more
292 restrictive provisions shall apply; and
293
- 294 4. Between these regulations and any federal, state, or county law or regulation which pre-empt
295 local regulation, the federal, state, or county law or regulation shall apply.
296
- 297 E. Words and phrases shall be construed according to the rules of grammar and according to the
298 common and approved usage. Technical words and terms that are used and that may have a particular
299 meaning based on law shall be defined according to that meaning.
300
- 301 F. The terms "Ordinance," "Code," "Law," "Statute," "Title," and "Act" are understood to include the
302 term "as amended", unless the context clearly indicates otherwise. References to technical manuals,
303 resource materials, code references, the comprehensive plan, and similar documents are understood
304 to include the term "as amended" unless the context clearly indicates otherwise.
305
- 306 G. The words "shall," "must," and "will" are mandatory in nature, implying an obligation or duty to
307 comply with the particular provision.
308
- 309 H. The word "or" is alternative in nature.
310
- 311 I. The word "may" is permissive in nature.
312
- 313 J. The word "including" shall be construed to include the phrase "but not limited to."
314
- 315 K. Words used in the present tense include the future tense.
316
- 317 L. The singular number includes the plural number and the plural, the singular.
318
- 319 M. Words utilizing the masculine gender include the feminine gender and use of the feminine gender
320 includes the masculine.
321

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

- 322 N. The words “used” and “occupied” as applied to any land or building shall be construed to include the
323 words “intended, arranged, or designed to be used or occupied.”
324
- 325 O. The word “herein” means “these regulations.”
326
- 327 P. The words “building” or “structure” includes any of its parts.
328
- 329 Q. The word “person” includes an individual, a corporation, a partnership, an incorporated association,
330 or any other similar entity.
331
- 332 R. The word “owner” includes his or her agents or authorized representatives unless the context clearly
333 indicates otherwise.
334
- 335 S. Any act authorized by these regulations to be carried out by a specific official or agency of the City is
336 authorized to be carried out by a designee of such official or agency, unless the context clearly
337 indicates otherwise.
338
- 339 T. The time within which an act is to be done shall be computed by excluding the first and including the
340 last day; if the last day is a Saturday, Sunday, or a legal holiday the timeframe shall be extended to the
341 next working day.
342

343 **Section 1.15. Measurements.**
344

- 345 A. Number of Residential Units Allowed (Density). The maximum number of residential units allowed on
346 a site is determined by multiplying the maximum density allowed under the Comprehensive Plan by
347 the parcel size (i.e., allowable comp plan density (x) parcel size), except when the zoning district of a
348 parcel permits lot sizes that equate to a smaller maximum density for that parcel.
349
- 350 B. Distance requirements. Unless otherwise provided herein, distances shall be measured in accordance
351 with the following:
352
- 353 1. When the LDC requires a distance between uses or developments on different development
354 parcels or there are LDC requirements for a development within a certain distance from another
355 development parcel, the distance shall be measured using a straight-line measurement from the
356 closest point of one parcel to the closest point of the parcel(s) involved.
357
- 358 2. When the LDC imposes requirements on a development within a certain distance of a zoning
359 district, the distance shall be measured using a straight-line measurement from the closest point
360 of a zoning district boundary to to the closest point of the parcel(s) involved.
361
- 362 When there is a distance requirement between a structure or building on the same development
363 site, the distance shall be measured from the exterior of the buildings or structures, using a
364 straight-line measurement from the closest points between the structures being measured.
365
- 366 3. When a portion of a parcel or development site lies within a certain distance of a zoning district
367 or development and the LDC imposes requirements or regulations on a development or parcel

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

368 within that distance, the requirements and regulations shall be applicable to the entire parcel or
369 development site and not just to the portion within the specified distance.

370

371 C. Floor area, gross. The sum of the floor areas of all floors of a building or structure from the exterior
372 face of exterior walls, or from the centerline of a wall separating two buildings, excluding covered
373 parking, loading areas, or parking garages. When an entire level of a building or structure is below
374 ground as measured from floor to floor or ceiling slab to ceiling slab, the floor area of this level shall
375 be excluded from the calculation of gross floor area. Unless otherwise specified, gross floor area for
376 food service establishments shall also include any outdoor or patio floor area on the property used or
377 designed for customer service.

378

379 D. Floor area, net. The total floor area of all floors of a building shall be measured by excluding from the
380 gross floor area stairwells and elevator shafts, equipment rooms, interior vehicular parking, loading,
381 and all floors below the first or ground floor, except when such areas are used or intended to be used
382 for human habitation or service to the public.

383

384 E. Floor area ratio (FAR). The floor area ratio is measured by the net floor area of all buildings or
385 structures on a lot, parcel, or site divided by the total lot, parcel, or site area.

386

387 F. Fractional measurements.

388

389 1. When units or measurements result in a requirement of a fraction, any such fraction equal to or
390 greater than exactly fifty percent (50%) shall require the full requirement, unless otherwise
391 provided for in these regulations.

392

393 2. Density fractional measurements. When calculating density, any fraction of a unit shall be
394 rounded down to the nearest whole number, unless otherwise provided for in these regulations.

395

396 G. Grade.

397

398 1. When used to measure habitable structures, grade shall be the highest elevation of:

399

400 a. The natural elevation of the ground when compared to abutting properties. Natural elevation
401 of the ground when compared to abutting properties, shall be derived by selecting a minimum
402 of two (2) elevation points on each adjoining property line and calculating the average of all
403 the selected elevation points. This calculation will determine the reference plane for
404 calculating the height of habitable structures only;

405

406 b. The base flood elevation requirement for the lowest floor as shown on the flood insurance
407 rate map published by the Federal Emergency Management Agency (FEMA);

408

409 c. Eighteen (18) inches above the FEMA base flood elevation requirement for the bottom of the
410 Lowest Horizontal Structural Member (LHSM) of the lowest floor; or

411

412 d. Eighteen (18) inches above the State of Florida, Department of Environmental Protection
413 minimum requirement for the bottom of the LHSM of the lowest floor. For purposes of the

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

414 definition of grade, the term floor shall be defined as the top of the lowest inside surface of
415 an enclosed area in a building, including the basement. For example, the top of the slab in a
416 concrete slab construction or the top of wood flooring in wood frame construction. The term
417 does not include an unfurnished or flood resistant enclosure, usable solely for parking of
418 vehicles, building access, or storage in an area other than a basement area.

419
420 2. When used to measure non-habitable accessory structures, grade shall be the finished ground
421 surface at the base of the accessory structure being measured. If a retaining wall elevates the
422 non-habitable accessory structure, grade shall be the finished ground surface at the base of the
423 retaining wall.

424
425 H. Building Height. The height of buildings shall be measured from the lowest finished floor elevation to
426 the lowest point of the highest horizontal eave or the top of the roof slab for structures with flat roofs.
427 Church spires and steeples, chimneys, parapet walls, machine rooms, elevator towers, and similar
428 features necessary to the design and function of a building but not designed for human occupancy,
429 shall not be included in the measurement of overall building height.

430
431 I. Lot coverage. That portion of a lot that is covered by all principal and accessory buildings.

432
433 J. Lot depth. The depth of a lot is the distance measured from the mean direction of the side lines of the
434 lot from the midpoint of the street lot line to the midpoint of the opposite main rear line of the lot.

435
436 K. Lot width. The horizontal distance between the side lines of a lot measured at the front building
437 setback line, or at the front property line where no front setback is required.

438
439 L. Setback. A setback is the minimum horizontal distance between a structure and a property line.
440 Setbacks shall extend and be measured perpendicular and inward from the respective property lines.

441

442 **Section 1.16. Interpretation of zoning district boundaries.**

443

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

447
448 A. Centerlines. Boundaries indicated as approximately following the centerlines of streets, highways, or
449 alleys shall be construed to follow such centerlines;

450
451 B. Lot, section, and tract lines. Boundaries indicated as approximately following platted lot lines shall be
452 construed as following such lot lines;

453
454 C. Political boundaries. Boundaries indicated as approximately following City limits shall be construed as
455 following City limits;

456
457 D. Shorelines. Boundaries indicated as following shorelines shall be construed to follow such shorelines.
458 In the event of a change in the shoreline, the zoning district boundary shall be construed as moving

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

- 459 with the actual shoreline. Boundaries indicated as approximately following the centerline of streams,
460 rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines;
461
- 462 E. Vacations. Whenever any street, alley, or other public way is vacated by official action of the City
463 Council, the zoning district of the property abutting each side of the street, alley, or public way shall
464 be automatically extended to the center of such vacation and all area included within the vacation
465 shall thereafter be subject to all regulations of the extended districts;
466
- 467 F. Filled lands. Where land is built-up by fill upon areas formerly submerged under water, the district
468 regulations applying to the land immediately adjoining such built-up land shall be automatically
469 extended thereto;
470
- 471 G. Parallel lines. Boundaries indicated as parallel to or extensions of features indicated in subsections A
472 through F of this section shall be so construed. Distances not specifically indicated on the official
473 zoning map shall be determined by the scale of the map;
474
- 475 H. Bisecting lines. Where district boundary lines approximately bisect blocks, the boundaries are the
476 median line of such blocks, between the centerlines of boundary streets;
477
- 478 I. Uncertainties. Where physical or cultural features existing on the ground are at variance with those
479 shown on the official zoning map or if any other uncertainty exists, the Director of Community
480 Development shall interpret the intent of the official zoning map as to the location of district
481 boundaries; and
482
- 483 J. Excluded areas. Where land or water areas have been inadvertently excluded from a zoning district
484 classification in any manner, such areas shall be classified in conformance with the most restrictive
485 zoning district which abuts the excluded area until or unless changed pursuant to amendment
486 procedures set forth in Article 3, Sec. 3.4.6.
487

488 **Section 1.17. Severability.**
489

- 490 A. It is the intent of the City Council of the City of Cape Coral that the articles, chapters, sections,
491 subsections, paragraphs, sub-paragraphs, sentences, clauses, and phrases of this Code are severable,
492 and if any are declared invalid or unconstitutional by the valid judgment or decree of a court of
493 competent jurisdiction, such invalidity or unconstitutionality shall not affect the balance of these
494 regulations.
495
- 496 B. It is the further intent of the City Council of the City of Cape Coral that all property within the City be
497 governed by these regulations. Therefore, if the zoning district of a parcel is declared invalid or
498 unconstitutional, either on its face or as-applied, it is the intent of the City Council that the zoning
499 district applied to the parcel shall be the next more restrictive zoning district that is consistent with
500 the future land use district within which the parcel is located.
501