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ARTICLE 5 – DEVELOPMENT STANDARDS

CHAPTER 1. GENERAL REQUIREMENTS FOR ALL DEVELOPMENT

Section 5.1.1. Purpose and Intent

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

Section 5.1.2. Connection to utilities.

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

Section 5.1.3. Requirements for underground utilities.

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

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

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

C. For all new buildings in the Commercial Corridor, South Cape, and PUD zoning districts all onsite utilities including telephone, electricity, cable television, and other wires of all kinds shall be placed underground. However, appurtenances to these systems that require aboveground installation, including utility panel boxes, are exempt from this requirement if the appurtenances are not placed in front yards. When such appurtenances are placed in utility easements abutting a platted alley,
they shall be placed at least ten and one-half feet from the centerline of the platted alley. These underground requirements also apply to those improvements to non-conforming structures that exceed the 50% thresholds as described in Article 8, Nonconformities. All utility infrastructure, including electric utility poles and power lines, shall be concealed from public view wherever possible. All new electric distribution lines shall be located in utility easements abutting platted alleys and the utility poles shall be positioned so that a minimum clearance of ten and one-half feet from the centerline of any platted alley is maintained. For properties that do not have a rear platted alley, the electric distribution lines and utility poles shall be placed in the rear utility easement wherever possible.

D. In the South Cape zoning district where overhead or underground utility lines have been placed in the six-foot PUE, a property owner shall choose one of the following options:

1. Relocate the utility lines to the alley or other acceptable location, at the property owner’s sole expense, and subject to approval by the affected utility provider(s) and the City of Cape Coral; or

2. Place a concrete sidewalk or architectural elements on the front six-foot property setback. If overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or front porches may be constructed forward of this line even if otherwise required by this code. If underground lines of any type are in place, the property owner is solely responsible for repairing any damage to lawful encroachments into the six-foot easement resulting from maintenance or improvements to utility lines.

Section 5.1.4. Access required.

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

Section 5.1.5. Protection of underground pipelines and utilities.

A. Intent. It is the intent of the City Council to protect underground pipelines and utilities from destruction or damage to prevent:

1. Death or injury to persons;

2. Property damage to private and public property; and

3. Loss of essential pipeline or utility services to the general public.
B. Notice requirements for excavation. No excavator shall make or begin any excavation on public property or dedicated easements without first obtaining information concerning the possible location of utility lines in the area of the proposed excavation. The excavator may obtain such information by contacting each entity who may have utility facilities in the area of the proposed excavation. Such contact may be made by telephone, written correspondence, e-mail, messenger, or in person.

C. Notice requirements when marking of lines is necessary. If marking of utility lines is necessary, the excavator shall notify that entity so that the entity receives notification at least 48 hours (excluding Saturdays, Sundays and legal holidays) prior to the commencement of the excavation. When marking is necessary the utility line concerned shall be marked by the entity. Marking of a utility line is necessary when:

1. A proposed excavation, except blasting, is planned with five feet of a utility line located on public property or a dedicated easement.

2. A proposed excavation, by blasting, is planned in such proximity to a utility line that the utility line will be destroyed, damaged, or disturbed.

D. Penalties for violation. Any person violating this section shall be punished as provided in the Code of Ordinances of the City of Cape Coral.

Section 5.1.6. Protection of easements.

A. In the R-1, RML, RE, and A zoning districts, the six-foot easement around the perimeter of sites shall be preserved and nothing shall be placed or constructed on such easements other than a paved driveway, walkway, sidewalk, fences or well. In addition, for non-residential uses lawfully located in residential zoning districts, paved off-street parking areas may be placed or constructed on the six-foot easement around the perimeter of the site.

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

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

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

E. Nothing in this section shall prohibit the construction of seawalls, davits, docks, or other structures as permitted by the Cape Coral Code of Ordinances.
F. If a utility removes, damages, or disturbs the construction or other material within an easement as allowed by this section, the property owner shall be responsible for the cost of its removal, relocation, repair, or replacement. If any plant material in an easement required by Chapter 5 of this Article of the Land Development Code is removed or damaged, the property owner shall replace all such material within 30 days of the completion of the utility work. In addition, prior to issuing a permit to locate, place, construct, or install any structure, construction, driveway, or other material in an easement, the city may require the property owner to agree to indemnify and to hold the city harmless from any or all costs or expenses incurred as a result of such location, placement, construction, or installation in the easement.

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

Section 5.1.7. Required visibility triangles.

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

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

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

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

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

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

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

Section 5.1.8. Sidewalks and alleys.

A. Non-Residential Zoning Districts. As part of construction of each building erected in non-residential zoning districts (C, CC, I, INST, MX, MXB, MX7, NC, P, and SC) sidewalks shall be installed prior to the issuance of a certificate of occupancy pursuant to the standards and specifications set forth in the City of Cape Coral Engineering Design Standards.
B. All sidewalk, curbs, and gutters shall be constructed to the widths shown in the City of Cape Coral Engineering Design Standards, except where a sidewalk has been installed and the established width is less than five feet, the minimum width of the sidewalk to be installed shall be the width of the existing sidewalk.

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

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

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

F. Payment in Lieu of Construction. At the discretion of the City, the City may accept payment in lieu of construction for all or part of the off-site improvements required by the City. For projects where payment in lieu of construction will be employed, the developer shall submit to the City 110% of the estimated cost of the improvements as prepared by a professional engineer licensed in the state of Florida, which shall be reviewed and approved by the City. The developer shall provide the City with payment for all construction costs prior to the issuance of a development permit for the site.

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

Section 5.1.9. Work in the Public Right-of-Way and Public Utility Easements

A. General. Except as provided below, no construction, change, modification, or alteration of any type or nature whatsoever, including, but not limited to, the addition or removal of fill, vegetation, or other materials, and/or the placement, installation or erection of any object or vegetation, shall be allowed within a city-owned right-of-way or swale, except as provided in Chapter 1 of this Article.

B. No permit required. The following work and/or activities shall be allowed in the public right-of-way or roadway easement areas without the necessity of a city permit:
1. Trimming, cutting, and/or maintenance of trees, shrubs, and other vegetation existing as of the effective date of this ordinance in the public rights-of-way or swales;

2. Markers, commonly known as buttons, turtles, or half-moons, may be placed 18 inches from the edge of the pavement in residential zoning districts provided that such markers shall not exceed a height of four inches. However, no markers shall be placed within any public right-of-way which is adjacent to a roadway with four or more lanes;

3. Mailboxes may be placed in the public rights-of-way or swales so long as they are in accordance with the City of Cape Coral Engineering Design Standards. The mailbox may be immediately surrounded by a small bed consisting of landscape edging materials or concrete curbing, bedding plants and/or groundcover, and mulch or decorative rock provided that such decorative rock shall not exceed four inches when measured in any direction, pursuant to Chapter 5 of this Article. In no event shall the diameter of the plant bed exceed two feet when measured from the outer-most edges of any landscape edging material or concrete curbing utilized;

C. Permit required. The following work and/or activities shall be allowed in the public right-of-way or roadway easement areas provided that the property owner first obtains a permit from the city:

1. Culvert installation and appurtenant work;

2. Sod installation and appurtenant work;

3. Driveway installation and appurtenant work;

4. Curb, gutter, sidewalk, sod, and paving without alley improvements;

5. Curb, gutter, sidewalk, sod, and paving, with alley improvements;

6. Installation of sprinkler systems. However, if the sprinkler system is disturbed, damaged, or destroyed by the City performing work in the public right-of-way, the owner shall be solely responsible for any cost resulting from such disturbance, damage to, or destruction of the sprinkler system in the right-of-way; and

7. Median landscaping as permitted in Chapter 5 of this Article.

D. Under no circumstances shall any of the activities permitted above result in any change, modification, or alteration of any type whatsoever, to the established grade, slope, or contour of the public swale or right-of-way not specifically addressed by the City of Cape Coral Engineering Design Standards.

E. None of the prohibitions contained in this ordinance shall apply to any construction, change, modification, or alteration within a public right-of-way or swale which is performed by or required by a governmental entity or public utility.
F. Public Utilities. No public utility including electric, phone, cable tv, internet, cellular, or gas company will be allowed to install or maintain facilities, begin construction, change, modify, or alter in any way whatsoever the public right-of-way, swale, or adjacent public utility easements, including the addition or removal of fill, vegetation, or other materials, without a permit.

Section 5.1.10. Maintenance of city rights-of-way.

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

A. Prior to preparation of a building lot for construction, the building permit holder shall obtain the correct swale flow line elevations from the Engineering Department and proceed immediately to create the required swale needed to allow continuous uninterrupted flow of stormwater throughout the construction process.

B. During construction or reconstruction straw bales or other approved erosion control devices shall be placed in the swale adjacent to both property lines to impede all foreign matter from entering the stormwater system. The erosion control devices shall remain in place until placement of final sod in the right-of-way.

C. No excavated material or construction material shall restrict stormwater flow within the swale area.

D. Upon issuance of the certificate of occupancy, the owner shall maintain the swale indefinitely to the same standard that is applied to privately-owned property.

E. All pavement cuts must be repaired to meet or exceed engineering design standards.

Section 5.1.11. Building numbers and addresses.

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

Section 5.1.12. General regulations for lots, yards, and setbacks.

A. Double frontage other than corner lots. Double frontage other than corner lots shall meet front setback regulations on all adjacent streets.

B. Corner lots. In the SC and MXB zoning district(s), corner lots shall be deemed to have front lot lines abutting all street right-of-way lines. For corner lots in all other zoning districts, the following shall apply:
1. The front of any building site shall be determined by the lesser dimension of a single lot (not building site). This frontage shall have the established setback for the particular zoning district, but in no instance be less than 25 feet.

2. The remaining street frontage shall have a setback of no less than ten feet in all zoning districts. The remaining street frontage shall be maintained as a front yard and the regulations for fences, shrubbery, and walls of this ordinance shall apply.

3. On sites bounded by three streets, one lot line shall be designated by the Director as the rear and maintained as the rear setback of that zoning district. For purposes of this section, all but the rear yard shall be maintained as a front yard and the regulations for fences, shrubbery, and walls of this ordinance shall apply.

4. The front of a single-family residential building shall not be offset from the front property line by an angle greater than 45 degrees.

C. No parcel shall be reduced below the minimum dimensional requirements in the zoning district. This provision shall not apply when a portion of a parcel is acquired for a public purpose.

Section 5.1.13. Single-family residential standards

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

A. In the R1 and RE zoning districts only one single family residence shall be permitted per parcel.

B. Ornamental walls. Ornamental walls attached to the principal building shall have the following requirements

1. Ornamental walls shall not be higher than four feet at any point where they extend beyond the roof overhang and into the side setback.

2. Ornamental walls may extend into the side setback but shall not extend into the six-foot perimeters easements.

3. An ornamental wall not to exceed 30 inches in height may be installed in the front yard.

4. Ornamental walls may be in the form of a planter.

4. A planter may be incorporated into the construction of a wingwall.

C. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge to the front or rear property lines.

Section 5.1.14. Multi-family residential.
In addition to other provisions of this ordinance, single-family attached structures, duplexes, and multi-family residential uses shall be subject to the following requirements.

**A. Distance between buildings.**

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

**B. Water discharge.**

1. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge to the front or rear property lines.

2. This provision shall be applicable only to duplexes in multi-family residential uses.

**Section 5.1.15. Dumpster Enclosures.**

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

**A. Screening.**

1. Except for the SC and MXB Districts, when commercial trash receptacles are in a rear yard that abuts an alley, all commercial trash receptacles shall be enclosed from view on at least three sides by an opaque visual barrier.

2. When a commercial trash receptacle is visible from an adjacent property or an adjacent street, at ground level, then the commercial trash receptacle shall be enclosed on the fourth side by an opaque gate that shall be the same height as the opaque visual barrier on the other three sides.

3. The principal structure may be used as the opaque visual barrier on one or more sides provided the commercial trash receptacle is completely concealed from view.

**B. Materials.**

1. The following materials, either singly or in any combination, are the only materials that may be used for the opaque visual barrier and gate:
   a. Wood fencing;
   b. Plastic or vinyl fencing;
c. Concrete block and stucco wall;
d. Brick wall; or
e. Formed, decorative, or precast concrete.

2. Chain link fencing, whether singly, or combination with other materials, including plastic slats, shall be prohibited.

3. Gates shall be constructed of a durable, opaque material, consistent or complimentary in color with the enclosure and of a height to screen the container.

C. Location.

1. Commercial trash receptacles shall not be located on unimproved sites.

2. Commercial trash receptacles and accompanying visual barriers, are subject to the following minimum setbacks:

   a. Six feet from the front property lines in the SC and MXB Districts.

   b. Three feet from alley rights-of-way.

3. When located in a public utility or drainage easement, the property owner shall be solely responsible for removal of the commercial trash receptacle as well as for any cost resulting from disturbance, damage, destruction, or restoration of the receptacle resulting from work associated with utilities in such easement. Prior to issuing a permit, the City may require the property owner to agree, in writing, to indemnify and to hold the city harmless from any costs or expenses resulting from placing a commercial trash receptacle in an easement.

4. A commercial trash receptacle may be placed on an adjoining property provided that the premises are adjacent to or directly behind the development and written consent of the adjoining property owner is submitted to and approved by the Director. The adjoining property owner may revoke this consent upon written notice to the development and the Director. The development shall have 30 days from revocation to relocate the commercial trash receptacle and to comply with all requirements of this section.

5. Developments within 25 feet of a City-owned parking lot may, upon approval by the Director, locate enclosures on the City-owned parking lot. Approval may be revoked at any time, upon reasonable notification, by the City.

D. Dimensions. The dumpster enclosure shall have a minimum interior dimension of ten feet by ten feet and a height at least six inches higher than the enclosed commercial trash receptacle. Neither the dumpster enclosure or the gate providing access to the commercial trash receptacle shall be considered a fence or a wall pursuant to the City Code of Ordinances or Land Development Code.
E. All dumpster enclosures shall be located so that a sanitation vehicle has physical access to the commercial trash receptacle that is adequate for safely servicing the facility.

F. Each commercial trash receptacle shall be located on a concrete pad.

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

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

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

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

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

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

Section 5.1.16. Outdoor seating.

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

A. All outdoor seating:

1. Music may be permitted to be performed or amplified in outdoor seating areas, in accordance with Section 12-22 of the City’s Code of Ordinances, or in accordance with a permit per Chapter 9 of this Article.

2. Parking shall be provided at a rate of 1 parking space per 200 square feet of outdoor seating area.

B. Outdoor seating in public areas.
1. The number of outdoor seats and tables shall be limited to that number that can be reasonably accommodated according to the available widths of the associated storefront and sidewalk or patio area. Adjacent sidewalk bulb-out areas, even if not directly in front of the associated storefront, may be considered on an individual basis, when the affected storefront owner does not object.

2. Clear pedestrian access shall be maintained at all times, and no seating or tables shall interfere with ingress and egress to buildings or create an unsafe situation with street traffic.

3. The sidewalk café owner or operator shall remove any seating or tables when the business is closed, or when an authorized agent of the city makes such a request.

4. Public sidewalks adjacent to any approved sidewalk café shall be properly maintained for safety and cleanliness by the sidewalk café owner or operator on a daily basis. Litter, dirt, grime, grease, and food shall not be permitted to accumulate at any time.

5. An indemnity agreement, provided by the director of Community Development shall be signed and provided by the sidewalk café owner or operator, along with proof of public liability insurance as approved by the city attorney.

CHAPTER 2 ACCESSORY STRUCTURES

Section 5.2.1. General Requirements.

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

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

C. Residential accessory buildings shall be in the rear yard, other than those listed in Section 5.2.1, and shall comply with all of the requirements found in this Section.

D. Accessory structures, such as pergolas, arbors, trellises, and flag poles may be in the rear, side, or front yard of the primary structure. Fences and sheds may be permitted in the rear or side yard of the primary structure.

E. No accessory structure, including fences, shall be constructed on any residential parcel not containing a primary structure.

F. Accessory buildings shall be elevated above the base flood elevation (BFE) or provide hydrostatic vents consistent with FEMA regulations.
G. All nonconforming accessory structures shall be subject to the requirements of Article 8 Nonconformities.

H. Any accessory structure not listed in this chapter may be reviewed and considered for approval through a similar use determination process.

I. In non-residential districts, all accessory structures shall be reviewed and held to the same standard as a non-residential structure.

J. Setbacks shall be measured from the property line and must be considered in addition to all other locational requirements.

Table 5.2.1.A. Setback Requirements for Accessory Structures.

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

X Not permitted
SAP Same as Principle Structure
N/A Not Applicable
Section 5.2.2. Accessory Dwelling Units (ADUs)

A. All ADUs shall comply with the following:

1. An ADU may be within a single-family detached dwelling or a detached accessory building on the same lot as a principal dwelling.

2. The accessory dwelling unit must have a bathroom and shall share the same sewage disposal and water supply systems as the principal dwelling unit unless separate sewer and water connections are required by the City of Cape Coral.

3. A minimum of one additional off-street parking space shall be provided. The additional space shall be on the same lot as the principal dwelling unit.
4. No new access points or driveways shall be created or installed for access to the ADU.

5. The accessory dwelling may contain no more than a living area, one bedroom, one bath, and a kitchen.

6. The owner of the property shall live in the principal dwelling or the ADU.

B. ADUs within a single-family dwelling shall comply with the following:

1. There shall only be one entrance to the front of the house. Separate entrances to an ADU are permitted at the side or the rear of the principal dwelling unit.

2. If the ADU and the principal residence are on the same floor or story, the ADU shall be limited to 30 percent of the total living area of the principal dwelling or 800 square feet, whichever is less. If the ADU is on a single floor or story and there is no increase in the size of the house, the entire floor or story may be used for the ADU.

C. Detached structures serving as an ADU shall comply with the following:

1. May not exceed one story.

2. Must comply with the zoning district dimensional regulations.

3. Maximum building height shall not exceed 14 ft.

4. May not exceed 30 percent of the area of the primary structure or 800 square feet, whichever is less.

Section 5.2.3. Arbors, trellises, and pergolas.

A. Arbors, trellises, and pergolas shall be allowed as freestanding or attached structures. There is no limit on the number of attached pergolas, arbors, and trellises per primary structure.

B. Freestanding pergolas and arbors are limited to 200 square feet of coverage per single-family detached residential property. Freestanding pergolas and arbors are limited to 100 square feet per unit of a duplex property.

C. The amount of freestanding square footage coverage for multi-family residential developments may be determined by the Community Development Director. The criteria for this determination include:

1. Design, size, location, and number of proposed arbors, trellises, and pergolas;

2. Design, size of property, location, and number of units of the multi-family residential development; and
3. Whether the structure will be contrary to the public interest.

D. Attached pergolas.

1. Attached pergolas may be placed over the front entrance or walkway into a residence, and must not extend beyond the most forward portion of the primary structure.

2. A pergola is considered attached if a minimum of 20% of the pergola’s perimeter is attached to the primary structure.

3. A pergola that is attached to a previously-attached pergola is considered to be an extension of the original attached pergola; the enlarged pergola must abide by the setback requirements listed in Table 5.2.1.A.

E. Pergolas, generally.

1. Pergolas must conform to all zoning requirements in terms of height and setbacks.

2. The only exception to the prohibition of the placement of a pergola in the rear setback is for pergolas on docks.

3. If placed in the rear yard of a waterfront property, or on a dock, pergolas must not unreasonably restrict or block the view of the canal or waterway of an adjoining lot.

Section 5.2.4. Attached and detached garages.

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

B. For attached garages, the following shall apply:

1. A garage shall be considered attached if it shares at least a four-foot length of common wall with the principal structure. Attachment through a roof structure only shall not be adequate to consider the garage attached.

2. For purposes of this LDC, an attached garage shall be considered to be a part of the principal structure and shall comply with all district regulations for the zoning district in which it is located.

3. An operable garage door capable of providing access to the garage by a motor vehicle is required.

4. A driveway providing vehicular access to the garage is required and shall be constructed and maintained in a condition that is safe and free of potholes, and in accordance with the City of Cape Coral Engineering Design Standards.

5. The garage shall not be included in determining the living area.
6. No garage or storage area shall be used as living quarters unless another garage is constructed prior to conversion.

C. For detached garages, the following shall apply:

1. A detached garage shall meet all of the setback requirements of the principal structure.

2. A detached garage shall be on the same parcel as the principal structure.

3. A detached garage shall not exceed 800 square feet in area.

4. The height of a detached garage shall not exceed 14 feet in height when measured according to the definition of "building height" in the Land Development Code.

5. An operable garage door capable of providing access to the garage by a motor vehicle is required.

6. The maximum size and height restrictions shall not apply in the RE district.

7. No plumbing shall be allowed in a detached garage except that a single one-compartment sink shall be allowed.

8. The exterior building materials of a detached garage shall conform to the exterior building materials of the principal structure.

9. A parcel may contain both an attached and detached garage, but only one detached garage shall be permitted.

Section 5.2.5. Courts and playing surfaces.

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

1. Lighting is prohibited on all outdoor recreation facilities on all properties containing single-family detached and duplex dwellings.

2. An opaque landscape hedge shall be planted between a recreational facility and a side or rear property line of different ownership. The landscaping shall be maintained at a minimum of four feet in height and shall be provided along the entire length of the recreational facility.

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

1. Lighting may be installed to allow evening use of the facility. All outdoor lighting shall be installed and maintained in such a manner that the light falls substantially within the perimeter of the property through the use of shielding and limitations on intensity. In no instance shall the facility lighting create glare off of the property exceeding 0.3 footcandles which impacts any roadway. Directional lighting may not be installed which shines directly into any dwelling unit.
2. An opaque landscape buffer, a minimum of four feet in height, shall be installed which shields the recreational facility from any adjacent right-of-way. Fencing may be installed to a maximum height of ten feet.

Section 5.2.6. Decks.

A. Decks extending into rear or side yard may not exceed a height of 30 inches above grade. Decks over 30 inches in height shall meet all setbacks.

B. Deck height shall be measured from the walking surface of the deck, not the railing.

C. Railing shall be spaced in such a way as to allow air and light to pass through.

Section 5.2.7. Fences and walls.

A. General Requirements.

1. All fences shall be of sound construction and not detract from the surrounding area.

2. No barbed wire, spire tips, sharp objects, or electrically charged fences shall be erected, except as otherwise provided herein. This shall not be interpreted to mean that bona fide agricultural users cannot use barbed wire or electrically charged fences to control livestock when located in districts permitting the raising, keeping, or breeding of livestock.

3. No fences shall be placed within the visibility triangle.

4. If a fence or wall is located in a public utility or drainage easement, the property owner shall be solely responsible for removal of the fence or wall as well as for any cost resulting from disturbance, damage, or destruction of the fence or wall resulting from work associated with utilities or drainage facilities, including those related to alley improvements within such easement.

5. No fence shall enclose any utility meter, including water and electric service meters. The location of any utility meters shall be shown in the permit application. This restriction shall not apply to city maintained or constructed facilities.

6. Unless the posts or other supports used in connection with the fence or wall are visible from and identical in appearance from both sides of the fence, all posts or other supports used in connection with the fence or wall shall be on the side of the fence or wall that faces the property on which it is to be erected. If a fence or wall is constructed in such a way that only one side of the fence is "finished", then the "finished" side of the fence shall face outward toward the street or adjoining property (facing away from the property on which it is erected). The "finished" side of the fence shall be the side that is painted, coated, or smoothed so as to be more decorative in appearance.
7. Fencing for critical public utilities infrastructure, including water and wastewater facilities and electric and natural gas facilities, which may enclose either an entire site or only an area containing equipment, may be maintained at a height of eight feet. Barbed wire, spire tips, sharp objects, or electrically charged fencing are permitted on the top of fencing around critical infrastructure sites or equipment, however, the height of the fencing together with any barbed wire, spire tips, sharp objects, or electrically charged fencing may not exceed eight feet, and only the top two feet may contain barbed wire, spire tips, sharp objects, or electrically charged fencing.

8. A fence shall not be constructed on unimproved property.

9. No wall or fence of any kind whatsoever shall be constructed on any lot until after the height, type, design, and location has been approved in writing and proper permit issued by the Director.

10. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must immediately enclose the recreational facility. Hooded backstops for diamond sports may be increased to a maximum height of 28 feet. For sports other than diamond sports, backstops may be increased to a height of 12 feet. All fencing at recreational facilities must be constructed of at least nine-gauge fence fabric and schedule 40 tubing.

11. A may be maintained at a height greater than otherwise allowed herein if a higher fence height is required by the city for the purpose of screening a special exception use.

12. A fence or wall shall be constructed of one or more of the following materials:

   1. Wood (decay resistant or pressure treated only), shall be painted or stained;
   2. Concrete block with stucco (CBS);
   3. Reinforced concrete with stucco;
   4. Stone or brick, including cast (simulated) stone or brick;
   5. Concrete;
   6. Wrought iron;
   7. Aluminum; or
   8. Plastic or vinyl.

   For fences or walls located in a public utility or drainage easement, only the following materials are permitted:

   1. Wood (decay resistant or pressure treated only);
B. Residential Zoning Districts.

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

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

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

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

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

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

1. Construction of fences must meet the following restrictions:

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

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

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

E. Industrial zoning district:

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

F. Agricultural zoning district:

1. Maximum height: eight feet.
2. Required setbacks: none.

G. Institutional zoning district:

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

H. Preservation zoning district:

1. Maximum height: eight feet.
2. Required setbacks: none.

I. South Cape and MXB zoning district(s):
1. Maximum height.

   a. When placed in front yards, 42 inches.

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

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

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

   e. Required setbacks:

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front</td>
<td>None</td>
</tr>
<tr>
<td>Side or rear (not on alley)</td>
<td>None</td>
</tr>
<tr>
<td>Side or rear (on an alley)</td>
<td>15 feet from the alley centerline</td>
</tr>
<tr>
<td>Abutting a navigable waterway</td>
<td>10 feet</td>
</tr>
</tbody>
</table>

Section 5.2.8. Flags and Flagpoles.

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

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

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

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

E. For the purposes of this article, flags on non-residential, private property which contain a symbol
   other than that of a nation, government, political subdivision, or other entity shall be presumed
   commercial; however, it shall be considered a rebuttable presumption, which may be overturned by
   the Director if the evidence contradicting it is true or if a reasonable person of average intelligence
   could logically conclude from the evidence that the presumption is not valid.
Section 5.2.9. Fountains, reflecting pools, and sculptures.

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

Section 5.2.10. Gazebos, sun shelters, and similar structures.

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

Section 5.2.11. Guest houses.

A. Detached structures serving as a guest house shall comply with the following:

1. Guest Houses shall only be constructed on sites with a principal residential dwelling unit.
2. May not exceed one story.
3. Maximum building height shall not exceed 14 ft.
4. May not exceed 30% of the area of the primary structure or 800 square feet, whichever is less.

B. A guest house is not a dwelling unit to be rented, it provides only guest accommodations and shall meet the following requirements:

1. A guesthouse may not contain more than two bedrooms.
2. A guesthouse may not contain a kitchen or the electrical or gas connections to install a stove or oven.
3. An additional parking space must be provided for a guesthouse.

Section 5.2.12. Play or recreation equipment.
A. On residential single-family detached and duplex properties, the City shall not be responsible for permitting and inspection of play equipment.

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

Section 5.2.13. Sheds and greenhouses.

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

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

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

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

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

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

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

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

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

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

3. A shed or greenhouse that would be visible from the right-of-way or from the nearest adjoining property, but for an existing fence, wall, or landscaping that shields the shed or greenhouse is exempt from additional screening requirements. In the event the screening is removed or altered to cause the shed or greenhouse to be visible from the right-of-way or nearest adjoining property, the shed or greenhouse shall be screened in accordance with those requirements outlined above or moved to fully comply with this Section.
ARTICLE 5 – DEVELOPMENT STANDARDS

4. On a double frontage lot, sheds or greenhouses shall be screened from view from rights-of-way and adjoining properties. See Diagram 5.1.12. Double frontage lot fence and accessory structure requirements.

5. On double frontage lots, sheds or greenhouses in the rear yard shall be setback to a distance equivalent to the front setback of any adjacent lots that are not double frontage lots.


A. General requirements.

1. Permitted accessory equipment. Rooftop photovoltaic solar systems shall be deemed permitted accessory equipment for all buildings in all zoning categories. Nothing contained in this chapter shall be deemed to prohibit the installation of rooftop photovoltaic solar systems on buildings containing legally nonconforming uses.

2. Maintenance. The photovoltaic system shall be properly maintained and be kept free from hazards, including faulty wiring, loose fastenings, or being maintained in a condition that is unsafe or detrimental to public health, safety, or general welfare.

3. Abandonment. Abandoned or unused freestanding solar energy systems not in use for a period of 18 months shall be removed at the owner’s expense.

B. Building-mounted PV systems.

1. Roof mounted:

   a. Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof, for structures with gable, hip, or gambrel roofs and shall not extend higher than 10 feet above the surface of the roof when installed on flat or shed roof.

   b. The solar collector surface and mounting devices shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the roof surface on which the system is mounted. Solar energy systems that extend less than one foot above the roof surface shall be exempt from this provision.

2. Wall mounted or flush to a building or structure:

   a. PV arrays are allowed on the walls or sides of any building or structure but shall not encroach into the required front yard setback and may not encroach into side and rear yard setback by more than three feet and shall not extend into or over an easement.

   b. A minimum of nine feet vertical distance shall be maintained under the PV array where needed to provide adequate clearance for pedestrians.
c. To the maximum extent possible, wall mounted PV arrays shall be designed as compatible to
the structure and surface to which it is attached.

C. At-grade PV systems.

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

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

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

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

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

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

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

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

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

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

Section 5.2.15. Swimming Pools.

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

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

C. All swimming pools and enclosures constructed or erected on any parcel, other than accessory to a
single-family detached or duplex residence, shall meet the minimum yard requirements specified for
buildings or structures in the zoning district the construction occurs.
D. Portable swimming pools. Portable swimming pools are prohibited in the front or the side of any residential lot. Portable swimming pools capable of holding 24 inches in depth or more of water shall be anchored into the ground sufficiently to prohibit movement during a hurricane. Portable pools shall be encased by a fence or other protective material, or otherwise shall be covered, when not in use, by a protective cover so that a child cannot accidentally enter the pool. Drainage of pools so as to permit the water to run onto property of other people is prohibited. Wading or splash pools not capable of holding 12 inches or more of water are exempt from the provisions of this subsection.

Section 5.2.16. Unattended donation bins.

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

A. Bins may not be in a required parking space or a drive aisle;

B. Bins may not be placed in required landscape buffers and trees may not be removed in order to locate a bin;

C. Bins shall be maintained in good condition and appearance with no structural damage, holes, or visible rust and shall be free of graffiti;

D. Bins shall be locked or otherwise secured;

E. Bins shall contain the following contact information in two-inch type visible from the front of each unattended donation box: the name, address, email, and phone number of the permittee and operator; and

F. Bins shall be serviced and emptied as needed, but at least once per month, or within five business days of a request by the City. Boxes, garbage, and donation goods shall not be permitted to accumulate around unattended donation bins.


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

A. Removal or extraction of dirt, soil, and sand.

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

2. Prior to any such removal or excavation, the following shall be submitted to the Department of Community Development: drainage plans, aerial photo of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the
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City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the Hearing Examiner and written recommendation made to the Council prior to application for an excavation permit.

3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner subject to final approval of the City Council.

B. Removal or extraction of rock, gravel, shell, aggregate, or marl.

1. All such excavations shall be sealed by fencing or grading or other device from general public access. All entrances to said excavation shall be fenced and locked during nonbusiness hours.

2. Prior to any such removal or excavation, the following shall be submitted to the Department of Community Development: drainage plans, aerial photograph of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, HEX, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and written recommendation made to the Council prior to application for an excavation permit.

3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner subject to final approval by the City Council.

4. No excavation or extraction may be made with explosives without express permission of the Council. Excavation or borrow pit permits involving explosives must be renewed every 90 days.

C. Excavations, removal, or extraction for purposes of oil or gas exploration or production.

1. All such excavations, removals, or extractions shall be sealed by fencing or grading or other device from general public access. All entrances shall be fenced and locked during nonbusiness hours.

2. Prior to any such excavation, removal, or extraction the following shall be submitted to the Department of Community Development: drainage plans, aerial photograph of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the
site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and written recommendation made to the Council prior to application for an excavation permit. No permit to drill a gas or oil well shall be issued unless City Council approves the application for such permit by resolution.

3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner subject to final approval by the City Council.

4. No excavation or extraction may be made with explosives without express permission of the Council. Excavation permits involving explosives must be renewed every 90 days.

5. No person or entity may engage in any oil and gas exploration or production that utilizes well stimulation within the corporate boundaries of the City of Cape Coral or, consistent with F.S. §377.24(6), within the tidal waters of the state abutting or immediately adjacent to the corporate limits of the municipality, or within three miles of the City's corporate limits extending from the line of the mean high tide. As used in this section, the term "well stimulation" shall mean a well intervention, exploration, operation, or maintenance procedure performed by injecting fluid into a rock formation in order to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore. Well stimulation does not include routine well cleaning that does not affect the integrity of the well or the formation.

D. Procedures.

1. The applicant shall meet with the Director and other city staff deemed appropriate by the Director prior to a public hearing with the Hearing Examiner to review staff concerns and to establish the basis for determining cost estimates as required.

2. All excavation or borrow pit requests shall be reviewed by the city staff, the Lee County Health Department, and the Hearing Examiner. After their review and recommendation, the City Council shall call for a public hearing on the application and shall determine whether or not said application shall be granted.

3. If the conceptual plan as presented by the applicant will require a zoning amendment for development, the applicant must prepare and submit a planned development project for the entire project prior to approval of the excavation.

4. If the excavation or borrow pit application is approved, the applicant may then apply for an excavation or borrow pit permit.

Section 5.3.2. Land Clearing, Filling, and, Excavation.

A. Proposed alterations to ground elevation or vegetative cover not associated with an approved Site Development Plan, Final Subdivision Plan, or building permit shall be submitted to the Director with an application for a permit for Land Clearing and Fill containing the required plans and documentation. The director may require certification by a registered professional engineer that site improvements
have been made in accordance with permits issued pursuant to this Section. The following activities shall require a site improvement permit:

1. Clearing of trees and vegetation without disturbing the soil surface;
2. Clearing including stump removal and grubbing of top soils; and
3. Filling.

B. Maintenance:

1. The applicant shall be responsible for the maintenance, repair, and replacement of all existing vegetation as may be required by the provisions of Chapter 8.
2. In buffer areas and areas outside the impervious cover, plant material shall be tended and maintained in a healthy growing condition and free from refuse and debris. Plant materials required by Chapter 8 of this article which is unhealthy, dying, or dead shall be replaced during the next planting season.

C. Excavation involving more than surface contouring for erosion control is only permitted with approval of a Site Development Plan or Final Subdivision Plan.

D. In all districts, other than agriculture zoning, the city shall not permit any new borrow pits or mining activities, however, reshaping or restoration of existing borrow pits may only be permitted incidental to an approved Site Development Plan or Final Subdivision. Agriculturally zoned lands may propose new borrow pits as a Special Exception.

E. The following land clearing activities shall not require a permit:

1. Removal of invasive plants without disturbance of the soil; or
2. Land clearing for agricultural uses.

Section 5.3.3. Construction Site Maintenance.

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

A. Construction site management plan required. All development and building permit applications must be accompanied by a construction site management plan, unless waived by the building official or development services manager.

1. Parking plan shall include:
a. Location of on-site and adjacent unpaved portion of the right-of-way parking and the maximum number of vehicles that will be parked along the unpaved portion of the right-of-way.

b. Parking plan for worker vehicles and machinery on the site.

c. A single access with dimensions.

2. A temporary fence location, height, and type shall comply with the following:

   a. For the purposes of construction site screening only, chain link fencing is permitted and shall be faced with a screen mesh.

   b. A maximum height of six feet in residential zoned properties and eight feet in commercially zoned properties.

   c. Fencing may not be required in agriculture or preservation zoned properties, upon a determination by the Director.

3. Construction trailers, loading and unloading areas, and material storage areas shall not be stored in areas intended for stormwater retention or rain gardens.

4. Traffic control plans shall include:

   a. Access points with dimensions;

   b. Area to be stabilized and a written plan on staging of construction related traffic including adequate parking (both on and off-site); and

   c. Plan for delivery of materials.

B. Approval of plan and waivers. The building official or development services manager shall review, approve, or deny the construction site management plan and is authorized to grant waivers from submittal requirements:

   1. If the requirement is unrelated to proposed development;

   2. If the impact of the proposed development is negligible in that submittal requirement area; or

   3. If unusual site conditions do not allow full compliance with this Section.

CHAPTER 4. MARINE IMPROVEMENTS.

Section 5.4.1. Purpose and Intent
In order to allow all waterfront property the same ability to utilize and access adjacent waterways, the development of docks, wharves, mooring piles, and watercraft moorings must be accomplished in a standard and unified manner. Boat slips and docks may be constructed by the owner of a waterfront lot, with adequate water frontage, where a principal building exists.

Section 5.4.2. General Requirements.

A. An applicant who disagrees with the measurement of the calculated waterway width by the city's Geographic Information System (GIS) may submit a survey of the waterway width, prepared by a professional surveyor licensed in the state of Florida, to support the applicant's contention that the calculated waterway width is inaccurate.

B. No dock or piling shall be permitted that interferes with the right to navigate safely within the waterways of the city. In no event shall the navigable area be reduced to less than 50% of the calculated waterway width.

C. The elevation of pilings shall not exceed 10 feet above the seawall cap or, if no seawall exists, 13 feet above mean water level.

D. The elevation of the decking of a marine improvement shall not exceed two feet above the seawall cap, or if no seawall exists, five feet above mean water level. For marine improvements in the Caloosahatchee River, and for marine improvements in canals within 300 feet of the platted shoreline of the Caloosahatchee River, the elevation of the decking shall not exceed four feet above the seawall cap, or if no seawall exists, seven feet above mean water level.

E. All pilings or mooring posts shall be offset a minimum of two and one-half feet from any storm drain outfall pipe. Such measurement shall be made from the outside edge of the outfall pipe to the center of the piling or mooring post.

F. All docks permitted under this Section that project from a parcel with a seawall shall have a ladder extending from the dock into the waterway. No ladder extending from a dock into a waterway shall be made of wood.

G. The property owner shall be solely responsible for compliance with all applicable provisions of the Lee County Manatee Protection Plan.

H. Prior to the final inspection by the City, the owner shall submit a final signed and sealed survey showing that all construction is in compliance with the requirements of this Code.

Section 5.4.3. Dimensional Standards

A. Protrusions into waterway.

1. Marine improvements may extend 25% of the calculated waterway width or 40 feet, whichever is less, as measured from the water frontage line, provided the marine improvements are setback 12 feet from each extended side property line.
2. Marine improvements which extend six feet or less into a waterway such as captains’ walks, as measured from the water frontage line, may extend the full length of the water frontage of the parcel.

3. Marine improvements in the Caloosahatchee River shall be subject to state and federal regulations.

4. Marine improvements for outside corner parcels, excluding a "T" intersection, of two canals, may extend into the waterways as follows:
   a. Extend the two waterfrontage lines (Diagram 5.4.3.A.) of the property to a point equal to 25% of the canal width or 40 feet, whichever is less.
   b. Then, in each intersecting canal, the extended waterfrontage lines shall run parallel to the waterfrontage lines and shall be setback 12 feet from the extended side property line.
   c. The area formed by the aforesaid lines and area of intersection, shall be the area permitted for marine improvements.

5. Marine improvements for end parcels. Parcels at or adjacent to canal ends or parcels on lakes and basins (excluding outside corner parcels) are subject to the following:
   a. Except for parcels governed by Section 5.4.3.A, end parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet. Adjacent parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet or 25% of the calculated canal width, whichever is less.
   b. With respect to end parcels with at least 80 feet of water frontage line, no part of a marine improvement which extends more than six feet into a canal shall be located less than 12 feet from the ends of the water frontage line of the parcel. See Diagrams 5.4.3.A & J
   c. With respect to end parcels with more than 40 feet, but less than 80 feet, of water frontage line, any part of a marine improvement which extends more than six feet into a canal shall be set back from the ends of the water frontage line of the parcel in accordance with the following formula: (Parcel Waterfrontage - 40 feet) x 0.3. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side boundary of the adjacent parcel's marine improvement area, as determined pursuant to paragraph 10.b below. See Diagram 5.4.3.H
   d. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine improvement shall extend more than six feet into the canal except in accordance with the following: (Parcel Waterfrontage - 40 feet) x 0.3. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their
waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side boundary of the adjacent parcel’s marine improvement area, as determined pursuant to paragraph 10.b below.

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

i. Such a parcel may have either a platform dock not more than ten feet wide and extending not more than 16 feet into the canal or not more than two finger piers (with or without a boat lift) that together total no more than six feet in deck width and that extend not more than 30 feet into the canal.

ii. No marine improvement that projects more than six feet into the canal shall extend more than ten feet either side of the center point of the water frontage line of the parcel. Furthermore, no marine improvement shall extend beyond the ends of the water frontage line of the parcel. All marine improvements shall be centered on the centerline of the waterfront parcel’s marine improvement area. See Diagram 5.4.3.F

7. When a parcel is at the corner of a waterway so as to include water frontage (all under the same ownership) on both the side and end of a waterway, the property owner may install or erect a marine improvement that extends from the side of the waterway to a maximum distance of 25% of the calculated width of the waterway or 30 feet, whichever is less, and from the end of the waterway a distance of 30 feet into the waterway.

8. Except as otherwise provided herein for joint marine improvements, no marine vessel (or any part thereof) when secured in any way to a marine improvement projecting from an end parcel, an adjacent parcel, or a parcel on a lake or basin (excluding outside corner parcels) shall extend beyond the boundaries of the marine improvement area of the parcel unless prior written consent of the affected property owner is obtained. Such consent shall be revocable by the affected property owner and shall automatically terminate in the event the ownership of the affected property changes. In the event ownership changes, the written consent of the new owner must be obtained if the marine vessel is to continue to extend beyond the ends of the water frontage of the parcel.

9. Marine improvements that do not project more than six feet into a waterway as measured from the water frontage line may extend the full length of the water frontage of the parcel. However, where the end of a parcel water frontage line abuts the water frontage line of another parcel, the angle at which such two water frontage line ends meet shall be bisected and apportioned equally between the two waterfront parcels. In that event, no marine improvement shall extend beyond the bisector of the angle.

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

i. The access width of the waterway shall be calculated by subtracting from the calculated waterway width twice the maximum distance that a marine improvement along one side of the waterway could lawfully project as determined pursuant to Section 5.4.4.A.1.

ii. The waterway access ratio shall be calculated by dividing the waterway access width by the calculated width of the waterway.

iii. The waterway center point (WCP) is a point on the centerline of the canal 30 feet from the water’s end. All marine improvement area lines and intersections are calculated and plotted from the WCP. See Diagram 5.4.3.B.

iv. Offset points for the parcel are determined as follows: If the parcel has 80 feet or more of water frontage line, then the offset points shall be located 12 feet from each end of the water frontage line of the parcel. If the parcel has more than 40 feet, but less than 80 feet of water frontage line, then the offset points shall be located in from the ends of the water frontage line the distance (in feet) resulting from the following formula: (Feet of Water Frontage Line - 40) x 0.3. If the parcel has 40 feet or less of water frontage line, then the ends of the parcel's water frontage line shall be the offset points. See Diagram 5.4.3.C.

v. From the WCP, plot a line having the same relationship to the WCP as the water frontage line has to the center of the canal end, but with all distances reduced in size by the waterway access ratio. This line is the offset line for the parcel. See Diagram 5.4.3.D.

vi. The marine improvement area is that area enclosed by the water frontage line, the offset line, and lines connecting the ends of the offset line to corresponding offset points. See Diagram 5.4.3.E.

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

i. Adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line. On the side of the adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line, the side boundary of the marine improvement area shall constitute the side boundary of such adjacent parcel's marine improvement area. See Diagram 5.4.3.I. & J.

ii. Adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line. On the side of the adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line, the side boundary of the adjacent parcel's marine improvement area shall be determined by drawing a line from the end of the subject adjacent parcel's water frontage line (on the same side as the subject end parcel) to the nearest terminus point of the subject end parcel's offset line and passing through the adjacent parcel's offset line. The side boundary shall be that portion of the aforesaid line between the end of the adjacent parcel water frontage line and the parcel's offset line. However, in no event shall the side boundary extend beyond the bisector of the angle formed where the adjacent parcel's water frontage line abuts the end parcel's water frontage line. The bisector shall be extended into the waterway the maximum distance a marine improvement could lawfully project within the marine improvement area. See Diagram 5.4.3.G.
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1670 c. Parcels on lakes and basins (excluding outside corner parcels). A waterfront parcel shall be
decided to be on a lake or a basin if the parcel abuts a body of water identified as a lake or a
1671 basin on the officially adopted Future Land Use Map of the City of Cape Coral. Except for
1672 outside corner parcels, all waterfront parcels on lakes or basins shall be categorized as corner
1673 parcels, adjacent parcels, or end parcels. A corner lake or basin parcel shall be a parcel that
1674 either touches or is on both sides of an interior corner of a lake or basin. In other words, a
1675 corner lake or basin parcel may be one with a waterfront line that is V-shaped because it
1676 physically runs along the edge of the lake or basin, turns at the corner, and continues along
1677 the edge of the lake or basin, or it may be a parcel the waterfront line of which ends at a
1678 corner of the lake or basin where another side of the lake or basin begins, or it may be a parcel
1679 that is angled in such a way that each end of its water frontage line touches a different side
1680 of the lake or basin. Also, an adjacent lake or basin parcel shall be a parcel that is on a lake or
1681 basin and that abuts at least one corner parcel. All other parcels on lakes or basins and that
1682 are neither corner parcels or adjacent parcels shall be treated as end parcels.

1683 d. The marine improvement area for parcels on lakes or basins shall be calculated as follows:

1684 i. For an end parcel, the side of the lake or basin upon which the parcel is physically located
1685 shall be deemed to be the end of the lake or basin and the sides of the lake or basin shall
1686 be deemed to be the sides of the lake or basin running roughly perpendicular to the end
1687 of the lake or basin and to the left and to the right of the parcel (when facing the lake or
1688 basin). For purposes of this Section, the waterway access ratio for all end lake and basin
1689 parcels shall be one. In addition, the WCP for end lake or basin parcels shall be 40 feet
1690 into the lake or basin as measured perpendicularly to the lake or basin end from the
1691 center of the lake or basin end. All marine improvement area lines and intersections are
1692 calculated and plotted from the WCP. The remainder of the marine improvement area
1693 boundary calculations for end lake or basin parcels shall be the same as those performed
1694 with respect to canal end parcels.

1695 ii. For corner lake or basin parcels, the configuration of the marine improvement area shall
1696 be determined by the physical configuration of the particular corner parcel. With respect
1697 to a corner parcel the water frontage line of which lies entirely on one side or end of a
1698 lake or basin, but terminates at the corner of the lake or basin where the other side of
1699 the lake or basin begins, the marine improvement area shall be calculated in the same
1700 manner as for end lake or basin parcels except that the side boundary of such marine
1701 improvement area (on the side where the corner of the lake or basin is located) shall be
1702 formed by a line bisecting the angle of such corner and extending to the offset line of the
1703 marine improvement area. See Diagram 5.4.3.K.

1704 iii. With respect to a corner parcel that is angled so that each end of its water frontage line
1705 is on a different side of the lake or basin or for a corner parcel with a V-shaped water
1706 frontage line, the marine improvement area configuration shall be determined as follows:
1707 First, calculate the waterway access ratio for each side of the lake or basin in the same
1708 manner as the waterway access ratio for a canal is determined. Then measure the
1709 distance from the center of each side of the lake or basin touched by the corner property
1710 to the end of the water frontage line, or to the offset point, if any, on such side of the lake
1711 or basin. Multiply each of the aforesaid distances by the waterway access ratio for the
1712 relative side of the lake or basin to obtain the length of the waterway line for each side of
the lake or basin. Plot the waterway line from the center of the side of the lake or basin for which it was calculated to a point that is 30 feet waterward from the water frontage line. The offset line for a corner parcel marine improvement area is formed by connecting the two foregoing points. The marine improvement area for the corner parcel is that area enclosed by the parcel water frontage line, the offset line, and lines connecting the ends of the offset line to the corresponding offset points for the parcel, if any, or to the ends of the water frontage line. See Diagrams 5.4.3.L & M.

iv. For adjacent lake or basin parcels, the marine improvement area shall be calculated in the same manner as that for end lake or basin parcels except as follows: With respect to an adjacent lake or basin parcel that abuts a corner parcel with 40 feet or less of water frontage line, the side boundary of the corner parcel marine improvement area (on the side where it abuts the adjacent parcel) shall form the side boundary of the adjacent parcel marine improvement area. With respect to an adjacent lake or basin parcel that abuts a corner parcel with more than 40 feet of water frontage line, the side boundary of the adjacent parcel (on the same side as the subject corner parcel) shall be determined by drawing a line from the end of the adjacent parcel water frontage line to the nearest terminus point of the subject corner parcel offset line and passing through the adjacent parcel offset line. The side boundary of the adjacent parcel shall be that portion of the aforesaid line between the end of the adjacent parcel water frontage line and such parcel's offset line. See Diagram 5.4.3.M

v. Owners of waterfront parcels on a lake or basin aggrieved by the interpretation or application of this Section to such parcel due to the physical configuration of the particular lake or basin, then the Director may interpret and apply the provisions of this Section so as to alleviate the hardship resulting from the configuration of the lake or basin and so as to enable the waterfront parcel a reasonable marine improvement area.

6. In the event a significant portion of a waterway is not developable on one side due to ecological or other constraints, a marine improvement on the opposite side of the unnavigable portion shall be permitted to project into the waterway up to 50% of the calculated waterway width or 40 feet, whichever is less, as measured from the water frontage line. See Diagram 5.4.3.N

7. No marine vessel (or any part thereof) when secured in any way to a marine improvement shall extend beyond the ends of the water frontage of the parcel from which the marine improvement projects.

8. All properties adjacent to bridges shall be reviewed individually by the city to determine what, if any, marine improvement may project from that property. Factors to be considered in making this determination include, but are not limited to, public safety and the impact of a planned marine improvement on navigability.

B. Maximum dock surface area.

1. For parcels with more than 40 feet of waterfrontage, the maximum deck surface area coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus 20 feet times one-half times the linear feet of the maximum projection into the waterway (25% of the calculated width of the waterway or 40 feet, whichever is less).
2. For parcels with 40 feet or less of waterfrontage, the maximum deck surface area shall be calculated as follows: the linear feet of waterfrontage of the parcel times one-quarter times the linear feet of the maximum projection into the waterway (25% of the calculated width of the waterway or 40 feet, whichever is less).

Section 5.4.3. Graphics
1. **WATER FRONTAGE LINE.** The line at which a waterfront parcel abuts the waterway. If the waterfront parcel has a seawall, the seawall face shall be deemed the waterfrontage line for the parcel. For waterfront parcels that have a property line, but no seawall, abutting the waterway, such property line shall be deemed the waterfrontage line.

**END PARCEL.** A waterfront parcel shall be deemed an “end parcel” if any part of the parcel abuts or includes within its boundaries any part of the canal end line or any part of an extension of a side line between the side line and the canal end line.

**ADJACENT PARCEL.** Any waterfront parcel that is not an end parcel, but that abuts an end parcel, shall be deemed to be an “adjacent parcel”.

Marine improvements which extend six feet or less into a waterway such as cap-tains’ walks, as measured from the water frontline, may extend the full length of the waterfrontage of the parcel.

**Legend**

- Waterfrontage Line:
- Canal End Line:
- Structures that can project 6’ or less anywhere along the waterfront line:
- Property Line:

1768
The Waterway Center Point (WCP) is a point on the centerline of the canal 30 feet from the water's end. All marine improvement area lines and intersections are calculated and plotted from the WCP.

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

Access Width (AW): The portion of the waterway in which no structure may lawfully be constructed. $AW = W - 2(MSP) = 80 - 2(20') = 40'$

Waterway Access Ratio (WAR): $AW/W = 40'/80' = 0.50$
3. If the parcel has 40 feet or less of waterfrontage, then the ends of the parcels waterfrontage line shall be the offset points. (Property 2, 3, & 4)

If the parcel has more than 40 feet, but less than 80 feet of waterfrontage, then the offset points shall be located in from the ends of the waterfrontage line the distance in feet resulting from this formula: (feet of waterfrontage line − 40 * 0.3). (Property 5)

If the parcel has 80 feet or more of waterfrontage, then the offset points shall be located 12 feet from each end of the waterfrontage line of the parcel. (Property 1)
From the WCP, a line must be plotted having the same relation to the WCP as the waterfrontage line has to the center of the canal end, but with all distances reduced in size by the waterway access ratio.

The Waterway Access Ratio (WAR) = AW/W = 40'/80' = 0.50

\[ D3 = \frac{WFL3}{2} \times 0.5 = 10' \]
\[ D2 = WFL2 \times 0.5 = 12.8' \]
\[ D4 = WFL4 \times 0.5 = 12.8' \]

Legend:
- Waterfrontage Line:
- Property Line: P/L
Each parcel’s marine improvement area is that area enclosed by the water frontage line, the offset line, and lines connecting the ends of the offset line to corresponding offset points.
All structures shall be centered on the centerline of the parcels marine improvement area.

No structure that projects more than 8' into the canal shall extend more than 10' from the centerline of the marine improvement area.

C/L = Centerline of Marine Improvement Area
This diagram illustrates a rectilinear canal and where one parcel's waterfront line (property 2) extends the entire length of the canal.
This diagram illustrates a canal end that has an arc. It also displays offset points for a parcel (property 4 with 70 feet of waterfrontage) that has less than 80 feet but more than 40 feet of waterfrontage.

If the parcel’s waterfrontage line is more than 40 feet, but less than 80 feet, then the offset points shall be located in from the ends of the waterfrontage line the distance resulting from the following formula:

\[(WFL40) \times 0.3 = \text{Distance to the Offset Point (OP)}\]

\[(70-40) \times 0.3 = 9.0\]
This diagram shows another situation that may occur at the end of an 80-foot wide canal. The configuration of parcel b is similar to Diagram 5.4.3.g, except that there are two parcels with 40-foot waterfrontage lines rather than one 80-foot waterfrontage line.
This diagram illustrates the application of the marine improvement areas on a 200-foot wide canal.

Canal Access Ratio: \( \frac{140}{200} = 0.7 \)
With respect to a corner parcel the water frontage line of which lies entirely on one side or end of a lake or basin, but terminates at the corner of the lake or basin where the other side of the lake or basin begins, the marine improvement area shall be calculated in the same manner as for end lake or basin parcels except that the side boundary of such marine improvement area (on the side where the corner of the lake or basin is located) shall be formed by a line bisecting the angle of such corner and extending to the offset line of the marine improvement area.
This diagram illustrates a corner parcel classified as “Angled”.

Marine Improvement area shall be determined as follows:

1. Calculate the waterway access ratio for each “side” of the lake or basin in the same manner as the waterway access ratio for a canal is determined.

2. Measure the distance from the center of each “side” of the lake or basin touched by the “corner” property to the end of the subject property’s waterfrontage line, or to the offset point.

3. Multiply each of the aforesaid distances by the waterway access ratio for the relative “side” of the lake or basin to obtain the length of the waterway line for each “side”.

4. Plot the “waterway line” from the center of the “side” of the lake or basin for which it was calculated to a point that is 3 feet seaward from the subject parcel’s waterfrontage line.
This diagram illustrates a corner parcel classified as "V-Shaped".

Marine improvement area shall be determined as follows:

1. Calculate the waterway access ratio for each "side" of the lake or basin in the same manner as the waterway access ratio for a canal is determined.

2. Measure the distance from the center of each "side" of the lake or basin touched by the "corner" property to the end of the subject property’s waterfrontage line, or to the offset point.

3. Multiply each of the aforesaid distances by the waterway access ratio for the relative "side" of the lake or basin to obtain the length of the waterway line for each "side".

4. Plot the “waterway line” from the center of the "side" of the lake or basin for which it was calculated to a point that is 3 feet waterward from the subject parcel’s waterfrontage line.
In the event a significant portion of a waterway is not developable on one side due to ecological, or other constraints, a marine improvement located on the opposite side of the developable portion shall be permitted to project into the waterway up to 50% of the calculated waterway width or 40 ft., whichever is less, as measured from the waterfront line.
Each of the two waterfront lines of the property shall be extended from the point immediately preceding where it begins to curve to meet the other waterfront line or from where it angles to meet the other waterfront line, whichever is applicable, to a point 25% of the calculated canal width or 40 feet, whichever is less. Then, in each intersecting canal, a line shall be drawn that is parallel to the extension of each of the waterfront lines and that runs through a point that is located at 25% of the calculated waterway width or 40 feet from the waterfront line, whichever is less.
Each of the two waterfrontage lines of the property shall be extended from the point immediately preceding where it begins to curve to meet the other waterfrontage line or from where it angles to meet the other waterfrontage line, whichever is applicable, to a point 25% of the calculated canal width or 40 feet, whichever is less. Then, in each intersecting canal, a line shall be drawn that is parallel to the extension of each of the waterfrontage lines and that runs through a point that is located at 25% of the calculated waterway width or 40 feet from the waterfrontage line, whichever is less.
Section 5.4.4. Joint Marine Improvements.

Owners of adjoining waterfront parcels may adjust their abutting marine improvement area boundaries and offset requirements by entering into a written joint use agreement, provided the marine improvements are connected. A captain’s walk does not constitute a connection for requiring a joint marine improvement. All limitations regarding the maximum area of marine improvements shall apply to each property and the maximum marine improvement area allowed for each parcel shall not be combined or modified in any way so as to increase the maximum marine improvement area allowed for either parcel. Marine vessels or boat canopies when secured in any way to a joint marine improvement may extend beyond the end of one of the waterfront parcels involved at the point where such parcel abuts the other parcel sharing the marine improvement. However, no marine vessel (or any part thereof) shall extend beyond the outer ends of the water frontage of the two waterfront parcels except as provided in §5.4.3.A.8 The joint use agreement shall, at a minimum, comply with the following requirements.

A. The agreement shall contain the name(s) and current home address(es) of both property owners.

B. The agreement shall identify the waterway upon which the subject parcels are located and shall identify the waterfront parcels involved by legal description and by STRAP number. The agreement shall also include a signed and sealed survey of the subject adjoining parcels.

C. The agreement shall include a drawing of the proposed marine improvement(s) to be constructed, showing the design and dimensions of the marine improvement(s), and where the marine improvements will project from the parcels.

D. The agreement shall identify those areas that would be subject to access (ingress and egress) easements in conjunction with the joint marine improvement. Such easement(s) shall identify by legal description the property to which the easement attaches and shall be irrevocable except with the written consent of the city. The rights of each party with respect to such easement(s) shall run with the title to the respective parcels. A drawing identifying the easements shall also be included with the agreement.

E. The agreement shall identify the responsibilities of each of the parties for the construction and maintenance of the facilities. However, identification or division of responsibilities between parties in the agreement shall not affect the ability of the city to enforce any and all provisions of its Code of Ordinances or Land Development Codes against the property owner(s) of the joint marine improvement, jointly and severally.

F. The agreement shall state 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.

G. The agreement shall run with the land and be binding upon the parties, their successors, heirs, and assignees and it shall provide that it may not be rescinded or amended without the written consent of the city.

H. The parties to the agreement shall record the agreement, at their own expense, in the public records of Lee County. The agreement shall satisfy all requirements for recording, including those contained...
in the Florida Statutes. No permit for the construction of a joint marine improvement or for the erection or installation of a boat canopy on a joint marine improvement shall be issued by the city until the parties have first provided to the city a copy of the fully executed agreement and evidence of recording that is satisfactory to the city, in its sole discretion.

i. Prior to execution and recording of the agreement, the parties shall submit a draft of the proposed agreement to the Community Development Director for review and comment.

Section 5.4.5. Quays and mooring piles.

A. A seawall may be altered to accommodate the mooring of a vessel if it is determined that the seawall is structurally sufficient for that purpose.

B. Mooring piles may be installed directly adjacent to the seawall to allow for the mooring of watercrafts without a dock.

C. Pilings shall not be higher than eight feet above mean high water.

D. Any watercraft moored at a quay or a pile may not be any closer than 10 feet to the adjacent property line.

Section 5.4.6. Davits, watercraft lifts, and floating docks.

A. Lifts: An electrical permit is required to install a lift within an existing u-shaped dock.

B. Davits:

1. The minimum side setback for davit installation shall be five feet from the side lot line to the center of the davit base.

2. Davits, including swinging lifts when extended over the water, may not extend further than 25% into the waterway or 30 feet whichever is less.

3. Overhead hoists, davits, or machinery shall not exceed eight feet above mean high water when not in use.

C. Floating docks and lifts:

1. For dimensional requirements refer to Section 5.4.3. above.

2. A floating dock or lift must be anchored in place so as not to impede the use of neighboring waterfront property.

Section 5.4.7. Boathouses and canopies.

A. Boathouses are prohibited.
B. No overhead structure shall be constructed on any dock other than an approved boat canopy or sun shelter. Sun shelters shall be erected or installed on docks only in accordance with Section 5.2.10. of this article. Boat canopies are permitted to be erected or installed on marine improvements for the purpose of protecting a vessel from the elements only in accordance with the following:

1. The support(s) and frame(s) of a boat canopy shall be constructed of a corrosion-resistant material. Boat canopy supports shall be arranged in an open design so as to allow visibility through the sides with openings no smaller than four feet in any dimension. No boat canopy support or frame shall be of a solid or opaque design so as to create a wall. No boat canopy shall have wooden framing or supports. No shutter roll-up design shall be permitted.

2. The canopy shall be fabric or a material which can be rolled and folded without damage. The canopy shall be attached to the boat canopy supports or frames in such a manner that it detaches in a wind load of 70 mph or greater.

3. The boat canopy shall not extend horizontally more than 30 inches over or beyond any dock to which the canopy is attached.

4. No boat canopy shall exceed 40 feet in length or 18 feet in width.

5. Boat canopies, their supports, and frames shall be maintained in good repair at all times. No canopy, canopy support, or frame shall be allowed to fall into disrepair or to become dilapidated, structurally dangerous, or unsafe. In the event a boat canopy, canopy support, or frame falls into disrepair, it shall be the responsibility of the owner of the waterfront parcel to remove the offending structure.

6. Only one canopy may be permitted per parcel.

7. No boat canopy, when measured at its highest point, shall extend more than 14 feet above the seawall cap, or if no seawall exists, above the decking of the marine improvement.

Section 5.4.8. Bulkheads, seawalls, and retaining walls.

A. Mandatory seawalls required; saline or brackish water. All parcels having frontage or direct and immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of water within or bordering the boundaries of the city is required to have a seawall bulkheading the entire frontage exposed to contact with the water.

B. Seawalls; fresh or non-saline water. All parcels having frontage or direct and immediate access to frontage on any freshwater or non-tidal canal or other body of water within or bordering the boundaries of the city are required to have a seawall bulkheading the entire frontage exposed to contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral Engineering Design Standards. Seawalls or their alternative shall be structurally maintained at owner’s expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public or private golf course or public park.
C. Bulkheads under SFWMD jurisdiction. The construction of bulkheads, in association with water management system lake construction under jurisdiction of SFWMD, shall be in compliance with SFWMD criteria.

Single-family residential and duplex parcels. Parcels bounded by bulkheads shall construct an infiltration trench adjacent to and along the entire length of the bulkhead.

CHAPTER 5. LANDSCAPING

Section 5.5.1. Purpose and intent.

This section is established to provide general landscape regulations, to improve the appearance of certain setback and yard areas, including off-street vehicular parking, open lot sales and service areas, and to protect and preserve the appearance, character, and value of the surrounding neighborhoods. The principles of the Florida-Friendly Landscaping Program with regard to planning and design, soil improvement, efficient irrigation, limited turf areas, mulches, drought tolerant plants, and appropriate maintenance are the basis for the principles in this section and should be used as guidance in all new construction and landscape renovations so as to provide the most green with the least water and create a landscape that can survive largely undamaged in case of short term water restrictions.

Section 5.5.2. Florida-Friendly Landscaping Program principles.

The city strongly encourages adherence to the Florida-Friendly Landscaping Program that includes the following principles:

A. Right plant, right place. Plants selected to suit a specific site will require minimal amounts of water, fertilizer and pesticides.

B. Water efficiently. Irrigate only when lawn and landscape need water.

C. Fertilize appropriately. Less is often better. Over-use of fertilizer can be hazardous to your yard and the environment.

D. Mulch. Maintaining a layer of mulch will help retain soil moisture, prevent erosion and suppress weeds.

E. Attract wildlife. Plants in private yards that provide food, water and shelter can conserve Florida’s diverse wildlife.

F. Manage yard pests responsibly. Unwise use of pesticides can harm people, pets, beneficial organisms, and the environment.

G. Recycle yard waste. Grass clippings, leaves, and yard trimmings recycled onsite provide nutrients to the soil and reduce waste disposal.
H. Reduce stormwater runoff. Water running off from private yards can carry pollutants such as soil, debris, fertilizer, and pesticides that can adversely impact water quality.

I. Protect the waterfront. Waterfront property is very fragile and should be carefully protected to maintain freshwater and marine ecosystems.

Section 5.5.3. Applicability.

Except as provided under Section 5.5.4, Exemption, the landscape standards of this section shall apply to all new construction of single-family homes and duplexes, and to all other new construction requiring site plan review per under Article 3. Additionally, all landscape standards of this section shall apply to amendments to a site plan that would have the effect of:

A. Increasing the total square footage of any one building or the total square footage of all buildings on a site by more than 20%;

B. Increasing the number of buildings; or

C. Adding any new or expanding any existing off-street parking area.

D. No certificate of occupancy or certificate of completion shall be issued until the Department of Community Development (DCD) has determined that the applicant has complied with all the provisions of this section and has approved the finished landscape product.

Section 5.5.4. Exemption.

These regulations do not apply to projects located where the City Council has established specific landscape standards for a unique area of the city; unless the specific landscape standards otherwise expressly state their applicability.

Section 5.5.5. Conflicts.

If any of the landscape standards of this section conflict with any other provision of the City of Cape Coral Code of Ordinances or the LDC the provision that establishes the more specific standard governs. If neither conflicting provision establishes a more specific standard, then the more stringent provision governs unless otherwise expressly provided.

Section 5.5.6. Landscape plans.

A. Landscape plan required. A landscape plan that meets the requirements below shall be provided as required by Article 3.

B. Landscape plan standards. Landscape plans for all projects that require a landscape plan, including Site Development Plans and Subdivision Construction Plans shall be signed and sealed by a landscape architect, or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, as amended. All landscape plans shall meet the following requirements and contain the following information:
CITY OF CAPE CORAL, FLORIDA
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1. Scale of not less than one-inch equals 30 feet. This requirement shall not preclude the inclusion of a smaller-scaled drawing such as a key map for the purpose of establishing the orientation of landscape plans for large sites that, because of their size, cannot be displayed on a single sheet.

2. Zoning district and future land use classification for the subject parcel and all abutting parcels.

3. The approximate location, quantity, diameter/caliper, botanical and common name, and native status of all heritage trees and other existing trees with a caliper of two inches or greater, and whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be indicated on a separate sheet.

4. Location, quantity, spacing, diameter/caliper, overall height (at time of planting) of proposed trees, palm trees, botanical and common name, and native status. Any existing trees located within the street right-of-way, between the closest outside edge of pavement and the subject property shall be shown.

5. Location, quantity, spacing, container size, overall height (at time of planting) of proposed shrubs and groundcover, botanical and common name, and native status.

6. Types, amounts, and placement of other hardscape materials such as berms and walls required by this section or Section 5.5.13, or both.

7. A statement or plan describing compliance with the irrigation standards of these regulations.

8. Location and type of existing and proposed utility lines, easements, electrical transformer boxes, fire hydrants or fire appliances, sidewalks, parking spaces, light poles, and stop signs.

9. Indication of existing and proposed grades if existing vegetation is to be retained on site.

10. Existing or proposed onsite curbing.

11. Calculations, notes, and installation details indicating how the proposed landscaping will be in compliance with requirements of this section.

12. Vegetation protection barricades to be used during construction, for all trees to be preserved.

13. Safe sight distance triangles.

14. Locations of proposed and existing off-street parking area lighting, if applicable.

15. A note that all existing prohibited vegetation shall be removed.

Section 5.5.7. Planting near utility infrastructure.
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2063 Landscaping shall not interfere with or obstruct any existing or proposed pad-mounted transformer,
2064 overhead or underground utility line, utility service, fire hydrant, or fire appurtenance.
2065
2066 A. Overhead power lines. Canopy tree branches or palm tree fronds within ten feet of existing overhead
2067 transmission or distribution lines, measured radically from the line, shall be subject to trimming or
2068 removal by the power company as necessary to maintain public overhead utilities in accordance with
2069 the National Electric Safety Code (NESC). No canopy trees or palm trees shall be planted closer to an
2070 overhead transmission or distribution line than as specified by the Minimum Separation Distance
2071 Between Center of Trees and Overhead Transmission or Distribution Lines indicated in Table 1. In
2072 order to avoid conflicts with power lines and avoid the need for removal or pruning that would harm
2073 or distort their natural shape, it is recommended that no canopy trees or palm trees should be planted
2074 closer to an overhead transmission or distribution line than as specified by the Recommended
2075 Separation Distance Between Trees and Overhead Transmission or Distribution Lines indicated in
2076 Table 1. The separation between a tree and an overhead transmission or distribution line shall be the
2077 distance from the center of the tree at ground level to the closest point on the ground that is within
2078 the vertical plane of an overhead transmission or distribution line at rest. A species of canopy tree or
2079 palm tree that is not listed in Tables 5.5.7.A and 5.5.7.B shall not be planted within 20 feet of existing
2080 overhead transmission or distribution lines without the prior written consent of the Department of
2081 Community Development Director.

<table>
<thead>
<tr>
<th>Table 5.5.7.A: Minimum Separation Distance Between Palm Trees and Overhead Transmission or Distribution Lines</th>
</tr>
</thead>
<tbody>
<tr>
<td>PALMS</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Common Name</td>
</tr>
<tr>
<td>----------------------------</td>
</tr>
<tr>
<td>Allexandra Palm</td>
</tr>
<tr>
<td>Areca Palm</td>
</tr>
<tr>
<td>Bamboo Palm</td>
</tr>
<tr>
<td>Cabbage Palm (Sabal Palm)</td>
</tr>
<tr>
<td>Canary Island Date Palm</td>
</tr>
<tr>
<td>Chinese Fan Palm</td>
</tr>
<tr>
<td>Christmas Palm</td>
</tr>
<tr>
<td>Coconut Palm</td>
</tr>
<tr>
<td>Date Palm</td>
</tr>
<tr>
<td>Dwarf Palmetto</td>
</tr>
<tr>
<td>European Fan Palm</td>
</tr>
<tr>
<td>Fishtale Palm</td>
</tr>
</tbody>
</table>
### Table 5.5.7.B: Minimum Separation Distance Between Canopy Trees and Overhead Transmission or Distribution Lines

<table>
<thead>
<tr>
<th>CANOPY</th>
<th>Common Name</th>
<th>Botanical Name</th>
<th>Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines</th>
<th>Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bald Cypress</td>
<td>Taxodium distichum</td>
<td>15</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>Black Olive (also see Shady Lady Black Olive)</td>
<td>Bucida buceras</td>
<td>20</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>Cassia fistula</td>
<td>Cassia fistula</td>
<td>15</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>Gumbo Limbo</td>
<td>Bursera simaruba</td>
<td>15</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>Jacaranda</td>
<td>Jacaranda mimosifolia</td>
<td>20</td>
<td>30</td>
<td></td>
</tr>
</tbody>
</table>
## CITY OF CAPE CORAL, FLORIDA
## LAND DEVELOPMENT CODE
## ARTICLE 5 – DEVELOPMENT STANDARDS

<table>
<thead>
<tr>
<th>Tree Type</th>
<th>Scientific Name</th>
<th>Minimum Caliper</th>
<th>Minimum Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laurel Oak</td>
<td>Quercus laurifolia</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>Live Oak</td>
<td>Quercus virginiana</td>
<td>20</td>
<td>30</td>
</tr>
<tr>
<td>Mahogany</td>
<td>Swietenia macrophylla</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>Pigeon Plum</td>
<td>Cocoloba diversifolia</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>Slash Pine</td>
<td>Pinus elliottii</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>Southern Magnolia</td>
<td>Magnolia grandiflora</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>Wild Tamarind</td>
<td>Lysiloma bahamensis</td>
<td>25</td>
<td>35</td>
</tr>
<tr>
<td>Yellow Poinciana</td>
<td>Peltophorum pterocarpum</td>
<td>15</td>
<td>20</td>
</tr>
<tr>
<td>Drake Elm</td>
<td>Ulmus parvifolia</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>Red Maple</td>
<td>Acer rubrum</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>Satin Leaf</td>
<td>Chrysophyllum oliviforme</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>Shady Lady Black Olive</td>
<td>Bucida buceras &quot;Shady Lady&quot;</td>
<td>No minimum distance</td>
<td>15</td>
</tr>
<tr>
<td>Tabebuia, pink or yellow</td>
<td>Tabebuia spp.</td>
<td>10</td>
<td>15</td>
</tr>
</tbody>
</table>

### B. Visibility triangles. All landscaping and buffers shall conform to the design limitations established by Article 5, Section 5.1.7, Visibility Triangles.

### Section 5.5.8. Existing trees.

#### A. Generally. Except for trees on the Florida Exotic Pest Plant Council's list of Category I invasive exotics, existing trees may be used to meet the minimum tree requirements for the site if they are indicated on the landscape plan (when a landscape plan is required), have a minimum diameter at breast height (DBH) of two inches, and are properly protected during any clearing or construction on the property.

Developers are encouraged to preserve existing heritage trees. For any site other than a single-family or duplex site, if during development or any time throughout the life of the development, regardless of change in ownership or use(s), any heritage tree is removed or damaged, it shall be replaced with a Florida native tree that meets the quality of materials standards in this article, with a minimum caliper of six inches measured at a height of 12 inches above the ground, with a height not less than 20 feet; however, this requirement shall not increase the total number of trees otherwise required for the site by more than 10%.

#### B. Protection of trees during development activities. Prior to any land preparation or other development activities, a protective barrier shall be established around all trees that are not to be removed, as follows:

1. The protective barrier shall enclose at least that area within a radius of one foot for every inch of caliper DBH around the tree.
2. The protective barrier may encompass more than one tree, and shall be established with a barrier as follows:

   a. Posts shall be implanted in the ground deep enough to be stable and with at least three feet visible above ground.

   b. The protective posts shall be placed not more than six feet apart and shall be linked together at a height of at least three feet by rope, chain, silt fence fabric, or orange safety fence at least three feet in height, or any combination thereof.

3. Required protective barriers and perimeter lines shall remain in place until all construction activity, except landscaping within the protected area, is terminated.

C. Construction activity limitations.

1. No attachment, wires (other than supportive wires), signs or permits may be fastened to any tree that is not to be removed.

2. Landscaping activities within the area of the protective barrier (before and after it is removed) shall be accomplished with manual labor or light machinery that, if self-propelled, is not designed to bear the weight of the operator. Such light machinery may include string trimmers, walk-behind lawn mowers, or chainsaws. Except as necessary to perform landscaping activities as described above, no construction personnel shall enter the area within the protective barrier. Further, no equipment, tools, construction materials, debris of any kind, or more than six inches of soil shall be placed within the protective barrier.

3. If fill is deposited adjacent to a protective barrier, a suitable temporary or permanent retaining structure shall be constructed to prevent siltation within the area of the protective barrier.

4. If it can be reasonably accomplished, water, sewer, and other utility lines should be routed around the protective barrier of trees that are not to be removed. If a line cannot reasonably be routed around the protective barrier, the line shall be tunneled beneath the area and shall be offset to one side of the trunk to prevent damage to the main tap roots.

D. Exempt trees. This subsection shall not apply to trees grown at commercial nurseries, as part of their stock.

Section 5.5.9. Prohibited vegetation.

A. The following invasive exotic plants are prohibited and shall be removed from the development site, in its entirety. For projects developed in phases, all invasive exotic plants shall be removed from areas to be developed under future phases at the time the first or any subsequent phase is developed. Methods to remove and control invasive exotic plants must be included on required landscape plans, for projects that require a landscape plan. Methods of removal and control that would damage native vegetation to be preserved are prohibited. The development sites shall be maintained free from
invasive exotic plants in perpetuity. For purposes of this subsection, invasive exotic plants include the following listed plants, or those plants currently listed as a Category I invasive by the Florida Exotic Pest Plant Council (FLEPPC) at the time of development:

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Earleaf Acacia</td>
<td>acacia auriculiformis</td>
</tr>
<tr>
<td>Woman's Tongue</td>
<td>Albizia lebbeck</td>
</tr>
<tr>
<td>Bishopwood</td>
<td>Bischofia javanica</td>
</tr>
<tr>
<td>Australian Pines</td>
<td>All Casuarina species</td>
</tr>
<tr>
<td>Carrotwood</td>
<td>Cupianopsis anacardioide</td>
</tr>
<tr>
<td>Rosewood</td>
<td>Dalbergia sissoo</td>
</tr>
<tr>
<td>Air Potato</td>
<td>Dioscorea alata</td>
</tr>
<tr>
<td>Murray Red Gum</td>
<td>Eucalyptus camalduleris</td>
</tr>
<tr>
<td>Cuban Laurel Fig</td>
<td>Ficus microcarpa</td>
</tr>
<tr>
<td>Japanese Climbing Fern</td>
<td>Lygodium japonicum</td>
</tr>
<tr>
<td>Old World Climbing Fern</td>
<td>Lygodium microphyllum</td>
</tr>
<tr>
<td>Melaleuca, Paper Tree</td>
<td>Melaleuca quinquenervia</td>
</tr>
<tr>
<td>Downy Rose Myrtle</td>
<td>Rhodomyrtus tomentosus</td>
</tr>
<tr>
<td>Chinese Tallow</td>
<td>Sapium sebiferum</td>
</tr>
<tr>
<td>Brazilian Pepper, Florida Holly</td>
<td>Schirus terebinthifolius</td>
</tr>
<tr>
<td>Tropical Soda Apple</td>
<td>Solanum viarum</td>
</tr>
<tr>
<td>Java Plum</td>
<td>Syzygium viarum</td>
</tr>
<tr>
<td>Rose Apple</td>
<td>Syzygium jambos</td>
</tr>
<tr>
<td>Cork Tree</td>
<td>Thespesia populnea</td>
</tr>
<tr>
<td>Wedelia</td>
<td>Wedelia trilobata</td>
</tr>
</tbody>
</table>

B. The Weeping Fig (Ficus benjamina) is prohibited due to aggressive root systems unless it is maintained as a hedge with a maximum height of eight feet.

C. City of Cape Coral and state-prohibited vegetation shall be removed from all sites prior to issuance of certificate of occupancy or certificate of completion.

Section 5.5.10. Quality, size, spacing, and species mix.

A. Plant installation standards. Plant materials shall be installed in soil conditions that are conducive to the proper growth of the plant material. Soil in planting areas shall be loose, permeable, friable, and free of limestone and other construction materials, off-street parking area base material, rocks, noxious weeds, grasses, hard pan, clay, or other debris. For purposes of this section, noxious weeds
are those plants listed in Section 5B-57.007, F.A.C, State Noxious Weed List, by the Florida Department
of Agriculture and Consumer Services. It is recommended that such materials be removed to a depth
of two and one-half feet for the well-being of plant materials. Required canopy trees, accent trees,
palms, and shrubs shall be planted on grades not exceeding 3:1.

B. Plant species and grade. A minimum of 50% of all required canopy trees and accent trees and a
minimum of 30% of all required shrubs and groundcovers, excluding turf grass areas, shall be Florida
native as defined by this section. Any plant material on the Florida Exotic Pest Plant Council’s list of
Category I invasive exotics, as may be amended, shall not be counted toward the required plantings
in this section. The City of Cape Coral prohibits the use of any plant material on the Florida Exotic Pest
Plant Council’s list of Category II invasive exotics, which are not expressly prohibited by Section 5.5.9.
Plant materials used in conformance with the provisions of this section shall meet or exceed the
Standards for Florida No. 1, as set forth in the latest edition of “Grades and Standards for Nursery
Plants” published by the State Department of Agriculture and Consumer Services, including minimum
crown spread diameter, root-ball sizes, and container volumes.

C. Tree standards.

1. Canopy tree size. Except in the South Cape Downtown District, all canopy trees required to meet
minimum requirements shall have a minimum height of ten feet, and shall have a minimum
caliper of two inches measured at a height of 12 inches above the ground. In the South Cape
Downtown District, all canopy trees required to meet minimum requirements shall have a
minimum height of 12 feet and a minimum caliper of three inches measured at a height of 12
inches above the ground.

2. Palm tree size. Palm trees required to meet minimum requirements shall have a minimum size of
16 feet overall, unless located within ten feet of a walkway, in which case they shall have a
minimum of ten feet of clear trunk at planting.

3. Accent tree size. Accent trees required to meet minimum requirements shall have a minimum
height of eight feet, have a minimum caliper of one and one-half inches measured at a height of
six inches above the ground.

4. Tree species mix. A mix of species shall be provided according to the overall number of trees
required to be planted. Species shall be planted in proportion to the required mix. The minimum
number of species to be planted is indicated in Table 2.

<table>
<thead>
<tr>
<th>Required Number of Trees</th>
<th>Minimum Number of Species</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 4</td>
<td>1</td>
</tr>
<tr>
<td>5 - 10</td>
<td>2</td>
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<tr>
<td>11 - 20</td>
<td>3</td>
</tr>
<tr>
<td>21 - 30</td>
<td>4</td>
</tr>
<tr>
<td>31+</td>
<td>5</td>
</tr>
</tbody>
</table>
5. Shrub standards. Except as otherwise provided herein, shrubs planted in residential development shall be a minimum of 18 inches in height and be in at least a three-gallon container size at time of planting. Shrubs planted in all non-residential and mixed-use development must be a minimum of 24 inches in height and be in at least a seven-gallon container size at time of planting. Shrubs required for buffer yard plantings must be a minimum of 32 inches in height and be in at least a seven-gallon container size at time of planting. Ornamental grasses may be used in lieu of 30% of shrubs required. Saw palmettos (Serenoa repens) and coonties (Zamia floridana) may be used as shrubs, provided they are 12 inches in height at time of planting.


   a. Groundcovers shall be planted no more than 24 inches apart for one-gallon pots or 12 inches apart for four-inch pots.

   b. Wherever used, sod shall be installed with no gaps or overlaps, so as to present a finished appearance and prohibit erosion of the planted area.

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

Section 5.5.11. Planting in public drainage or utility easements.

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

A. Canopy trees.

1. If planted back in the public drainage or utility easement, the property owner shall replace the canopy tree with a tree having a minimum caliper as the removed or damaged tree; however, if the removed or damaged tree is greater than four inches in caliper (measured at a height of 12 inches above the ground), the replacement tree shall be required to be a minimum of four inches in caliper.

2. If planted in an alternate location that is not within a public drainage or utility easement, the property owner shall replace the canopy tree with one meeting the minimum size required within this Chapter and that is subject to all other requirements of this section. For sites required to have a site plan, such alternate plant location shall be indicated on a revised landscape plan and is subject to approval by the city.
B. Palm trees.

1. If planted back in the public drainage or utility easement, the property owner shall replace the palm tree with a palm tree having a minimum caliper as the removed or damaged palm tree; however, if the removed or damaged palm tree is greater than nine inches in caliper (measured at a height of 12 inches above the ground), the replacement palm tree shall be required to be a minimum of nine inches in caliper.

2. If planted in an alternate location that is not within a public drainage or utility easement, the property owner shall replace the palm tree with one meeting the minimum size required within this Chapter and that is subject to all other requirements of this section. For sites required to have a site plan, such alternate plant location shall be indicated on a revised landscape plan and is subject to approval by the city.

C. Shrubs. Regardless of whether the shrub is located in a public drainage or utility easement, the property owner shall replace the shrub with a shrub meeting the minimum size required within this chapter.

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

Section 5.5.12. Single-family homes and duplexes.

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

A. Trees required for single-family homes. All newly constructed single-family homes shall have a minimum number of trees per building site in accordance with Table 5.5.12.A: Trees Required for Single-Family Homes. Where a home site includes a septic tank between the structure and the street, trees shall be planted a minimum of six feet from the septic tank or its drain field.

<table>
<thead>
<tr>
<th>Table 5.5.12.A: Trees Required for Single-Family Homes</th>
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</thead>
<tbody>
<tr>
<td><strong>Canopy Trees</strong></td>
</tr>
<tr>
<td><strong>Option A:</strong></td>
</tr>
<tr>
<td><strong>Option B:</strong></td>
</tr>
<tr>
<td><strong>Option C:</strong></td>
</tr>
<tr>
<td><strong>Option D:</strong></td>
</tr>
</tbody>
</table>

B. Trees required for Duplexes. All newly constructed duplexes shall have a minimum number of trees per side in accordance with Table 5.5.12.B Trees Required for Duplexes. Where a site includes a septic tank between the structure and the street, trees shall be planted a minimum of six feet from the septic tank or its drain field.
C. Credit for larger, canopy trees. The required number of canopy trees may be reduced by one tree if an existing or proposed canopy tree is at least two inches of increased caliper above the minimum planting size specified in this Chapter. Single-family homes and duplexes are not eligible for the Tree Credit Program provided by Section 5.5.15.

D. Shrubs required. Each single-family home and duplex shall be landscaped with a minimum of 20 three-gallon shrubs of which a minimum of ten shall be planted at any location in the front yard.

E. Mulch, groundcover, and planting beds.

1. The soil surface of the land area not covered by structures or hardscape features shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs, groundcover, or any combination thereof. When shrubs are used in planting beds, shall be planted not more than 48 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more than 20% of the total land area not covered by structures or hardscape features and is not within a front yard or right-of-way.

2. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed around all newly installed groundcover plants so that bare areas of sod are not exposed; however, the mulch around groundcover plants is not required to be maintained after the groundcover becomes established. Except as otherwise provided in these regulations, each canopy tree, accent tree, and palm tree shall have organic mulch no less than 36 inches beyond its trunk in all directions; however, the mulch shall be kept away from the trunks and stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker, or other fungi. The use of cypress or cedar mulch is strongly discouraged.

3. The use of any inorganic mulch, including pebbles or shells to cover the soil surface is not recommended. Inorganic mulch should only be used to frame the outside of beds or to control erosion and should not be used to cover the root ball of newly planted trees or shrubs. Inorganic mulch shall not exceed 10% of the total land area not covered by hardscape features.

4. The right-of-way from the edge of the street pavement to the property line shall be planted with sod or other approved groundcovers, except as otherwise provided in the City of Cape Coral Code of Ordinances or Land Use and Development Regulations.
F. Irrigation systems. Irrigation systems are encouraged but not required; however, where they are installed, they shall meet the standards of Section 5.5.14.

Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.

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

A. Tree planting requirements.

1. Except in the South Cape District, all sites, exclusive of buffer areas, shall have at least one canopy tree for each 1,000 square feet of gross land area, except that accent trees or palm trees may be substituted for a required canopy tree as indicated below. Trees required for buffers shall not be used for meeting the minimum number of trees required for a site. In the South Cape District, all sites shall have at least one canopy tree for each 3,500 square feet of gross land area, except that accent trees or palm trees may be substituted for a required canopy tree as indicated below. For all districts, in the event the calculation of required number of canopy trees yields a fractional number, that number shall be rounded up to the next highest whole number prior to any calculation of the quantity of substituted accent trees or palm trees. Trees planted to meet the other requirements of this section can be included in the calculation of total number of trees required by this section. Such trees may be planted singularly or grouped together. Required canopy trees shall not be spaced less than 20 feet on center. Except in the South Cape District, each canopy tree shall be planted in a minimum planting area of 100 square feet with a minimum dimension of seven feet in width unless an alternative minimum planting area or dimensions are approved by the Director, based on planting details that ensure reasonable soil surface and planting medium volumes.

2. In the South Cape District, each canopy tree shall be planted a minimum planting area of 24 square feet with a minimum dimension of four feet in width unless an alternative minimum planting area or dimensions are approved by the Director, based on planting details that ensure reasonable soil surface and planting medium volumes. Except in the South Cape District not more than 50% of the required canopy trees may be substituted with accent trees or palm trees in accordance with Section 5.5.13. In the South Cape District, not more than 25% of the required canopy trees may be substituted with accent trees or palm trees, in accordance with Section 5.5.13., as follows:

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

<table>
<thead>
<tr>
<th>Common Name</th>
<th>Botanical Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Areca Palm</td>
<td>Chrysalidocarpus lutescens (Dypsis lutescens)</td>
</tr>
<tr>
<td>Bamboo Palm</td>
<td>Chamedorea spp.</td>
</tr>
<tr>
<td>Christmas Palm</td>
<td>Adonidia merrillii (Veitchii merrillii)</td>
</tr>
<tr>
<td>Dwarf Palmetto</td>
<td>Sabal minor</td>
</tr>
<tr>
<td>European Fan Palm</td>
<td>Chamaerops humilis</td>
</tr>
<tr>
<td>Lady Palm</td>
<td>Rhapis excelsa</td>
</tr>
<tr>
<td>Majesty Palm</td>
<td>Ravenea glauca</td>
</tr>
<tr>
<td>Needle Palm</td>
<td>Rhapidophylium hystrix</td>
</tr>
<tr>
<td>Pygmy Date Palm</td>
<td>Phoenix roebellini</td>
</tr>
<tr>
<td>Saw Palmetto</td>
<td>Serenoa repens</td>
</tr>
<tr>
<td>Silver Palm</td>
<td>Coccothrinax argentata</td>
</tr>
<tr>
<td>Thatch Palm</td>
<td>Thrinax spp.</td>
</tr>
</tbody>
</table>

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

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

The use of cypress or cedar mulch is strongly discouraged.

d. The use of any inorganic mulch, including pebbles or shells to cover the soil surface shall only be used to frame the outside of beds or to control erosion. Inorganic mulch shall not exceed 10% of the total land area not covered by structures, pools, accent boulders, driveways, sidewalks, or other paving. It shall be used to cover the root ball of newly planted trees or shrubs.
The balance of the soil surface shall be covered with planting beds with a two-inch minimum layer of organic mulch.

e. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or public utility unless an acceptable root barrier material is installed between the tree and the roadway, sidewalk, or public utility. Acceptable root barrier material shall consist of one of the following: a manufactured root barrier material, installed in accordance with manufacturer's directions, reinforced concrete with a minimum depth of 16 inches, or a continuous sheet of aluminum with a minimum depth of 16 inches and a minimum thickness of 0.024 inches. Where a root barrier is required, it shall be installed for a minimum distance of 20 linear feet.

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

g. In the South Cape District, in the event that the tree requirements in this section cannot be met due to site constraints, the property owner may pay an in lieu of fee to the Downtown CRA Tree Fund. Such site constraints shall include size of site, access or circulation requirement making trees impracticable, or extant site layout. The City Council shall establish a fee based on the average cost of the aforementioned trees. The city will use the funds in the Downtown CRA Tree Fund to provide or enhance the landscaping and vegetation in public areas of the Downtown CRA. To qualify to pay an in lieu of tree fee, a property owner must apply for approval by the Director of the Department of Community Development. If the Director approves the application, then the property owner may pay an in lieu of tree fee meeting planting requirements. This provision does not preclude applicants from applying for deviations in accordance with Section 5.5.20.

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

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

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

2. Landscaping Adjacent to Roads. Where a development site abuts a public right-of-way, excluding a dedicated alley, the following shall apply except within Mixed-Use Districts:

   a. Except as otherwise provided herein, a strip of land, a minimum of ten feet in width, shall be provided between the abutting right-of-way and any structure or off-street parking area. For sites or portions of sites that are 135 feet or less in depth, the width may be reduced to five feet.

   b. At a minimum, perimeter landscaping in this area shall consist of the following:

      i. One shrub for every three linear feet of landscaped area, planted separately or grouped, except where a carport or an off-street parking or vehicular use area abuts the strip of land that is required adjacent to roads. Where a carport or an off-street parking or vehicular use area abuts the strip of land required adjacent to roads, a continuous hedge, consisting of shrubs spaced no greater than three feet on center is required.

      ii. The requirement for canopy trees or accent trees depends on the presence of overhead electric distribution or transmission lines. Shade or accent trees shall be provided as follows:

          (a) Except as provided below, one canopy tree for each 30 linear feet of frontage is required. If the calculations yield a fractional number, that number shall be rounded up to the next highest whole number. Trees may be placed in any arrangement within the landscape strip provided that the spacing between tree trunks is no greater than 60 feet.

          (b) In locations where an adequate separation distance from overhead distribution or transmission lines, as specified in Table 1, § 5.2.7., is not available, two accent trees may be substituted for any shade tree required for each 30 linear feet of frontage.

   c. Ingress and egress from the public right-of-way through all such landscaping to off-street parking or other vehicular use areas shall be permitted and may be subtracted from the linear dimension used to determine the number of trees and shrubs required.

   d. Landscaping required under this section shall not supersede visibility requirements at the intersection of roads, and ingress/egress lanes as required in Article III, § 3.7., Visibility Triangles.

3. Off-street parking and vehicle use areas. The provisions of this section apply to all new off-street parking or other vehicular use areas not situated directly beneath a building containing habitable space.
a. Protection of landscaped areas from vehicular encroachment. When a landscaped area abuts or is within an off-street parking or vehicular use area, wheel stops or curbing shall be used to protect landscaped areas from encroachment. The placement of shrubs and trees shall be in accordance with the Parking Lot Standards of the City of Cape Coral Engineering Design Standards.

b. Except in the South Cape District, landscaping for sites with both of the following: 1) an average depth less than or equal to 135 feet and 2) an area less than or equal to one acre. All off-street parking areas shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:

i. Minimum landscaped area. Landscaped areas including, but not limited to, landscaped islands, foundation landscaping, and landscaping within divider medians shall equal or exceed a minimum of 5% of the total off-street parking and vehicle use areas.

ii. Tree planting. At least one canopy tree shall be provided for every 150 square feet of required planting area. Palm trees may be substituted for canopy trees in accordance with this Chapter.

iii. Divider medians. Where canopy trees are planted in divider medians, the minimum width of the divider median shall be nine feet.

iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing ten or more parking spaces shall be terminated by a landscaped area at each end that measures not less than five feet in width and not less than 15 feet in length. No trees shall be planted in landscaped islands less than nine feet in width.

c. Except in the South Cape District, landscaping for sites with either of the following: 1) an average depth greater than 135 feet; or 2) an area greater than one acre. All off-street parking areas shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:

i. Minimum landscaped area. Landscaped areas including landscaped islands, foundation landscaping, and landscaping within divider medians shall equal or exceed a minimum of 10% of the total paved surface area. Landscaped areas reserved for future parking spaces may not be included in this calculation.

ii. Tree planting.

(1) At least one canopy tree shall be provided for every 150 square feet of required planting area. Palm trees may be substituted for canopy trees in accordance with this Chapter.
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(2) No parking space may be more than 100 feet from a tree.

iii. Divider medians. If a divider median is used to meet the landscaping requirements, it shall be a minimum width of nine feet.

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

v. Landscape materials. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, groundcover, shrubs or other approved landscaping materials and this shall be noted on the landscape plans.

d. Landscaping for sites in the South Cape District. Except within city dedicated parking areas, all off-street parking areas and applicable off-street parking area setbacks shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:

i. Minimum landscaped area.

(1) Unless otherwise provided herein, all required landscape areas shall be planted with trees, shrubs, groundcover, sod, or any combination thereof. At a minimum, the landscape area(s) shall include low-lying shrubs or ground cover plants with a minimum 50% coverage of the landscape area at time of planting. When utilized, shrubs shall be planted at no more than three feet on center.

(2) All applicable minimum off-street parking area setbacks required by Article 4, Chapter 5, except rear when abutting an alley, shall be landscaped unless otherwise provided herein. This provision shall not apply to portions of setbacks areas utilized for shared curb cuts, joint driveways and shared off-street parking areas across lot lines.

(3) Ingress and egress from the right-of-way through any setback area is permitted and the width of the ingress and egress may be subtracted from required landscape areas.
ii. Landscaping for lots with a lot frontage greater than or equal to 125 feet. Off-street parking areas containing 24 or more parking spaces shall provide a landscaped area that measures not less than nine feet in width and not less than 15 feet in length for every 12 parking spaces. Such landscaped area(s) shall be located as intermediate within or terminal islands to parking space rows. Each such landscaped area shall be planted with at least one canopy tree and groundcovers or sod.

4. Retention/detention areas.

a. Planting of trees, palm trees, shrubs, and groundcovers in retention/detention areas is encouraged, provided that the placement does not conflict with the volume of storage required for the retention/detention areas and does not significantly interfere with or impede the flow of runoff in the retention/detention area.

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

5. Buffers.

a. Determination of required buffer. Landscape buffer and screening shall be required to separate uses of differing zoning districts from each other. The type and width of buffer required shall be determined by using Table 5.5.13.B: Table of Minimum Buffer Requirements. If the developing property contains a non-residential use in a Residential District, the buffer shall be as indicated along the row labeled "Non-Residential Uses in Residential Districts"; otherwise, the buffer required shall be as indicated along the row of the developing property’s zoning district under the applicable column. The buffer that is required along any segment of property line, if any, is dependent on the zoning of the abutting property and property separated by only a street containing not more than two lanes for motor vehicle traffic. A bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. The specifications for each type of buffer are provided in Table 5.5.13.B.

<table>
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<th>ZONING</th>
<th>R1, RE</th>
<th>RML</th>
<th>RMM</th>
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</tr>
</tbody>
</table>
b. Buffer specifications.

i. The standards for minimum width, plant types and quantities, and opaque features shall be in accordance with Table 5.5.13.B: Minimum Buffer Width and Table 5.5.13 C, Buffer Plantings. All plants provided within a buffer are specific to, and must be located within the buffer area. The buffer landscaping is in addition to other landscaping required by this Chapter and this landscaping must be within the buffer area. For buffer options that include a wall, the wall must conform to the standards of Article 5, Chapter 2, including the setback requirements.

ii. The buffer width shall be measured along a line perpendicular or radial to the property line.

iii. The number of each type of plant required shall be determined by dividing the length of each side of the property requiring a given type of buffer by 100 and multiplied by the number of plants per 100 feet indicated for a selected option. If the calculations yield a fractional number, that number shall be rounded up to the next highest whole number.

iv. If a wall is required, the wall shall extend the entire length of the property line, or until it connects to another wall.

v. Ingress and egress from the right-of-way through any buffer shall be avoided; however, where it is determined by the city that avoidance is impractical or not preferable due to traffic flow or safety considerations, penetration through a buffer to ingress and egress from the right-of-way may be permitted and the width of the ingress and egress can be subtracted from the length of the buffer for the calculation of the number of plants required.

vi. Plants, berms, or walls required for buffers within required sight triangles shall be in accordance with standards provided in Article 5, Section 1. Further, no fence, wall, or plant material shall be placed within a buffer that would impede the movement of or obstruct the view of either a pedestrian or driver of a vehicle that would create a potential safety hazard.

<table>
<thead>
<tr>
<th>TABLE 5.5.13 C: BUFFER PLANTINGS</th>
<th>Plants per 100 Linear Feet - Canopy/Accent/Shrub</th>
</tr>
</thead>
<tbody>
<tr>
<td>ZONING</td>
<td>ABUTTING PROPERTY</td>
</tr>
<tr>
<td>R-1, RE</td>
<td>R-1, RE</td>
</tr>
<tr>
<td>RML</td>
<td>RML</td>
</tr>
<tr>
<td>RMM</td>
<td>RMM</td>
</tr>
<tr>
<td>R-1, RE</td>
<td>R-1, RE</td>
</tr>
<tr>
<td>RML</td>
<td>RML</td>
</tr>
<tr>
<td>RMM</td>
<td>RMM</td>
</tr>
<tr>
<td>5/5/66</td>
<td>4/0/33</td>
</tr>
<tr>
<td>5/3/33 w/ wall</td>
<td>4/0/33</td>
</tr>
<tr>
<td>5/5/66</td>
<td>5/5/66</td>
</tr>
<tr>
<td>5/5/66</td>
<td>5/5/66</td>
</tr>
<tr>
<td>5/5/66</td>
<td>5/5/66</td>
</tr>
</tbody>
</table>
c. Buffer requirements. No development within required buffer. Required buffer shall not contain any development other than drainage facilities, sidewalks, plants, walls, or berms. Driveways shall only be allowed in the required buffer if the buffer runs along a street. No grading, development, or land-disturbing activities shall occur within the buffer unless as part of an approved development or landscape plan.

d. Buffer maintenance.

i. Any landscape buffer required pursuant to this section shall be maintained in order to preserve such buffer.

ii. The plantings, walls, and berms that constitute screening for any buffer required pursuant to this section shall be maintained for the life of the development. Such maintenance shall include all actions necessary to keep the buffer free of litter and debris, and to keep plantings, walls, and berms in good repair and neat appearance.

iii. In the event that any buffer screening or any element thereof, is damaged or fails to live so that it no longer furthers the purpose and intent of this section, it shall be replanted or replaced, whichever is applicable, with the type and size of material specified on the landscape plan.

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

f. Existing vegetation.

i. Retaining existing Florida native trees and other vegetation within a buffer is strongly encouraged.

ii. If existing plants do not fully meet the standards for the type of buffer required, additional plant materials shall be installed.

g. Buffer walls and berms.

i. Whenever a wall is required within a buffer, it is shown in Table 5.5.13.B.
Where the buffer requires a berm, the berm shall be graded to appear smooth, rounded, and natural. Slopes shall not exceed a 3:1 grade.

Whenever a wall is required within a buffer, the wall shall conform to all requirements of Article 5 Section 2, and the requirements herein, and all other requirements for a wall. The wall may be placed anywhere in the buffer, provided at least 75% of the required trees and 100% of the required shrubs are on the side facing outward toward the right-of-way or abutting property (facing away from the property on which the wall is erected). Bare concrete block, even if painted, is prohibited. The following materials, either singly or in any combination, are the only materials that may be used to form the wall:

- Concrete block coated with stucco;
- Textured concrete block;
- Stone;
- Brick; or
- Formed, decorative, or precast concrete.

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

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

Whenever a wall is required within a buffer, it may be divided along the length of a buffer so that a wall consists of a series of wall segments instead of a continuous line. Such a divided wall shall be allowed only if it meets the intent and purpose of this section and if the wall segments overlap by a minimum of one-half of the distance between the two wall segments.

Vehicular use areas. Concrete curbs or wheel stops at least five inches high shall be provided between vehicular use areas and buffer areas.
3. Location of buffer.

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

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

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

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

Section 5.5.14. Irrigation.

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

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

   B. Existing native plants are exempt from this requirement.

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

Section 5.5.15. Tree credits.
A. Tree credits for all development other than single-family homes and duplexes are available, to encourage the planting of larger trees than are otherwise required and to preserve trees existing on development sites. Based on the gross square feet of land area, each tree credit earned can count toward the number of trees required, subject to limitations indicated below. If tree credits are used, the credits shall be shown in the calculations on the landscape plan. Single-family homes and duplexes are not eligible for the tree credit program provided by this subsection. In no event, shall the number of trees required in a buffer be reduced.

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

C. Credit for preserving existing canopy trees. Existing canopy trees in good health and meeting the minimum standards provided in this Chapter that are preserved on a site, and that are properly protected prior to and during the course of development activities, may be used to meet the requirements of this section for the site where the existing trees are located. For purposes of this subsection, development activities include land clearing, construction, grading, or placement of fill. Canopy trees that exceed the minimum size required by Article 5, Section 15 are credited at the following ratios for existing canopy trees:

<table>
<thead>
<tr>
<th>TABLE 5.5.13.D: CREDIT FOR PRESERVING EXISTING CANOPY TREES</th>
</tr>
</thead>
<tbody>
<tr>
<td>CREDITS</td>
</tr>
<tr>
<td>1. 6&quot; up to 12&quot; caliper = credit for 2 trees</td>
</tr>
<tr>
<td>2. 12&quot; up to 18&quot; caliper = credit for 3 trees</td>
</tr>
<tr>
<td>3. 18&quot; up to 24&quot; caliper = credit for 4 trees</td>
</tr>
<tr>
<td>4. 24&quot; or greater caliper = credit for 5 trees</td>
</tr>
</tbody>
</table>

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

Section 5.5.16. Landscape maintenance.

A. General maintenance required. The property owner shall maintain all landscaping in accordance with the approved landscape plan, if any, and with the standards contained in this section, including:

1. Trees, palm trees, shrubs, and other vegetation shall be trimmed so as to not be an obstruction to pedestrian or vehicular traffic or traffic visibility;
2. Trees, palm trees, shrubs, and tree bed(s) shall be kept free of refuse, debris, and disease;

3. Nonliving materials shall be maintained in good condition at all times; and

4. Shrubs planted in non-residential and mixed-use developments shall grow and be maintained at all times according to the minimum size specified on the approved landscape plan or to a minimum height of 36 inches, if not specified on the approved landscape plan. Shrubs that do not meet the minimum height specified or the alternate minimum height of 36 inches shall be replaced with like kind species and be maintained at a height of 36 inches.

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

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

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

1. Replacement of any plant indicated on an approved landscape plan with a plant of a different species; or

2. The reduction of any quantity or size of plants below the size that was indicated on the most recently approved landscape plan.
The city may impose a reasonable fee for the review and approval of an application for an amendment to a landscape plan. An application for an amendment to a landscape plan shall be reviewed in accordance with the standards herein, unless the landscaped area is a legal nonconformity. An application for an amendment to a nonconforming landscaped area shall be reviewed in accordance with Article 5, Section 6.

D. Nonconforming landscaped areas.

1. Legal nonconforming landscaped areas established. All landscaped areas which were lawful prior to the adoption of this Code but which fail by reason of adoption of such amendment to comply therewith, are hereby declared to be nonconforming. Such nonconforming landscaped areas are hereby declared to be lawful and shall not be required to be altered to conform with such regulations as adopted by the City of Cape Coral; provided, however, that such nonconforming landscaped areas are restricted and subject to the requirements of this section.

2. Requirements for nonconforming landscaped areas.

   a. For sites with an approved landscape plan, nonconforming landscaped areas, including buffers, shall be maintained in accordance with approved landscape plans, as modified by requirements of any approval for PUD, PDP, special exception, or variance, if any. If the minimum requirements for landscaping are reduced subsequent to the most recently approved landscape plan, the property owner may request approval of an amended landscape plan meeting the minimum requirements pursuant to Article 5, Section 6.

   b. For single-family and duplex sites, nonconforming landscaped areas shall be maintained in accordance with landscape regulations in effect at the time of issuance of the original building permit for the primary structure.

   c. For sites without an approved landscape plan, other than single-family and duplex sites, nonconforming landscaped areas shall be maintained in accordance with landscape regulations in effect at the time of the most recent site plan approval.

E. Canopy tree pruning.

1. Except as otherwise provided herein, trees required by regulations in effect at the time of site development shall only be pruned to promote healthy, uniform, natural growth, to keep trees trimmed back from doors, windows, and public sidewalks or where necessary to promote health, safety, and welfare. Pruning shall be in accordance with "American National Standard for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning) (A300, Part 1)" by the American National Standard Institute and "Best Management Practices: Tree Pruning" by the International Society of Arboriculture (ISA). Pruning of trees on any site over one acre should be supervised by a certified arborist. Pruning necessary to maintain public overhead utilities shall be in accordance with the National Electric Safety Code (NESC).
2. Trees required by regulations in effect at the time of site development shall not be pruned so as to include topping of trees through removal of crown material or the central leader, or any other similar procedure to permanently limit growth to a reduced height or spread or that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Severely pruned trees required by regulations in effect at the time of site development must be replaced by the property owner. Replacement trees must meet the tree size requirements of this Chapter. A tree’s growth habit shall be considered in advance of conflicts that might arise (e.g., signs, power lines, sidewalks, buildings, and similar conflicts).

Excessively pruned trees.

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

Section 5.5.17. Planting in medians.

A. Permits.
1. Required. It shall be unlawful for any person to place any landscape material, including plant materials and hardscape materials other than mulch, in any median under the control of the city, without first obtaining a permit for such work from the City.

2. Application. An application for a permit shall be submitted on a form provided by the city and include all required information as specified in the permit application forms.

B. Median design. Landscaping in medians shall be in accordance with the City of Cape Coral Engineering Design Standards.

C. Prohibited vegetation. The prohibited vegetation standards of section 9 of this article shall apply in medians.

D. Review criteria. In determining whether a permit will be issued, the city shall consider factors that include, but are not limited to, the following:

1. Relationship to traffic and pedestrian safety;

2. Location of existing and proposed public utilities, power lines, and other right-of-way improvements;

3. Effect on surface waters and drainage patterns;

4. Aesthetic effect of the proposed landscaping, including whether the resultant theme would be consistent throughout the specific median, and whether the proposed landscaping would coordinate with the landscape theme, if any, established in the vicinity;

5. Type, size, and location of any extant plant materials and hardscape materials, if any;

6. Type, size, and location of proposed plant materials and hardscape materials on the median;

7. Method of removal of existing plant materials and hardscape materials;

8. Adequacy of proposed irrigation, its expense to the city, and availability of water supply; and

9. The city's ability to maintain the landscaping in the event that the permittee fails to do so including economic ability, manpower, and location of the median.

E. Approval.

1. In its approval of any permit request, the city may impose conditions, which may include one or more of the following:

   a. Modifications to the planting plan, including but not limited to the design to ensure integration with the aesthetic character of the neighborhood, the requirement that the entire...
median be included in the design, as well as to plant sizes, species, location, and nature placement of hardscape materials;

b. Modification of plant installation or removal methods or specifications;

c. Regulation of the commencement and completion date, work hours, or phasing of installation or removal;

d. Modification to the proposed maintenance schedule;

e. Requirement of a financial instrument to ensure maintenance or removal of the landscaping;

f. Requirement that all or part of the landscaping be installed and maintained by a licensed landscape contractor or certified arborist;

g. Requirement that temporary traffic control measures be implemented by a barricade company with certification by the American Traffic Safety Services Association (ATSSA) or the International Municipal Signal Association (IMSA);

h. Requirement that curbing be installed;

i. Requirement that erosion control measures be implemented; and

j. Submission of a hold harmless agreement acceptable to the city.

2. The permittee shall be responsible for compliance with the permit and any associated conditions, along with the maintenance of the landscaping. The limitation on the time period for installing landscape materials shall not apply to replacement of materials as part of maintenance.

3. Approval of a permit to install landscape materials in a median shall not obviate the requirement to obtain all other necessary permits, including permits for irrigation and signs.

F. Changes subsequent to approval. After a planting plan has been approved, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the planting plan without first obtaining written approval of an amendment to the planting plan. Modifications that require approval of an amended landscape plan include the following:

1. Replacement of any plant indicated on an approved planting plan with a plant of a different species; or

2. Modification of the location of any plants or other landscape materials.

The city may impose a reasonable fee for the review and approval of an application for an amendment to a planting plan. An application for an amendment shall be reviewed in accordance with the standards herein. The replacement of plants indicated on an approved landscape plan with plants of the same species shall not require the submission of an amended landscape plan.
G. Permit expiration and extension. A permit for installing landscape materials in any median under the control of the city shall be valid for a one-year period from the date of issuance, except as otherwise provided within the permit approval. The permittee is solely responsible for submitting an application for renewal of the. In determining whether the permit should be renewed, the city shall consider all of the factors listed in subsection D. above, as well as the condition in which any materials planted pursuant to the permit have been maintained.

H. Maintenance. Once any landscape materials are installed in a median, the materials are the property of the city. Except when the city determines that it is in its best interest to maintain portions of landscaping in medians permitted in accordance with this subsection, the permittee shall be responsible for maintaining any and all landscaping permitted by this subsection in accordance with Section 16 of this chapter. Should any plant material or other landscape material or portion thereof become a safety hazard, unsightly, or die or become diseased, or if it is installed or maintained in a manner inconsistent with the permitting requirements herein, the city shall have the option of performing maintenance, replacing, or removing it. The City will determine compliance with this subsection.

I. Removal.

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

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

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

Section 5.5.18. Cul-de-sac or roundabout landscaping.

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

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

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

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

3. Other vegetation. The planting of flowers or any vegetation (other than approved trees or shrubs)
by any private person or entity on cul-de-sac or roundabout owned by the city is prohibited. In
addition, cul-de-sac or roundabout shall be left in sod. However, a small bed immediately
surrounding a tree or shrub may be mulched.

C. Plan submittal. Prior to the issuance of a permit for planting and prior to the planting of any tree or
shrub on any cul-de-sac or roundabout, a planting plan shall be submitted for review to the City. The
planting plan shall include all pertinent dimensions, source of water supply to landscape materials,
and the proposed location of the trees or shrubs, with the species of tree or shrub by name.

D. Approval criteria. In determining whether a permit will be issued, the city shall consider the following
criteria:

1. The location of existing and proposed public utilities and power lines;
2. Vehicular use areas and intersecting streets;
3. Diversion of surface waters or drainage patterns;
4. Relationship to and effects on traffic safety;
5. Type and location of trees or shrubs to be planted; and
6. Type and location of any extant trees, palm trees, shrubs, or other vegetation on the cul-de-sac
or roundabout.

E. Permit expiration and renewal. A permit for planting trees or shrubs on a cul-de-sac or roundabout
shall be valid for a period of one year from the date of issuance. At the expiration of such one-year
period, the permit shall automatically expire unless renewed in accordance with the provisions of this
section. The permittee shall be solely responsible for submitting an application for renewal of the
permit. In determining whether the permit should be renewed, the city shall consider all of the criteria
listed above as well as the existing condition of the trees or shrubs planted.

F. Maintenance. Once any landscape materials are installed, the materials are the property of the city.
The person or entity to which the permit for planting is issued shall be responsible for maintaining
any and all trees or shrubs in good condition so as to present a healthy, neat, and orderly appearance
for keeping such trees or shrubs free of refuse, debris, and disease. Failure to maintain such trees or
shrubbery in accordance with this provision shall be grounds not only for denial of a renewal or revocation of the planting permit, but also shall be grounds for removal by the city of the trees or shrubs planted.

G. Removal. Any landscape materials planted or installed without the express written permission of the city shall be subject to removal by the city in its sole discretion. Except for the city and persons with a permit or other written authorization from the city, no person shall remove landscape materials from a cul-de-sac or roundabout.

Section 5.5.19. Lateral right-of-way planting.

A. No permit required. Except in the South Cape Downtown district, no permit shall be required for a private person or entity who owns the property abutting the city-owned lateral right-of-way to plant trees and shrubs in the city-owned lateral right-of-way.

B. Placement of planting material. In the South Cape Downtown District, in order to provide a cohesive urban streetscape, applicants may enter into an agreement with the city for placement of planting material in the lateral right-of-way. In all other districts, the planting of trees, palm trees, and shrubs, and the placement of the tree bed(s) shall be allowed in the city-owned lateral right-of-way subject to the following restrictions:

1. Planting near utility infrastructure shall be in accordance with the requirements of Section 7 of this article;

2. One or more trees may be immediately surrounded by a bed consisting of landscape edging materials, bedding plants or groundcover, and mulch or decorative rock so long as the size of the bed is reasonably related to the size and number of trees contained therein. Groundcover or annual bedding plants shall be permitted within the tree bed. Unless otherwise permitted, no other landscape edging material, concrete curbing, bedding plant or groundcover, mulch, or decorative rock shall be allowed in the city-owned lateral right-of-way;

3. The property owner abutting the portion of the lateral right-of-way in which the plantings and the tree bed(s) are placed shall be responsible for any and all costs incurred by the city for damage sustained to any underground utility facilities as a result of said plantings or placement of the tree bed(s), and shall indemnify and hold the city, its officers, employees, and agents, harmless from any and all claims for injuries and damages to persons and property, both real and personal resulting from said plantings or placement of the tree bed(s);

4. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way within five feet of the roadway. Canopy trees shall not be planted within seven feet of any roadway, sidewalk or public utility, unless an acceptable root barrier material, installed in accordance with this Chapter.

5. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way:
   i. Within five feet of either side property boundaries, as measured perpendicular from the side property line;
C. Maintenance. Once any landscape materials are installed in a lateral right-of-way, the materials are the property of the city. The person or entity who owns the property abutting a portion of the lateral right-of-way along a city street in which the trees, palm trees, shrubs, landscape edging material, concrete curbing, bedding plants, or groundcover, mulch, or decorative rock have been placed shall be responsible for the following:

1. Maintaining all plantings and tree bed(s) in good condition so as to present a healthy, neat, and orderly appearance;
2. Trimming such trees, palm trees, shrubs, and tree bed(s) so as to not be an obstruction to pedestrian or vehicular traffic or traffic visibility; and
3. Keeping such trees, palm trees, shrubs, and tree bed(s) free of refuse, debris, and disease.

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

D. Removal.

1. The authorization in this section for the removal of trees, palm trees, shrubs, and tree bed(s) shall be construed as supplementary to any other means of enforcement available to the city and shall not be construed so as to negate the authority of the Code Enforcement Special Magistrate to hear and adjudicate appropriate cases.
2. The city may also, in its sole discretion, remove any trees, palm trees, shrubs, and tree bed(s) placed in a city-owned lateral right-of-way for utility maintenance, safety, or any other reasonable cause. Except for the city, persons with written authorization from the city, and the property owner abutting the portion of the lateral right-of-way in which landscape materials have been placed, no person shall remove landscape materials from a lateral right-of-way.
3. All expenses incurred by the city for removal trees, palm trees, shrubs, and tree bed(s), for any reason, shall be the responsibility of the property owner.
4. If, for any reason, such trees, palm trees, shrubs, and tree bed(s) are removed, the adjoining owner shall be responsible for returning the right-of-way to its original condition prior to the placement of the plantings and tree bed(s) and any expenses related thereto regardless of whether the removal of the trees, palm trees, shrubs, and tree bed(s) was performed by the property owner or the city pursuant to this section.

Section 5.5.20. Deviations.
A. Deviations from the provisions of this section may be approved by the Director and as further provided herein, provided that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:

1. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or

2. Literal conformity with the regulations would inhibit innovation or creativity in design.

B. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, and the effect the requested deviation would have on the community appearance. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.

C. In determining whether a particular deviation request should be approved because literal conformity with the regulations would inhibit innovation or creativity in design, the Director may approve the request for deviation(s) if the applicant demonstrates that the design of the landscaping for which one or more deviations is sought is unique and innovative and, further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city. For purposes of this section, indicia of unique and innovative design may include, but are not limited to, the following:

1. Landscape details that are unique or that are exceptional in quality by virtue of artistic composition, quality of materials, dimensional attributes, or any combination thereof;

2. Plant massing that evokes exceptional expression through use of angularity, curvature, or other means;

3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or

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

D. Requests for deviations and the reasons therefore shall be set forth by the applicant in the application for deviation and shall be accompanied by documentation including, a narrative that clearly defines the section(s) of the regulations of the requested deviation, a narrative explanation as to the reason for the requested deviation and why it should be approved, sample detail drawings, elevations, and perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate to the benefit, or at least not to the detriment, of the public interest.
E. For deviations to avoid unnecessary or undue hardship, the Director subject to these standards and
criteria, shall approve only the minimum deviation from the provisions of this section. For deviations
to avoid the inhibition of innovation or creativity in design, the Director shall approve deviations
necessary to enhance the unique and innovative design. The Director may impose reasonable
conditions of approval in conformity with this section. Violation of such conditions and safeguards,
when made a part of the terms under which a deviation is granted, shall be deemed a violation of this
section and shall be enforceable not only by revocation of the deviation, but also by all other remedies
available to the city, including all code enforcement procedures.

CHAPTER 6. LIGHTING.

Section 5.6.1. Purpose and applicability.

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

Section 5.6.2. Outdoor lighting standards.

A. Outdoor lighting fixtures. All outdoor lighting fixtures shall be installed in such a manner that the
source of each individual light is shielded, positioned, and maintained so as not to be visible off the
premises.

B. Light shielding for parking lot illumination. All parking lot lighting shall have no light emitted above
90 degrees.

C. Outdoor lighting fixtures adjacent to residential. Any outdoor lighting fixture providing light to any
parcel adjacent to a residentially zoned parcel, whether adjoining or not, shall emit no more than
0.1 foot-candles of light, as measured from the property line of the adjacent residential parcel, using
a standard light meter, the cell of which is directed towards the source of the light.

D. All areas designed for use after daylight hours shall be adequately lit, in accordance with Table 5.6.2.
below.

Table 5.6.2. Lighting levels for commercial and industrial developments

<table>
<thead>
<tr>
<th>Outdoor Lighting Area</th>
<th>Lighting Level minimum - maximum (foot-candles)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entrance of commercial or industrial building</td>
<td>1 - 5</td>
</tr>
<tr>
<td>Sidewalk or walkway from parking area to entrance</td>
<td>.5 - 2</td>
</tr>
<tr>
<td>Parking lot</td>
<td>.5 - 3</td>
</tr>
<tr>
<td>Gas station canopy</td>
<td>10 - 15</td>
</tr>
<tr>
<td>Loading and unloading areas</td>
<td>15 - 20</td>
</tr>
</tbody>
</table>
E. Illumination ratio. Luminaire fixtures in parking lots shall be arranged in order to provide uniform illumination throughout the parking lot area of not more than a 4:1 ratio of average to minimum illumination, and not more than 12:1 ratio of maximum to minimum illumination.

F. Automatic Switching Requirements. Controls shall be provided that automatically extinguish all outdoor lighting when sufficient daylight is available using a control device or system such as a photoelectric switch, astronomic time switch, or equivalent functions from a programmable lighting controller, building automation system, or lighting energy management system, all with battery or similar backup power or device.

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

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

CHAPTER 7. SCREENING

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

Section 5.7.1. Screening of rooftop equipment.

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

Section 5.7.2. Screening of storage areas.

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

B. A six-foot high wall of concrete or similar approved material, Section 5.2.7 on walls;

C. A six-foot high opaque fence of an approved material, Section 5.2.7 fences; or

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

Section 5.7.3. Air conditioning units and mechanical equipment.

A. All mechanical equipment at ground level shall be screened from adjacent property and the right-of-way. When possible, sound deadening materials shall be used. Permissible screening materials include:
1. A wall or opaque fence of adequate height to screen the view of the equipment, see Section 5.2.7 for approved materials.

2. A vegetative buffer, which meets the specifications in Section 5.6 for a four-foot tall buffer.

Section 5.7.4. Permanently installed stand-by generators.

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

A. The generator may only be used in emergency situations when there is a power outage.

B. Repairs and testing may only occur during daylight hours a maximum of once per week.

C. Installation of a generator shall comply with the following restrictions:

1. The generator shall not encroach more than three feet into any required setback, and in no case shall be any closer than two and one-half feet from any property line. The generator shall not be installed in an easement.

2. The generator shall be screened from public view by:

   a. A vegetative buffer which meets the specifications in Section 5.6 for a five-foot high hedge; or

   b. A wall or opaque fence, of an adequate height to screen the equipment, which meets the specifications of Section 5.2.7.

3. Permanent signs shall be placed at the electrical service indicating the type and location of the generator.

CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.

Section 5.8.1. Purpose and Intent.

The appearance of non-residential and mixed-use development affects the visual image and attractiveness of the City of Cape Coral. Utilitarian design and developments with minimal architectural features detract from the city's image and character. The purpose and intent of the non-residential design standards is to promote the City as an attractive destination for tourists and residents, and to support economic vitality while protecting the public health, safety, and welfare. These regulations intend to:

A. Enhance the visual image and attractiveness of the City;

B. Establish reasonable standards that offer flexible and diverse design options;
C. Ensure development in Cape Coral is of consistent high quality and character; and

D. Regulate site layout and architectural features to ensure aesthetic and visual interest.

Section 5.8.2. Applicability.

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

B. These design standards shall apply to existing development if a building’s gross floor area is increased by 50% or more.

C. Development on Industrial zoned sites shall be exempt from these standards.

D. The design standards of this section do not apply when the City Council has established specific design standards for a unique area of the city unless the specific design standards otherwise expressly state their applicability.

Section 5.8.3. Exemptions.

The following types of buildings shall be exempt from the non-residential design standards.

A. Any building that has received a temporary use permit.

B. Any accessory structure.

C. Bona fide agricultural buildings in the Agricultural District like barns and stables.

D. Guard houses.

E. Government facilities that are screened or not visible from a public street.

F. Model homes.

G. Municipal pump station buildings.

H. Neighborhood storage and mini-storage buildings provided the buildings are enclosed with a wall with a minimum height of six feet.

I. Pavilions, carports, gas canopies, and similar buildings that have support posts or columns but no sides.

J. Buildings similar to those listed above as determined by the Director.

Section 5.8.4. Conflicts.
If any of the non-residential and mixed-use design standards of this section conflict with any other provision of the City of Cape Coral Code of Ordinances or Land Development Code, the provision that establishes the more specific standard or architectural theme governs. If neither conflicting provision establishes a specific standard or architectural theme, then the more restrictive provision governs unless otherwise expressly provided.

Section 5.8.5. Appearance, Building Mass, and Design Treatments.

A. Consistency Within a Development. Except for buildings on outparcels that contain only one unit, designed and constructed to be occupied by a single end user, regardless of the number of business operations conducted within the single unit, buildings within a development shall be designed with color schemes, building materials, finishes, roof types, roof lines, and exterior roof finishing consistent with or that resemble those of the principal building or structure on the main parcel(s).

B. Consistency and Integrity of Building Components. All portions of any exterior side of a building, extending from finished grade to the top of the parapet wall or eaves, extending the entire width of the side of a building, must be designed with consistent architectural style, detail and trim features. All architectural features other than parapet walls, including towers or cupolas, shall be designed so as to have an equivalent character from any ground-level angle from which they can be viewed. Although perfectly symmetrical or uniform treatments are not required, architectural features that appear to enclose a spatial volume when viewed from one angle but not from all angles, or that incorporate gratuitous treatments that are not intended to be viewed from all ground-level angles, are prohibited.

C. Transparency of Building Walls. Windows and doors used to meet the transparency requirements identified below shall have a visible transmittance of at least 50% and an exterior reflectance no greater than 20%.

1. For buildings abutting and facing a public street, transparent windows, doors, or any combination thereof, shall cover at least 25% of the first story building wall area between two feet and 10 feet above grade.

2. For buildings with walls abutting but not facing a public street, transparent windows, doors, or any combination thereof, shall cover at least 15% of the first story building wall area between two feet and 10 feet above grade.

3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking areas, transparent windows, doors, or any combination thereof, shall cover at least 25% of the first story building wall area between two feet and 10 feet above grade.

D. Sides of a building. For buildings located on outparcels, all exterior sides of a building shall comply with this section. Additionally, except for a side of a building built flush with a side lot line, a side of a building that faces a rear lot line of an abutting property, and a side of a building that faces a property line that abuts an alley, all sides of a building shall comply with the standards of this section.
1. All exterior sides of a building subject to this subsection shall include a repeating or varying pattern and shall comply with both design elements listed below. At least one of the three design elements shall repeat horizontally. All elements shall repeat or alternate at intervals of no more than 50 feet, either horizontally or vertically.

a. Each wall shall provide visual differentiation of wall surfaces through variations in a minimum of one of the following:
   i. Building materials;
   ii. Finish textures; or
   iii. Color.

b. Each wall shall provide a minimum of two of the following architectural features:
   i. Columns;
   ii. Pilasters;
   iii. Awnings;
   iv. Canopies;
   v. Reveals (if provided shall have a minimum depth of ½ inch);
   vi. Corbels;
   vii. Quoins;
   viii. keystones;
   ix. Cornices (if provided shall have a minimum height of four inches); or
   x. Other features as determined by the DCD Director that provide articulation or reduce building massing.

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

<table>
<thead>
<tr>
<th>Building Gross Floor Area (sq. ft.)</th>
<th>Minimum number of Design Elements Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,000 sq. ft. or less</td>
<td>3</td>
</tr>
<tr>
<td>10,001 to 49,999 sq. ft.</td>
<td>4</td>
</tr>
<tr>
<td>50,000 sq. ft. or greater</td>
<td>5</td>
</tr>
</tbody>
</table>

a. Architectural features and detailing that create a frame and definition to the primary public entrance;

b. One or more canopies or awnings that extend a total length of at least 30% of the length of any side of a building subject to this subsection;

c. One or more attached porticos;

d. Peaked or arched roof form;
e. Overhanging eaves a minimum of 18 inches wide on all portions of a building with a pitched roof;

f. Arcade;

g. Colonnade;

h. Arches or arched forms other than roof forms or an arcade;

i. Windows or glazing that exceed the minimum glazing requirements of Subsection 5.8.5.C. by a minimum of 10% for a wall;

j. Ornamental or structural details, including, banding or moldings used throughout the exterior building walls that add decoration and detail to a building roofline, building openings, or windows;

k. Two or more ornamental or structural details that are horizontally continuous (except for interruptions for doors and windows), which may include belt courses or any type of three-dimensional molding, banding, projections, recesses, or niches that help to define a base, body, and cap to the proposed building;

l. A tower such as a clock tower or bell tower;

m. A cupola;

n. Sculptured artwork (excluding corporate logos or advertising);

o. Vertical articulation of walls, including pilasters, columns, or other relief with maximum separation of one third of the wall on which they are located, not to exceed a separation of 100 feet;

p. Planter boxes that are integrated into the building architecture or wing walls that incorporate landscaped areas or places for sitting; or

q. Curved wall containing an uninterrupted curve along at least 10% of the length of any side of a building subject to this subsection.

3. For buildings with a gross floor area of greater than 50,000 square feet, no exterior wall shall exceed 100 linear feet in a horizontal direction within a single, continuous wall plane, nor shall any single, continuous wall plane constitute more than 60% of the building’s total length. A wall shall be deemed to be in a single, continuous wall plane unless it is offset (recessed or projected) by at least 36 inches from any adjacent wall plane or contains a pilaster that projects at least 36 inches from the wall.

Section 5.8.6. Wall Height Transition.
A. Buildings that are more than twice the height of the height of extant buildings on abutting property shall incorporate one or more transitional height elements to segue the height of the new building to the height of the closest existing building. The transitional height element shall be incorporated on the new building at the approximate cornice or roof line of the nearest existing building, if any. Where there is no extant building on adjacent property, the requirements of this sub-section will not apply. Where no single building is "nearest" to the new building, but instead two or more buildings are located an equidistance from the new building, the property owner may select the approximate cornice or roof line of any of such equidistant buildings at which to incorporate the transitional height element on the new building.

B. Transitional height elements may include:

1. Cornices or other decorative elements that run the length and width of the building and project a minimum of six inches from the wall;

2. Upper story setbacks and offsets at the approximate cornice or roof line of the nearest existing building as provided above;

3. Variations in roof planes.

Section 5.8.7. Building Materials.

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

A. Concrete block with stucco finish (CBS), synthetic stucco (an exterior cladding system with a stucco-like outer finish applied over insulating boards or composite materials), or other exterior coating that is the visual equivalent of stucco. Non-textured concrete block with visible mortar joints, even if painted, is not an acceptable finished material.

B. Textured or ribbed concrete block, e.g. "split-face block".

C. Reinforced concrete of any finish.

D. Glass or other glazing, whether transparent, translucent, or applied as a veneer. For purposes of this subsection, glazing consists of glass or any material that resembles glass including, but not limited to, Plexiglass or polycarbonate.

E. Stone or brick, including simulated stone or brick.

F. Wood, other than plywood or T1-11 type paneling, if termite-resistant species, pressure-treated, painted, or stained.

G. Fiber-reinforced cement panels or boards.

H. Tile.
I. Architectural metal panels, provided that corrugated metal panels shall not exceed 30% of the surface of any wall.

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

Section 5.8.8. Roofs.

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

1. Parapet wall provided the parapet extends completely around the building on all sides. However, this requirement shall not prohibit the substitution of a pitched roof in lieu of a parapet for part of a building.

2. A three-dimensional cornice treatment, a minimum of four inches high (not applicable along any portion of a wall that is built flush to the side lot line). Flashing at the top of a parapet shall not qualify as a cornice. Cornices shall return a minimum of eight feet around corners that transition from a building wall that requires a cornice to a building wall that does not require a cornice.

3. Varied roof lines with different roof heights and or separate or distinct roof segments that fall at different horizontal planes above the cornice line;

4. Overhanging eaves that extend at least 18 inches beyond the supporting walls, with a minimum fascia of six inches in height (not applicable along any portion of a wall that is built flush to the side lot line);

5. Vertical variation in the roof line with a minimum change in elevation of two feet.

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

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

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

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

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

Section 5.8.9. Building Design Standards in the SC District.

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

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

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

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

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

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

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

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

3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking areas, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area that faces the dedicated city parking area; residential and hotel uses shall provide at least 15%.

4. Non-residential use building walls facing navigable waterways shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area.

5. For lots abutting parkway, primary, or secondary street designations, all window and door glass that faces such designations, shall have a visible transmittance of at least 50% and an exterior reflectance no greater than 20%. The bottom of such windows shall be no higher than 36 inches above grade, or six inches above the floor of the lowest habitable story, whichever is higher. However, if the building is designed with floodproofing panels or barriers, the bottom of such windows shall be located no higher than six inches above the top of the floodproofing panel or barrier.

6. The exterior of windows and doors shall remain unshuttered at all times of the day. This provision shall not apply to the following:
   a. Un-walled areas such as, but not limited to, dining and seating areas associated with restaurants and bars.
   b. Hurricane shutters or flood-proofing panels during the time period in which a flood watch or warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for any portion of Lee County. Such shutters or panels shall be removed within a week from the time they are put up, unless a hurricane, tropical storm, or flood has impacted the area, in which case the shutters may remain up for not more than three months from the date of the incident, except for good cause shown to the City.

D. Non-residential buildings with a first story consisting of more than 35,000 square feet of floor area and consisting of a single use shall meet the following requirements:

1. One public entrance shall be provided for every 75 feet of overall building frontage; or

2. Liner buildings meeting the following requirements shall be provided:
   a. Liner buildings shall be provided along at least 50% of the overall building frontage.
   b. Liner buildings shall contain active uses with at least one public entrance provided for every 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building setbacks and building frontages.
   c. Liner buildings shall have an interior depth of at least 15 feet.
d. Liner buildings may be detached from, attached to, or integrated into the principal building.

E. Architectural elements design standards: awnings, canopies, colonnades, arcades, balconies, front porches, stoops/landings, and cupolas. A first story facade facing a street or dedicated city parking area shall provide shade with awnings, canopies, colonnades, arcades, balconies, or any combination thereof, for at least 50% of its length or width, unless prohibited by Article 4, Chapter 5. Architectural elements, or any combination of architectural elements, may occur forward of the minimum setback, as applicable, but shall not extend forward of a lot line. Architectural elements, or any combination of architectural elements shall not encroach into an easement unless approved by the City. The city may require the property the property owner to enter into a formal easement agreement in a form acceptable to the City Attorney. The property owner is solely responsible for repairing any damage to encroachments in the easement that result from maintenance or public infrastructure improvements.

1. The City shall consider the following criteria in determining whether to approve an architectural element, or any combination of architectural elements, that would encroach into the easement:

   a. The extent to which the architectural element would encroach into the easement;

   b. The effect of such encroachment on any utilities that are either currently located in the easement or that may be located in the easement in the future; and

   c. The effect of such placement on any abutting properties or streetscape.

2. Awnings and canopies. Awnings and canopies extending from the first story, facing a street or dedicated city parking area, and serving to meet the 50% length/width requirement of Article 4, Chapter 5 shall conform to the following:

   a. Depth shall be a five-foot minimum projection from the building facade.

   b. Height shall be an eight-foot minimum clearance, including suspended signs.

3. Colonnades and arcades. Colonnades and arcades facing a street or dedicated city parking area shall conform to the following:

   a. Depth shall be a minimum of five feet from the building wall to the inside column face.

   b. Height shall be an eight-foot minimum clearance, including suspended signs. The lowest point on arches shall not extend below seven feet.

   c. Openings between piers, columns, or similar supporting elements shall be at least 50% of the colonnade or arcade facade area.

   d. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above the colonnade or arcade.
4. Balconies. Balconies shall be open and un-air-conditioned. Balconies may have roofs. Roofed balconies may be enclosed with screen and may contain privacy partitions. Balconies shall not project beyond the rear building setback requirement, as applicable. Balconies shall be located no closer than six feet from the abutting side lot line. Balconies facing a street or dedicated city parking area shall have a height clearance of ten feet minimum from grade; their decorative or supporting elements that project from building walls shall have a clearance of seven feet from grade.

5. Front porches. Front porches shall be un-air-conditioned. may be screened, and shall conform to the following:
   a. Front porches facing a street or dedicated city parking area and serving to meet the minimum building frontage requirements of Article 4, Chapter 5 shall be a minimum of eight feet in depth.
   b. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be permitted above front porches.

6. Stoops and landings. Stoops and landings may be roofed or unroofed, and shall maintain the required minimum building setback, as applicable. However, access to a stoop, whether by stairs, ramp, or other means, may extend forward of the minimum building setback as applicable, if approved by the Director but shall not be located less than three feet from the front lot line.

7. Cupolas. When provided, cupola(s) shall have a maximum of 400 square feet in horizontal dimension and shall be limited to two per building.

8. Garage doors associated with residential uses, when facing the front of the lot, shall be set back at least 20 feet behind the building line.

Section 5.8.10. Equipment and Loading Areas

A. For all non-residential and mixed-use developments, air conditioning, heating, and similar equipment shall be placed on the roof or the ground.

1. Air conditioning and heating equipment shall be prohibited from being mounted on the side of a building.

2. Rooftop equipment shall be screened on all sides in a manner consistent with the architectural design of the building. Such screening shall be at least as high as the highest portion of the equipment or apparatus being screened.

3. Equipment located on the ground shall be located or screened so as not to be visible from any property line abutting a public street other than an alley when viewed along a line perpendicular or radial to such property line. Screening shall consist of a wall, fence, plant material, or any combination thereof. Fences used for screening shall not be constructed of chain link with or
without slats and are encouraged to be designed to appear to be constructed of material the same as the building, and to incorporate architectural trim features consistent with the building.

4. Electric meters and similar panels may be wall-mounted and are subject to the same screening requirements outlined in subsection c. above.

5. Attic vents and solar panels are exempt from the requirements of this subsection.

B. Loading areas that are visible from an abutting property with a residential future land use classification or that is separated from a property with a residential future land classification by an alley or a two-lane street shall be screened by a wall that is at least six feet in height, which is constructed of the same material as the building or is designed to appear to be constructed of material the same as the building, and that incorporates architectural trim features consistent with the building, by an earthen berm that is at least six feet in height, or by a combination of wall and berm that is at least six feet in height.

Section 5.8.11. Deviations.

A. Deviations from the provisions of this section may be approved by the Director provided that the deviation will not be contrary to the public interest and will be in harmony with the general intent and purpose of this section and where either of the following applies:

1. Conditions exist that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or

2. Literal conformity with the regulations would inhibit innovation or creativity in design.

B. In determining whether a particular deviation request should be approved as the result of unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the following: site constraints such as shape, topography, dimensions, and area of the property, the effect other regulations would have on the proposed development, or other locational factors that may make compliance with this section impossible or impracticable, the effect the requested deviation would have on the community appearance including, but not limited to, consideration of the mass, scale, and other characteristics of a proposed building relative to the characteristics of existing and approved surrounding buildings whether on the same or nearby sites, and the relative visibility and character of equipment or loading areas which are otherwise required to be screened along with constraints on alternative location of such equipment or loading areas. Additionally, the Director shall find that the approval of the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual interest in the city.

C. In determining whether a particular deviation request should be approved because compliance with the regulations would inhibit innovation or creativity in design, the Director approve the request for deviation(s) if the applicant demonstrates that the design of the building or development for which one or more deviations is sought is unique and innovative and further, that the approval of the deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find
that the approval of the deviation(s) would serve the intent of this section to protect the health, 
safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual 
interest in the city. For purposes of this section, indicators of unique and innovative design may 
include, but are not limited to, the following:

1. Architectural details that are unique or that are exceptional in quality by virtue of artistic 
   composition, quality of materials, dimensional attributes, or any combination thereof;

2. Building forms that evoke exceptional expression through use of angularity, curvature, or other 
   means;

3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or

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

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

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

CHAPTER 9. TEMPORARY USES.

Section. 5.9.1. Purpose and applicability.

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

B. All temporary uses and special events approved subject to the standards and requirements set forth 
under this article are deemed to be a privilege and not a right, which may be revoked by the city for 
failure to comply with any of the provisions of this article or any other local, state, or federal law 
governing the event. Approved temporary uses and special events may also be revoked if such 
revocation is in the best interest of the city based on emergency, disorder, or other unforeseen 
conditions. Private events held on private property shall not require a temporary use permit. Signs
shall be limited to the signs permitted in Section 5.9.10 of this article and shall not be allowed within the right-of-way.

C. Application for a temporary permit.

1. Temporary use permits shall be coordinated by the Community Development department who may request reviews from the Fire, Police, Building, and Public Works departments as necessary to ensure safety.

2. If a temporary use or event is proposed at a public park property, an application must be submitted to the Parks and Recreation Department along with any applicable fees and proof of insurance.

3. Private events held on private property shall not require a temporary use permit.

Section 5.9.2. Firework, pumpkin, and Christmas tree sales.

Temporary outdoor sales are prohibited, except as provided here in. Excepted seasonal events involving outdoor sales of merchandise shall meet all appropriate requirements of the Building Code, Electrical Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities. Temporary outdoor sales are prohibited unless they have applied for and received all required permits in compliance with this Subsection. Firework, pumpkin, and Christmas tree sales may be in all nonresidential zoning districts except the Preservation and Public Zoning Districts subject to the following:

A. Application. A complete application must be submitted to the Department of Community Development, along with a conceptual site plan.

B. Dates and hours of operation:

1. Firework sales may be operated from December 15 through January 1 and from June 1 through July 10;

2. Pumpkin sales may be operated from October 1 through November 5;

3. Christmas tree sales may be operated from November 15 to January 1; and

4. Lots may be open from 8 AM to 10 PM.

C. Parking and facilities.

1. Temporary sales lots must provide five parking spaces per half acre. A paved parking lot shall not be required.

2. Permission to place one or more tents (up to a total of 425 square feet in size) on the site, provided that the applicant provides proof of fire-retardancy and adequate tie-down measures with the application. Tents larger than 425 square feet shall require a separate tent permit. The location
and setback of the tent(s) shall be shown on the conceptual site plan. If a sales trailer is being
used in lieu of a sales tent, the sales trailer shall be handicap-equipped and accessible in
accordance with the Florida Accessibility Code for Building Construction and ADA requirements
and shall be anchored in accordance with all applicable building code standards.

3. Permission to utilize an electric generator on site. A temporary electric pole shall not, however,
be authorized by the temporary sale permit. A temporary electric pole shall require a separate
permit to be applied for and issued to a licensed electrical contractor.

D. The Director may approve temporary outdoor seasonal sales in the RML zoning district, if it is
determined that such sale would not result in adverse impacts on the surrounding neighborhood.
Approval of a season sale in the RML district may include conditions to protect the surrounding
neighborhood from adverse impacts.

E. The applicant shall request inspection by the city of the items authorized pursuant to this Section and
shall receive approval thereof prior to beginning the sale activity. Inspection of items authorized
pursuant to this Section shall be made by the Community Development and Fire Departments.

Section 5.9.3. Outdoor display of merchandise.

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

A. All outdoor display of merchandise for sale, in non-residential districts is permitted with the following
conditions:

1. Except in the downtown zoning district, such displays may be no closer than 10 feet to the front
or rear property lines and five feet to side property lines or 15 feet to the side property line on
corner lots.

2. Displays may not be in required parking. If such displays are placed on a public sidewalk, the
display shall comply with the following regulations:

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

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

B. Outdoor display of merchandise for sale on vacant property is prohibited, except as permitted for
seasonal events in accordance with Section 5.9.2. or special events in accordance with Section 5.9.10.

Section 5.9.4. Garage sales.

Garage sales may be permitted on a private property in accordance with the following regulations:
A. Garage sales are permitted to be held for a period not to exceed three days, on the basis of three such activities per residence per year, not to be held closer than 30 days apart.

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

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

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

Section 5.9.5. Temporary construction or field office.

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

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

2. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.

3. No overnight residential use shall be permitted in a construction trailer.

4. Construction trailers must comply with the setback requirements of the zoning district or the site.

5. Construction trailers shall not be larger than 200 square feet.

B. Construction trailers in non-residential zoning districts are subject to the following requirements.
1. When a construction trailer is used as a temporary office, the trailer must be wired for electricity and must be connected to potable water and sewer facilities, if available. Wiring and plumbing must conform to applicable Electric and Plumbing Codes.

2. The construction trailer must be located at the construction site or an abutting site with the property owner’s written permission.

3. The construction trailer must be removed from the site prior to issuance of a certificate of occupancy.

4. No overnight residential use shall be permitted in a construction trailer.

5. Construction trailers must comply with the setback requirements of the zoning district or the site.

Section 5.9.6. Construction staging areas and post disaster debris staging

A. Contractor staging for essential public facilities. Contractor staging areas for materials used in construction of essential public facilities are permitted in all zoning districts, subject to the following requirements:

1. The temporary staging area shall serve a project being carried out in the vicinity of the construction staging area;

2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;

3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through Saturday only;

4. Fencing required;

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

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

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

C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning districts on sites designated by the City for such activity.
D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed in all non-residential zoning districts. Post disaster construction staging is allowed in residential zoning districts as a (special exception/conditional) use.

Section 5.9.7. Temporary sales office.

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

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

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

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

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

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

5. The entrance to the site on which the temporary sales office is located shall consist of a city approved driveway or construction entrance. Any impervious area added for the temporary sales office shall be subject to review and approval by the city.

6. The base of any temporary sales office shall be fully obscured by landscaping and skirting. Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet. The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be minimized and prevented to the extent practicable around any disturbed area.

7. The maximum duration of the permit shall not exceed one year. The Director may extend permits for up to six months each, based upon factors that include:

   a. Size of the project.
b. Number of lots or units in the development remaining to be sold or leased.

c. Effect that the extension would have on the surrounding properties.

d. Developer’s need for an extension and efforts, if any, the developer has put forward toward completion of the development (e.g., effort to complete construction in a timely manner, delays beyond the reasonable control of the developer, etc.).

8. A temporary sales office shall be removed no later than the date the development is completed or within 30 days after notice by the city that the application for development has been denied, whichever is applicable.

C. Permit application and submittal requirements. A permit shall be required for a temporary sales office. In order to obtain a permit for the use of a structure for a temporary sales office, the applicant shall submit the following to the Department of Community Development:

1. A scaled drawing of the site, identifying the location of the temporary sales office with dimensions. Construction plans shall also be submitted.

2. The names of the property owner and the operator of the temporary sales officer. In the event the operator is different from the property owner, written and notarized consent from the property owner must be submitted. Such written consent shall be revocable. In the event such consent is revoked, the temporary sales office shall be removed within 30 days.

3. The length of time the temporary mobile sales office is proposed for the site.

4. The description of potable water and sanitary facilities that will be available for the temporary office.

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

Section 5.9.8. Temporary Storage Containers.

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

1. Residential zoning districts. No more than one temporary storage container per dwelling unit is permitted in residential zoning districts.

2. Non-residential zoning districts. No more than two temporary storage containers are permitted in non-residential zoning districts. In the case of multi-tenant non-residential properties, each business or tenant may have a temporary storage container.
3. This section is not intended to restrict the storage or location of temporary storage containers on the premises of a business which is lawfully engaged in the sale, rental, or distribution of such containers so long as the containers are on the property of such business as "merchandise" and not for temporary storage of items or goods.

4. The provisions of this section shall not apply to prohibit or restrict the location of temporary storage containers on any property for which a valid City of Cape Coral building permit has been issued and is in effect provided that the construction on the property has not been abandoned or allowed to lie idle in violation of Article 5-2 of the City of Cape Coral Code of Ordinances.

B. General Requirements:

1. No temporary storage container may be placed in one or more parking spaces if the required number of parking spaces is reduced below the minimum number of spaces required for the site.

2. No temporary storage container shall block or reduce access to fire lane(s), handicapped parking area(s), or drainage facilities or structures, including swales and catch basins.

3. Temporary storage containers shall not be placed in an easement or in any area designated as a buffer.

4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten feet in height, or 40 feet in length.

5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days. A maximum of two temporary storage container permits may be issued for a property or, in the case of multi-use or multi-unit properties, for each business or commercial enterprise located on the property in any calendar year. Temporary container permits may run consecutively without any minimum period required to elapse between the issuance of permits.

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

Section 5.9.9. Temporary Habitable Structures

A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents, business owners, governmental agencies, and medical facilities are able to live and conduct business on the same site as their damaged structure using temporary housing and temporary
business structures. When disasters result in significant destruction rendering homes and businesses uninhabitable, temporary housing and temporary business structures will provide residents and businesses with the ability to quickly resume normal activities during the restoration of their permanent structures.

B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11, Definitions, unless the context clearly indicates or requires a different meaning.

C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the effect of the disaster on the public health, safety, and welfare. If the City Council finds that the disaster has negatively affected residential housing or business structures in the city by a significant degree, the City Council may, by a majority vote, declare the existence of a habitable structure emergency. Upon the declaration of a habitable structure emergency by vote of the City Council, the provisions of this subsection shall become effective. The habitable structure emergency shall identify the disaster which created the emergency situation, and may be declared for either a specified period of time or an indefinite period of time. If the emergency is for an indefinite period of time, the emergency shall continue until City Council, by a majority vote, terminates the habitable structure emergency.

D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in accordance with the provisions set forth herein, the use of temporary structures. Temporary residential structures and temporary business structures must be approved by the city with a temporary placement permit. Application and issuance criteria for a temporary placement permit are as set forth below.

E. Temporary business structures may be used for business owners to provide a means for a business to remain open during the time the permanent business structure is being repaired or replaced. Temporary business structures may be used to provide temporary facilities for governmental uses, critical public facilities, charitable, religious, or educational institutions that have been rendered uninhabitable. The regulations for temporary business structures shall apply to temporary business structures used for governmental uses, critical public facilities, charitable, religious, or educational institutions. For these institutions, the habitable structure regulations shall apply; however, the Building Official may waive any regulations when strict enforcement may preclude them from carrying out their normal or emergency functions. Critical facilities shall be limited to the following:

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

7. Nursing homes and assisted living facilities.

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

1. The existing permanent habitable structure has been determined to be uninhabitable as the result of a disaster by inspection of the city Building Official;

2. The property owner or occupant of a damaged structure desires to locate in a temporary residential or business structure; and

3. A habitable structure emergency must be in effect at the time of application.

G. Applications for temporary placement permits.

1. Application forms and required fees.

2. The following permits are required prior to application for a TPP:

   a. City permits for hook-up to electric, potable water, and wastewater utilities; and

   b. A State Department of Health or State Department of Environmental Protection permit authorizing the connection of the temporary residence to an onsite or small domestic wastewater treatment system.

H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end of that 30-day period, if no application has been filed, the temporary habitable structure must be immediately removed from the site. If an application has been filed within the 30-day time period, the temporary habitable structure may remain in place until the TPP is either approved or denied. Once approved, the temporary habitable structure may remain in accordance with the TPP. If denied, the temporary structure shall be removed within five days from the date of denial.

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

1. Except as otherwise provided herein, temporary structures shall not be occupied until such time as a valid TPP has been issued and is in effect for the site.

2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities, and an external electrical system are required within 20 days of issuance of the TPP. Inspections for such connections shall be called into the city within two days of completion.
of each connection. Electrical and plumbing connections must be done by electricians or plumbers licensed to do business in the City of Cape Coral. If there is no electricity to the site due to a power outage, a generator may be used. Upon restoration of electricity to the property, connection to the local power grid must be made within 24 hours of power restoration.

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

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

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

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

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

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

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

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

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

1. Temporary residential structures may be anywhere on the site of the existing permanent residence; however, no temporary residence is allowed within road rights-of-way or drainage or utility easements. The city may waive any development regulations regarding lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate temporary residential structures.

2. Where more than one existing permanent residence has been rendered uninhabitable, the Building Official may allow up to the number of damaged permanent residences or residential units on the site. Such determination shall be based upon consideration of life, health, and safety requirements.

3. For temporary business structures:

   a. Temporary business structures may be anywhere on the parcel of the existing business; however, temporary business structures are not allowed within road rights-of-way or drainage or utility easements. The city may waive any development regulations regarding lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate temporary business structures.

   b. Temporary business structures may be on property adjacent to the permanent business structure if a notarized, written consent from the property owner is submitted at the time of application for a TPP.

   c. The establishment of an emergency response team center on a parcel containing a business does not necessarily preclude the placement of one or more temporary business structures on the same parcel.

   d. Parking for a temporary business structure shall be provided based upon the square footage of the temporary business structure, including handicapped parking. However, a minimum of two handicapped parking spaces must be provided.

   e. The entrance to the site shall have a city approved driveway or construction entrance. Any impervious area added for the temporary business structure shall be subject to review and approval by the city.

   f. Additional conditions or restrictions may be placed on a temporary business structure as a condition of issuance in areas including, but not limited to, the following:

      i. Hours of operation;
      ii. Traffic control and access;
      iii. Lighting; and
      iv. Noise control.
M. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the following has occurred:

1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
2. If an application for a building permit has not been submitted within required time from the date of receipt of the TPP, or relocation has not occurred before the time of expiration of the TPP, or, if a building permit later expires.
3. If, upon inspection by the Building Official, a temporary residence is not in compliance with the requirements of this subsection.
4. Failure to evacuate temporary residence during mandatory evacuation orders.
5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary residence removed within five days of revocation. Failure to vacate or remove the temporary residence constitutes a violation subject to the penalty imposed herein.

N. Extensions and expiration of temporary placement permits.

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

7. Termination of temporary habitable structure. Once an uninhabitable structure has been issued a certificate of occupancy or certificate of use for a new or rehabilitated residence, business, or institutional facility, the TPP shall be deemed to be terminated. A temporary residential or business structure must then be removed or placed in proper storage on the property within 30 days. Failure to remove or properly store the temporary residence or business structure constitutes a violation subject to the penalty imposed herein.

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

Section 5.9.10. Special events.

A. Permit required. The following types of events shall require a permit:

1. An event expected to draw 500 or more persons at any session, as participants or spectators, which is proposed to be held on public property; or

2. An event expected to draw less than 500 persons at any session as participants or spectators, which is proposed to be held on public property, if a street closing is required; or

3. An event expected to draw 500 or more persons at any session as participants or spectators, which is proposed to be held on private property; if said participants or spectators will occupy adjacent public streets or public property during the event.

B. An applicant may apply for a permit to sponsor a special event in the city by submitting the following documents to the Department of Parks and Recreation:

1. A completed, signed, and notarized application shall be submitted no less than 60 days prior to the opening of the event. Exceptions to the 60-day requirement may be approved by the Director of Parks and Recreation, based upon the size, duration, and nature of the event. The city reserves the right to verify the applicant's previous history of sponsoring special events with other jurisdictions.

2. A non-refundable application and processing fee of $40.

3. A $250 refundable clean-up deposit in the form of either cash or certified check payable to the City of Cape Coral. The property shall be cleaned within 48 hours of the close of the event and returned to substantially the same condition as just prior to the start of the event, or better. The clean-up deposit will be refunded to applicant upon satisfactory inspection of the property, by the city, after the event closes. If, within 48 hours after the close of the event, the property is not
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1. Certificate of insurance for all properties used for the event must be submitted to the Parks and Recreation Department for approval by the City Risk Manager no less than 21 days prior to the event.

2. Applicants and vendors shall have commercial or general liability insurance, including coverage for independent contractors, premises and operations, contractual liability, products and completed operations, personal injury, and property damage. Insurance coverage shall be no less than $1,000,000 combined single limit for bodily injury and property damage and no less than $1,000,000 for liquor liability, if applicable.

3. Vendors shall also have motor vehicle liability insurance for any motor vehicle of no less than $1,000,000 and workers’ compensation coverage, as required by statute.

4. The City of Cape Coral shall be named as additional insured. Certificates of insurance shall show the City of Cape Coral as the certificate holder.

E. In determining whether a permit shall be issued, the Director of Parks and Recreation, shall consider certain criteria including:

1. The size, duration, and nature of the event;

2. Previous history, if any, of organizing events within Lee County and whether said events created hazards or safety situations;

3. Other events previously scheduled during the same time period within the city;

4. If the applicant has been adjudicated guilty of violating any provision of this Section, said adjudication may constitute grounds for denial of future special events permits by the city; and

5. The Director of Parks and Recreation, may, in his or her sole discretion, deny the applicant a permit for the special event within the City of Cape Coral.

F. Special events shall be held in accordance with the following:

1. All applicable city ordinances and building, fire, and electrical codes shall be complied with.
2. Most events shall require off-duty City of Cape Coral police officers to be hired for the duration of any event to include one hour before opening and one hour after closing. The Police Chief, shall determine the number of officers required, if any, based upon the size and nature of the event and past experience with similar events. The cost for the off-duty detail shall be set using the present rate charged by the Police Department which shall be paid by the applicant prior to the issuance of the permit. All applicants must comply with any rules or regulations imposed by the Police Chief, which are consistent with this Section.

3. Most events shall require off-duty City of Cape Coral firefighters or paramedics, to be hired for the duration of any event to include one hour before opening and one hour after closing. The Fire Chief, shall determine the number of firefighters or paramedics required, if any, based upon the size and nature of the event and past experience with similar events. The cost for the off-duty detail shall be set using the present rate charged by the Fire Department which shall be paid by the applicant prior to the issuance of the permit. All applicants must comply with any rules or regulations imposed by the Fire Chief, which are consistent with this Section. In the event the Fire Chief determines that special equipment such as all-terrain vehicles, trailers, fireboats, or fire and rescue assets, and appropriate personnel for the special equipment are necessary, the city reserves the right to request reimbursement for all or part of the discretionary cost from the applicant.

4. No open flame or other device emitting flames or fire shall be used in any tent or air supported structure while open to the public.

5. All equipment including, but not limited to, tents, stages, amusement rides, utility areas, ingress and egress locations, and cooking areas shall be inspected and approved by city fire inspectors or state officials, if applicable, prior to the opening of the event. If applicable, inspection certificates and annual permits, as required by the State of Florida, shall be submitted to the city prior to the opening of the event. All equipment and amusement rides, other than those which are patron-operated or controlled, shall only be operated by persons over 18 years of age who are employed by the applicant and who are thoroughly familiar with the operation of said equipment and amusement rides. The operator of such equipment and amusement rides shall be in the immediate vicinity of the operating controls at all times during the operation of the equipment and amusement rides and no unauthorized person shall be permitted to handle the controls during said operation.

6. Special event signs shall be permitted in accordance with the Land Development Code, Article 7.

7. Any person, entity, group, or organization engaging in speech, expression, or assembly, which is protected by the First Amendment of the United States Constitution or by Article I, Section 4 of the State of Florida Constitution, may so during a Special Event, subject to the following reasonable time, place, and manner regulations.

   a. The Director of Parks and Recreation shall have the authority to designate one or more areas during any special event for specific activities and to prohibit other activities within designated areas. The Director of Parks and Recreation shall post designated areas when such posting is appropriate.
b. If sound amplifying equipment is present, it shall be in accordance with a permit issued per Section 5.9.3 Outdoor Entertainment Event. The Director of Parks and Recreation shall establish one or more designated areas on public property within the area of the special event where such amplified sound may occur. If sound amplifying equipment is present on private property at the special event, the Director of Parks and Recreation may establish one or more designated areas on public property within the area of the special event where other amplified sound may occur. If amplified sound is not present on public or private property during the special event, all amplified sound shall be prohibited; however, nothing in this regulation shall serve to prohibit protected speech, expression, or assembly utilizing non-amplified, reasonable sound.

c. The Director of Parks and Recreation shall be responsible for the provisions of this Section, department rules and regulations, and city ordinances. No action shall be taken to enforce this Section until a warning to cease such a violation has been issued by a person authorized to enforce this Section and the violator continues such violation.

8. No person shall be permitted into, or remain on, private property covered by any special event permit for an event open to the public without the consent of the permittee.

9. If a special event is open to the public only upon a payment of an entry fee or charge, no person shall be permitted into the special event without first paying the entry fee or charge.

10. No person shall unreasonably hamper, obstruct, impede, or interfere with any person, entity, group, or organization hosting a permitted special event.

G. Order to cease operation. If the Director of the City of Cape Coral Parks and Recreation Department, determines that proper provisions have not been made for the protection of the public health, safety, or welfare, he or she may issue an order to cease operating the special event until satisfactory corrective action has been taken.

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

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

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

Section 5.9.11. Temporary Off-Site Vehicle Sales.
The display of vehicles, including, but not limited to, automobiles, trucks, vans, recreational vehicles such as camping trailers, motorcycles and recreational terrain vehicles, and water craft such as boats, jet skis and wave runners, displayed for the purpose of sale, lease, trade or rental, shall be permitted at an off-site location (that is, on an improved property that is not the approved location of the business).

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

1. The commercial establishment seeking the temporary sale permit must have the written permission of the owner, or an authorized representative of the owner, of the property on which the temporary sale will be conducted. The written permission shall state that, as a condition of the city's issuance of a permit for the temporary sale, the property owner agrees to be responsible for any damage to the city's right-of-way or utility systems as a result of the sale and that any such damage shall be repaired at the expense of the property owner. In addition, such written permission shall also state that, in consideration of the city's issuance of the permit, the property owner shall hold the city harmless from any claim, loss, damage, or cause of action that arises because of the temporary sale or the issuance of the permit therefore, including any loss or damage to the owner's property or improvements thereon. Such written permission shall have a notarized signature and shall be filed with the Department of Community Development.

2. The duration of any such temporary sale shall not exceed five consecutive days.

3. The property on which the off-site sale is conducted shall not have been used for temporary off-site sales for more than six occasions in the preceding one-year period.

4. Temporary sales shall only be conducted between the hours of 8:00 a.m. to 9:00 p.m.

5. The display of vehicles and the operation of the temporary sale shall not interfere with the normal parking and traffic circulation of the business(es) located on the site.

6. The temporary off-site vehicle sales permit shall, at all times during the permitted time period authorized for the sales, be displayed on the site upon which such sales are being conducted.

7. No temporary sale shall begin until a permit therefore has been approved and issued by the city and all fees are paid in accordance with the city's adopted fee schedule. Prior to the issuance of a temporary sale permit, a complete application must be submitted to the Department of Community Development, along with a conceptual site plan. In addition to the proposed site layout and setbacks, the conceptual site plan shall address vehicular traffic and parking measures, fire protection measures, sanitary facilities and lighting and areas of electric needs. The temporary sale permit shall include, as applicable:

a. The right to erect one sign or banner, a maximum of 32 square feet in size, or two such signs or banners for properties having frontage on more than one street. In lieu of such sign(s) or banner(s), the applicant may display an inflatable object in accordance with Article 7 of this code. The applicant shall include with the application sign details such as the placement of
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the sign and anchoring or tie-down measures. The placement and anchoring of the means
of advertisement shall not interfere with the visual safety of motoring traffic.

b. Permission to place one or more tents (up to a total of 425 square feet in size) on the site,
provided that the applicant provides proof of fire-retardancy and adequate tie-down
measures with the application. Tents larger than 425 square feet shall require a separate
tent permit. The location and setback of the tent(s) shall be shown on the conceptual site
plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-
equipped and accessible in accordance with the Florida Accessibility Code for Building
Construction and ADA requirements and shall be anchored in accordance with all applicable
building code standards.

c. Permission to utilize an electric generator on site. A temporary electric pole shall not,
however, be authorized by the temporary sale permit. A temporary electric pole shall
require a separate permit to be applied for and issued to a licensed electrical contractor.

d. The applicant shall request inspection by the city of the items authorized under this
section and shall receive approval thereof prior to beginning the off-site sale activity.
Inspection of items authorized pursuant to subparagraphs a. through c. shall be made by
the Department of Community Development. Items authorized pursuant to subparagraphs
b. and c. shall also be made by the Fire Department.

B. Any other outdoor display on improved property must be approved by City Council and is subject
to review annually at the discretion of Council, except that the City Manager may approve requests
for temporary displays of no longer than five days duration no more than two times per calendar
year for any location or applicant when he or she is satisfied that the request would be in keeping
with the harmony of the zoning district and that it would violate none of the ordinances of the City
of Cape Coral.

Section 5.9.12. Tents, for other than Special Events.

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

Section 5.9.13. Other events not named.

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

Chapter 10. - SPECIFIC USE REGULATIONS

Section 5.10.1. Purpose and applicability.

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

Section 5.10.2. Craft breweries, distilleries, and wineries.

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

1. The business owner shall submit semi-annual production records to the Department of Community Development for all alcohol and nonalcohol products produced within the establishment.

2. All mechanical equipment used in the alcohol production process shall be behind a wall or fence that separates the equipment from any property line abutting a public street other than an alley when viewed along a line perpendicular or radial to such property line. The wall or fence shall be opaque and have a minimum height of six feet.

3. Loading and unloading areas shall be provided to the side or rear of the building. Loading and unloading areas shall not be along the front of the building.

4. Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:

   a. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains on the property and the distance of the stockpiled grains from the property lines and the building containing the artisan brewery, distillery, or winery;

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

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

B. Waiver of requirements.

1. Permitted and Conditional Uses.

To encourage the repurposing of existing buildings in the NC or SC districts, any craft brewery, distillery, or winery that is approved as a permitted use, the provisions of this Section may be waived in part or in their entirety by the Director for the purpose of spurring economic development based on the criteria contained in Subsection 2.
2. Criteria. In determining whether to waive one or more of these standards the Community Development Director shall utilize the following criteria:

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

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

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

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

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

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

Section 5.10.3. Duplex.

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

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

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

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

1. Dwelling entry as the primary façade feature;

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

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

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

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

6. Offset of four feet where two garage doors are adjacent to each other; or

7. Projections and decorative elements, such as trellises, for visual interest.
Section 5.10.4. - Home occupations.

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

A. All home occupations operated in or from a residence shall comply with federal, state, and county rules and regulations, city license regulations specified herein, and any other applicable ordinances of the City of Cape Coral.

B. No person other than members of the immediate family may be employed for a salary, commission or upon any other remunerative basis.

C. No condition shall be permitted which tends to cause or increase the fire hazard to the residence, such as storage of paints or other flammable materials in excess of normal family use.

D. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display of materials be visible from the outside of the structure.

E. No home occupation shall occupy an area greater than 10% of the living area of the structure.

F. The home occupation shall not generate pedestrian or vehicular traffic beyond that which is reasonable to the district in which it is located and it shall not involve the use of commercial vehicles for delivery of materials to or from the residence.

G. The appearance of the structure shall in no way be altered for the conduct of the home occupation within the structure nor shall the conduct be such that the structure may be recognized as serving a non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations, audible or visible interference in any radio or television receiver off the premises, or cause fluctuations in the electric voltage line off the premises.

H. No business operated under a fictitious name shall be issued a license to operate under this Section.

Section 5.10.5. RV resorts

A. General provisions. Within a recreational vehicle park, recreational vehicles that meet the requirements herein, whether self-propelled or pulled by a towing vehicle, and camping cabins, as regulated herein, may be used for temporary lodging. Facilities to accommodate administration, maintenance, recreation, dining, and personal care may be included within a recreational vehicle park. Recreational vehicle parks shall be deemed to be nonresidential uses, and any transient guest site occupied by a registered guest of a recreational vehicle park shall not be deemed to be a "residence", "dwelling." or "residential premises" within the meaning of other provisions of the City of Cape Coral regulations. The management of all transient guest sites and camping cabins must be performed by a single on-site management company or entity, regardless of whether the transient guest sites, camping cabins, or both are owned by more than one person or entity.
B. Lodging unit characteristics. Lodging shall only be allowed within recreational vehicles and camping cabins that have all of the following characteristics:

1. Recreational vehicles:
   a. Shall be no more than eight and one-half feet in body width, exclusive of safety devices when slide outs are retracted;
   b. Shall have water and wastewater systems designed for continuous connection to water and wastewater service facilities while parked at a transient guest site; and
   c. Shall not be constructed with collapsible partial sidewalls that fold for towing in such a way as to be unusable for occupancy.

2. Camping cabins shall comply with all of the following criteria:
   a. Cabins shall be constructed in compliance with the Florida Building Code;
   b. The square footage of interior space shall be a minimum of 200 square feet and a maximum of 600 square feet;
   c. Cabins shall be equipped with electric service and a full bathroom;
   d. Cabins are exempt from non-residential design standards, however when there is more than one cabin in a development, the color scheme, exterior materials on walls, exterior roof finishing, and roof type must be consistent among all cabins;
   e. Corrugated metal is prohibited for exterior walls; and
   f. Roofs shall consist of pitched roofs, including but not limited to, gable, hip, or mansard roofs; however, mansard roofs with flat decks and shed style roofs are prohibited.

C. Location. Recreational vehicle parks are permitted only on property with a Mixed-Use future land use designation. No new recreational vehicle park shall be developed and no existing recreational vehicle park shall be expanded within a coastal high hazard area, as depicted in the Comprehensive Plan.

D. Minimum interior road standards. All interior roads shall be privately owned and maintained, and shall be constructed in accordance with the structural requirements within the City of Cape Coral Engineering Design standards.

E. Overall recreational vehicle park area and density. The following requirements shall apply to the recreational vehicle park net area:

1. Minimum recreational vehicle park net area: 25 acres;
2. Maximum net density: 10 transient guest sites per acre, based on net area; and

3. Minimum net density: For recreational vehicle parks with a net area of less than 50 acres, the minimum quantity of transient guest sites shall be 50; for recreational vehicle parks with a net area of 50 or more acres, there shall be no less than one transient guest site per acre, rounded to the nearest whole number.

For purposes of this section, the net area shall mean the area of the recreational vehicle park minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If an extant wetland or water area is expanded or contracted, the net area shall be based on the resultant wetland and water areas.

F. Transient guest sites. Transient guest sites can be designed with either: 1) a pad for parking one recreational vehicle; 2) one camping cabin; or 3) a pad for parking one recreational vehicle and one camping cabin. The following standards shall apply to transient guest sites within a recreational vehicle park:

1. Each transient guest site shall be clearly defined by a permanent marker, constructed of a durable material such as masonry or metal, placed at all corners;

2. No transient guest site shall include any space used for common areas, such as roadways, sidewalks, or community recreation areas;

3. No more than 25% of the total transient guest sites shall be developed with a camping cabin. Transient guest sites with a pad for parking one recreational vehicle and one camping cabin shall not be factored into the 25% limitation to the number of camping cabins;

4. All transient guest sites shall be designed to provide runoff of surface water to a drainage system or basin external to the transient guest site;

5. Impervious area shall not exceed 65% of any transient guest site. Pervious areas of each transient guest site shall be covered in turf, groundcover, shrubs, trees, or any combination thereof;

6. Each transient guest site shall have direct vehicular access to an interior road. No transient guest site shall have direct vehicular access to a public street;

7. No transient guest site shall be located closer than 40 feet to any public street right-of-way;

8. Separation: Each transient guest site shall be designed to ensure minimum separation between units. When measuring the distance from a recreational vehicle pad, paved areas that project more than four and one-half feet from the centerline of the pad, e.g., driveway apron flares, walkways, and patio areas, may be excluded. Distances of separation shall be as follows:

   a. Between camping cabins: 15 feet;
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b. Between a camping cabin and a recreational vehicle pad on the same transient guest site: 15 feet;

c. Between a camping cabin and a recreational vehicle pad on a separate transient guest site: 20 feet;

d. Between a transient guest site boundary line and a camping cabin: 7½ feet; and

e. Between transient guest site boundary line and a recreational vehicle pad: 7½ feet.

9. Each transient guest site designed with a pad for parking a recreational vehicle shall have the following standards:

a. Maximum number of recreational vehicles: 1;

b. Minimum site area: 2,000 square feet;

c. Maximum site area: 1 acre;

d. Minimum site width: 35 feet, measured at right angles to and between the designated side boundary lines; and

e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway shall be paved with concrete or pavers, or as otherwise approved by the city. The use of asphalt as a paving material for vehicle pads and driveways is prohibited.

10. Each transient guest site developed with a camping cabin shall have the following standards:

a. Maximum number of camping cabins: 1;

b. Minimum site: 2,500 square feet; and

c. Parking space: Each site developed with a camping cabin shall include a minimum of one automobile vehicle parking space, paved with concrete or pavers, or as otherwise approved by the city, with minimum dimensions of 9 feet by 18 feet. This limitation shall not apply to transient guest sites with a pad for parking one recreational vehicle and one camping cabin. The use of asphalt as a paving material for vehicle parking spaces is prohibited.

11. Each transient guest site developed with both a pad for parking a recreational vehicle and with a camping cabin shall have the following standards:

a. Maximum number of units: one camping cabin and a pad for parking no more than one recreational vehicle;

b. Minimum site area: 5,000 square feet;
c. Maximum site area: 1 acre;

d. Minimum site width: 35 feet, measured at right angles to and between the designated side boundary lines; and

e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway shall be paved with concrete or pavers, or as otherwise approved by the city. The use of asphalt as a paving material for vehicle pads and driveways is prohibited.

12. Each transient guest site may also include accessory structures for outdoor living, including, but not limited to, an outdoor kitchen, fire pit, spa, hot tub, gazebo, shade shelter, marine improvements, and other hardscape features.

G. Utilities. Each transient guest site shall have direct connections to central potable water, central wastewater, and electric services. All water and wastewater utility infrastructure within a recreational vehicle park shall be privately owned and maintained, except as otherwise approved by the City Council. Within the recreational vehicle park, all telephone, electric, television cable service, or other wires of all kinds must be underground, provided, however, that appurtenances to these systems which require aboveground installation may be exempted from these requirements and primary facilities providing service to the site of the development or necessary to service areas outside the planned development project may be exempted from this requirement.

H. Lighting. All roads, walkways and parking areas shall be provided with lighting adequate to ensure the safety of vehicular and pedestrian traffic. All lighting shall be designed so that it is not directed toward neighboring properties.

I. Parking. In addition to parking spaces on transient guest sites, a minimum of one parking space per ten recreational vehicle sites within the park shall be provided for visitors.

J. Designated storage. Except for boats at a rental facility or moored at a marine improvement, boats and utility trailers (tow dollies, "toy haulers", etc.) shall be stored in a designated storage area that shall occupy no more than 5% of the gross area of the park. Such storage area shall be for the exclusive use of registered guests. only during the period the guest is a registered occupant of a transient guest site. Designated storage areas shall be enclosed by an opaque visual barrier that is a minimum of eight feet in height. The following materials, either singly or in any combination, are the only materials that may be used to form the opaque visual barrier:

1. Wood, plastic, vinyl, or metal fencing;

2. Concrete block and stucco wall;

3. Brick wall; or

4. Formed, decorative, or precast concrete.
No storage area shall be located closer than 40 feet to any exterior property line of the recreational vehicle park. No repair or maintenance other than cleaning shall be conducted within such storage area.

K. Recreation area. At least one recreation area shall be provided within the park, designed and improved to serve the recreational needs of the park users. The recreation area(s) shall be a minimum of 500 square feet per transient guest site. All recreation areas shall be accessible to all occupants of the park. If more than one recreation area is provided, no recreation area shall be less than 10,000 square feet. A minimum of 50% of the total required recreation area shall be comprised of recreation within a building, or outdoor facilities for active recreation, including, but not limited to, swimming pools, ball fields, tennis courts, or play lots with facilities. No portion of any transient guest site, perimeter buffer yard, internal road or road easement, or stormwater management area, except as provided below, shall be counted as required recreation area. Bodies of water may be counted toward required recreation area if recreational use is not otherwise prohibited on or in the body of water and if recreational amenities, including, but not limited to, a beach, boat rental or launching facilities, are provided. In no event, however, shall bodies of water comprise more than 50% of the required recreation area.

L. Landscaping plan. Requests for special exception approval for a recreational vehicle park shall be accompanied by a landscaping plan that provides, at a minimum, compliance with Section 5.5.

M. Phasing. The Director shall not issue a certificate of use for a recreational vehicle park prior to completion of construction of all of the transient guest sites, internal roads, drainage system, potable water and wastewater utilities, landscaping and buffering, and accessory structures approved for the park, unless the Hearing Examiner and Appeals (or the City Council, when applicable) approves a phasing plan that identifies size, location, sequence, and timing of the various phases of the development. If a phasing plan is approved, the Director shall not issue a certificate of use for any phase that has not been completed in its entirety.

N. Operation generally.

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

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

3. Length of occupancy. No owner of any recreational vehicle park shall allow or permit any transient guest sites in a recreational vehicle park to be rented to or occupied by any person or recreational vehicle for any period of time that would permit or allow any person or recreational vehicle to remain at such recreational vehicle park for more than 180 days in any 365-day period.
4. Register of occupants. The owner or operator of any recreational vehicle park shall file a report with the Director showing the guest names and addresses, recreational vehicle license numbers, dates of arrival and departure, and the transient guest site occupied by each guest at the recreational vehicle park during the preceding calendar quarter. Such reports shall be filed not later than April 15th, July 15th, October 15th and January 15th for the immediately preceding calendar quarter.

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

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

1. The following facilities may be approved as incidental to a recreational vehicle park:
   a. Administrative offices;
   b. Caretaker or watchperson residence (no more than one);
   c. Car wash (Recreational vehicle washing facilities only);
   d. Clubhouses;
   e. Gatehouses;
   f. Grounds maintenance facilities;
   g. Laundry facilities:
   h. Marine improvements;
   i. Restrooms and community showers; and
   j. Sanitary dump stations.

2. The following amenities are permitted as amenities incidental to the recreational vehicle park even though they are typically land use classifications identified as individual "uses" within other zoning districts.
   a. Banquet halls;
   b. Bars;
c. Commercial Recreation – indoor and outdoor;

d. Cultural and civic facilities;

e. Personal services;

f. Professional Offices;

g. Restaurant, no drive-thru; and

h. Retail.

3. For recreational vehicle parks with no frontage on any type of arterial or collector street, food
stores, personal services, and restaurants shall be limited as follows:

a. Vehicular ingress/egress for parking lots supporting an amenity shall not be directly
accessible from any public street, but shall only be accessible from a road within the park;

b. No signs shall be visible from outside the recreational vehicle park; and

c. The cumulative gross leasable floor area occupied by food stores, personal services, and
restaurants shall not exceed 3% of the net area of the recreational vehicle park. For
purposes of this section, the net area shall mean the area of the recreational vehicle park
minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If
an extant wetland or water area is expanded or contracted, the net area shall be based on
the resultant wetland and water areas. Food stores shall not occupy more than 25,000
square feet of contiguous gross leasable floor area.

4. For recreational vehicle parks with frontage on any type of arterial or collector street, food
stores, personal services, and restaurants shall be limited as follows:

a. Vehicular ingress and egress for parking lots supporting food stores, personal services, and
restaurants may be directly accessible from a public street. Visible evidence of the
commercial character of food stores, personal services, and restaurants may be observable
from a street outside the park. For food stores, personal services, and restaurants that have
vehicular ingress/egress directly accessible from a public street, or present visible evidence,
observable from a street outside the park, of their commercial character, no certificate of
use shall be issued until a minimum of 20% of the total transient guest sites for the entire
recreational vehicle park have been constructed or installed; and

b. The cumulative gross leasable floor area of food stores, personal services, and restaurants
shall not occupy more than 3% of the net area of the park. Not more than 25,000 square
feet of contiguous gross leasable floor area shall be devoted to food stores.

5. In the event that a recreational vehicle park fails to meet the minimum required number of
transient guest sites as a result of removal of transient guest sites or conversion to another use,
or if the offering of lodging at transient guest sites is discontinued for one year or more, any activity that had previously been approved as an amenity incidental to the recreational vehicle park use shall lose its status as an amenity and shall be treated in the same manner as a nonconforming use.

Q. Prohibitions. The following uses, activities or improvements listed below are prohibited within a recreational vehicle park:

1. Permanent residential use is prohibited, except in an approved caretaker/watchperson residence.

2. Lodging within any structure other than an approved recreational vehicle, camping cabin, caretaker, or watchperson residence (e.g., tent, mobile home, garage, shed, or agricultural building) is prohibited within a recreational vehicle park.

3. The storage of a recreational vehicle, boat, or accessory trailer during any period when the owner or lessee of the vehicle is not a registered occupant of a transient guest site is prohibited. Storage of boats and accessory trailers is prohibited on individual transient guest sites or on internal roads.

4. The parking of a recreational vehicle, automobile, or truck in an area not designated for parking is prohibited.

5. Drive-thru facilities for restaurants are prohibited.

6. Fuel pumps for retail sales of fuel are prohibited.

R. Evacuation plan. Prior to issuance of a certificate of use for a recreational vehicle park, the developer shall provide an emergency response plan, approved by the Fire Chief that requires the removal of all recreational vehicles in the event of a hurricane. At a minimum, all recreational vehicles and occupants shall evacuate when notified of a "Hurricane Watch" being issued for the city. Any amendment by the developer to an approved evacuation plan requires approval by the Fire Chief.

Section. 5.10.6. Micro cottage Village Development (MCVD).

Micro cottage Village Developments (MCVDs) provide a location for City residents who wish to reside on lots which are much smaller than the typical Cape Coral property. This housing type encourages efficient use of land, affordability, and energy conservation. Micro cottage housing allows for a higher density single family development than is normally allowed. This is made possible by smaller home sizes, clustered home sites, and parking and design standards. These villages shall be developed to ensure that they provide an attractive, clean option for these residents which also will not have a deleterious effect on nearby properties.
A. Minimum area and density requirements. The minimum allowable area for a MCVD shall be three acres and the maximum density of micro cottages shall not exceed 8.8 dwelling units per acre. The minimum lot size for individual lots shall be 5,000 square feet.

B. Buffering. Sites adjacent to single family zoning and land use shall provide a 25’ buffer along each abutting perimeter.

C. Availability of infrastructure. MCVDs shall be serviced by city utilities.

D. Clustering. A MCVD is composed of clusters of micro cottages.
   1. Minimum units per cluster: 4.
   2. Maximum units per cluster: 12.

E. Common open space. Each cluster of micro cottages shall have common open space and provide a sense of openness and community for residents. Open space requirements are as follows:
   1. Each cluster of micro cottages shall have common open space to provide a sense of openness and community for residents;
   2. At least 400 square feet per micro cottage of common open space is required for each cluster.
   3. Each area of common open space shall be in one contiguous and useable piece.
   4. To be considered as part of the minimum open space requirement, an area of common open space must have a minimum dimension of 20 feet on all sides.
   5. The common open space shall be at least 3,000 square feet in area, regardless of the number of units in the cluster.
   6. Required common open space may be divided into no more than two separate areas per cluster.
   7. At least two sides of the common open area shall have micro cottages along its perimeter.
   8. Parking areas, yard setbacks, private open space, and driveways do not qualify as common open space.

F. Community Buildings. Community buildings are permitted in MCVDs. Community buildings shall be clearly incidental in use and size to dwelling unit and shall be no more than one story.

G. Ownership. Community buildings, parking areas and common open space shall be owned and maintained commonly by the MCVD residents, through a condominium association, a homeowners’ association, or a similar mechanism, and shall not be dedicated to the City.

H. Size. Micro cottages shall meet the following requirements:
1. The gross floor area of each micro cottage shall not exceed 1,100 square feet.

2. At least 25% of the micro cottages in each cluster shall have gross floor area less than 1,000 square feet.

3. Micro cottage areas that do not count toward the gross floor area or footprint calculations are:
   a. Interior spaces with a ceiling height of six feet or less, such as in a second floor are under the slope of the roof;
   b. Architectural projections—such as bay windows, fireplaces, or utility closets—no greater than 24 inches in depth and six feet in width;
   c. Attached unenclosed porches;
   d. Garages or carports;

4. The footprint of each micro cottage shall not exceed 850 square feet.

I. Unit Height. The maximum height of a micro cottage shall be 25 feet.

J. Orientation of micro cottages.
   1. Each dwelling unit shall be clustered around a common open space. Each unit shall have a primary entry and covered porch oriented to the common open space.
   2. Lots in a MCVD can abut either a street or an alley.
   3. Each unit abutting a public street (not including alleys) shall have a façade, secondary entrance, porch, bay window or other architectural enhancement oriented to the public street.

K. Micro cottage Setbacks. The minimum setbacks for all structures (including micro cottages, parking structures, and community buildings) in a MCVD are:
   1. Ten feet from any public right-of-way.
   2. Ten feet from any other structure.
   3. Micro cottages shall be no more than 25 feet from the common open area, measured from the façade of the micro cottage to the nearest delineation of the common open area.
   4. No part of any structure in the MCVD (including micro cottages, parking structures, and community buildings) shall be more than 150 feet, as measured by the shortest clear path on the ground, from fire department vehicle access.
L. Porches. Micro cottage units shall have covered front porches. The front porch shall be oriented toward the common open space. Covered porches shall have at least 60 square feet in area.

M. Garages. Garages are not required or encouraged in MCVDs.

N. Parking.

1. Minimum Number of Off-Street Parking Spaces:

<table>
<thead>
<tr>
<th>Micro cottage</th>
<th>Required Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>600-800 square feet</td>
<td>1.00 space</td>
</tr>
<tr>
<td>800-1000 square feet</td>
<td>1.5 spaces</td>
</tr>
<tr>
<td>1000-1100 square feet</td>
<td>2.00 spaces</td>
</tr>
</tbody>
</table>

2. The MCVD shall include additional guest parking. A minimum of .5 guest parking spaces per dwelling unit, rounded up to the next whole number, shall be provided for each Micro cottage cluster. Guest parking may be clustered with resident parking; however, the spaces shall include signs identifying them as reserved for visitors.

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

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

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

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

O. Walkways.

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

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

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

Section 5.10.7. Roadside Food and Vegetable Stand.

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

A. Must meet the minimum building setback requirements for the district;

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

Section 5.10.8. Accessory Parking Lots.

Accessory parking lots shall meet the following requirements:

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

J. The parking area shall be classified as part of the entire non-residential building site.

K. A landscape plan for the commercial parking area proposed in an R-3 district shall be submitted with the application for a special exception use. Landscape plans shall be drawn to scale, including dimensions and distances, and shall clearly delineate.

1. Existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways, and ingress and egress points;

2. The location and floor area of existing building to be served;

3. The source of water supply for plantings and materials to be installed or, if existing, to be used in accordance with the requirements hereof.

4. All parking areas shall be landscaped in accordance with the requirements of Section 5.5.13 of this Article.

5. There shall be a minimum of seven feet of green area in side setbacks and ten feet of green area in setbacks from street lot lines which face residential areas.

6. There shall be a continuous undulating 18 inch to three feet high by five feet deep berm of earth extending along the property facing streets.

I. Lighting. If any parking areas are artificially lighted, they shall be so designed and arranged that lighting is primarily directed on-site. Such areas shall not be lighted at any time other than during the same hours that the use to which the parking is appurtenant is open for business, except for necessary security lighting.

J. Stormwater Management. All parking areas shall incorporate appropriate stormwater quality design features to be reviewed with the SDP application.

Section 5.10.9. Solar Arrays.

Solar Arrays shall meet the following requirements:

A. These facilities may only be permitted in the Agriculture, Institutional, or Industrial zoning districts.

B. Solar Arrays may only be permitted on lots over one acre in size.

C. Must maintain appropriate security fencing and signs for protection.
D. Solar Arrays shall be effectively screened with a fence, landscape material, or a combination thereof, where visible from an abutting property or right-of-way as determined by the Director.

1. The structures may be screened with an opaque wall or fence, up to the height allowed in that zoning district.

2. Alternatively, the structures may be screened with shrubs that meet the following requirements:
   a. A row of shrubs shall be planted along all sides of the facility for which screening is required.
   b. All shrubs required for screening shall be a minimum of 32 inches in height and be in at least a seven-gallon container size at the time of planting. All shrubs shall be planted at a spacing of three feet apart as measured on center.
   c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be maintained in good condition as long as the structures requiring screening remain.
   d. An adequate combination of the two screening options may be permitted.

Section 5.10.10. Vehicle Sales, Light.

Vehicle Sales, Light must meet the following requirements:
A. The minimum parcel size shall be 2 acres.
B. Vehicle Sales, Light shall be a standalone use only.
C. All display areas must be on a impervious surface such as asphalt or concrete.
D. All repairs must be ancillary and must be conducted within a building.
E. Other than vehicles, no outdoor display of any other items shall be permitted.

Section 5.10.11. Wireless Communication Facilities

Wireless Communication Facilities are permitted with the following requirements:
1. Adequate documentation that co-location on an existing approved tower or on an existing building or structure, has been attempted and is not feasible. Such documentation shall include:
2. The results of a designed service study demonstrating to the satisfaction of the city that the equipment planned for a proposed communication tower cannot be accommodated on an existing or approved and un-built structure.
3. The designed service study analysis shall be based upon a search area radius of three-quarters of a mile minimum distance from the location of the intended WCF or tower, including areas outside the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-location opportunities, the city may allow an applicant to provide an affidavit from a professional radio frequency engineer which establishes the search area diameter for the proposed WCF or tower location and identifies all other alternatives in the area. Further information may be required by the city on the ability of the WCF or tower to be accommodated on specific sites within three-quarters of a mile of the proposed WCF or tower.

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

   a. Structural limitation. The proposed equipment would exceed the structural capacity of the existing or approved structure, as documented by a licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.

   b. Interference. The proposed equipment would cause interference or obstruction materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional and the interference or obstruction cannot be prevented at a reasonable cost.

   c. Insufficient height. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a licensed, if applicable, professional.

   d. Lack of space. Evidence from the applicant, verified by a licensed professional, of the lack of space on existing towers or other structures within the search radius to accommodate the proposed facility.

   e. Other factors. Other reasons that make it unfeasible to locate the planned equipment upon an existing or approved tower or building as documented by a qualified and licensed, if applicable, professional.

   f. Technical consultants. The city shall have the right to retain independent technical consultants and experts that it deems necessary to properly evaluate applications for wireless telecommunications facilities or towers and to charge reasonable fees as necessary to offset the cost of such evaluations.

Section 5.10.12. Wireless Facility Design standards.

In addition to any other applicable requirements provided elsewhere in the Land Development Code, an application for a communication tower shall include the following:
A. Fall zone. In the event of a catastrophic failure or collapse, towers shall be designed to collapse within an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall zone shall be certified by a professional engineer, licensed in the State of Florida.

B. Tower design for co-location. A proposed tower shall be designed to allow for future rearrangement of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate co-location.

C. Monopoles or stealth. All towers shall be monopoles or stealth design.

D. Illumination. A tower shall not be artificially lighted except as may be required by federal or state regulations.

E. Surface or finish color. All towers shall be painted or have a non-contrasting finish that minimizes the visibility of the facility from public view, except where contrasting color is required by federal or state regulation. In addition, the exterior of support facilities shall be designed to be compatible with the architectural design prevailing among the structures in the surrounding developed area.

F. Sign. The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three feet in size which displays the owner's or permittee's name and an emergency telephone number.

G. Maximum height. The maximum height of towers shall be 100 feet if the tower is designed for one service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet if the tower is designed to accommodate three or more service providers.

H. Landscape screening. The accessory components to the tower shall be screened from view by shrubs maintained at a height of six feet, immediately adjacent to the fence surrounding the facility and a minimum of eight trees planted outside of the shrub buffer.

Section 5.10.13. Mobile food vendor.

Mobile food vendors may include vehicles, carts, or trailers, hereafter referred to as food trucks, may be permitted on public or private property subject to the following requirements:

A. Mobile operations may only be conducted from 7:00 a.m. to 10:00 p.m. on weekdays and from 7:00 a.m. to 11:00 p.m. on weekends.

B. For purposes of these requirements, the vending area includes the space taken up by: a portable stand, vehicle, or trailer, any signs, equipment, merchandise, and any tents, tarpaulins, canopies, or awnings. Mobile vending areas shall not be in:

1. Driveway aisles, no parking zones, landscaped area, loading areas, or fire lanes; mobile operations shall not impede the on-site circulation of motor vehicles.

2. Food trucks shall not be in required parking spaces unless the number of spaces on the site exceeds the minimum amount required for uses on the property. The utilization of an off-street
parking space for the operation of a mobile operation must not cause the site to become deficient in required off-street parking.


C. Food trucks may operate on vacant, unimproved property only when approved as a special event pursuant to Section 5.9.10 of this Article.

D. The total space dedicated to the mobile operation and vending area shall not exceed an area of 600 square feet.

E. Food trucks shall be a minimum of 20 feet from the property line of an existing residential use, except that a mobile food unit may be a minimum of 10 feet from the property line if the residential use is separated by a six-foot high masonry wall.

F. Alcoholic beverage sales and use of sound amplification devices are prohibited.

G. Electric service connection to an on-site approved outlet is permitted, provided that no wiring or cables are run beyond the vending area or pose any danger to the patrons.

H. Prior to permitting a food truck to operate on a site, the vendor must submit an application for operation and the following documents:

1. A site plan or survey indicating the following:
   a. Location of the individual mobile food unit and associated vending area. Mobile operations shall be located so as to minimize the impacts on adjacent residential uses.
   b. Location of improvements on the site.
   c. Location of on-site parking areas,
   d. Rights-of-way, internal circulation, and ingress and egress.
   e. A letter from the owner of the property indicating that the mobile food vendor has permission to operate from his or her property.

I. Signs associated with the operation shall be confined to the vehicle, trailer, or cart and one ground sign within 10 feet of the vending area. The ground sign shall be in compliance with the size requirements listed Article 7 and may not be within a right-of-way.

J. When multiple food trucks plan to be together for an event, a special event permit will be required if the event meets the thresholds listed in Section 5.9.10. of this Article.

K. Except as otherwise provided in this Code, it is unlawful to conduct mobile vending in any outdoor location without first obtaining a permit in accordance with the provisions of this Section.
The vendor must be able to produce for inspection: a copy of a letter or other written communication from the property owner or representative that authorizes the mobile operation and, for mobile food service operators, a copy of the applicant’s mobile food dispensing license issued by the Department of Business and Professional Regulations.

Mobile operations at City or County parks, sports stadiums, or similar venue during events shall be exempt from the requirements of this Section but must comply with all other applicable requirements in this code.

Mobile vendors, other than food trucks, shall be permitted only in conjunction with a special event or a farmer’s market.

Section 5.10.14. Model homes.

Model Homes shall be subject to the following requirements.

A. Model homes are intended to facilitate the sale of the model design, or products similar in design to the model and is not intended to allow the full scope of real estate activities and shall be restricted primarily to the sale and marketing of the model, or products similar to the model. Model homes shall be permitted as a temporary, conditional use, not to exceed 10 years, in residential zoning districts (R1, RE, RML) or within a Planned Development.

B. A model home must meet all of the zoning and building requirements for a residence in that zoning district as well as the following:

1. Parking. Three off-street vehicular parking spaces, including the garage, shall be provided on the model site or on an adjacent vacant property.

2. On-site parking. A parking space may be provided in the garage. A handicap parking space is required and shall count as one of the three required spaces.

3. Off-site parking. Adjacent vacant single-family lot(s) may be used for model home parking. A plan to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of authorization from the property owner as well as a surety deposit payable to the City of Cape Coral to convert the property back to a residential or other permitted use when the structure is converted or sold. The deposit shall cover the costs associated with the conversion of the parking lot. The deposit shall be based on no less than 110% of the estimated cost by a professional engineer licensed in the State of Florida which shall be signed and sealed by the engineer, and found to be acceptable to the City. Funds and resulting interest shall be returned upon conversion of the site to a residential or other permitted use, the entire amount if the work is completed by the applicant, or the remaining funds if the City completes the work.

4. A hedge row of at least 36 inches in height shall be planted and maintained around the vehicular parking area.
5. On-site or off-site parking shall be a paved or pavered surface with appropriate signs and markings, including handicap parking.

6. Treatment of stormwater runoff will be required for the first inch of runoff from the paved area associated with the parking lot area only.

7. Model home parking lots require a Limited Site Development Plan approval prior to construction.

B. Handicapped standards shall be met throughout the home, including access per the Florida Building Code and handrail and grab bar requirements.

C. Garage office. For any garage being used as an office for a model home the applicant must submit the following:

1. Plan of garage-office facility, including false walls, temporary electrical and plumbing.

2. Plan showing how garage will be returned to its original use.

3. $10,000.00 refundable surety to ensure that the garage is converted back to the FEMA standards for single-family home usage.

D. Sign standards as defined in Article 7 of this code.

F. Upon completion of the construction and approval of the unit as a model home, a "temporary certificate of occupancy" will be issued to the owner of the model home to remain open for a period of five years. Extensions beyond this five-year temporary certificate of occupancy may be granted for the structure in the event an extension is approved for the model's permit by the Director of Community Development. The initial approval and maximum extension will allow the use of an individual model home to exist for a cumulative 10 years. The decision to extend the initial permit shall be pursuant to the following considerations:

1. The number of existing model homes within the immediate area of the extension request and impacts of those on the neighborhood.

2. The adequacy of the right(s)-of-way upon which the model home fronts.

3. The character or makeup of the area surrounding the model home.

4. The potential effect of the model home on adjacent and surrounding properties.

5. The existence of complaints relating to that model home.

6. A demonstration of good cause from the applicant why the extension request is needed.

7. Approval as a model home shall be recorded against the title.
Chapter 11. - CONDITIONAL USES

Section 5.11.1. Purpose and applicability.

A. Purpose and Intent

1. To provide standards and criteria for review and approval of specified conditional uses for a specific site.

2. To provide reasonable limitations or special conditions for conditional uses, in order to address, minimize, or ameliorate potential impacts of the use on surrounding property and for the protection of the public health, safety, and welfare.

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

1. The conditional use standards identified in Article 4 for the specific zoning district use and conditional use in question.

2. The proposed conditional use will not result in development that is inconsistent with the intended character of the applicable zoning district.

3. A listed conditional use that does not meet the applicable conditional use standards may apply for approval as a Special Exception.

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

Section 5.11.2. Brewpubs.

Brewpubs in the MXB district must meet the following conditions:

A. The area used for brewing, bottling, and kegging of all beverages produced by the establishment shall not exceed 40 percent of the total floor area of the restaurant, bar, or nightclub, or exceed a total floor area of 2,500 square feet devoted for brewing, bottling, and kegging, whichever is less.

B. An interior floor plan shall be submitted that clearly shows the area of the building that will be devoted to the brewing, bottling, and kegging component of the establishment.

C. No outdoor storage shall be allowed including the use of portable storage units, cargo containers, and tractor trailers, except as follows: spent or used grain may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:

1. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains and the distance of the stockpiled grains from property lines and the building containing the brewpub;
2. Placed only along the side or rear of the building; and
3. Fully enclosed in containers that are screened behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet.

**Section 5.11.3. Attached residential of three-units or more.**

Attached residential structures of three-units or more in the RML, CC, NC, MX, MXB, and SC zoning districts must meet the following conditions:

A. The number of linearly attached units must be between three and nine.

B. Landscaping shall be provided at a rate of two trees and six shrubs per 2,500 square feet of lot, rounding up to the next full number.

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

1. Dwelling entry as the primary façade feature;
2. Garage door recessed from the front façade, a preferred minimum of four feet;
3. Horizontal eaves broken up with gables, projection, and articulation;
4. Projecting eaves and gables, related to building massing;
5. Building massing and roof form which articulate individual unit definition;
6. Offset of four feet where two garage doors are adjacent to each other; or
7. Projections and decorative elements, such as trellises, for visual interest.

**Section 5.11.4. Multi-family dwellings.**

Multi-family dwellings in the RML, CC, NC, MX, MX7 and SC districts must meet the following conditions

A. Multi-family units in RML, CC, NC, MX, and SC require 700 square feet for a one bedroom and 200 square feet for each additional bedroom.

B. Building Modulation and Articulation. All multi-family buildings shall provide a combination of volumetric and massing modulation and articulations to prevent the construction of ‘big boxes’, but rather buildings that harmonize their architectural quality in a stylistically pleasant manner. All buildings shall incorporate the following combined elements from the articulation criteria identified below.

1. A minimum of three of the following volumetric elements shall be provided:
a. Pitched roof forms, minimum pitch of 4/12, whose sum covers greater than 30% of the overall roof area;

b. Architectural roof overhangs four feet or greater in depth or cornices 12 inches or greater in height;

c. Arcades. Arcades may be used as a means of sheltering pedestrian areas, and where provided, shall connect to entrances;

d. Accent elements such as tower elements, porticos, cupolas, or domes; or

e. A building with frontage 90 feet or less in length shall provide the following minimum massing articulations:
   i. A minimum of fifty percent (50%) of the cumulative frontage of each façade shall be setback a minimum of five feet from the primary façade and shall be distributed throughout the building frontage and shall not be provided as a single aggregated setback; and
   ii. A minimum of twenty percent (20%) of each frontage of each facade shall be setback a minimum of eight feet from the primary façade.

2. A minimum of four of the following architectural elements shall be provided:

   a. Stoops on the ground floor and balconies on all floors above the ground floor;

   b. Porches on the ground floor;

   c. Pilasters, string courses, character lines, or other such means of subdividing the facade;

   d. Structural or ornamental details clearly distinct from the primary wall surface, e.g., lintels, sills, door and window surrounds, decorative panels, etc.;

   e. Decorative planters or planting areas a minimum of five feet in width, integrated into the building design; or

   f. Masonry in at least two contrasting tones or textures, accomplished by a change in material or coursing such as brick, natural stone, brick or stone veneer, glass, masonry stucco, decorative concrete block, decorative concrete panels, tile glazing and framing systems, split face or fluted concrete masonry, factory glazed concrete masonry units, or architectural precast concrete.

Section 5.11.5. Vehicle Repair, Minor.

Vehicle Repair, Minor in the C and CC districts must meet the following conditions:

A. The number of cars being kept on site, not in a garage bay, shall be limited to three.
ARTICLE 5 – DEVELOPMENT STANDARDS

B. All cars kept on site for repairs must be visually screened from the right-of-way and adjacent properties.

C. All repair work shall be performed within the garage.

D. No outside storage of materials or chemicals, all installation to occur within garage.

E. Hours of operation for repair work shall be limited from 7 a.m. to 8 p.m. when adjacent to any residential development.

Section 5.11.6. Outdoor Screened Storage.

Outdoor Screened Storage in the CC district must meet the following conditions:

A. The screening must consist of opaque fence or wall. Chain-link fencing (with or without slats) is prohibited for screening.

B. The minimum height of the screening shall be 6 feet.

C. The height of the screening shall be tall enough to screen items being stored.

D. All perimeter landscaping shall be on the outside of the screening.

E. The screened area must be used in conjunction with principal use.

F. The area used for storage must be an improved impervious surface such as asphalt or concrete.

G. No vehicular access to the storage area shall be allowed from a local street.

Section 5.11.7. Laboratory – Medical, Research, Testing, and Development.

Medical, Research, Testing or Development Laboratory Facilities in the NC district must meet the following conditions:

A. The laboratory shall not produce any exterior impacts such as sound, smoke, or odor.

B. No outside storage of materials shall be permitted.

Section 5.11.8. Sporting Facilities, Indoor and Outdoor.

Sporting Facilities, Indoor and Outdoor in the A district must be in conjunction with an agricultural use such as riding stadiums etc.

Section 5.11.9. Boat Sales
Boat Sales in the SC district may only be permitted on sites with water frontage and direct access to Caloosahatchee River.

Section 5.11.10. Home based businesses

Home occupations shall only be allowed as an accessory use to a single-family residential use and must meet the following conditions:

A. All home occupations operated in or from a residence shall comply with federal, state, and county rules and regulations, city license regulations specified herein and any other applicable ordinances of the City of Cape Coral.

B. No condition shall be permitted which tends to cause or increase the fire hazard to the residence, such as storage of paints or other flammable materials in excess of normal family use.

C. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display of materials be visible from the outside of the structure.

D. The appearance of the structure shall in no way be altered for the conduct of the home occupation within the structure nor shall the conduct be such that the structure may be recognized as serving a non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations, audible or visible interference in any radio or television receiver off the premises, or cause fluctuations in the electric voltage line off the premises.

E. No business operated under a fictitious name shall be issued a license to operate under this Section.

F. Frontage and access shall be from arterial street.

G. No driveway with ingress or egress to a local street shall be utilized.

H. Hours of operation shall be 7:00 A.M. until 7:00 p.m.

I. Employees and customers shall be allowed as long as adequate parking is provided on-site.

J. No parking shall be allowed on any surrounding parcels.

Section 5.11.11. Self-Storage Facility.

Self-storage facilities in the I, C, and CC districts must meet the following conditions:

A. The facility must be designed so as to screen the interior of the development from all property lines. Screening features may consist of a free-standing wall, wall of a building, or a combination of the two. Free-standing walls used for screening shall be eight feet in height measured from grade.

1. The following materials, either singly or in any combination, are the only materials that may be used to form the wall:
a. Concrete block coated with stucco;

b. Textured concrete block;

c. Stone;

d. Brick; or

e. Formed, decorative, or precast concrete.

2. If the wall of a building is used to meet the opaque feature requirement, such wall shall be surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface. Untreated concrete block is not an acceptable finished material. Building walls used as a screening feature shall not have doors or windows.

B. A landscaped area with a minimum width of 10 feet shall be provided around the perimeter of the site. Perimeter landscaping shall consist of a minimum of three canopy trees per 100 feet, three accent trees per 100 feet, and 33 shrubs per 100 feet. Palms trees cannot be used to meet the minimum planting requirement of this section. All shrubs shall be installed at a minimum height of 32 inches and be in a minimum seven-gallon container at the time of planting.

Section 5.11.12. Vehicle fueling stations.

Vehicle fueling stations in the C, N, and SC (along primary streets) districts must meet the following conditions:

A. General:

1. All buildings, including pump islands, shall have a 25’ setback from all property lines.

2. In no case shall a lot have less than 100 feet of street frontage.

3. Underground storage is required for all receptacles for combustible materials in excess of 55 gallons. Such storage shall comply with all building and fire codes and Environmental Protection Agency standards.

4. The accumulation and storage of waste petroleum products is forbidden, unless in compliance with Environmental Protection Agency standards.

5. Primary services and sales permissible include fueling stations and electric charging stations, and include only the following accessory uses:

   a. Car wash services;

   b. Sale of convenience goods; and
c. Accessory fast food services without a drive-through.

6. Uses permissible at a gas station do not include body work, straightening of body parts, painting, welding (other than minor repairs), or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in vehicle fueling stations. A vehicle fueling station is not a body shop.

7. Outside materials storage is not permissible.

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

9. The minimum size parcel shall be 1.25 acres.

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

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

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

B. Appearance:

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

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

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

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

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

6. The rear and sides of buildings shall be finished with material that in texture and color resembles the front of the building.
7. Glass windows and doors must make up at least 25 percent of the front elevation and 15 percent of the side elevations at eye level.

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

9. The commercial advertising on the canopy shall be limited to 10 percent of the exterior area of the canopy and backlighting shall not be permitted on the canopy.

10. Perimeter walls, if utilized, shall be architecturally compatible with the principal structure.

C. Landscaping:

1. Front yard buffer. An enhanced front yard buffer shall be required for automobile service stations to limit the visual impact of the use. The following requirements shall be utilized:

2. Area to be landscaped. A strip of land at least 10 feet in depth, abutting the right-of-way and extending the length of the property except the entrance and exit drives, shall be landscaped.

3. Minimum tree requirements. Palm clusters on the ends of landscape buffers parallel to the gas pump canopy. The palm clusters shall consist of three palms with a minimum of 13 feet of gray wood, at planting. One cluster shall be provided for every 30 feet of road frontage;

4. Landscape accents. The use of landscape accents, such as planters and window boxes, shall be incorporated into the overall landscape design of the building and the site;

5. Other materials. The remainder of the required landscaped area shall be landscaped with grass, ground cover, or other approved landscaping treatment.

D. Vehicle Fueling Stations in the SC zoning district shall only be allowed with frontage along Del Prado Boulevard.