



**LAND DEVELOPMENT CODE ADVISORY COMMITTEE  
COMMUNITY DEVELOPMENT/PUBLIC WORKS BUILDING  
1500 MONROE STREET, FORT MYERS**

**First Floor Conference Room 1B**

**FRIDAY, MARCH 8, 2013  
8:00 A.M.**

**AGENDA**

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – FEBRUARY 8, 2013
3. TEMPORARY MAIL DISTRIBUTION LDC AMENDMENT
4. FLOOD HAZARD REDUCTION LDC AMENDMENT
5. [LDC AMENDMENTS \(2012/2013 Regular LDC Amendments\) PACKET #3](#)
6. Nomination/Election of Officers
7. Adjournment – Next Meeting Date: APRIL 12, 2013



**MINUTES REPORT  
LAND DEVELOPMENT CODE ADVISORY COMMITTEE  
(LDCAC)  
Friday, February 8, 2013  
8:00 a.m.**

**Committee Members Present:**

Bill Prys	Tom McLean
Richard Ibach	Jennifer Saper
Peter Kemezys	Matt Smith
Jay Johnson	Patrick Vanasse

**Excused Absences:**

Liz Donley	Jerry Murphy
Debi Pendlebury	Al Quattrone
Michael Ekblad	

**Lee County Government Staff Present:**

Michael Jacob, Asst. County Attorney	Mikki Rozdolski, Sr. Planner, Zoning
Nettie Richardson, Principal Planner, Zoning	Wayne Gaither, LeeTran
Pam Houck, Director, Zoning	Donna Hock, DCD Admin Svcs., Recorder

**Consultants and Public Present:**

Laura DeJohn, Johnson Engineering	Ellen Lindblad, LC Port Authority
Amanda Brock, Henderson Franklin Law Firm	

**Call to Order and Affidavit:**

Mr. Bill Prys called the meeting to order at 8:04 a.m. in the first floor conference room (1B), 1500 Monroe Street, Fort Myers, Florida.

Mr. Michael Jacob, Assistant County Attorney, reviewed the Affidavit of Posting and found it legally sufficient as to form and content.

**APPROVAL OF MINUTES – DECEMBER 14, 2012**

**Mr. Matt Smith made a motion to approve the December 14, 2012 minutes; seconded by Mr. Richard Ibach. The motion was called and carried.**

**LDC AMENDMENTS (REGULAR 2012-2013 CYCLE) PACKET #2**

Ms. Mikki Rozdolski said that this packet of Land Development Code amendments (LDC Packet #2) was part of the 2012-2013 amendment cycle to be presented to the Board in May or June of this year. Representatives from Lee Tran, Port Authority and Henderson Franklin were present and available to answer any questions.

Ms. Rozdolski summarized changes which included the addition of live-work units specific to recent community plans; the addition of park-and-ride parking lots not previously included in the LDC; and other minor changes including basic housekeeping. The Port Authority requested some uses, consistent with recent amendments to the Lee Plan, be added to the AOPD matrix in order to attract new tenants to airport properties.

Mr. Tom McLean questioned the deletion of **Sec 34-412. Deviations from general zoning regulations (pg. 11)** Ms. Rozdolski said much of that language was redundant so it was removed, but language that was not redundant was moved to more appropriate sections of the code.

Ms. Pamela Houck said the purpose of some of these changes was to streamline and make things simpler. She asked that anyone with suggestions or pet peeves e-mail their comments to staff.

Ms. Rozdolski said the next packet (#3) will include more amendments to the application process, again with the intent of streamlining.

Mr. Smith had a concern about the references to "the Director" in that it was too general. Staff said "Director" was well defined elsewhere and was specific to the Director of Community Development or their designee.

Mr. Peter Kemezys suggested the packet be reviewed page by page so questions and comments could be made accordingly.

#### **Page 4**

*Sec 10-104 (H)*. Mr. Kemezys asked for a clarification of the term "the County" with respect to *Revocation of Director's decision*. Mr. Jacob said it referred to "staff". Mr. Kemezys asked for a breakdown of the chain of command. Ms. Houck responded that the Director of Community Development reports to the County Manager, the County Manager reports to the Board of County Commissioners. Mr. Kemezys did not agree with the language which stated the Director "may issue a modified decision..." stating it was a conflict; it seemed to indicate the Director can revoke their own decision. Mr. Jacob said this pertains to permits that may have been approved as a result of inaccurate or incomplete information submitted with an application which ultimately led to an erroneous approval. He cited an example of a dock permitted on land that was not owned by the applicant. This provides the mechanism for revoking the approval. Mr. McLean asked how this would be handled - if all approvals would be reviewed or would it be done on a case by case basis. Mr. Jacob said this would be case by case since generally a problem presents itself when additional permitting is requested and staff looks at the history as part of the review process. Ms. Houck said she recalled only two instances in the past 10 years. Currently there is no mechanism in place to revoke an approval.

Mr. Patrick Vanasse had a concern about that language as well because it seemed to indicate that a new director could come in and revoke a previous decision, possibly subjectively, giving the applicant no confidence that an approval would not be taken away. There was further discussion about property owner protection, the administrative appeal process, equitable estoppel and more.

Mr. McLean suggested adding a line "if revoked, jurisdiction should be given to the Hearing Examiner" with the intent of adding an appeal process thus moving the authority to another entity, such as the Hearing Examiner .

Mr. Jacob stated there is a process in place for revoking COPs through the Hearing Examiner. He said perhaps a process like that could be instituted here. He agreed that staff would review this section, make revisions, and bring it back to the committee for further review and discussion with the next packet. There were other sections of the code where this language, if revised, would need to be incorporated as well.

#### **Page 6**

*Sec 34-2 Dwelling unit, types (8)*. Ms. Jennifer Sopen said the wording seemed to indicate that a living unit and a work unit have to be separate. Ms. Houck said that was correct, the building code requires them to be separate, otherwise the residential area would have to meet commercial standards.

Mr. Vanasse asked about the consistency of definitions. Ms. Rozdolski said the live-work units are not defined consistently throughout Chapter 33 because of different authors. Definitions will be made consistent in future amendments.

#### **Page 7**

*Sec 34-145 (b) Variances (8).* Mr. Vanasse asked for a clarification of the use variance language, stating that the way it was written seemed to preclude a variance for lot coverage. Mr. Jacob said this particular language used to be in the definitions for variances; it was moved out because it was not a definition. He understood Mr. Vanasse's concern and agreed that staff should clarify the language. Mr. Vanasse asked for a definition of "other provisions" in the last sentence. Mr. Jacob said it probably meant that this excludes those uses that are permitted by special exception. Staff agreed to look at and clarify that as well.

*Sec 34-202 (a)(4).* Mr. McLean asked if the area location map, deleted in this section, was being moved elsewhere. Ms. Rozdolski said the area location map will no longer be required as part of the application package. The next packet of amendments will include more strike outs for applications, deleting submittals that staff does not use thus saving the applicant time and money.

#### **Page 10**

*Sec 34-377. Public Hearing. (b)(4).* Mr. Vanasse asked that the tense be changed from are to is.

#### **Page 11**

*Sec 34-411 General standards.* Mr. Vanasse asked for a clarification of what this referred to. Ms. Rozdolski confirmed this was specific to Planned Development.

#### **Page 12**

*Sec 34-622 (41) Group II.* Mr. Smith asked that the words "to order" be removed with respect to "making dentures and artificial teeth ~~to order~~". Also asked that the line in Group II, **Chemists, biological laboratories of**, be restructured for clarity.

#### **Page 12-13**

*Sec 34-625 Outdoor Lighting Standards.* Mr. McLean asked for an explanation of the changes. Ms. Rozdolski summarized, saying the original language required all non-conforming light fixtures be replaced before June 24, 2013 which would be a nightmare not only for property owners, but also for Code Enforcement. That language has been deleted and now the requirement is that the lighting for a new development order or building permit (for all except single family or duplex) needs to be in compliance with the code. No specific date was given but rather would be in line with other improvements to the property. Ms. Rozdolski confirmed Mr. Prysi's presumption that pole height was excluded. Mr. McLean said he had recently gone through a variance hearing that included car dealer parking lot lighting. As a result of that, he asked if a line item could be added to the code table to address lighting for car dealerships specifically. Ms. Rozdolski said that after the hearing Mr. McLean referred to, it was decided that due to the sheer number of uses, if a use was not already in our table, staff would rely on the Illuminating Engineers Society Handbook instead.

#### **Page 13-14**

*Sec 34-843.* Mr. Vanasse asked about live-work units in the Use table and the rationale behind allowing it as a permitted use in some districts, but as a special exception in others. There was a brief discussion. Mr. Jacob explained that the building code would determine whether someone would be allowed to use the property for that purpose. Ms. Rozdolski said the occupant would still be required to obtain an occupancy permit.

## **Page 23**

*Sec 34-1773 Live-work units (e) Parking.* Mr. Vanasse said the verbiage created a conflict and he suggested rewording the section to make it clear whether the number of parking spaces was based on commercial, or on multiple use parking standards.

Mr. Jacob said it would be reviewed and clarified.

*(f) Prohibited uses.* Mr. Vanasse asked that this section be reviewed as well. The terminology “objectionable to the normal senses” was too vague. Mr. Jacob said staff would modify that wording. The goal was to keep any adverse impacts on-site.

Mr. McLean questioned whether the live-work units were going to be primarily in commercial districts or more in residential areas. Ms. Houck confirmed that live-work units were being added to commercial districts. She agreed that referring to a section of the code already in place for prohibited uses was a good idea.

## **Page 24**

*Sec 34-2020 (c)(6) Park-and-ride spaces.*

Mr. Vanasse asked for a clarification of the last sentence which included “continuous pedestrian accommodations must be provided”. Mr. Wayne Gaither, Lee Tran, said the intent was to be sure the transit user was not being isolated to a specific location and that access is provided so they can park, use the facilities at this location, and then transfer to transit to make it a true work based trip. He said it was not intended that this would be anything more than what is already required and did not mean that sidewalks would be required through a parking lot. Mr. Vanasse suggested a slight wording change, such as “access or interconnection” rather than accommodations. Mr. McLean said there needed to be a plan on how to get from the park and ride spaces to the bus stops. Ms. Rozdolski said the language would be amended to make it clear that walkways or pathways would be provided in order that a pedestrian would not have to walk through swales, ditches or retention areas to get to where they wanted to go.

Mr. McLean asked if the committee could review the new language for the *Director Revocation* and *Pedestrian Access* sections as discussed. Mr. Jacob said minor changes and comments would typically be incorporated into the packet and considered part of the motion, however, in this case those specific changes would be brought back for review.

Mr. McLean would also prefer that where the draft packet refers to language that “*remains unchanged*”, that the section be provided in its entirety. Staff explained that providing all the backup information would create a much larger packet but would see what could be done to accommodate his request.

**Matt Smith made the motion to move the packet forward with the corrections and suggestions incorporated, and with the caveat that the sections referring to the Director’s Revocation and to Pedestrian Access be brought back to the committee for review at the next meeting. Mr. Vanasse seconded. The motion carried unanimously.**

## **Nomination and Election of Officers**

Mr. Prysi suggested that discussion, nomination, and election of officers be postponed until more committee members were present.

**Mr. Kemezys made a motion to table the nomination and election item until the next meeting. Mr. Smith seconded. Called and carried.**

**Motion to adjourn. The meeting was adjourned at 9:00 a.m.**

The next meeting was tentatively scheduled for March 8, 2013.

DRAFT

# **Temporary Mail Distribution Amendment**

**(Private Amendment – UPS)**

## Division 37. Subordinate and Temporary Uses

### Subdivision II. Temporary Uses

#### **Sec. 34-3041. Generally.**

(a) through (d) remain unchanged.

(e) Time limit.

(1) All uses must be confined to the dates specified on the temporary use permit; provided, however, that:

a. Except as provided in sections 34-3043 through 34-3047 and 34-3049, a temporary use will not be permitted for more than 30 contiguous days; and

b. If no time period is specified on the temporary use permit, then the temporary use permit will expire and the use must be abated within 30 days from the date of issuance.

Balance of section remains unchanged.

#### **Sec. 34-3049 – Temporary mail distribution location.**

(a) A shipping container or other structure approved by the building official through issuance of a temporary use permit, may be used for the temporary storage of mailed packages to be delivered to third parties off site within a designated area for a limited duration.

(b) Time.

(1) Temporary mail distribution is allowed from November 1 through December 31. Any Shipping container, storage pod, or other structure approved by the building official must be removed from the site no later than January 14.

(2) The hours of operation are Monday through Saturday from 8:00 a.m. to 6:00 p.m.

(c) Location.

(1) Temporary mail distribution structures may be located in commercial, residential and industrial zoning districts.

(2) Temporary mail distribution structures may be located only on a vacant lot or in parking lots or on grassed areas within developed properties. They may not be located in open space or preserve areas as designated on an approved local development order.



- (3) Structures used for temporary mail distribution must comply with all setback requirements for accessory structures. No more than one temporary mail distribution structure is allowed on a vacant lot.
- (4) Prior to the issuance of a temporary permit for the use in a single family residence, the Applicant must provide a notarized statement of no objection from the abutting property owners with the application for a temporary permit.
- (5) Temporary mail distribution may only occur with the prior approval of the property owner. If located on common areas within a subdivision, the Applicant must provide a written approval from the homeowners association identifying the site and approving the proposed activity.
- (6) No temporary mail distribution structure may be located in a public right-of-way.
- (d) Size. A temporary mail distribution structure may not exceed 20 feet in length and must be securely placed on the ground and anchored as required by the Building Department.
- (e) Activities.
  - (1) The temporary mail distribution areas may only be used for the staging of mail packages to be delivered to third parties within the community. The intended mail recipients may not make trips to the temporary mail distribution areas to receive their packages.
  - (2) Once mail is delivered to the distribution area, delivery of mail from the distribution area to its intended recipients may only be accomplished through the use of golf carts.
  - (3) No new, permanent structure or improvement may be constructed.
  - (4) No signage or advertisement may be located on the structure or property where the structure is located.
  - (5) Storage of fuel for the delivery vehicle is prohibited in or near the storage area.
- (f) Unless otherwise stated in this section, the following provisions do not apply to Temporary Mail Distribution structures: Secs. 34-3041(c)(1),(3),(4)(g),(h) and (i); 34-210(d) and (e); and Sec. 34-3050.
- (g) If a property owner is found in violation of these provisions, future temporary use permit for temporary mail distribution may not be issued for the property subject to the violation.

# Flood Hazard Reduction Chapter 6, Article IV Amendments

(Bobby Stewart)

## Chapter 6. BUILDINGS AND BUILDING REGULATIONS

### ARTICLE IV. FLOOD HAZARD REDUCTION

#### DIVISION 1. ADMINISTRATION

##### Subdivision 1. Generally

#### **Sec. 6-401. Scope.**

The provisions of this article apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

#### **Sec. 6-402. Intent.**

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

- (1) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
- (2) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
- (3) Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
- (4) Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
- (5) Minimize damage to public and private facilities and utilities;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
- (7) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and

- (8) Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

**Sec. 6-403. Coordination with the *Florida Building Code*.**

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

**Sec. 6-404. Warning.**

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

**Sec. 6-405. Disclaimer of Liability.**

This article will not create liability on the part of Lee County or by any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made there under.

**Secs. 6-406 – 6-410. Reserved.**

*Subdivision II. Applicability*

**Sec. 6-411. General.**

Where there is a conflict between a general requirement and a specific requirement, the specific requirement will be applicable.

**Sec. 6-412. Submission of additional data to establish flood hazard areas.**

To establish flood hazard areas and base flood elevations, pursuant to Division 1, Subdivision V of this article the Floodplain Administrator may require submission of additional

data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the community indicates that ground elevations:

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

#### **Sec. 6-413. Other laws.**

The provisions of this article will not be deemed to nullify any provisions of local, state or federal law.

#### **Sec. 6-414. Abrogation and greater restrictions.**

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

#### **Sec. 6-415. Interpretation.**

In the interpretation and application of this article, all provisions will be:

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

#### **Secs. 6-416 – 6-420. Reserved.**

*Subdivision III. Duties and Powers of the Floodplain Administrator*

#### **Sec. 6-421. Designation.**

The Building Official is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

#### **Sec. 6-422. General.**

The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator will have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures will not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to Division 1, Subdivision VII of this article.

#### **Sec. 6-423. Applications and permits.**

The Floodplain Administrator, in coordination with other pertinent offices of the community, will:

- (1) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
- (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this article;
- (3) Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination will have the opportunity to appeal the interpretation;
- (4) Provide available flood elevation and flood hazard information;
- (5) Determine whether additional flood hazard data will be obtained from other sources or will be developed by an applicant;
- (6) Review applications to determine whether proposed development will be reasonably safe from flooding;
- (7) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and
- (8) Coordinate to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.

#### **Sec. 6-424. Substantial improvement and substantial damage determinations.**

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

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure will be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this article is required.

**Sec. 6-425. Modifications of the strict application of the requirements of the *Florida Building Code*.**

The Floodplain Administrator will review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Division 1, Subdivision VII of this article.

**Sec. 6-426. Notices and orders.**

The Floodplain Administrator will coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.

**Sec. 6-427. Inspections.**

The Floodplain Administrator will make the required inspections as specified in Division 1, Subdivision VI of this article for development that is not subject to the *Florida Building Code*, including buildings, structures and facilities exempt from the *Florida Building Code*. The Floodplain Administrator will inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

**Sec. 6-428. Other duties of the Floodplain Administrator.**

The Floodplain Administrator will have other duties, including but not limited to:

- (1) Establish procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 6-424 of this article;
- (2) Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
- (3) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions will be made within 6 months of such data becoming available;
- (4) Review required design certifications and documentation of elevations specified by this article and the *Florida Building Code* and this article to determine that such certifications and documentations are complete;
- (5) Notify the Federal Emergency Management Agency when the corporate boundaries of Lee County are modified; and
- (6) Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

#### **Sec. 6-429. Floodplain management records.**

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



**Secs. 6-430 – 6-432. Reserved.**

**Subdivision IV. Permits**

**Sec. 6-433. Permits required.**

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

**Sec. 6-434. Floodplain development permits or approvals.**

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

**Sec. 6-435. Buildings, structures and facilities exempt from the *Florida Building Code*.**

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

- (1) Railroads and ancillary facilities associated with the railroad.
- (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (3) Temporary buildings or sheds used exclusively for construction purposes.
- (4) Mobile or modular structures used as temporary offices.
- (5) Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.

- (6) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
- (7) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
- (8) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
- (9) Structures identified in section 553.73(10)(k), F.S., are not exempt from the *Florida Building Code* if such structures are located in flood hazard areas established on Flood Insurance Rate Maps

**Sec. 6-436. Application for a permit or approval.**

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

- (1) Identify and describe the development to be covered by the permit or approval.
- (2) Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
- (3) Indicate the use and occupancy for which the proposed development is intended.
- (4) Be accompanied by a site plan or construction documents as specified in Division 1, Subdivision V of this article.
- (5) State the valuation of the proposed work.
- (6) Be signed by the applicant or the applicant's authorized agent.
- (7) Give such other data and information as required by the Floodplain Administrator.

**Sec. 6-437. Validity of permit or approval.**

The issuance of a floodplain development permit or approval pursuant to this article must not be construed to be a permit for, or approval of, any violation of this article, the *Florida Building Codes*, or any other article of this community. The issuance of permits based on submitted applications, construction documents, and information will not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

**Sec. 6-438. Expiration.**

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

**Sec. 6-439. Suspension or revocation.**

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

**Sec. 6-440. Other permits required.**

Floodplain development permits and building permits must include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- (1) The Lee County Water Management District; section 373.036, F.S.
- (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- (3) Florida Department of Environmental Protection for construction, reconstruction, changes, or physical activities for shore protection or other activities seaward of the coastal construction control line; section 161.141, F.S.
- (4) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
- (5) Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
- (6) Federal permits and approvals.

**Secs. 6-441 – 6-443. Reserved.**

**Subdivision V. Site Plans and Construction Documents**

**Sec. 6-444. Information for development in flood hazard areas.**

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

- (1) Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
- (2) Where base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they must be established in accordance with Section 6-445(2) or (3).
- (3) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations must be established in accordance with Section 6-445(1).
- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings must be located landward of the reach of mean high tide.
- (5) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
- (6) Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
- (7) Delineation of the Coastal Construction Control Line or notation that the site is seaward of the coastal construction control line, if applicable.
- (8) Extent of any proposed alteration of sand dunes or mangrove stands, provided such alteration is approved by the Florida Department of Environmental Protection.
- (9) Existing and proposed alignment of any proposed alteration of a watercourse.

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

**Sec. 6-445. Information in flood hazard areas without base flood elevations (approximate Zone A).**

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

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

**Sec. 6-446. Additional analyses and certifications.**

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

- (1) For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant must submit such analysis to FEMA as specified in Section 105.4 of this article and must submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
- (2) For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that

demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

- (3) For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse must be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant must submit the analysis to FEMA as specified in Section 6-447 of this article.
- (4) For activities that propose to alter sand dunes or mangrove stands in coastal high hazard areas (Zone V), an engineering analysis that demonstrates that the proposed alteration will not increase the potential for flood damage.

#### **Sec. 6-447. Submission of additional data.**

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

#### **Secs. 6-448 – 6-450. Reserved.**

#### **Subdivision VI. Inspections**

#### **Sec. 6-451. General.**

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

#### **Sec. 6-452. Development other than buildings and structures.**

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

#### **Sec. 6-453. Buildings, structures and facilities exempt from the *Florida Building Code*.**

The Floodplain Administrator will inspect buildings, structures and facilities exempt from the *Florida Building Code* to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

**Sec. 6-454. Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.**

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

- (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 6-445 of this article, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

**Sec. 6-455. Buildings, structures and facilities exempt from the *Florida Building Code*, final inspection.**

As part of the final inspection, the owner or owner's authorized agent must submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations must be prepared as specified in Section 6-454 of this article.

**Sec. 6-456. Manufactured homes.**

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

**Secs. 6-457 – 6-460. Reserved.**

*Subdivison VII. Variances and Appeals*

**Sec. 6-461. General.**

The Board of Adjustment and Appeals must hear and decide on requests for appeals and requests for variances from the strict application of this article. Pursuant to section

553.73(5), F.S., the Board of Adjustment and Appeals hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the *Florida Building Code*. This section does not apply to Section 3109 of the *Florida Building Code, Building*.

#### **Sec. 6-462. Appeals.**

The Board of Adjustment and Appeals will hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the administration and enforcement of this article. Any person aggrieved by the decision of Board of Adjustment and Appeals may appeal such decision to the Circuit Court, as provided by Florida Statutes.

#### **Sec. 6-463. Limitations on authority to grant variances.**

The Board of Adjustment and Appeals will base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 6-467 of this article, the conditions of issuance set forth in Section 6-468 of this article, and the comments and recommendations of the Building Official. The Board of Adjustment and Appeals has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.

#### **Sec. 6-464. Restrictions in floodways.**

A variance will not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 6-446 of this article.

#### **Sec. 6-465. Historic buildings.**

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

#### **Sec. 6-466. Functionally dependent uses.**



A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance meets the requirements of Section 6-464 is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

**Sec. 6-467. Considerations for issuance of variances.**

In reviewing requests for variances, the Board of Adjustment and Appeals will consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this article, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
- (4) The importance of the services provided by the proposed development to the community;
- (5) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
- (6) The compatibility of the proposed development with existing and anticipated development;
- (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
- (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
- (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

**Sec. 6-468. Conditions for issuance of variances.**

Variances may be issued only upon:

- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards;
- (2) Determination by the Board of Adjustment and Appeals that:
  - (a) Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - (b) The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and articles; and
  - (c) The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

**Secs. 6-469 – 6-470. Reserved.**

#### Subdivision VIII. Violations

#### **Sec. 6-471. Violations.**

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

#### **Sec. 6-472. Authority.**

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

**Sec. 6-473. Unlawful continuance.**

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

**Sec. 6-474 – 6-476. Reserved.**

**DIVISION 2. DEFINITIONS**

**Subdivision I. General**

**Sec. 6-477. Terms defined in the *Florida Building Code*.**

Where terms are not defined in this article and are defined in the *Florida Building Code*, such terms will have the meanings ascribed to them in that code.

**Sec. 6-478. Terms not defined.**

Where terms are not defined in this article or the *Florida Building Code*, such terms will have ordinarily accepted meanings such as the context implies.

**Sec. 6-479. Definitions.**

Unless otherwise expressly stated, the following words and terms, for the purposes of this article, have the meanings shown in this section.

*Alteration of a watercourse.* A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

*Appeal.* A request for a review of the Floodplain Administrator's interpretation of any provision of this article or a request for a variance.

ASCE 24. A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Base flood. A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM).

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

Coastal construction control line. The line established by the State of Florida pursuant to section 161.053, F.S., and recorded in the official records of the community, which defines that portion of the beach-dune system subject to severe fluctuations based on a 100-year storm surge, storm waves or other predictable weather conditions.

Coastal high hazard area. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V. [Note: The FBC,B defines and uses the term "flood hazard areas subject to high velocity wave action" and the FBC, R uses the term "coastal high hazard areas."]

Design flood. The flood associated with the greater of the following two areas:

1. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

Design flood elevation. The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation will be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number will be taken as being equal to 2 feet.

*Development.* Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

*Encroachment.* The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

*Existing building and existing structure.* Any buildings and structures for which the “start of construction” commenced before September 19, 1984.

*Existing manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 19, 1984.

*Expansion to an existing manufactured home park or subdivision.* The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Federal Emergency Management Agency (FEMA).* The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

*Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood damage-resistant materials.* Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

*Flood hazard area.* The greater of the following two areas:

- (1) The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
- (2) The area designated as a flood hazard area on the community’s flood hazard map, or otherwise legally designated.

*Flood Insurance Rate Map (FIRM).* The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community.

*Flood Insurance Study (FIS).* The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data.

*Floodplain Administrator.* The office or position designated and charged with the administration and enforcement of this article (may be referred to as the Floodplain Manager).

*Floodplain development permit or approval.* An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this article.

*Floodway.* The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

*Floodway encroachment analysis.* An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation must be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

*Florida Building Code.* The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building*; *Florida Building Code, Residential*; *Florida Building Code, Existing Building*; *Florida Building Code, Mechanical*; *Florida Building Code, Plumbing*; *Florida Building Code, Fuel Gas*.

*Functionally dependent use.* A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade.* The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

Historic structure. Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings.

Letter of Map Change (LOMC). An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

- (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off-street or off-highway operation and use.

Lowest floor. The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that

such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the *Florida Building Code* or ASCE 24.

*Manufactured home.* A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (400) square feet, and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer."

*Manufactured home park or subdivision.* A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Market value.* The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

*New construction.* For the purposes of administration of this article and the flood resistant construction requirements of the *Florida Building Code*, structures for which the "start of construction" commenced on or after September 19, 1984 and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision.* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 19, 1984.

*Park trailer.* A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances.

*Recreational vehicle.* A vehicle, including a park trailer, which is: [See section 320.01, F.S.)

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;



- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Sand dunes. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Special flood hazard area. An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

Start of construction. The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial damage. Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred.

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

- (2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

Variance. A grant of relief from the requirements of this article, or the flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this article or the *Florida Building Code*.

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

### DIVISION 3. FLOOD RESISTANT DEVELOPMENT

#### Subdivision I. Buildings and Structures

#### **Sec. 6-480. Design and construction of buildings, structures and facilities exempt from the Florida Building Code.**

Pursuant to Section 6-435 of this article, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, must be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings must comply with the requirements of Division 3, Subdivision VII of this article.

#### **Sec. 6-481. Buildings and structures seaward of the coastal construction control line.**

If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

- (1) Buildings and structures must be designed and constructed to comply with the more restrictive applicable requirements of the *Florida Building Code*, Building Section 3109 and Section 1612 or *Florida Building Code*, Residential Section R322.
- (2) Minor structures and non-habitable major structures as defined in section 161.54, F.S., must be designed and constructed to comply with the intent and applicable provisions of this article and ASCE 24.

#### Subdivision II. Subdivisions

#### **Sec. 6-482. Minimum requirements.**

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

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

**Sec. 6-483. Subdivision plats.**

Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following will be required:

- (1) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, must be shown on preliminary plats and final plats;
- (2) Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 6-445(1) of this article; and
- (3) Compliance with the site improvement and utilities requirements of Division 3, Subdivision III of this article.

*Subdivision III. Site Improvements, Utilities and Limitations*

**Sec. 6-484. Minimum requirements.**

All proposed new development will be reviewed to determine that:

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

**Sec. 6-485. Sanitary sewage facilities.**

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

**Sec. 6-486. Water supply facilities.**

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

**Sec. 6-487. Limitations on sites in regulatory floodways.**

No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, must be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 6-446(1) of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

**Sec. 6-488. Limitations on placement of fill.**

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

**Sec. 6-489. Limitations on sites in coastal high hazard areas (Zone V).**

In coastal high hazard areas, alteration of sand dunes and mangrove stands will be permitted only if such alteration is approved by the Florida Department of Environmental Protection and only if the engineering analysis required by Section 6-446(4) of this article demonstrates that the proposed alteration will not increase the potential for flood damage. Construction or restoration of dunes under or around elevated buildings and structures must comply with Section 6-511 of this article.

**Subdivision IV. Manufactured Homes**

**Sec. 6-490. General.**

All manufactured homes installed in flood hazard areas must be installed by an installer that is licensed pursuant to section 320.8249, F.S., and must comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this article. If located seaward of the coastal construction control line, all manufactured homes must comply with the more restrictive of the applicable requirements.

#### **Sec. 6-491. Foundations.**

All new manufactured homes and replacement manufactured homes installed in flood hazard areas must be installed on permanent, reinforced foundations that:

- (1) In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.2 and this article.
- (2) In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the *Florida Building Code, Residential* Section R322.3 and this article.

#### **Sec. 6-492. Anchoring.**

All new manufactured homes and replacement manufactured homes must be installed using methods and practices which minimize flood damage and must be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

#### **Sec. 6-493. Elevation.**

Manufactured homes that are placed, replaced, or substantially improved must comply with Section 6-493 or 6-494 of this article, as applicable.

#### **Sec. 6-494. General elevation requirement.**

Unless subject to the requirements of Section 6-494 of this article, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, must be elevated such that the bottom of the

frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V).

**Sec. 6-495. Elevation requirement for certain existing manufactured home parks and subdivisions.**

Manufactured homes that are not subject to Section 6-493 of this article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, must be elevated such that either the:

- (1) Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A) or Section R322.3 (Zone V); or
- (2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.

**Sec. 6-496. Enclosures.**

Enclosed areas below elevated manufactured homes must comply with the requirements of the *Florida Building Code, Residential* Section R322 for such enclosed areas, as applicable to the flood hazard area.

**Sec. 6-497. Utility equipment.**

Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, must comply with the requirements of the *Florida Building Code, Residential* Section R322, as applicable to the flood hazard area.

*Subdivision V. Recreational Vehicles and Park Trailers*

**Sec. 6-498. Temporary placement.**

Recreational vehicles and park trailers placed temporarily in flood hazard areas must:

- (1) Be on the site for fewer than 180 consecutive days; or
- (2) Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

**Sec. 6-499. Permanent placement.**

Recreational vehicles and park trailers that do not meet the limitations in Section 6-498 of this article for temporary placement must meet the requirements of Division 3, Subdivision IV of this article for manufactured homes.

**Subdivision 6. Tanks**

**Sec. 6-500. Underground tanks.**

Underground tanks in flood hazard areas must be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

**Sec. 6-501. Above-ground tanks, not elevated.**

Above-ground tanks that do not meet the elevation requirements of Section 6-502 of this article must:

- (1) Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.
- (2) Not be permitted in coastal high hazard areas (Zone V).

**Sec. 6-502. Above-ground tanks, elevated.**

Above-ground tanks in flood hazard areas must be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures must meet the foundation requirements of the applicable flood hazard area.

**Sec. 6-503. Tank inlets and vents.**

Tank inlets, fill openings, outlets and vents must be:

- (1) At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

- (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

#### Subdivision 7. Other Development

#### **Sec. 6-504. General requirements for other development.**

All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the *Florida Building Code*, must:

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 6-487 of this article if located in a regulated floodway;
- (3) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
- (4) Be constructed of flood damage-resistant materials; and
- (5) Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

#### **Sec. 6-505. Accessory structures.**

Accessory structures may be exempted from meeting the elevation requirements only if they meet all of the following requirements, in addition to those set forth in sections 6-471 and 6-474:

- a. The structure is securely anchored to resist flotation, collapse, and lateral movement;
- b. The building is a minimal investment and the total size of the building does not exceed 1,000 square feet in floor area;
- c. The structure is used exclusively for uninhabitable parking or storage purposes;
- d. All electrical or heating equipment is elevated above the base flood elevation or otherwise protected from intrusion of floodwaters; and
- e. For accessory structures located in coastal high-hazard areas (V zones), breakaway walls are used below the lowest floor.

#### **Sec. 6-506. Fences in regulated floodways.**



Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, must meet the limitations of Section 6-487 of this article.

**Sec. 6-507. Retaining walls, sidewalks and driveways in regulated floodways.**

Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways must meet the limitations of Section 6-487 of this article.

**Sec. 6-508. Roads and watercourse crossings in regulated floodways.**

Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways must meet the limitations of Section 6-487 of this article. Alteration of a watercourse that is part of a road or watercourse crossing must meet the requirements of Section 6-446(3) of this article.

**Sec. 6-509. Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).**

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

- (1) Structurally independent of the foundation system of the building or structure;
- (2) Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and
- (3) Have a maximum slab thickness of not more than four (4) inches.

**Sec. 6-510. Decks and patios in coastal high hazard areas (Zone V).**

In addition to the requirements of the *Florida Building Code*, in coastal high hazard areas decks and patios must be located, designed, and constructed in compliance with the following:

- (1) A deck that is structurally attached to a building or structure must have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation must comply with the foundation requirements that apply to the building or structure, which must be designed to accommodate any increased loads resulting from the attached deck.

- (2) A deck or patio that is located below the design flood elevation must be structurally independent from buildings or structures and their foundation systems, and must be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (3) A deck or patio that has a vertical thickness of more than twelve (12) inches or that is constructed with more than the minimum amount of fill necessary for site drainage must not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.
- (4) A deck or patio that has a vertical thickness of twelve (12) inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

**Sec. 6-511. Other development in coastal high hazard areas (Zone V).**

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

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

**Sec. 6-512. Nonstructural fill in coastal high hazard areas (Zone V).**

In coastal high hazard areas:

- (1) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings.

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

**Secs. 6-513 – 6-520. Reserved.**

**DIVISION 1. GENERALLY**

**Sec. 6-401. Statutory authority.**

~~The legislature of the state has, in F.S. § 125.01(g), (h) and (j), delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.~~

**Sec. 6-402. Findings of fact.**

- ~~(a) — The flood hazard areas of the unincorporated area of the county are subject to periodic inundation which may result in the loss of life and property, as well as health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.~~
- ~~(b) — These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated or floodproofed or otherwise unprotected from flood damages.~~

**Sec. 6-403. Purpose of article.**

~~It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:~~

- ~~(1) — Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;~~

- ~~(2) — Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;~~
- ~~(3) — Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters;~~
- ~~(4) — Control filling, grading, dredging and other development which may increase erosion or flood damage; and~~
- ~~(5) — Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.~~

**~~Sec. 6-404. Objectives of article.~~**

~~The objectives of this article are to:~~

- ~~(1) — Protect human life and health;~~
- ~~(2) — Minimize expenditure of public money for costly flood control projects;~~
- ~~(3) — Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;~~
- ~~(4) — Minimize prolonged business interruptions;~~
- ~~(5) — Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;~~
- ~~(6) — Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and~~
- ~~(7) — Ensure that potential home buyers are notified that their property is in a flood area.~~

**~~Sec. 6-405. Definitions.~~**

~~The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined in this section, words or phrases used in this article will be interpreted so as to give them the meanings they have in common usage and to give this article its most reasonable application.~~

~~*Addition to an existing building* means any walled and roofed expansion to the perimeter or height of a building.~~

~~*Appeal* means a request for a review of the flood insurance coordinator's interpretation of any provision of this article or a request for a variance.~~

~~*Area of shallow flooding* means a designated AO or VO zone on the county's flood insurance rate map (FIRM) with base flood depths from one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.~~

~~*Area of special flood hazard* means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.~~

~~*Base flood* means the flood having a one percent chance of being equaled or exceeded in any given year.~~

~~*Basement* means any area of a building having its floor subgrade (below ground level) on all sides.~~

~~*Breakaway walls* means any type of walls, whether solid or open lattice, and whether constructed of concrete, masonry, wood, or insect screening, which are not part of the structural support of the building and which are designed and constructed to collapse under specific lateral loading forces without causing damage to the elevated portion of the buildings or the supporting foundation system on which they are used.~~

~~*Building* means any structure.~~

~~*Coastal high-hazard area* means the area subject to high-velocity waters caused by forces such as but not limited to hurricane wave wash or tsunamis. The area is designated on the FIRM for the county as zones V1--V30, VE or V.~~

~~*Coordinator* means the county flood insurance coordinator, who is the director of the division of codes and building services or his designee, who is hereby designated by the Board of County Commissioners to implement, administer and enforce the provisions of this article.~~

~~*Critical facility* means one or more of the following:~~

- ~~(1) Structures or facilities that commercially produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials that are defined as extremely hazardous substances by the Environmental Protection Agency under section 302 of the Emergency Planning and Community Right-to-Know Act, Title III of the Superfund amendments and Reauthorization Act of 1986, 42, USC.;~~
- ~~(2) Hospitals, nursing homes, assisted living facilities and health care facilities Groups I, II and IV;~~

~~(3) Structures used as law enforcement stations, fire stations, governmental vehicle and equipment storage facilities, and emergency operations centers that are needed for emergency response activities before, during and after a flood incident; and~~

~~(4) Public or private utility facilities that are vital to maintaining and restoring normal services to flooded areas before, during and after a flood incident.~~

~~Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.~~

~~Elevated building means a nonbasement building built to have the lowest floor elevated above the ground level by means of solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.~~

~~Existing manufactured home park or manufactured home subdivision means a parcel or contiguous parcels of land divided into two or more manufactured home lots or sites for rent or sale for which the construction of facilities for servicing the lot or site on which the manufactured home is to be affixed, including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, was completed prior to September 19, 1984.~~

~~Expansion to an existing manufactured home park or manufactured home subdivision means the preparation of additional sites by the construction of facilities for servicing the sites on which the manufactured homes are to be affixed, including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.~~

~~Flood and flooding mean a general and temporary condition of partial or complete inundation of normally dry land areas from:~~

~~(1) The overflow of inland or tidal waters.~~

~~(2) The unusual and rapid accumulation or runoff of surface waters from any source.~~

~~Flood hazard boundary map (FHBM) means the official map of the unincorporated area of the county issued by the Federal Emergency Management Agency where the boundaries of the areas of special flood hazard have been delineated as zone A.~~

~~Flood insurance rate map (FIRM) means the official map of the unincorporated areas of the county on file with the coordinator, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the county.~~

~~Flood Insurance Study (FIS) means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.~~

~~Floodplain or flood-prone area means any land area susceptible to inundation by water from any source (see definition of flooding).~~

~~Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.~~

~~Functionally dependent facility means a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.~~

~~Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.~~

~~Historic structure means any structure that is:~~

- ~~(1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register of Historic Places;~~
- ~~(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;~~
- ~~(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or~~
- ~~(4) Individually listed on a local inventory of historic places upon the county Historic Preservation Article becoming certified either:
  - ~~a. By an approved state program as determined by the Secretary of the Interior; or~~
  - ~~b. Directly by the Secretary of the Interior in states without approved programs.~~~~

~~Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access~~

~~or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.~~

~~*Mangrove stand* means an assemblage of mangrove trees, which are mostly low trees noted for a copious development of interlacing adventitious roots above the ground, which contains one or more of the following species: black mangrove (*Avicennia nitida*), red mangrove (*Rhizophora mangle*), white mangrove (*Languncularis racemosa*) and buttonwood (*Conocarpus erecta*).~~

~~*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. This definition includes mobile homes, as defined in F.S. § 320.01(2), but does not include a recreational vehicle, as defined in F.S. ch. 320. However, a manufactured home is not a manufactured building as defined in F.S. ch. 553, pt. IV.~~

~~*Mean sea level* means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with the North American Vertical Datum of 1988 (NAVD88), or other datum, to which base flood elevations shown on the county flood insurance rate map are referenced.~~

~~*New construction* means structures for which the start of construction commenced on or after September 19, 1984, and includes any subsequent improvements to such structures.~~

~~*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads, is completed on or after September 19, 1984.~~

~~*North American Vertical Datum of 1988 (NAVD88)* is a vertical control used as a reference for establishing varying elevations within the floodplain.~~

~~*Recreational vehicle* means a vehicle that is:~~

- ~~(1) — Built on a single chassis;~~
- ~~(2) — Four hundred square feet or less when measured at the largest horizontal projection;~~
- ~~(3) — Designed to be self-propelled or permanently towable by a light duty truck; and~~



- ~~(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.~~

~~This term includes park trailers and similar vehicles, as defined in F.S. ch. 320.~~

~~*Registered professional architect* means an architect registered or licensed by the state to practice architecture in the state, or who is authorized by the state to practice architecture in the state under a reciprocal registration or licensing agreement with another state.~~

~~*Registered professional engineer* means an engineer registered or licensed by the state to practice engineering in the state, or who is authorized by the state to practice engineering in the state under a reciprocal registration or licensing agreement with another state.~~

~~*Registered professional land surveyor* means a land surveyor registered or licensed by the state to practice land surveying in the state, or who is authorized by the state to practice surveying in the state under a reciprocal registration or licensing agreement with another state.~~

~~*Reinforced pier* means a system, designed, signed and sealed by a state registered/licensed architect or engineer, which is an integral part of a foundation and anchoring system for the permanent installations of a manufactured home or recreational vehicle, as applicable, so as to prevent flotation, collapse, and lateral movement of the manufactured home or recreational vehicle due to flood and wind forces. At a minimum, a reinforced pier has a footing adequate to support the weight of the manufactured home or recreational vehicle under saturated soil conditions such as occur during a flood. In areas subject to high velocity floodwaters and debris impact, cast-in-place reinforced concrete piers may be appropriate. Nothing in this subsection prevents a design that uses pilings or any other method, as long as the minimum flood and wind standards are met.~~

~~*Repetitive loss* means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.~~

~~*Sand dunes* means naturally occurring accumulations of sand in ridges or mounds landward of the beach.~~

~~*Start of construction*, for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Public Law 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure, including a manufactured home, on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation,~~

~~such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.~~

~~Structure means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.~~

~~Substantial damage means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.~~

~~Substantial improvement means any repair, reconstruction, rehabilitation, or improvement to a structure during a five-year period, wherein the cumulative cost of any repair, reconstruction, rehabilitation, or improvement to the structure equals or exceeds 50 percent of the market value of the structure:~~

~~(1) Before the repair or improvement is started; or~~

~~(2) If the structure has been damaged and is being restored, before the damage occurred.~~

~~This term includes structures that have incurred repetitive loss or substantial damage, regardless of the actual repair work performed.~~

~~The term does not include any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are the minimum necessary to ensure safe living conditions; or any alteration of a "historic structure" as defined herein so long as the alteration does not preclude the structure's continued designation as a "historic structure" as defined in this article.~~

~~Variance means a grant of relief from the requirements of this article.~~

~~Violation means the failure of a structure or other development to be fully compliant with County floodplain management regulations. A structure or other development without an approved elevation certificate, applicable structure certifications, or other evidence of compliance required under this article is presumed to be in violation until such documentation is provided.~~

**~~Sec. 6-406. Penalty for violation of article; additional remedies.~~**

- ~~(a) — Any person violating any provision of this article shall be prosecuted and punished as provided by section 1-5. Persons charged with such violations may include the owner, agent, lessees, tenant or contractor using the land, structure or premises where such violation has been committed or shall exist, or any person who knowingly commits, takes part in or assists in such violation or any who maintains any land, building or premises in which the violation shall exist.~~
- ~~(b) — In addition to the penalties and enforcement procedures provided in subsection (a) of this section, the violation of any of the regulations, restrictions and limitations promulgated under the provisions of this article may be restricted by injunction, including a mandatory injunction, and otherwise abated in any manner provided by law, and such suit or action may be instituted and maintained by the Board of County Commissioners or by any person affected by the violation of such regulations, restrictions or limitations.~~

**~~Sec. 6-407. Lands to which article applies.~~**

~~This article applies to all areas of special flood hazard within the unincorporated areas of the county within the jurisdiction of the Board of County Commissioners. These areas have been designated on the Flood Insurance Rate Map (FIRM) on file with the coordinator and the office of the county department of public resources.~~

**~~Sec. 6-408. Basis for establishing areas of special flood hazard.~~**

~~The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for Lee County, dated August 28, 2008, with the accompanying maps and other supporting data are adopted by reference and declared to be a part of this article.~~

**~~Sec. 6-409. Compliance with article.~~**

~~No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.~~

**~~Sec. 6-410. Abrogation; conflicting provisions.~~**

~~This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions, or the coastal construction codes for the county. However, where this article and any other article, regulation or coastal construction code conflict or overlap, whichever imposes the more stringent restriction shall prevail.~~

**~~Sec. 6-411. Interpretation of article.~~**

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

- ~~(1) — Considered as minimum requirements;~~

~~(2) — Liberally construed in favor of the governing body; and~~

~~(3) — Deemed neither to limit nor repeal any other powers granted under state statutes.~~

**~~Sec. 6-412. Warning and disclaimer of liability.~~**

~~The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the Board of County Commissioners, or by any officer or employee thereof, for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.~~

**~~Secs. 6-413–6-440. Reserved.~~**

**~~DIVISION 2. ADMINISTRATION~~**

**~~Sec. 6-441. Designation of coordinator.~~**

~~The county flood insurance coordinator is hereby appointed to administer and implement the provisions of this article.~~

**~~Sec. 6-442. Duties and responsibilities of coordinator.~~**

~~The duties of the coordinator include but are not limited to:~~

- ~~(1) — Reviewing all development permits to ensure that the permit requirements of this article have been satisfied;~~
- ~~(2) — Reviewing all development permits to determine that all necessary permits have been obtained from those federal, state or local government agencies from which prior approval is required;~~
- ~~(3) — Notifying adjacent communities and the state department of community affairs prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Emergency Management Agency;~~
- ~~(4) — Assuring that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished;~~
- ~~(5) — Verifying and recording the actual elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures, in accordance with this article;~~

- ~~(6) Verifying and recording the actual elevation, in relation to mean sea level, to which the new or substantially improved structures have been floodproofed, in accordance with this article;~~
- ~~(7) In coastal high-hazard areas, obtaining certification from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand high-velocity waters and hurricane wave wash;~~
- ~~(8) In coastal high-hazard areas, reviewing plans for the adequacy of breakaway walls in accordance with this article;~~
- ~~(9) When floodproofing is utilized for a particular structure, obtaining certification from a registered professional engineer or architect;~~
- ~~(10) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, making the necessary interpretation. The person contesting the location of the boundary will be given a reasonable opportunity to appeal the interpretation as provided in this article;~~
- ~~(11) When base flood elevation data has not been provided in accordance with section 6-408, obtaining, reviewing and reasonably utilizing any base flood elevation data available from a federal, state or other source, in order to administer the provisions of division 3 of this article; and~~
- ~~(12) Maintaining all records and maps pertaining to the provisions of this article in the office of the coordinator, open for public inspection.~~

**~~Sec. 6-443. Development permit required.~~**

~~A floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development on land located within the areas of special flood hazard.~~

**~~Sec. 6-444. Application for development permit.~~**

~~Application for a floodplain development permit must be made to the coordinator, on forms furnished by him, prior to beginning any development within any area of special flood hazard, and may include but is not limited to the following: plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, and drainage facilities, and their location. Specifically, the following information is required:~~

- ~~(1) — Elevation, in relation to mean sea level, of the proposed lowest floor, including basement, of all structures;~~
- ~~(2) — Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;~~
- ~~(3) — A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria in section 6-472(2);~~
- ~~(4) — Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and~~
- ~~(5) — A floor elevation or floodproofing certification after the lowest floor is completed, or, in instances where the structure is subject to the regulations applicable to coastal high hazard areas, after placement of the horizontal structural members of the lowest floor. Within 21 calendar days of establishment of the lowest floor elevation, or floodproofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the coordinator a certification of the elevation of the lowest floor, floodproofed elevation or the elevation of the lowest portion of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Such certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by a registered land surveyor or professional engineer. When floodproofing is utilized for a particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by a professional engineer or architect. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The coordinator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required by this section shall be cause to issue a stop work order for the project.~~

**~~Sec. 6-445. Appeals.~~**

- ~~(a) — The county construction Board of Adjustment and Appeals established by chapter 6, article II, division 2, will hear and decide appeals when it is alleged there is an error in a requirement, decision or determination made by the flood plain coordinator in the enforcement or administration of this article.~~

- ~~(b) The applicant may, within ten working days of the coordinator's decision, file an appeal to the Board of Adjustment and Appeals on such form as the coordinator or his designee may provide.~~
- ~~(c) Any person aggrieved by a decision of the Board of Adjustment and Appeals may seek whatever remedy is available in the court having jurisdiction.~~

**~~Sec. 6-446. Variances.~~**

- ~~(a) The county construction Board of Adjustment and Appeals will hear and is hereby authorized to grant variances from base flood elevation requirements upon a clear showing by the applicant that an exceptional hardship would result from compliance with the requirements. Variances will only be granted upon a determination by the Board of Adjustment and Appeals, based upon competent substantial evidence presented by the applicant, that:
  - ~~(1) It will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing regulations or articles; and~~
  - ~~(2) The lot or parcel in question is so small or has such unusual characteristics that the prescribed standards cannot be met without some relief so as to allow a reasonable use of the property.~~~~
- ~~(b) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~
- ~~(c) If a variance is granted, the floodplain coordinator will notify the applicant, in writing, that:
  - ~~(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and~~
  - ~~(2) Construction below the base flood level increases risks to life and property.~~

~~This notification will be maintained with a record of all variance actions.~~~~
- ~~(d) Variances may be issued by the Board of Adjustment and Appeals for repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.~~

- ~~(e) — An application for a variance from the terms of this article must be submitted to the floodplain coordinator or his designee on forms that may be provided. The request for a variance will be scheduled on agenda of the Board of Adjustment and Appeals.~~
- ~~(f) — A variance is a deviation from the exact terms and conditions of this article. The variance must be the minimum deviation necessary to provide relief to the property owner.~~
- ~~(g) — In passing upon an application, the Board of Adjustment and Appeals must consider all technical evaluations, all relevant factors, all standards specified in this article, and:
  - ~~(1) — The danger that materials may be swept onto other lands to the injury of others;~~
  - ~~(2) — The danger to life and property due to flooding or erosion damage;~~
  - ~~(3) — The susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;~~
  - ~~(4) — The importance of the services provided by the proposed facility to the community;~~
  - ~~(5) — The necessity to the facility of a waterfront location, in the case of a functionally dependent facility;~~
  - ~~(6) — The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;~~
  - ~~(7) — The compatibility of the proposed use with existing and anticipated development;~~
  - ~~(8) — The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
  - ~~(9) — The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
  - ~~(10) — The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site; and~~
  - ~~(11) — The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.~~~~
- ~~(h) — Upon consideration of the factors listed in subsection (g) of this section and purposes of this article, the Board of Adjustment and Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.~~



- ~~(i) Any aggrieved person may, within 30 calendar days after the decision of the Board of Adjustment and Appeals, apply to the circuit court for relief, but not thereafter, pursuant to the Florida Rules of Appellate Procedure.~~
- ~~(j) The coordinator will report all variances to the federal insurance administrator upon request.~~

**~~Secs. 6-447--6-470. Reserved.~~**

### ~~DIVISION 3. STANDARDS~~

#### **~~Sec. 6-471. General standards.~~**

~~In all areas of special flood hazard, the following provisions are required:~~

- ~~(1) New construction and substantial improvements must be anchored to prevent flotation, collapse, and lateral movement of the structure;~~
- ~~(2) Manufactured homes must be anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors. This standard will be in addition to and consistent with applicable state requirements for resisting wind forces;~~
- ~~(3) New construction and substantial improvements must be constructed with materials and utility equipment resistant to flood damage;~~
- ~~(4) New construction and substantial improvements must be constructed by methods and practices that minimize flood damage;~~
- ~~(5) Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding. Utility equipment will be exempt from this requirement as long as the utility company that owns the equipment accepts the sole responsibility for flood damage to the equipment by filing written acceptance of this responsibility with the local building director prior to claiming the exemption;~~
- ~~(6) New and replacement water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the system;~~
- ~~(7) New and replacement sanitary sewage systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;~~

- ~~(8) New and replacement on-site waste disposal systems must be located and constructed to avoid impairment to them or contamination from them during flooding;~~
- ~~(9) Alterations, repairs, reconstruction or improvements to a structure that are in compliance with the provisions of this article must meet the requirements of new construction as contained in this article; and~~
- ~~(10) All development permit applicants must acquire and submit all necessary Federal and State permits, including those required to comply with Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 prior to issuance of a Lee County building permit.~~

**~~Sec. 6-472. Specific standards.~~**

~~In all areas of special flood hazard where base flood elevation data has been provided as set forth in this article, the following provisions, in addition to those set forth in sections 6-471 and 6-474, are required:~~

- ~~(1) Residential construction. New construction and substantial improvement of a residential structure must have the lowest floor, including basement, elevated to or above the base flood elevation. This requirement will apply to manufactured homes that are to be placed or substantially improved on sites in a new manufactured home park or subdivision, in an expansion of an existing manufactured home park or subdivision, in an existing manufactured home park or subdivision on which a manufactured home on that specific site has incurred substantial damage as a result of a flood, and outside of a manufactured home park or subdivision. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to facilitate automatic equalization of hydrostatic flood forces on the exterior walls must be provided in accordance with standards of subsection (3) of this section.~~
  - ~~a. Manufactured homes to be placed or substantially improved on a site located in an existing manufactured home park or subdivision that are not subject to the provisions of subsection (1) of this section must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation or the manufactured home chassis is supported by reinforced piers, or other foundation elements of at least equivalent strength, that are no less than 36 inches in height above grade, and must comply with section 6-471(2).~~
  - ~~b. Recreational vehicles are not subject to the provisions of subsection (1) of this section if placed on the site for fewer than 180 consecutive days and~~

~~fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.~~

- ~~(2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure must either have the lowest floor, including basement, elevated to or above the base flood elevation; or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect must certify that the standards of this subsection are satisfied. The certification as well as an operation and maintenance plan must be provided to the coordinator.~~
- ~~(3) Elevated buildings. New construction and substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor, which are usable solely for parking of vehicles, building access or storage in an area other than a basement and are subject to flooding, must be designed to preclude finished living space in the area below the lowest floor and be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls below the lowest floor. The enclosed areas below the lowest floor must only be used for the parking of vehicles, building access, or storage and must comply with the following:~~
  - ~~a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:~~
    - ~~1. A minimum of two openings must be provided having a total net area of not less than one square inch for every square foot of enclosed area;~~
    - ~~2. The bottom of all openings must be no higher than one foot above grade; and~~
    - ~~3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.~~

- ~~b. Electrical, plumbing and other utility connections are prohibited below the base flood elevation.~~
  - ~~c. Access to the enclosed area must be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).~~
  - ~~d. The interior portion of such enclosed area must not be finished or partitioned into separate rooms.~~
- ~~(4) Floodways. Located within areas of special flood hazard established in section 6-408 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwater, which carries debris and potential projectiles and has erosion potential, the following provisions, in addition to those set forth in sections 6-472(1) through (3) and 6-474, will apply:~~
- ~~a. Encroachments, including fill, new construction, substantial improvements and other developments, are prohibited unless certification by a registered professional engineer is provided with supporting technical data demonstrating that encroachments will not result in any increase in flood levels during occurrence of the base flood discharge.~~
  - ~~b. If subsection (4)a. of this section is satisfied, all new construction and substantial improvements must comply with all applicable flood hazard reduction provisions of this article.~~
  - ~~c. The placement of manufactured homes and recreational vehicles is prohibited, except in an existing manufactured home or recreational vehicle park or subdivision. A replacement manufactured home or recreational vehicle may be placed on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided the anchoring standards of section 6-471(2) and the elevation standards of subsection (1)a or b of this section, as applicable, are met. New or expanded manufactured home or recreational vehicle parks or subdivisions are prohibited until such time, if ever, that Lee Plan policy 108.1.2 is amended or repealed so as to allow such new or expanded manufactured home or recreational vehicle development.~~
- ~~(5) Accessory structures. Accessory structures may be exempted from meeting the elevation requirements only if they meet all of the following requirements, in addition to those set forth in sections 6-471 and 6-474:~~

- ~~a. The structure is securely anchored to resist flotation, collapse, and lateral movement;~~
  - ~~b. The building is a minimal investment and the total size of the building does not exceed 1,000 square feet in floor area;~~
  - ~~c. The structure is used exclusively for uninhabitable parking or storage purposes;~~
  - ~~d. All electrical or heating equipment is elevated above the base flood elevation or otherwise protected from intrusion of floodwaters; and~~
  - ~~e. For accessory structures located in coastal high hazard areas (V zones), breakaway walls are used below the lowest floor.~~
- ~~(6) Coastal high hazard areas (V zones). Located within the areas of special flood hazard as designated in this article are areas designated as coastal high hazard areas. These areas have special flood hazards associated with wave wash; therefore, the following provisions, in addition to those set forth in sections 6-472(1) through (3) and 6-474 will apply:~~
- ~~a. New construction must be located landward of the reach of the mean high tide.~~
  - ~~b. New construction and substantial improvements must be elevated so that elevation of the bottom of the lowest horizontal structural member of the lowest floor, excluding pilings or columns, is located at or above the base flood elevation level, with all space below the lowest floor open so as not to impede the flow of water. Breakaway walls may be permitted and must be designed to wash away in the event of abnormal wave action in accordance with subsection (6)h. of this section.~~
  - ~~c. New construction and substantial improvements must be securely anchored on pilings or columns.~~
  - ~~d. Pilings and columns and the attached structures must be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. The water loads must be those associated with the base flood, and the wind loads must be those required by applicable state or local building codes and standards. A registered professional engineer must develop or review the structural design, specifications, and plans for the construction, and must certify that the design and the methods of construction to be used are in accordance with the accepted engineering standards of practice.~~

- e. ~~Compliance with the provisions contained in subsections (6)b, c and d of this section must be certified by a professional engineer or architect.~~
- f. ~~Fill may not be used as structural support.~~
- g. ~~Alteration of sand dunes or mangrove stands that would increase potential flood damage is prohibited.~~
- h. ~~Non-supporting breakaway walls, open-latticework or insect screening may be allowed below the lowest floor provided it is not part of the structural support of the building and is designed so as to break away, under abnormally high tides or wave action, without damage to the structural integrity of the building on which it is to be used, and provided the following design specifications are met:~~
  - 1. ~~Supporting foundation system must not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components during the base flood event. Water loading values to be used in this determination must each have a one percent chance of being equaled or exceeded in a given year (100-year mean recurrence interval). Wind loading values will be those required by local and state building standards; and~~
  - 2. ~~Breakaway wall collapse must result from a water load that is less than what would occur during the base flood.~~
- i. ~~If breakaway walls are utilized, the enclosed space may not be used for human habitation, but must be designed to be used only for parking of vehicles, building access or limited storage of maintenance equipment used in connection with the premises.~~
- j. ~~Prior to construction, plans for any structure that will have breakaway walls must be submitted to the coordinator for approval.~~
- k. ~~Alterations, repairs, reconstruction or improvements to a structure may not enclose the space below the lowest floor except with breakaway walls, as provided for in subsections (6)h and i of this section.~~
- l. ~~The placement of manufactured homes or recreational vehicles is prohibited, except in an existing manufactured home or recreational vehicle park or subdivision. A replacement manufactured home or recreational vehicle may be placed on a lot in an existing manufactured home or recreational vehicle park or subdivision, provided the anchoring~~

~~standards of section 6-471(2) and the elevation standards of subsection (1)a or b of this section, as applicable, are met. New or expanded manufactured home or recreational vehicle parks or subdivisions are prohibited until such time, if ever, that Lee Plan Policy 80.1.2 is amended or repealed so as to allow such new or expanded manufactured home or recreational vehicle development.~~

- ~~(7) Critical facilities. Critical facilities must be constructed on a foundation that is properly elevated and appropriate for the flood zone in which the facilities are located, and the lowest floor (including basement) must be elevated above the 500-year flood level. Road access to the critical facility must be constructed above the 500-year flood level to ensure access by emergency and ordinary vehicles.~~

**~~Sec. 6-473. Standards for streams without established base flood elevations or floodways.~~**

~~Located within the areas of special flood hazard, where small streams exist but where no base flood data has been provided and where no floodways have been provided, the following provisions, in addition to those set forth in sections 6-471 and 6-474, will apply:~~

- ~~(1) No encroachments, including fill material or structures, may be located within a distance from the stream bank equal to two times the width of the stream at the top of the bank or 50 feet on each side from the top of the bank, whichever is greater, unless certification by a registered professional engineer is provided demonstrating that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.~~
- ~~(2) All new proposed developments and subdivision proposals (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, must include base flood elevation data;~~
- ~~(3) The applicant must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, County, or other source. Data developed pursuant to section 6-473(2), must be considered and will be used as criteria for requiring new construction, substantial improvements, and other development in Zone A on the community's Flood Insurance Rate Map (FIRM) and comply with the provisions of section 6-472;~~
- ~~(4) Where base flood elevation data are utilized, within Zone A on the community's FIRM or FIRM, the applicant must:~~
- ~~a. Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;~~

- ~~b. Obtain, if the structure has been floodproofed in accordance with provision (2) of section 6-472, the elevation (in relation to mean sea level) to which the structure was floodproofed; and~~
- ~~c. Submit a record of all such information to the coordinator.~~
- ~~(5) In riverine situations, notify adjacent communities and the State NFIP Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;~~
- ~~(6) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;~~
- ~~(7) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM must be installed using methods and practices designed to minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.~~

**~~Sec. 6-474. Standards for subdivision and other development proposals.~~**

- ~~(a) All proposals must be consistent with the need to minimize flood damage within the flood-prone area.~~
- ~~(b) Subdivision proposals must locate and construct public utilities and facilities such as sewers, electrical and water systems so as to minimize flood damage.~~
- ~~(c) Subdivision proposals must have adequate drainage provided to reduce exposure to flood hazards.~~
- ~~(d) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, must be reasonably safe from flooding.~~

**~~Sec. 6-475. Standards for areas of shallow flooding.~~**

~~Located within the areas of special flood hazard established in section 6-408 are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in sections 6-471 and 6-474, will apply:~~



- ~~(1) New construction and substantial improvements of residential structures located in an AO-Zone must have the lowest floor, including basement, elevated to at least as high as the depth number specified on the FIRM, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, must be elevated at least two feet above the highest adjacent grade.~~
- ~~(2) New construction and substantial improvements of nonresidential structures located in an AO-Zone must:~~
  - ~~a. Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, must be elevated at least two feet above the highest adjacent grade; or~~
  - ~~b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.~~

**~~Sec. 6-476. Standards for areas in the B, C, and X Zones.~~**

~~All new buildings not located in the areas of special flood hazard established in section 6-408 must have the lowest floor elevation (including basement) constructed at least 12 inches above the crown of the nearest local street unless the building official determines there are extenuating circumstances that would preclude meeting that elevation.~~

**~~Secs. 6-477--6-500. Reserved.~~**

**ARTICLE V. RESERVED**

**~~Secs. 6-501—6-521 - 6-550. Reserved.~~**

**2012/2013 LDC  
REGULAR AMENDMENTS  
(Packet #3)  
&  
PRELIMINARY STREAMLINING  
AMENDMENTS**

## **Overview**

### **Chapter 1**

1-5 Clarification regarding issuance of permits on property with a violation

### **Chapter 2**

2-440 Delete section on Special magistrate proceedings under the Florida Land Use and Environmental Dispute Resolution Act

### **Chapter 6**

6-72 Housekeeping – consolidate language

6-73 Housekeeping – delete unnecessary language

6-115 Housekeeping – add pools for maintenance required

6-117 Specify area for garden and yard trellis where building permit not required

### **Chapter 10**

10-3 Housekeeping – delete unnecessary language

10-7 Housekeeping – delete unnecessary language

10-104 Add sections where deviations are authorized; update language for consistency with Ch 34; add requirements for restoration of land bank slope administrative applications

10-123 Add ability for Director to issue concurrency compliance renewals or extensions

10-151 Revisions to application submittal requirements

10-153 Revisions to application submittal requirements

10-154 Revisions to application submittal requirements

10-171 Housekeeping

10-172 Revise Section reference

10-174 Reduce and clarify LDO types – convert to Types A - F

10-175 Revision to submittal requirements

10-215 Allow waiver from requirements for certain lots that have a minimum use determination

10-217 Update language to allow recombination of certain platted lots

10-329 Amend to include littoral designs and allow administrative review

10-381 Update fire safety regulations

10-384 Update fire safety regulations

10-385 Update fire safety regulations – delete section

10-415 Revise requirements for salvaging existing sabal palms

10-416 Revise to allow variances or deviations from requirement; amend general landscaping requirements for new developments

- 10-418 Revise to clarify calculations for littoral plantings and to address eroded bank slopes
- 10-419 Revise to clarify use of alternate landscape betterment plans
- 10-602 Housekeeping – delete unnecessary language
- 10-620 Housekeeping – delete unnecessary language
- 10-714 Amend minimum width; delete Table reference

## **Chapter 12**

- 12-110 Delete submittal requirement to be consistent with Ch 34
- 12-119 Revise to allow deviations and variances through public hearing process
- 12-121 Allow administrative approval of certain mines with expired MCP/MOP

## **Chapter 30**

- 30-151 Housekeeping – make consistent with Ch 34 provisions
- 30-152 Allow name of recreational facilities on residential development entrance signs

## **Chapter 33**

- 33-52 Revisions to make consistent with Ch 10
- 33-54 Revisions to make consistent with Ch 10
- 33-57 Housekeeping – update section reference
- 33-1004 Revisions to make consistent with Ch 10
- 33-1052 Revisions to make consistent with Lee Plan
- 33-1054 Revisions to make consistent with Lee Plan
- 33-1055 Revisions to make consistent with Lee Plan
- 33-1089 Relocate language from Ch. 34 applicable only to Greater Pine Island
- 33-1202 Revisions to make consistent with Ch 10
- 33-1203 Revisions to make consistent with Ch 10
- 33-1205 Housekeeping – delete definition that was adopted in Ch. 34
- 33-1206 Housekeeping – update section reference
- 33-1400 Revisions to make consistent with Ch 10
- 33-1401 Revisions to make consistent with Ch 10
- 33-1403 Housekeeping – make language consistent with other communities
- 33-1431 Housekeeping – delete definition that was adopted in Ch. 34
- 33-1480 Revisions to make consistent with Ch 10
- 33-1482 Revisions to make consistent with Ch 10
- 33-1484 Housekeeping – update section reference
- 33-1485 Housekeeping – delete definition that was adopted in Ch. 34
- 33-1532 Revisions to make consistent with Ch 10
- 33-1535 Housekeeping – make language consistent with other communities
- 33-1611 Revisions to make consistent with Ch 10

**NOTE: Amendments to Sec. 33-1052 - 33-1055 (highlighted in yellow) have been withdrawn.**

- 33-1612 Revisions to make consistent with Ch 10
- 33-1615 Housekeeping – update section reference

## Chapter 34

- 34-1 Delete purpose and intent language
- 34-2 Add definition of caretaker's residence and player development academy
- 34-83 Revisions to make consistent with current practices
- 34-85 Revisions to make consistent with current practices
- 34-145 Revisions to make consistent with current practices (Packet #2 revision)
- 34-202 Revisions to application submittal requirements
- 34-203 Revisions to application submittal requirements
- 34-204 Revisions to application submittal requirements
- 34-205 Add provisions for DRI essentially built out determination
- 34-268 Add administrative variance types; revise submittal and finding requirements
- 34-341 Revise language for consistency; relocate language from Note in AG use table; increase DCI thresholds
- 34-373 Revise application submittal requirements
- 34-622 Revise description of passive and active recreational and educational activities
- 34-653 Revise AG use table and notes to simplify; permit more uses by right; and require special exception for certain uses in lieu of planned development
- 34-694 Revise One- and Two-Family Residential use table and notes to simplify; permit more uses by right or administrative approval; and require special exception for certain uses in lieu of planned development
- 34-695 Add property development regulations for two-family attached in TFC-1 and TFC-2 zoning districts
- 34-714 Revise Multiple Family use table and notes to simplify; permit more uses by right; and require special exception for certain uses in lieu of planned development
- 34-735 Revise Mobile Home use table and notes to simplify; permit more uses by right or special exception
- 34-791 Revise RV use table and notes to simplify and permit more uses by right
- 34-813 Revise Community Facilities use table and notes and require special exception for certain uses in lieu of planned development
- 34-843 Revise Commercial use table and notes to simplify; permit more uses by right, special exception or administrative approval; and require special exception for certain uses in lieu of planned development; add note to clarify use in Business Services, Group II
- 34-873 Add research and development laboratories, group IV to Marine-Oriented use table
- 34-901 Delete language specific to DCI thresholds and relocate to 34-341
- 34-903 Revise Industrial use table and notes to simplify; permit more uses by right, special exception or administrative approval; and require special exception for certain uses in lieu of planned development

- 34-934 Add note to clarify use in Business Services, Group II
- 34-937 Housekeeping – delete erroneous section reference
- 34-941 Housekeeping – update section reference
- 34-983 Housekeeping – update section reference
- 34-1179 Delete language specific to Pine Island and relocate to Chapter 33
- 34-1264 Add administrative approval for certain outdoor consumption on premises
- 34-1716 Amend application requirements for community gardens
- 34-1742 Add exemption for hog wire fences on conservation lands
- 34-1744 Housekeeping – revise to meet industry minimums
- 34-1954 Add ability to administratively approve extension of model home use
- 34-2020 Clarification on requirements for pedestrian accommodations (Packet #2 revision)
- 34-2054 Add section specific to day care centers in conjunction with a place of worship (language from use table notes)
- 34-2471 Add exemption for government owned and operated parks
- 34-3041 Revise to reference seasonal farmers' markets
- 34-3048 Add section for seasonal farmers' markets

## Chapter 1 GENERAL PROVISIONS

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

*(a) through (f) remain unchanged.*

- ~~(g) No development permit, building permit, plat, tree removal permit or notice of clearing may be issued on a parcel of land, or any portion thereof, that is the subject of existing code violations, development standards ordinance violations or other land development ordinance violations, regardless of whether the applicant or his principal owned the property at the time the violation occurred. However, this subsection will not prevent issuance of a permit for the specific purpose of resolving or abating the violation.~~

## Chapter 2 ADMINISTRATION

### ARTICLE VIII. SPECIAL MAGISTRATE RESERVED

#### ~~Sec. 2-440. Special magistrate proceedings under the Florida Land Use and Environmental Dispute Resolution Act.~~

- ~~(a) Special magistrate proceedings. Special magistrate proceedings may be requested and will be conducted in accordance with the Lee County Administrative Code designated for that purpose.~~
- ~~(b) Implementation of special magistrate recommendation. If the Board of County Commissioners elects to adopt the recommendation of the special magistrate, the owner will not be required to duplicate processes in which the owner previously has participated in order to effectuate the recommendation.~~
- ~~(c) Modification of special magistrate recommendation. The Board of County Commissioners may elect to modify the special magistrate's recommendation and implement it by development agreement, where applicable, or by other method in the ordinary course and consistent with the county's rules and procedures, so long as it does not require the duplication of processes in which the owner has participated in order to effectuate the Board's will.~~
- ~~(d) In order to implement the recommendation of the special magistrate, or a modification of that recommendation, the Board has the authority to waive any or all procedural requirements contained in county ordinances or Administrative Codes and to directly exercise all authority otherwise delegated to the Hearing Examiner, the county manager or his designees, or any other division or agency of Lee County government.~~
- ~~(e) Board consideration of the special magistrate recommendation. The deliberations of the Board of County Commissioners regarding whether to accept, reject or modify the special magistrate recommendation will be made at a public hearing.~~

## Chapter 6. BUILDINGS AND BUILDING REGULATIONS

## ARTICLE II. CODES AND STANDARDS

### DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS

#### **Sec. 6-72. Intent of division.**

~~It is recognized that there is in existence Lee County Ordinances 92-36, as amended, 88-29, as amended, and 90-23, as amended, which provide for the adoption of various standard codes relating to building, plumbing, mechanical, electrical, fire and floodplain management enforced in the unincorporated area of the county. This division is intended to be construed in conjunction with standard codes relating to building, plumbing, mechanical, electrical, fire and floodplain management adopted by Lee County Ordinance. the existing county ordinances referenced above.~~

#### **Sec. 6-73. Board established; jurisdiction.**

There is hereby established a Board of Adjustment and Appeals, which ~~shall~~ will be known as the Lee County Board of Adjustment and Appeals. The purpose of this board is to hear and decide appeals from the decision of the building official, fire official, county flood insurance coordinator ("coordinator"), or their designees, on any of the various standard codes regulated and enforced by the county, ~~except the plumbing code and mechanical code. Separate boards of adjustment and appeals to arbitrate matters involving the plumbing code and mechanical code have been created by the county construction code, Ordinance No. 92-36, as amended.~~

### DIVISION 3. BUILDING CODE

#### **Sec. 6-115. Maintenance.**

*(a) – (b) remain unchanged.*

*(c) Maintenance required.*

- (1) Buildings, structures, pools, electrical, gas, mechanical and plumbing systems, both existing and new, and all parts thereof, must be maintained in a safe and sanitary condition. Devices and safeguards that are required by the technical codes when constructed, altered or repaired, must be maintained in good working order. The owner, or his designated agent, will be responsible for the maintenance of buildings, structures, pools, electrical, gas, mechanical and plumbing systems.

*Remainder of section is unchanged.*

#### **Sec. 6-117. Improvements or repairs not requiring a permit.**

FBC Section 105.2 pertaining to work exempt from permit is amended to include the following:



The following individual improvements or repairs performed within a 12-month period to a single individual dwelling unit do not require a permit. This exemption does not apply to any combination of items that exceed \$500.00 or improvements undertaken as part of a larger project or work being performed on multiple dwelling units:

(a) – (f) *remain unchanged*

(g) A building permit is not required for the following non-commercial accessory structures when placed on a residentially zoned property:

(1) *remain unchanged.*

(2) *Garden or yard trellis.* Must be less than 200 square feet in size and less than 12 feet in height.

Accessory building or structure setbacks must be observed and may not include electrical or plumbing.

## **Chapter 10 DEVELOPMENT STANDARDS**

### **ARTICLE I. IN GENERAL**

#### **Sec. 10-3. Interpretation and regulatory intent of chapter.**

(a) – (b) *remain unchanged*

~~(c) Section 34-1080 et seq., establishes a redevelopment overlay district which provides for the preparation and adoption of master plans for community redevelopment areas or portions thereof. The master plan may contain development regulations that supersede some or all of chapter 34, this chapter and other land development regulations.~~

~~(d) In areas for which a master plan has been adopted, as defined in section 34-1080 et seq., a property owner may elect to develop/redevelop in compliance with the master plan or in compliance with existing zoning and development regulations.~~

~~(e) If the property owner elects to comply with the adopted master plan, then to the extent that the plan addresses a regulation set forth in chapter 34, this chapter or any other land development regulation, the master plan will take precedence. To the extent that the master plan does not address a regulation, the standard ordinances will prevail.~~

#### **Sec. 10-7. General requirements.**

(a) – (c) *remain unchanged.*

(d) *Planning community regulations.* Development order applications and approvals for projects located within ~~the following a planning community communities~~ must also comply with the regulations set forth in Chapter 33 pertaining to the specific planning community.

(1) — ~~Estero Planning Community.~~

(2) — ~~Greater Pine Island.~~

(3) — ~~Page Park.~~

(4) — ~~Caloosahatchee Shores.~~

(5) — ~~Lehigh Acres.~~

(6) — ~~North Fort Myers.~~

(e) – (h) remain unchanged.

## ARTICLE II. ADMINISTRATION

### DIVISION 2. DEVELOPMENT ORDERS

#### *Subdivision II. Procedures*

#### **Sec. 10-104. Deviation and variances.**

- (a) *Provisions where deviations are authorized.* The Development Services Director is hereby authorized to grant deviations from the technical standards in the following sections of this chapter.

(1) – (11) remain unchanged.

(12) Section 10-329~~(b)~~(4)a. (excavation bank slopes);

(13) – (14) remain unchanged.

(15) Section 10-384~~5~~(c) (water mains);

(16) remains unchanged.

(17) Section 10-418(3) (surface water management systems; limited to the prohibition of hardened structures behind single family residences for ~~restriction of existing lake bank slopes as provided in section 10-329(b)(4)b~~);

(18) – (20) remain unchanged.

(21) Section 10-620(d)(4)a. (requiring full parapet coverage for roofs utilizing less than or equal to 2V:12H pitch); Section 10-716 (piping materials in right-of-way).

(22) Section 10-716 (piping materials in right-of-way);

(23) Sections 10-329(f) and 10-418(5) (restoration of existing bank slopes and littoral designs).

- (b) *Criteria for administrative deviations.* Administrative deviations may be granted only where the Development Review Director, with the assistance of directors of other affected County departments, or divisions, and affected jurisdictions, finds that the following criteria have been met:

*(1) – (5) remain unchanged.*

(6) For sections 10-329(f) and 10-418(5), the proposed use of hardened structures for restoration of existing lake bank slopes will be evaluated on a case by case basis. The application for the hardened structure must demonstrate this is the most appropriate and minimum stabilization technique necessary as designed and sealed by a licensed Professional Engineer. The application must also demonstrate compliance with 10-418(3) for compensatory littorals as well as previously approved littoral and deep lake management plan requirements. However, existing lakes within the DRGR may not utilize hardened structures through the administrative process, except those identified in 10-418(3).

*(c) – (e) remain unchanged.*

- (f) ~~*Appeal of Director's decision. The Director's final decision may be appealed in accordance with the procedures in section 34-145(a). The hearing examiner may grant the appeal only upon a finding that the criteria in subsection (b) above have been met. Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a). If a request for an administrative deviation is denied, or the Applicant disapproves of the conditions imposed, the Applicant may seek a variance through the normal public hearing process provided under Sec. 34-145.*~~

*(g) – (i) remain unchanged.*

#### **Sec. 10-123. Extensions.**

- (a) The Director of Development Services may grant two three-year extensions of time for a development order provided:

*(1) – (3) remain unchanged.*

- (4) The development order is in substantial compliance with the Lee Plan and all other County Land Development Regulations at the time the development order extension is granted; and

*(5) remains unchanged.*

*(b) – (c) remain unchanged.*

(d) The Director of Development Services may grant certificate of concurrency compliance or conditional certificate of concurrency compliance renewals or extensions of time subject to the provisions of Section 2-46(l), concerning validity of certificates of concurrency compliance and conditional certificates of concurrency compliance, provided:

(1) The request for renewal or extension is not received by the Development Services Division sooner than six months prior to the expiration date.

(2) The request for extension or renewal is accompanied by a current inventory of the Development Order approvals including any amendments or minor changes that have altered the development parameters; an inventory of the building permit activity that has occurred on the site since the Development Order approval; and, an inventory of the development that is remaining to be constructed to reach development build out. An updated transportation analysis will not be required to obtain an extension or a renewal of a concurrency compliance and conditional certificates of concurrency compliance.

### *Subdivision III. Submittals*

#### **Sec. 10-151. - Generally.**

*(a) remains unchanged.*

*(b) All drawings must be drawn on 24-inch by 36-inch sheets at an appropriate scale. If more than one sheet is required, appropriate match lines must be indicated. The Division Director may allow electronic submittals of work-in-progress drawings. ~~These submittals must be on 3.5-inch floppy disks and include at least one 24-inch by 36-inch hard copy print.~~ Final drawings must be submitted as 24 by 36 inch hard copy prints in order to be stamped "approved."*

*(c) through (d) remain unchanged.*

#### **Sec. 10-153. Application form and contents.**

The application form for development order approval may be obtained from the Department of Community Development. ~~At a minimum, the~~ The following information must be included in any application form for a development order:

*(1) remains unchanged.*

*(2) Owner, applicant and developer information.*

*a. – d. remain unchanged.*

~~e. The name of all persons or entities having an ownership interest in the property, including the names of all stockholders and beneficiaries of~~

~~trusts. Disclosure with respect to a beneficial ownership interest in any entity registered with the federal securities exchange commission or registered pursuant to Chapter 517, whose interest is for sale to the general public, is exempt from the provision of this subsection.~~

f. *remains unchanged.*

(3) *Property information.*

a. ~~A legal description for the p~~Property, and STRAP number.

b. *through c. remains unchanged.*

(4) *General development information.*

a. *remains unchanged.*

b. ~~Required~~Relevant rezoning, variance ~~and, special exception and administrative deviation case or resolution numbers associated with the property information.~~

c. ~~Existing~~Relevant case numbers of development order applications and approvals or development standards exemptions on the property.

d. ~~Existing development standards exemption applications and approvals on the property.~~

e. Federal, state and local permits and stipulations affecting the development order applications.

(5) *Proposed development.*

a. *remains unchanged.*

b. ~~Approximate a~~ Acreage and percentage of total land area for each proposed use to be developed.

c. *through i. remains unchanged.*

(6) ~~Permits~~Completed permit applications *required for development.*

a. *through b. remains unchanged.*

**Sec. 10-154. Additional required submittals.**

The following must be submitted with an application for development order approval:

(1) - (4) *remain unchanged.*

(5) ~~Reserved. Zoning approvals. A complete copy of the zoning approval (i.e. zoning resolution for the subject property, and any other pertinent zoning resolutions or administrative amendments, special exceptions or variance approvals) applicable to the subject property must be submitted.~~

(6) *Existing conditions and improvements drawing.* An existing conditions and improvements drawing showing at a minimum the following:

*a. - b. remains unchanged.*

c. The location and name of abutting streets together with the number of lanes, the widths of rights-of-way and easements, and the location and purpose of abutting utility easements. The established centerline of streets on or abutting the property ~~shall~~ must be shown.

d. Existing elevations based on the North American Vertical Datum (NAVD) 1988.

1. ~~Sufficient spot elevations based on the North American Vertical Datum (NAVD) 1988 must be shown to indicate the slope of the land and any rises, depressions, ditches, etc., that occur, but in~~

2. ~~In no case may spot elevations be shown at a spacing greater than 200 feet.~~

3. ~~Spot elevations must be shown beyond the development boundary extending a minimum of 25 feet.~~

4. ~~The Director of Development Review may direct a closer grid pattern closer than 200 feet or elevations more than 25 feet beyond the development boundary to provide sufficient satisfactory information.~~

5. ~~For developments of 40 acres or more, contours at one-foot intervals must be shown.~~

*e. - m. remain unchanged.*

*(7) – (8) remain unchanged.*

(9) ~~Reserved. Aerial photograph. A recent aerial photograph of the property and all properties within 660 feet of the perimeter of the property, with a scale of one inch equals 300 feet, shall be submitted.~~

*(10) – (21) remain unchanged.*

(22) *State permits.* Prior to final approval of a development order, copies of completed applications for permits issued by the South Florida Water Management District or the Florida Department of Environmental Protection. Copies of all ~~other~~ necessary state land development permits must be submitted prior to the commencement of construction work on the site.

(23) – (24) *remain unchanged.*

(25) *Opinion of probable construction costs.* The developer's consultant must prepare and submit the estimated cost and estimated date of completion for the work of installing all streets, drainage systems, water management systems, potable water treatment and distribution systems, sewage collection and treatment systems, bikeways, pedestrian ways, park and recreation improvements, landscaping and buffers as follows:

a. Subdivisions: on-site and off-site improvements.

b. All other developments: off-site improvements.

~~The opinion of probable cost must include an estimated date of completion for the work.~~

(26) *Assurance of completion of improvements.* Assurance of completion of the development improvements as specified in ~~subsections (26)a. and b. of this~~ section will be required for all off-site improvements prior to commencing any off-site or on-site development. Assurance of completion of the development improvements for on-site subdivision improvements will be required prior to the acceptance of the subdivision plat. Those on-site subdivision improvements that have been constructed, inspected and approved by the Director of Development Review through the issuance of a certificate of compliance may be excluded from the requirements of ~~subsections (26)a. and b. of this~~ section.

*a. - b. remains unchanged.*

(27) *remains unchanged.*

(28) Prior to issuance of a development order, if a project's storm water management system directly discharges into a Drainage or Water Control District (created pursuant to F.S. Ch. 298) canal or includes work to be performed within a Drainage or Water Control District right-of-way, the Applicant must submit proof that they have ~~Applicant has received requested~~ all Drainage or Water Control District approvals necessary for the project to discharge directly into a Drainage or Water Control District canal or to perform work within the right-of-way. Prior to commencement of construction work on the site, the Applicant must submit proof that all Drainage or Water Control District approvals have been received.

### DIVISION 3. LIMITED REVIEW PROCESS

## **Sec. 10-171. - Generally.**

Developments meeting the criteria in section 10-173 and 10-174 are entitled to a development order in accordance with the procedures in this division. For developments meeting the criteria in this section, no site improvement, tree clearing;<sup>\*</sup> or issuance of building permits may occur prior to approval of the development order by the ~~division of zoning and development services~~ Director of Development Services. A limited tree clearing permit may be issued where necessary to allow access to the property for survey purposes in accordance with LDC section 14-377(a)(6).

~~\*A limited tree clearing permit may be issued where necessary to allow access to the property for survey purposes in accordance with LDC section 14-377(a)(6).~~

## **Sec. 10-172. Legal effect of approval.**

Approval of a development order for a development described in subsections 10-174(4) and ~~(53)~~ may require additional permits before development may commence. All applications must be reviewed by the ~~division of zoning and development services~~ Development Services Division for compliance with the Comprehensive Plan, the Zoning Ordinance (chapter 34) and other applicable regulations.

## **Sec. 10-174. Types of development entitled to limited review.**

The following types of development may be processed in accordance with this division:

- (1) Type A - A cumulative addition or enlargement of an existing impervious area, provided that the addition or enlargement does not increase the total impervious cover area by more than 2,500 square feet and there is no increase in the rate of runoff from the project site.
- (2) Type B - Any out-of-door type recreational facilities, such as swimming pools, tennis courts, tot lots and other similar facilities, provided the total cumulative additional impervious area does not exceed ~~8,000~~ 5,000 square feet, including any County-initiated improvements for public water access purposes in County-owned or County-maintained rights-of-way.
- (3) Type C - Any subdivision of land into four lots or less where zoning district regulations permit such subdivision for a use other than single-family detached dwelling units, two-family attached dwelling units or bona fide agricultural uses; provided, however, that: Any development which received final site plan approval by the current planning department and the division of transportation and public works prior to November 10, 1982, where the development has been actively constructed continuously, or in phases, in accordance with such approval.
  - a. Each lot must meet or exceed all requirements of the zoning district in which it is located, or the subdivision is approved by the Director under the provisions of section 34-2221(1), and the overall development complies with all other requirements of this chapter;



- b. No more than four lots may be created from an original parent parcel as it existed on January 28, 1983;
  - c. Except single-family detached dwelling units, two-family attached dwelling units or bona fide agricultural uses, no development may occur on any of the lots without first obtaining a development order;
  - d. If the parent parcel is ten acres or greater, a protected species survey may be required as specified in article III, division 8, of this chapter;
  - e. Each lot must abut and have access to a road that meets the minimum construction standards set forth in section 10-296; and, compliance with maximum density requirements of the Lee Plan is also required;
  - f. No significant alteration of existing utility installations is involved;
  - g. No change in drainage will occur that adversely impacts the surrounding properties;
  - h. Creation of new road rights-of-way or road easements, and the construction of new roadways or upgrading of existing roadways to meet the minimum standards contained in this chapter will require development order approval;
  - i. Reasonable conditions may be attached to the approval so that any development on the lots will comply with all County land development regulations;
  - j. An application for a lot split must include all parcels under common ownership, including any abutting residual parcels, if under common ownership with the property subject to the lot split and are part of the original parent parcel as the parent parcel existed on January 28, 1983. If all lots are not under common ownership, the applicant must provide proof that the applicant made a bona fide, good faith effort to request by certified mail, return receipt requested, all other property owners to join in the lot split application. Proof of the current property owner's refusal to consent to the lot split or the failure of the current property owner to respond to the applicant's request, after a reasonable time for a response, will obviate the need to include that parcel. Further development on any lots that do not join in the lot split application may not occur until the lot has been legally created in accordance with the provisions of this Code; and
  - k. All parcels, including residual parcels, must conform to the minimum property development regulations for the zoning district in which they are located.
- (4) Type D – Any subdivision of land into four or less lots for single-family detached dwelling units or two-family attached dwelling units, where zoning district regulations permit such subdivision; provided, however, that:

- a. Any other improvement to land determined by the Director to have insignificant impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.). Each lot must meet or exceed all width, depth and area requirements of the zoning district in which located;
  - b. The installation of new utility lines in existing right-of-way or easement. No more than four lots may be created from an original parent parcel as the parent parcel existed on January 28, 1983;
  - c. Improvements to a County maintained road right-of-way within an incorporated area as defined in section 10-297. Each lot abuts and has access to an existing improved road right-of-way or easement meeting at least the minimum construction standards required by this chapter. Each lot abuts and has access to a road complying with the requirements of section 10-296. The maximum allowable density for a proposed lot that will abut and have access to an unpaved rock/shell road (a category D road) is 0.4 or less dwelling units per acre in accordance with sections 10-296(d) and (e). Compliance with maximum density requirements of the Lee Plan is also required.
  - d. ~~No alteration of existing utility installations is involved;~~
  - e. ~~No change in drainage will occur which adversely affects the surrounding properties; and~~
  - f. ~~Creation of new road rights-of-way or road easements, and the construction of new roadways or upgrading of existing roadways to meet the minimum standards contained in this chapter will require development order approval.~~
  - g. ~~An application for a lot split must include all parcels under common ownership, including any abutting residual parcels, if under common ownership with the property subject to the lot split and are part of the original parent parcel. If all lots are not under common ownership, the applicant must provide proof that the applicant made a bona fide, good faith effort to request by certified mail, return receipt requested, all other property owners to join in the lot split application. Proof of the current property owner's refusal to consent to the lot split or the failure of the current property owner to respond to the applicant's request, after a reasonable time for a response, will obviate the need to include that parcel. Further development on any lots that do not join in the lot split application may not occur until the lot has been legally created in accordance with the provisions of this Code.~~
  - h. ~~All parcels, including residual parcels, must conform to the minimum property development regulations for the zoning district in which they are located.~~
- (5) Type E - Notice of Intent to Commence Water Retention Excavation for AG use or as an amenity to a single-family residence where blasting activities will not be conducted and where no more than 1,000 cubic yards of spoil will be removed offsite. (See

~~section 10-329(c)(1)). Any subdivision of land into four lots or less for a use other than single-family detached dwelling units, two-family attached dwelling units or agricultural; provided, however, that:~~

- ~~a. Each lot must meet or exceed all requirements of the zoning district in which it is located, or the subdivision is approved by the Director under the provisions of section 34-2221(1), and the overall development complies with all other requirements of this chapter;~~
- ~~b. No more than four lots may be created from an original parent parcel as it existed on January 28, 1983;~~
- ~~c. No development may occur on any of the lots without first obtaining a development order;~~
- ~~d. If the parent parcel is ten acres or greater, a protected species survey may be required as specified in article III, division 8, of this chapter;~~
- ~~e. Each lot must abut and have access to a road that meets the minimum construction standards set forth in section 10-296;~~
- ~~f. No significant alteration of existing utility installations is involved;~~
- ~~g. No change in drainage will occur that adversely impacts the surrounding properties;~~
- ~~h. Creation of new road rights-of-way or road easements, and the construction of new roadways or upgrading of existing roadways to meet the minimum standards contained in this chapter will require development order approval; and~~
- ~~i. Reasonable conditions may be attached to the approval so that any development on the lots will comply with all County land development regulations.~~
- ~~j. An application for a lot split must include all parcels under common ownership, including any abutting residual parcels, if under common ownership with the property subject to the lot split and are part of the original parent parcel as the parent parcel existed on January 28, 1983. If all lots are not under common ownership, the applicant must provide proof that the applicant made a bona fide, good faith effort to request by certified mail, return receipt requested, all other property owners to join in the lot split application. Proof of the current property owner's refusal to consent to the lot split or the failure of the current property owner to respond to the applicant's request, after a reasonable time for a response, will obviate the need to include that parcel. Further development on any lots that do not join in the lot split application may not occur until the lot has been legally created in accordance with the provisions of this Code.~~
- ~~k. All parcels, including residual parcels, must conform to the minimum property development regulations for the zoning district in which they are located.~~

- (6) Type F – Any improvements to the land determined by the Director to have no impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.), including up to 100 square feet of additional impervious surface. Any single building of two dwelling units or less and any accessory improvements thereto on a single lot which is not a lot of record or a platted lot, provided the applicant submits sufficient evidence that the lot was purchased, or contracted for purchase, prior to January 28, 1983.
- ~~(7) Any development containing individual lots for single buildings of two dwelling units or less which, prior to January 28, 1983:~~
- ~~a. Has been approved by the County and registered with the state division of land sales and condominiums, provided that all improvements required or approved by the County have been completed or a surety has been posted and is current; or~~
  - ~~b. Has been approved for drainage, streets and utilities by the County and for which at least 51 percent of all lots along both sides of a street segment have been sold to individuals.~~
- ~~(8) Reserved.~~
- ~~(9) Any County-initiated improvements for public water access purposes in County-owned or County-maintained rights-of-way.~~
- ~~(10) Any development for a fenced or screened enclosed storage yard as defined in chapter 34, provided that the yard consists solely of a stabilized grassed surface, a surface water management system, buffers and fencing; and provided further that site access complies with the provisions of this chapter and chapter 34.~~
- ~~(11) The installation of new utility lines in existing right-of-way or easement.~~
- ~~(12) Any other improvement to land determined by the Director to have insignificant impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.).~~
- ~~(13) Improvements to a County maintained road right-of-way within an incorporated area as defined in section 10-297.~~
- ~~(14) Reserved.~~
- ~~(15) Notice of Intent to Commence Water Retention Excavation for AG use or as an amenity to a single-family residence where blasting activities will not be conducted and where no more than 1,000 cubic yards of spoil will be removed offsite. (See section 10-329(c)(1)).~~

#### **Sec. 10-175. - Required submittals.**

The following submittals are required to apply for a development order in accordance with this division:

- (1) A completed application, which ~~shall~~ must be made on the application forms provided by the division of development review.
- (2) A plan, which ~~shall~~ must depict the site and location of all buildings or structures on it.
- (3) *remains unchanged.*
- (4) ~~An aerial photograph (most current available from the County) at a scale of one inch equals 300 feet.~~
- (54) A written description of the proposal and the reasons why it should be approved.
- (65) A copy of any building permits and approved site plan, if applicable.
- (76) Any additional necessary or appropriate items which the Director of Development Review may require. Additional data may include copies of deeds, sealed surveys, calculations, and completed applications for any state, federal or local permits, including the South Florida Water Management District permits, and other state, federal or local permits.

#### **DIVISION 5. PLATS**

#### **Sec. 10-215. Waiver of requirements.**

The following subdivisions of land are not subject to the requirements of this division:

- (1) – (4) *remain unchanged.*
- (5) A single family residential lot created between January 28, 1983 and December 21, 1984 that has obtained a favorable minimum use determination in accordance with the Lee Plan.

#### **Sec. 10-217. Lot recombinations.**

The Director of Development Review may permit the combination or recombination of platted lots of record created through a plat recorded in the Official Records of Lee County prior to September 3, 1986 provided the density established through the original plat is not increased and the resulting lots comply with chapter 34, the Lee Plan, and all other applicable provisions of this chapter.

- (1) – (4) *remain unchanged.*

#### **ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS**

### DIVISION 3. SURFACE WATER MANAGEMENT

#### Sec. 10-329. Excavations.

(a) – (e) remain unchanged.

- (f) *Restoration of existing approved bank slopes and littoral designs.* Restoration of existing bank slopes that have eroded over time and no longer meet the minimum slope design criteria applicable at the time the lakes were excavated will be strongly encouraged to use the slope protection measures identified above. ~~The use of a hardened structure behind new single family residential lots may be approved administratively under section 10-104(a)(17); however, administrative approvals to use hardened structures will be limited to no more than 20 percent of the entire lake shoreline.~~ Restoration activities will require review and approval through the Type 42 D limited review development order process. As part of this review, the previously approved littoral plants and deep lake management plan requirements must be included on the development order plans. If the lake shoreline to be restored is either owned or controlled by an incorporated property owners association, the application for approval must be filed by the association and encompass the entire lake shoreline in order to avoid slope restoration in a piecemeal fashion by individual lot owners.

The use of an appropriate geosynthetic turf reinforcement mat (TRM), a cellular confinement system or similar shoreline stabilization technique that does not include hardened structures, such as those identified in section 10-418(3), will not require an ADD or variance. Use of hardened structures for slope restoration is discouraged, but will be considered administratively on a case by case basis ~~taking into consideration specific site conditions and per criteria identified in 10-104(b)(6).~~

### DIVISION 5. FIRE SAFETY

#### Sec. 10-381. Generally.

~~Fire protection systems shall be designed and constructed in accordance with County, state and federal standards, including the requirements established by the uniform County Fire Code, as may be amended.~~ Fire protection systems and public water systems must be designed by an engineer and constructed in accordance with County, state and federal standards, including the domestic requirements established by the appropriate state agency and the fire protection requirements established by the Florida Prevention Fire Code, as they may be amended.

#### Sec. 10-384. - Minimum standards for all developments.

~~(a) — *Building classes.* Building classes for purposes of this section are as follows:~~

~~(1) — One and two dwelling unit developments.~~

- ~~(2) Multifamily developments with three to six dwelling units per building and not exceeding two stories in height.~~
  - ~~(3) Multifamily developments with more than six dwelling units per building, or more than two stories in height, and all commercial areas.~~
  - ~~(4) All industrial areas.~~
  - ~~(5) Hazardous storage areas (as defined in the Standard Building Code).~~
- (a)(b) *Fire department access.* Suitable fire department access must be provided to all structures in accordance with the provisions contained within Chapter 18.2 of the Florida Fire Prevention Code, (NFPA 1, FIRE CODE, FLORIDA current edition). ~~Except as noted in this subsection, buildings that fall into the classes set forth in subsections (a)(3) through (5) of this section, and any unusual and potentially hazardous circumstances as determined by the fire official, shall provide a 20-foot-wide fire department access lane in the rear of such building. This shall be an identified stabilized surface adequate to carry the load of fire apparatus. Exceptions to this requirement may be permitted where, in the opinion of the County Fire Official and the district fire official, a modified fire department access is required due to size, construction, location or occupancy of a building. are as follows:~~
- ~~(1) Buildings provided with a complete automatic fire sprinkler system.~~
  - ~~(2) Where, in opinion of the County Fire Official and the district fire official, due to the size, construction, location or occupancy of a building, the access width may be reduced or omitted.~~
- (b) *Fire flows.* Fire flows for all developments shall will be determined according to this division before the issuance of a development order.
- (1) The engineer, contractor or installer of water supply systems in new developments shall must demonstrate, by actual test, that the capacity of the water supply system will meet fire protection design requirements as set forth in Chapter 18.4 of the Florida Fire Prevention Code, (NFPA 1, FIRE CODE, FLORIDA current edition).
  - (2) A fire flow of the existing public water system shall must be made before the issuance of a development order for all developments in or within one-quarter mile of an existing public water system.
  - (3) Fire flow tests shall must be witnessed by the fire department and other authorities having jurisdiction.
  - (4) A minimum flow in all cases will be 1,000 gallons per minute with a 20 pounds per square inch residual.

- (5) Developments not capable of delivering the required fire flow must provide automatic sprinkler systems in accordance with all current State and Local codes. Alternatively, the County Fire Official may allow developments not capable of delivering the required fire flow to provide an additional source of water for fire protection in accordance with section 10-386.
- (6) *Reductions in Fire Flow Requirements.* Fire flow requirements may be reduced if the building is protected by an automatic sprinkler system installed in accordance with all state and local codes.
  - (a) The fire flow requirement may be reduced in accordance with Sections 18.4.5.1 and 18.4.5.2 of the Florida Fire Prevention Code (NFPA 1, FIRE CODE, FLORIDA) for one- and two-family dwellings and buildings other than one- and two-family dwellings, respectively.
  - (b) The fire flow requirement for one- and two-family dwelling units may be reduced by 25% when the units are separated by a minimum of 30 feet.
- (c) *Water main installation.* Water main installation will be provided in accordance with the following standards.
  - (1) Water mains for one and two story residential buildings consisting of between one and six dwelling units per building must be no less than eight inches in diameter, and constructed in an external loop connected to intersecting water mains at a maximum distance of 1,500 feet.
  - (2) Water mains for all commercial buildings and for residential buildings with more than six dwelling units per building or more than two stories in height must be no less than ten inches in diameter, and constructed in an external loop system with intersecting water mains installed every 2,000 feet.
  - (3) Water mains for all industrial areas and all hazardous storage areas must be no less than 12 inches in diameter and constructed in an external loop system with intersecting water mains installed every 2,000 feet. Fire hydrants must be installed on intersecting water mains.
  - (4) The maximum allowed dead-end water line must be no longer than one-half the distance required between intersecting water mains.
  - (5) Any water main along an arterial road or considered by the utility company to be a main transmission line must be sized to accommodate future growth, but in no case less than specified in this section. A letter of approval from the utility company will be acceptable evidence of conformance with this requirement.
  - (6) The applicant may submit a request for an Administrative Deviation in accordance with section 10-104(a)(13) for alternatives to line sizing, dead-end and intersecting water main criteria if they embody sound engineering practices and are demonstrated by the applicant's professional engineer.



(d) Fire hydrant design and spacing. The design and maximum spacing of fire hydrants will be in accordance with the following standards.

- (1) Fire hydrants are required for all developments provided with a public water system.
- (2) Fire hydrants must be installed so that the 4½-inch streamer connection is no less than 18 inches and no more than 24 inches above finished grade.
- (3) Fire hydrants must be located within ten feet of the curblineline of fire lanes, streets or private streets when installed along such accessways.
- (4) Fire hydrant spacing must be determined using the last available hydrant on the public water system as the PCP.
- (5) Fire hydrant spacing for all developments must be measured along the centerline of the street. For the purposes of this subsection, the term "street" must include all road frontage, including roadways, drives, avenues or any other road designation. Also included must be any private drive designated as required fire department access. Fire hydrants must be spaced at no greater than the distances indicated within the following table:

<u>Use</u>	<u>Size</u>	<u>Special Notes or Regulations</u>	<u>Fire Hydrant Spacing</u>
<u>Residential</u>	<u>1 or 2 dwelling units per building</u>		<u>800 feet apart</u>
	<u>3 to 6 dwelling units per building</u>	<u>Note (a) &amp; (c)</u>	<u>600 feet apart</u>
	<u>7 or more dwelling units per building</u>	<u>Note (c)</u>	<u>400 feet apart</u>
<u>Commercial</u>	<u>Any size</u>	<u>Note (c)</u>	<u>400 feet apart</u>
<u>Industrial</u>	<u>Any size</u>	<u>Note (b) &amp; (c)</u>	<u>300 feet apart</u>

Notes:

- (a). For multifamily buildings taller than two stories, the maximum fire hydrant spacing must be 400 feet apart.
- (b). For all hazardous storage areas, the maximum fire hydrant spacing must be provided in accordance with the Industrial standard.
- (c). On-site fire hydrants must be provided so that in no case will there be a fire hydrant located more than 400 feet from all portions of the ground floor of any building. This must be in addition to any other hydrant spacing requirement.

**Sec. 10-385. ~~Developments provided with public water system~~Reserved.**

- (a) ~~General design standards.~~ Fire protection and public water systems shall be designed by an engineer and constructed in accordance with County, state and federal standards, including the domestic requirements established by the appropriate state agency and the fire protection requirements established by the Uniform County Fire Code, as they may be amended.

- (b) ~~Fire flows.~~ The water distribution system shall be capable of delivering fire flows as follows:
- (1) ~~Requirements for one- and two-family developments are as follows:~~

Distance Between —Buildings	Needed Fire Flow (gpm)
Over 30 feet	500
0 to 30 feet	750

~~Developments not capable of delivering the required fire flow shall provide automatic sprinkler systems in accordance with NFPA #13D most current adopted edition or shall provide an additional source of water for fire protection in accordance with section 10-386.~~

- (2) ~~All other building shall calculate required fire flows in accordance with the formula shown in subsection (b)(3) of this section. This formula establishes a base flow from which the degree of hazard and credit for sprinkler protection will result in a final needed fire flow. NFPA #13 most current adopted edition shall be used for the purpose of determining hazard classification.~~

Classification	Application
Light	<del>Light</del>
Ordinary I and II	<del>Ordinary</del>
Ordinary III and higher	<del>High</del>

- (3) ~~Fire flow is based on the following formula:~~

$$F = 18 \text{ multiplied by } C \text{ multiplied by } A.$$

F	=	Gallons per minute flow at 20 pounds per square inch residual.
G	=	Constant based on type of building construction.
Coefficients based on construction type:		
1.5	=	Wood (type VI).
1.0	=	Ordinary (type V).
0.8	=	Noncombustible (type III and IV).
0.6	=	Fire resistive (type I and II).
A	=	The square root of the gross floor area (as defined in the Standard Building Code, most current adopted edition) of all floors. Area of buildings without walls shall be calculated using building area as defined in the 1988 Standard Building Code.
		Fire resistive construction need only be calculated on the three largest successive floors.

	A four-hour fire resistive wall may be used to reduce total square footage of a building providing the wall intersects each successive floor of the building.
BF	= Base flow established from the formula $F = 18 C$ multiplied by A.
FF	= BF multiplied by 0.75 (light hazard occupancy).
FF	= BF multiplied by 1 (ordinary hazard occupancy).
FF	= BF multiplied by 1.25 (high hazard occupancy).

~~If the building is protected by an automatic sprinkler system installed in accordance with all state and local codes, the fire flow requirement will be deemed to have been satisfied.~~

- ~~(4) A minimum flow in all cases will be 500 gallons per minute with a 20 pounds per square inch residual.~~
- ~~(5) In areas that cannot meet a flow of 500 gallons per minute, alternate sources of water may be acceptable, subject to County Fire Official approval.~~

~~(c) Water main installation.~~

- ~~(1) Water mains for one and two dwelling unit developments shall be no less than eight inches in diameter, and constructed in an external loop connected to intersecting water mains at a maximum distance of 1,500 feet.~~
- ~~(2) Water mains for multifamily developments with three to six dwelling units per building and not exceeding two stories in height shall be no less than eight inches in diameter, and constructed in an external loop connected to intersecting water mains at a maximum distance of 1,500 feet.~~
- ~~(3) Water mains for multifamily developments composed of buildings with more than six units per building or more than two stories in height, and all commercial areas, shall be no less than ten inches in diameter, and constructed in an external loop system with intersecting water mains installed every 2,000 feet.~~
- ~~(4) Water mains for all industrial areas and all hazardous storage areas shall be no less than 12 inches in diameter and constructed in an external loop system with intersecting water mains installed every 2,000 feet. Fire hydrants shall be installed on intersecting water mains.~~
- ~~(5) Fire hydrants shall be installed so that the 4½-inch streamer connection is no less than 18 inches and no more than 24 inches above finished grade.~~
- ~~(6) The maximum allowed dead-end water line shall be no longer than one-half the distance required between intersecting water mains.~~
- ~~(7) Any water main along an arterial road or considered by the utility company to be a main transmission line shall be sized to accommodate future growth, but in no case~~

~~less than specified in this section. A letter of approval from the utility company will be acceptable evidence of conformance with this requirement.~~

- ~~(8) Fire hydrants shall be located within ten feet of the curbline of fire lanes, streets or private streets when installed along such accessways.~~
- ~~(9) The applicant may submit a request for an Administrative Deviation in accordance with section 10-104(a)(13) for alternatives to line sizing, dead-end and intersecting water main criteria if they embody sound engineering practices and are demonstrated by the applicant's professional engineer.~~

~~(d) Hydrant spacing.~~

- ~~(1) Fire hydrant spacing shall be determined using the last available hydrant on the public water system as the PCP.~~
- ~~(2) Hydrant spacing for all developments shall be measured along the centerline of the street. For the purposes of this subsection, the term "street" shall include all road frontage, including roadways, drives, avenues or any other road designation. Also included shall be any private drive designated as required fire department access.~~
- ~~(3) Fire hydrants shall be spaced as follows:~~
  - ~~a. Hydrants for one to two dwelling unit developments shall be 800 feet apart as measured along the centerline of the street.~~
  - ~~b. Hydrants for multifamily developments with three to six dwelling units per building and not exceeding two stories in height shall be 600 feet apart measured along the centerline of the street.~~
  - ~~c. Hydrants for multifamily developments with more than six dwelling units per building or more than two stories in height, and commercial areas, shall be 400 feet apart as measured along the centerline of the street.~~
  - ~~d. Hydrants for all industrial and hazardous storage areas, as defined in the Standard Building Code, shall be 300 feet apart as measured along the centerline of the street.~~
- ~~(4) Where fire flows are provided by a public water system, on-site fire hydrants shall be provided so that in no case shall there be a fire hydrant located more than 400 feet from all portions of the ground floor of any building. This shall be in addition to any other hydrant spacing requirement. This shall not apply to one- and two-family developments.~~

## DIVISION 6. OPEN SPACE, BUFFERING AND LANDSCAPING

### **Sec. 10-415. Open space.**

- (a) *remains unchanged.*
- (b) *Indigenous native vegetation and trees.*
  - (1) *remains unchanged.*
  - (2) *Salvaging existing native plants.* Open space areas must be designed to incorporate as many of the existing large native trees and sabal palms as possible. Irrigation water must be available on the development site and provisions for adequate irrigation provided.
    - a. *Sabal palms.* For projects greater than 10 acres, Hhealthy sabal palms with a minimum eight-foot clear trunk and maximum of twenty-five foot clear trunk must be salvaged if conditions (e.g., no rock) and sequence of construction allows. If sequence of construction does not allow the on-site relocation of sabal palms, then the sabal palms must be salvaged for an off-site recipient site or sale. The salvage efforts must be coordinated with the division of environmental sciences staff whether used on-site or otherwise. The number of sabal palms to be relocated or salvaged must be shown on the landscape plan approved as part of the development order. Any sabal palms being relocated must be moved in a horticulturally correct manner per Lee County Extension Services brochure Lee 8/2000A. A 90 percent survival for relocated sabal palms is required. Death of over ten percent of the relocated sabal palms will require a 1:1 replanting.

*Remainder of section is unchanged.*

#### **Sec. 10-416. Landscape standards.**

- (a) *General.* Landscaping for all new developments, except community and regional parks as defined in the Lee Plan, must include, at a minimum, the following number of trees, in addition to the landscaping required for parking and vehicle use areas and buffers. General tree requirements may be reduced through the utilization of larger trees as specified in section 10-420(c)(2) or through use of an alternative landscape betterment plan (see section 10-419). Existing waterbodies within the development area will not be included in the calculation for general tree requirements.
  - (1) Single-family residence developments that are constructed on individual (single) lots. One tree must be provided per 3,000 square feet of development area. which must include a minimum of two trees per single-family lot installed prior to issuance of the certificate of occupancy. The preferred location to install these trees is on common property (clubhouse, lakes, dry detention or other similar property) prior to the issuance of a Certificate of Completion. Tree credits should be utilized per LDC 10-420(j) for indigenous preserves, where applicable.

(2) Single family developments with a conventional zoning district lot and lot coverage with minimum lot sizes of 6,500 square feet or greater will be required to provide a minimum of two trees per lot.

~~(2)~~ (3) All other residential developments. All other residential developments must provide one tree per 3,000 square feet of development area.

~~(3)~~ (4) Recreational vehicle developments. One tree must be provided per 3,000 square feet of development area.

~~(4)~~ (5) All other developments. One tree must be provided per each 3,500 square feet of development area.

~~(5)~~ (6) Compact communities. Development constructed in accordance with chapter 32 must provide street trees on both sides of all streets. Street trees located between a lot and a street may be counted towards the tree planting requirements of this section.

*(b) - (c) remain unchanged.*

(d) *Buffering adjacent property.* Buffering and screening applies to all new development. Existing landscapes that do not comply with the provisions of this section must be brought into conformity to the maximum extent possible when: the vehicular use area is altered or expanded, except for restriping of lots/drives, the building square footage is increased, or there has been a discontinuance of use for a period of one year or more and a request for an occupational license to resume business is made.

(1) *General.* A buffering area is required along the entire perimeter of the proposed development whenever the proposed development abuts a different use. The existing use or, where vacant, the permitted use, of the abutting property will determine the type of buffering area required for the proposed development. Buffer areas may not be located on any portion of an existing or dedicated street right-of-way or roadway easement except that buffers may be located within slope easements as long as appropriate planting soil is provided in the slope. ~~Variances or deviations from this requirement are prohibited.~~

*Remainder of section is unchanged.*

#### **Sec. 10-418. Surface water management systems.**

*Design standards.* Techniques to mimic the function of natural systems in surface water management systems are as follows:

*(1) – (2) remain unchanged.*

(3) *Bulkheads, riprap revetments or other hardened shoreline structures.* Bulkheads, riprap revetments or other hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline. Hardened shoreline structures cannot be

used adjacent to single-family residential uses. A compensatory littoral zone equal to the linear footage of the bulkhead must be provided within the same lake meeting the following criteria:

- a. A five-foot wide littoral shelf planted with herbaceous wetland plants to provide 50 percent coverage at time of planting. To calculate the littorals for this shelf design indicate the number of linear feet of hardened structure multiplied by 5 foot for the littoral shelf width multiplied by 50% for the plant coverage at time of planting.; or
- b. An 8:1 slope littoral shelf with herbaceous wetland plants to provide 50 percent coverage at time of planting; or
- c. An equivalent littoral shelf design as approved by the Director.

(4) *remains unchanged.*

(5) Restoration of existing bank slopes that have eroded over time and no longer meet the minimum littoral design criteria applicable at the time the lakes were excavated will be in accordance with LDC section 10-329 (f).

#### **Sec. 10-419. Alternate landscape betterment plan.**

Applications pursuant to this division are entitled to Landscape Architects, at the Director's discretion, may demonstrate that the intent of this division can be more effectively accomplished through an alternate landscape betterment plan. Alternative, creative designs are encouraged for difficult sites for landscape design, including but not limited to such as "in-fill" developments, existing developments, and irregularly shaped parcels. The Director may approve the proposed alternate landscape betterment plan with or without conditions to ensure that the overall landscape design complies with the intent of this division.

The following conditions must be met:

(1) - (5) remain unchanged.

(6) Any changes to an approved alternate landscape betterment plan must be reviewed as minor change.

### **ARTICLE IV. DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL BUILDINGS AND DEVELOPMENTS**

#### **Sec. 10-602. Applicability.**

(a) *remains unchanged.*

(b) *Renovations and redevelopment.* In the case of additions or renovations to, or redevelopment of, an existing building, where the cumulative increase in total floor building area exceeds 50 percent of the square footage of the existing building being

enlarged or renovated, the provisions of this article will apply. ~~In approved CRA overlay district areas and~~ Where there are inherent problems retrofitting existing buildings, the Director may waive some or all requirements if other equivalent enhancements are provided.

(c) *Discontinuance:*

(1) Where the use of a structure or building is discontinued or abandoned for one year (except when government action impedes access to the land), the provisions of this article will apply. ~~In approved CRA overlay district areas and~~ Where there are inherent problems retrofitting existing buildings, the Director may waive some or all requirements if other equivalent enhancements are provided.

(2) *remains unchanged.*

**Sec. 10-620. Design standards and guidelines for commercial buildings.**

(a) *Purpose and intent.* The purpose and intent of these provisions is to maintain and complement the street scape by requiring that buildings be designed with architectural features and patterns that provide visual interest consistent with the community's identity and local character while reducing the mass/scale and uniform monolithic appearance of large unadorned walls. (See Illustration 4 below.) ~~Due to inherent problems in the CRA overlay district, compliance with the CRA overlay district design guidelines may substitute for the criteria set forth in this section.~~

(b) – (e) *remain unchanged.*

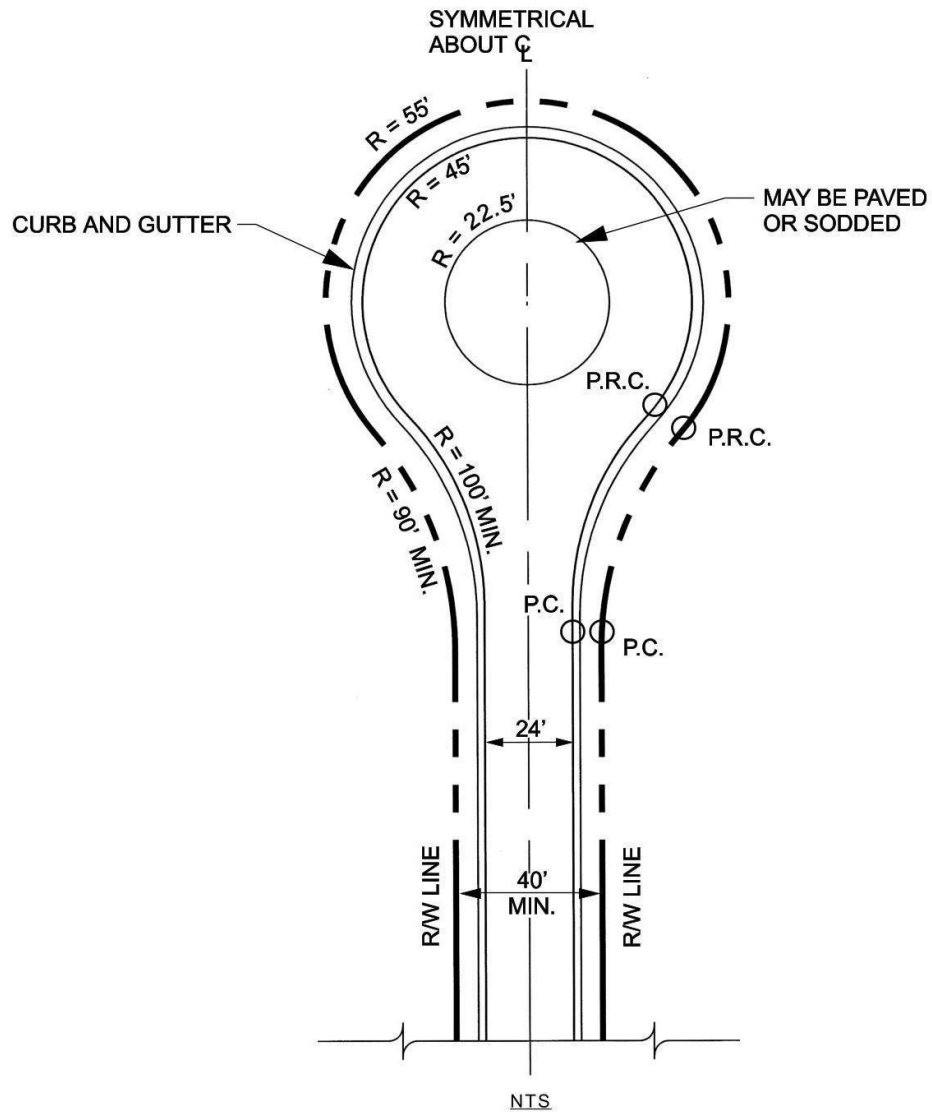
**ARTICLE V. ILLUSTRATIONS, TABLES AND DIAGRAMS**

**Sec. 10-714. Culs-de-sac.**

(a) The following illustration applies to culs-de-sac with curb and gutter:



## CUL-DE-SAC CURB AND GUTTER



- (b) The following illustration applies to culs-de-sac with ditch swale:

## ARTICLE II. MINING AND EXCAVATION

(a) Mine excavation planned development approval. Application for a MEPD approval must be made on a form prepared by Lee County and be submitted with the appropriate fee.

Application sufficiency and resubmittal timing will be in accord with section 34-373(d). The application must address the following:

(1) through (8) remain unchanged.

(9) ~~Reserved. Structure affidavit. This affidavit must meet the requirements of section 34-202(b)(3).~~

Remainder of section is unchanged.

#### **Sec. 12-119. Reclamation requirements.**

- (a) *Reclamation plan.* The excavated lake must be designed to ensure appropriate native wetland areas will be created as a littoral shelf to provide long term water quality benefits; a source of natural organics for the lake; and wildlife habitat. Additionally, the final shoreline configuration outside of the littoral zone created wetland areas must be designed to prevent shoreline erosion. The overall reclamation plan must provide long term plans to sustain or improve the baseline water quality as well as sustain healthy fish and wildlife populations.

Plans and other appropriate documents accurately depicting the plan of reclamation, consistent with the standards detailed in section 12-119(b) are required. The reclamation plan must be consistent with the mining plan and include:

(1) – (6) remain unchanged.

- (7) Bank slope. After excavation is complete and upon reclamation of the site, the banks of the excavations outside of the required marsh creation area must be sloped at a ratio not greater than 6 horizontal to 1 vertical from the top of the finished grade to a water depth of four feet below the dry season depth. ~~Deviation or variance from the slope requirement is prohibited.~~ A deviation or variance from this standard may only be requested through the public hearing process for a mine located within the “Future Limerock Mining” area as shown on Map 14 of the Lee County Comprehensive Plan.

#### **Sec. 12-121. Existing mine operations.**

- (a) *remains unchanged.*

- (b) *Continuing existing mine activity.* An existing mine may continue to operate and obtain MOP approvals if:

(1) – (2) remain unchanged.

- (3) The existing mine without a MOP approval in place as of September 1, 2008, obtains a MDO approval, encompassing the entire mine boundary approved under the special exception or IPD/RPD resolution, in accord with section 12-121(c) on or before December 31, 2018; and, thereafter obtains a MOP approval

on all or a portion of the mine project no later than ten years after the date the MDO is issued; OR

- (4) The Master Concept Plan or MOP has expired, and 80 percent of the mine's surface area or total quantity of material has been excavated, the Director may administratively approve a new MDO to allow the existing mine to be completed. The administrative approval for the MDO must be processed in accordance with LDC Section 12-121(c). Decisions by the Director pursuant to this section are solely discretionary and may not be appealed. The applicant has the right to file an application to rezone to MEPD if the administrative application is denied.

*Remainder of section is unchanged.*

## **Chapter 30. SIGNS**

### **ARTICLE IV. RESTRICTIONS BASED ON LOCATION**

#### **DIVISION 2. ON-SITE SIGNS**

#### **Sec. 30-151. Temporary signs.**

(1) – (6) *remains unchanged.*

(7) *Special occasion signs.*

- a. Temporary on-site signs may be issued for special occasions such as holidays (other than Christmas and Hanukkah, which are addressed in section 30-6), car, boat or craft shows, carnivals, parking lot sales, annual and semiannual promotions or other similar events, provided:

1. A special occasion sign permit is issued by the building official;
2. The special occasion sign permit is issued for a period of time not to exceed ~~45~~30 contiguous days;
3. Special occasion signs defined as animated, balloon, emitting, figure structured, or motion picture signs, must be approved by the director of community development. The director's decision is discretionary and is not subject to appeal; and
4. No business may be permitted more than ~~two~~four special occasion permits in any calendar year;

*b. – d. remain unchanged.*

#### **Sec. 30-152. Permanent signs in residential areas.**

Permanent signs in residential areas ~~shall be~~are subject to the following:

(1) *remains unchanged.*

(2) *Residential development identification signs.*

- a. *Entrance signs.* Permanent wall or ground-mounted signs for identification purposes only, ~~giving only, (the name of the subdivision or residential development and, where applicable, the name of recreational facilities internal to the subdivision or development)~~ may be permitted at each main entrance into such subdivision or development, subject to the following regulations:

1. - 2. *remain unchanged.*

*Remainder of section is unchanged.*

## **Chapter 33 PLANNING COMMUNITY REGULATIONS**

### **ARTICLE II. ESTERO PLANNING COMMUNITY**

#### **DIVISION 1. IN GENERAL**

#### **Sec. 33-52. Applicability.**

(a) *remains unchanged.*

(b) *Development orders.* The provisions of article II apply to all development orders and ~~type 1, 2, 8, 10, and 12~~ limited review development orders described in Sections 10-174(1), 10-174(2) and 10-174(4)a. that are requested within the Estero Planning Community. Compliance with these provisions will be required in order to obtain development order approval.

(c) *remains unchanged.*

#### **Sec. 33-54. Community review.**

(a) *Applications requiring review.* The owner or agent applying for the following types of county approvals must conduct one public informational session in accord with section 33-54(b) within the Estero Planning Community prior to obtaining a finding of sufficiency.

- (1) *Development orders.* This includes all applications for development orders ~~and Type 1, 2, 8, 10 and 12 limited review development orders~~ requested within the Estero Planning Community.

*Remainder of section is unchanged.*

#### **Sec. 33-57. Deviations and variances.**

If an applicant desires to deviate from any architectural, site design, landscaping or signage guidelines in Article II, including all sections from 33-111 through 33-385, an applicant may do so at the time of zoning or development order if permitted under section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation must be submitted as part of the development order application. Administrative deviations to a planned development may be allowed subject to a meeting within the Estero Planning Community in accord with section 33-54(b).

### ARTICLE III. GREATER PINE ISLAND

#### DIVISION 1. IN GENERAL

##### **Sec. 33-1004. - Community review.**

- (a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publically advertised informational session in accord with section 33-1004(b) within the Pine Island Community prior to obtaining an approval or finding of sufficiency of the following:

(1) – (3) *remain unchanged.*

- (4) Development orders and Type 1, 2, 10 and 12 limited review development orders.

- (b) *remains unchanged.*

**NOTE: Amendments to Sec. 33-1052 - 33-1055 (highlighted in yellow) have been withdrawn.**

#### **DIVISION 5. COASTAL RURAL DEVELOPMENT REGULATIONS**

##### **Sec. 33-1052. Residential density limitations.**

- (a) ~~Standard and adjusted densities.~~ The "Coastal Rural" areas will remain rural except for portions of properties where smaller residential lots are permitted in exchange for permanent commitments to preservation or restoration of native upland habitat or to continued agricultural use of existing farmland.

- (1) ~~The standard maximum density established by Policy 1.4.7 of the Lee Plan is one dwelling unit per ten acres (1 DU/10 acres); however, see sections 33-1057 and 34-3273 regarding nonconforming lots.~~

- (2) ~~Maximum densities may increase in accordance with Table 33-1052 as higher percentages of upland portions of a site are permanently committed in one of the following ways:~~

a. ~~Land uses are restricted in native habitat that is permanently preserved on upland portions of a site.~~

b. ~~Land uses are restricted in native habitat that is restored and then permanently preserved on upland portions of a site.~~

- c. Existing farmland that is identified on Map 21 of the Lee Plan and is limited in the future to agricultural uses.

**Table 33-1052. ADJUSTED MAXIMUM DENSITIES FOR PRESERVED/ RESTORED HABITAT AND FOR CONTINUED AGRICULTURAL USE**

Percentage of the on-site uplands that are: preserved or restored native habitat; or for continued agricultural use on existing farmland	Adjusted Maximum Densities*	
	If undeveloped land will be permanently preserved or restored as native habitat:	If undeveloped land will be continued in agricultural use on existing farmland:
0% to 4.99%	1 DU/ 17 acres	1 DU/ 17 acres
5% to 9.99%	1 DU/ 15 acres	1 DU/ 15 acres
10% to 14.99%	1 DU/ 13 acres	1 DU/ 15 acres
15% to 19.99%	1 DU/ 12 acres	1 DU/ 15 acres
20% to 29.99%	1 DU/ 10 acres	1 DU/ 13 acres
30% to 39.99%	1 DU/ 8 acres	1 DU/ 12 acres
40% to 49.99%	1 DU/ 7 acres	1 DU/ 10 acres
50% to 59.99%	1 DU/ 5 acres	1 DU/ 8 acres
60% to 69.99%	1 DU/ 4 acres	1 DU/ 5 acres
70% or more	1 DU/ 2.7 acres	1 DU/ 4 acres

- (a) \*Lee County Resolution 06-03-24 determined that the 910 traffic counts for Pine Island Road have been exceeded. Accordingly, the density stated above is the maximum density permitted in the Coastal Rural land use category for purposes of section 33-1052.
- (b) Two or more contiguous or noncontiguous "Coastal Rural" parcels may be combined into a single development application for purposes of computing the actual maximum density allowed on those properties. This provision would allow acreage on one parcel that is preserved or restored as native habitat, or existing farmland that is committed to continued agricultural use, to increase the density on another parcel that is included in the same development application.
- (c) Rezoning is not required for a proposed residential development on land zoned AG-2 and designated "Coastal Rural" by the Lee Plan provided that the proposed development will comply with all regulations in this code, including all of this article.
- (1) remains unchanged.
- (2) A proposed development that would deviate from this code, except for administrative deviations in accordance with section 10-104, must seek approval through the planned development rezoning process prior to obtaining a development order pursuant to chapter 10.
- a. Deviations or variances can never be granted to increase the densities in Table 33-1052.
- a.b. Example of deviations that can be considered during the planned development process include:

1. Permitted uses and property development regulations other than those provided in section 33-1053.
2. Reforestation methods that do not meet all of the technical requirements of this section for "permanently preserved native habitat" or "restored native habitat" but which will achieve the same ends.
3. Infrastructure more suited to country living, such as narrower streets, alternative paving materials, stormwater management systems that promote infiltration of runoff, etc.

b.e. The special application requirements in section 33-1052(b)(e)(1)a. must supplement this code's requirements for planned development applications.

#### **Sec. 33-1054. Permanently preserved native habitat.**

A development proposal that requests an increase to the standard maximum residential density for committing to "permanently preserved native habitat," as that phrase is defined in section 33-1003, must be accompanied by plans and supporting documentation that demonstrate compliance with the following requirements.

- (a) *Land uses in preserved habitat.* Native habitat that is counted as preserved for the purposes of the table in Lee Plan Policy 1.4.7 ~~Table 33-1052~~ cannot be part of any individual lots or parcels on which development is permitted.

*Remainder of section is unchanged.*

#### **Sec. 33-1055. Restored native habitat.**

A development proposal may request an increase to the standard maximum residential density for committing to "restored native habitat," as that phrase is defined in section 33-1003. The restoration goal is to initiate the re-creation of native habitats that had been typical of Greater Pine Island and to establish conditions suitable to their long-term maturation, regeneration, and sustainability. Restored native habitat must meet all of the requirements of section 33-1054, plus the following requirements.

*(a) – (e) remain unchanged.*

- (f) *Flatwoods restoration bank.* As an additional alternative to restoring native habitat on-site or on contiguous or non-contiguous parcels combined into a single development application, Lee County may adopt an administrative code that sets forth the requirements for a third party to preserve or restore degraded upland habitats on large parcels on Pine Island. Credits for this restoration work could be sold to other landowners in Greater Pine Island who wish to increase their allowable density in accordance with Lee Plan Policy 1.4.7 ~~Table 33-1052~~.



**(1) – (3) remain unchanged.**

#### DIVISION 6. DESIGN STANDARDS

##### **Sec. 33-1089. Commercial fishing equipment storage as accessory use to residence.**

- (a) Permitted use. The storage and repair of commercial fishing equipment, specifically fishing nets and crab traps, shall be permitted as an accessory use to a single-family or mobile home residence in the AG, RSC, RS, TFC and MH zoning districts when in compliance with the conditions set forth in subsection (b) of this section.
- (b) Conditions.
- (1) The storage and repair of commercial fishing equipment such as nets and traps must be clearly subordinate to the use of the property for residential purposes.
  - (2) Storage and repair of equipment is limited to equipment owned or leased by the occupant of the residence only.
  - (3) Storage of equipment must comply with the setback requirements for accessory buildings and structures as set forth in Chapter 24, Division 2; provided that, with the exception of boats, no storage will be permitted between the street right-of-way and the principal building.
  - (4) Fishing nets, when not being repaired, must be stored neatly and covered by canvas or other suitable material.
  - (5) Crab traps, when not being repaired, built or rebuilt, must be stacked neatly. Stacking of traps must not exceed six feet in height.
  - (6) The open storage of discarded or derelict nets, traps, boats or other fishing equipment is prohibited.
  - (7) The occupant of the property is responsible for maintaining the property free of rats and vermin.

**Secs. 33-109089--33-1200. Reserved.**

#### **ARTICLE IV. PAGE PARK PLANNING COMMUNITY**

##### **DIVISION 1. IN GENERAL**

##### **Sec. 33-1202. Applicability.**

- (a) – (b) *remain unchanged.*
- (c) Development orders. The provisions of this article apply to all development orders and ~~Type 1, 2, 10, and 12~~ limited review development orders described in Sections 10-

174(1), 10-174(2) and 10-174(4)a. that are requested within the Page Park Community. Compliance with these provisions will be required in order to obtain development order approval.

(d) – (e) *remain unchanged.*

### **Sec. 33-1203. Community review.**

(a) *Applications requiring review.* The owner or agent applying for the following types of county approvals must conduct one publically advertised informational session in accord with section 33-1203(b) within the Page Park Community prior to obtaining an approval or finding of sufficiency of the following:

- (1) Development orders. This includes all applications for development orders ~~and Type 1, 2, 10 and 12 limited review development orders~~ requested within the Page Park Community;

*Remainder of section is unchanged.*

### **Sec. 33-1205. Definitions.**

~~Live-work unit means a dwelling unit, part of which is used as a business establishment and the dwelling unit is the principal residence of the business operator. Live-work units typically include a ground floor dedicated to office, retail space or service space, and upper or rear floors for living quarters. A live-work unit contains the following:~~

- ~~(a) Live space means rooms used by a single household as a dwelling unit. The living space of a live-work unit must contain a kitchen area and sanitary facilities.~~
- ~~(b) Work space means an area within a live-work unit that is designed or equipped exclusively or principally for the conduct of work activities and is to be regularly used for such work activities by one or more occupants of the live space.~~

### **Sec. 33-1206. Deviations and variances.**

Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from any architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance must be submitted as part of the application.

~~If an applicant desires to deviate from the architectural, site design, landscaping or signage guidelines in this article, an applicant may do so in accordance with chapter 34 or at the time of development order if permitted under section 10-104. A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance must be submitted as part of the application.~~

## **ARTICLE V. LEHIGH ACRES PLANNING COMMUNITY**

## DIVISION 1. GENERALLY

### **Sec. 33-1400. Applicability.**

*(a) – (b) remain unchanged.*

- (c) *Development orders.* The provisions of this article apply to development orders and ~~Type 1, 2, 10, and 12~~ limited review development orders described in Sections 10-174(1), 10-174(2) and 10-174(4)a. that are requested within the Lehigh Acres Planning Community. Compliance with these provisions will be required in order to obtain development order approval.

*(d) – (e) remain unchanged.*

### **Sec. 33-1401. Community review.**

- (a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publically advertised information session within the Lehigh Acres Planning Community prior to obtaining approval or finding of sufficiency of the following:
- (1) *Development orders.* ~~This includes all applications for development orders and Type 1, 2, 10 and 12 limited review development orders.~~

*Remainder of section is unchanged.*

### **Sec. 33-1403. Deviations and variances.**

Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from any architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104**(b)**. A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance must be submitted as part of the application.

## DIVISION 3. SPECIFIC USE STANDARDS

### *Subdivision I. Model Homes*

### **Sec. 33-1431. Model homes.**

*(a) through (b) remain unchanged.*

- (c) The following regulations will apply to redevelopment of model homes:
- (1) *remains unchanged.*
- (2) Live-work units.

~~(a) "Live-work unit" means a dwelling unit, part of which is used as a business establishment and the dwelling unit is the principal residence of the business operator. Live-work units typically include a ground floor dedicated to office, retail space or service space, and upper or rear floors for living quarters. A live-work unit contains the following:~~

~~(1) "Living space" means rooms used by a single household as a dwelling unit. The living space of a live-work unit must contain a kitchen area and sanitary facilities.~~

~~(2) "Work space" means an area that is designed or equipped exclusively or principally for the conduct of work activities and is to be regularly used for such work activities by one or more occupants of the living space.~~

~~(b) Live-work units may be developed in former model homes subject to the following:~~

~~(1) – (8) remain unchanged.~~

~~(3) remains unchanged.~~

## **ARTICLE VII. CALOOSAHATCHEE SHORES PLANNING COMMUNITY**

### **DIVISION 1. GENERALLY**

#### **Sec. 33-1480. Applicability.**

This division is applicable to Caloosahatchee Shores Planning Community (see Map 14 in Appendix I), described in Goal 21 of the Lee County Comprehensive Plan (Lee Plan).

~~(a) - (b) remain unchanged.~~

~~(c) *Development orders.* The provisions of this article apply to all development orders and ~~type 1, 2, 10, and 12~~ limited review development orders described in Sections 10-174(1), 10-174(2) and 10-174(4)a. that are for property located within the Caloosahatchee Shores Community. Compliance with these provisions will be required in order to obtain development order approval.~~

~~(d) remains unchanged.~~

#### **Sec. 33-1482. Community review.**

~~(a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publically advertised information session within the Caloosahatchee Shores Planning Community prior to obtaining approval or finding of sufficiency of the following:~~

- (1) ~~Development orders. This includes all applications for development orders and Type 1, 2, 10 and 12 limited review development orders.~~

*Remainder of section is unchanged.*

**Sec. 33-1484. Deviations and variances.**

Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from any architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance must be submitted as part of the application.

**Sec. 33-1485. Definitions.**

~~Live-work unit means a dwelling unit, part of which is used as a business establishment and the dwelling unit is the principal residence of the business operator. Live-work units typically include a ground floor dedicated to office, retail space or service space, and upper or rear floors for living quarters. A live-work unit contains the following:~~

- (a) ~~Live space means rooms used by a single household as a dwelling unit. The living space of a live-work unit must contain a kitchen area and sanitary facilities.~~
- (b) ~~Work space means an area that is designed or equipped exclusively or principally for the conduct of work activities and is to be regularly used for such work activities by one or more occupants of the living space.~~

**ARTICLE VIII. NORTH FORT MYERS PLANNING COMMUNITY**

**DIVISION 1. GENERALLY**

**Sec. 33-1532. - Community review.**

- (a) *Applications requiring review.* The owner or agent applying for the following types of County approvals must conduct one publically advertised information session within the North Fort Myers Planning Community prior to obtaining approval or finding of sufficiency of the following:
- (1) ~~Development orders. This includes all applications for development orders and Type 1, 2, 10 and 12 limited review development orders.~~

*Remainder of section is unchanged.*

**Sec. 33-1535. Deviations and variances.**

Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from any architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A

rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance must be submitted as part of the application.

~~If an applicant desires to deviate from any architectural, site design, landscaping, tree protection or signage guidelines in this article an applicant may do so at the time of zoning or development order if permitted under section 10-104. A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation must be submitted as part of the development order and zoning applications.~~

~~(a) If an applicant desires a deviation (as defined per section 34-2) from any architectural, site design, landscaping or signage guidelines in this article an applicant may do so at the time of submission of a development order application in accordance with section 10-104. A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation must be submitted as part of the development order applications.~~

~~(b) If an applicant desires a variance (as defined per section 34-2) from any architectural, site design, landscaping or signage guidelines in this article an applicant may do so in accordance with section 34-145(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested variance must be submitted as part of the application for the variance.~~

## **ARTICLE IX. CAPTIVA PLANNING COMMUNITY**

### **DIVISION 1. GENERALLY**

#### **Sec. 33-1611. - Applicability.**

*(a) – (b) remain unchanged.*

(c) *Development orders.* This article applies to development orders and Type 1, 2, 10, and 42 limited review development orders described in Sections 10-174(1), 10-174(2) and 10-174(4)a. that are requested on Captiva Island.

*(d) – (e) remain unchanged.*

#### **Sec. 33-1612. - Community review.**

(a) *Applications requiring review.* The owner or agent applying for the following county approvals must conduct at least one public information meeting on Captiva Island prior to obtaining a finding of sufficiency:

(1) ~~Development orders, including applications for development orders and Type 1, 2, 10, and 12 limited review development orders requested within Captiva.~~

*Remainder of section is unchanged.*

#### **Sec. 33-1615. Deviations and variances.**

- (a) Variances or deviations may be requested in accordance with chapter 34. If an applicant desires to deviate from the architectural, site design or landscaping guidelines in this article, an applicant may do so at the time of development order in accordance with section 10-104(b). A rendered drawing to scale, showing the design, and clearly demonstrating the nature of the requested deviation or variance, must be submitted as part of the application.
- (b) *remains unchanged.*

## **Chapter 34. ZONING**

### **ARTICLE I. IN GENERAL**

#### **Sec. 34-1. Reserved. ~~Purpose and intent of chapter.~~**

~~The purpose of this chapter is to encourage and promote, in accordance with present and future needs, the safety, health, order, convenience, prosperity and general welfare of the citizens of the County, to recognize and promote real property rights, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for preservation, protection, development and conservation of the historical and natural resources of land, water and air, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for adequate public utilities and facilities, for promotion of the amenities of beauty and visual interest, for protection of the character and maintenance of the stability of residential, agricultural, business and industrial areas, and for development in accordance with the Lee Plan adopted by the County, by establishing zoning districts and by regulating the location and use of buildings, signs and other structures, water and land for agriculture, trade, industry and residence, by regulating and limiting or determining the height, bulk and access to light and air of buildings and structures, the area of yards and other open spaces and the density of use. To accomplish these objectives, the regulations and districts and accompanying maps have been designed with reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses.~~

#### **Sec. 34-2. Definitions.**

*Caretaker's residence* means the living unit of the person taking care of property and its use. A caretaker's residence is measured as intensity (not density) when located in non-residential zoning districts.

*Player development academy* means a facility ancillary to a County owned or operated stadium with exercise, training, rehabilitation and nutritional programs and subordinate amenities such as housing, kitchen, dining hall, theater, classrooms, and multi-purpose and recreation rooms.

### **ARTICLE II. ADMINISTRATION**

#### **DIVISION 2. BOARD OF COUNTY COMMISSIONERS**

**Sec. 34-83. Functions and authority.**

(a) *remains unchanged*

(b) Zoning actions.

(1) *remains unchanged.*

(2) *Considerations.* In rendering its decision, the Board of County Commissioners must consider the following:

a. The considerations set forth in section 34-145~~(d)~~(c)(2) which are applicable to the case.

b. The substantive recommendation of the Hearing Examiner, when applicable.

c. Testimony received during public hearing before the Board.

d. The evidence and testimony included with the Hearing Examiner's recommendation.

(3) *Findings.* Before granting any rezoning, special exception, or appeal of a Hearing Examiner decision, the Board of County Commissioners must find that:

a. *through j. remain unchanged.*

k. Urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve a proposed land use change, when reviewing a proposed change to a future urban area category.

l. The level of access and traffic flow (i.e. median openings, turning movements etc.) is sufficient to support the proposed development intensity.

m. The request meets the criteria and standards set forth in chapter 12 for approval of a mine excavation planned development.

(4) *Decisions and authority.*

a. In exercising its authority, the Board of County Commissioners:

1. Must consider the recommendation of the Hearing Examiner, but may, in conformity with the provisions of this chapter, reverse, affirm or modify the recommendation of the Hearing Examiner, or remand the recommendation to afford due process; May approve the request, deny the request, or remand case for further proceedings before the Hearing Examiner. In reaching its



decision, the Board may, but is not required to, adopt the Hearing Examiner's recommendation, Staff's recommendation, or the Applicant's recommendation. The Board may render its own decision based on competent substantial evidence presented during the proceedings. Unless otherwise provided by the Board, a decision to adopt the recommendation by the Hearing Examiner or Staff will include the written findings, conclusions, and conditions provided in the applicable recommendation.

2. May not approve a rezoning other than the rezoning published in the newspaper unless the change is more restrictive than the proposed rezoning published.;
3. Has the authority to attach such conditions and requirements to any approval of a request for a special exception, development of regional impact, planned development, mine excavation planned development, use of TDR or affordable housing bonus density units in conjunction with a rezoning request, or variance within their purview, deemed necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. These conditions and requirements must be reasonably related to the action requested.
- ~~4. May deny the request. The resolution adopting the denial must include a citation to the specific ordinance, rule, regulation, statute or other legal authority for denial in accord with section 2-4.~~
- ~~54.~~ In the case of an appeal of a Hearing Examiner decision pertaining to wireless communication facilities, the Board of County Commissioners must consider the decision as a recommendation only and may, in conformity with the provisions of this chapter, reverse, affirm or modify the decision of the Hearing Examiner, or remand the case to the Hearing Examiner.

b. *remains unchanged.*

- c. Any denial by the Board of County Commissioners is denial with prejudice unless otherwise specified by the Board of County Commissioners (~~see section 34-211~~).

(5) *remains unchanged.*

- ~~(6) *Special magistrate.* Final decisions under this section may be the subject of a request for relief under F.S. § 70.51, within 30 days after the decision has been rendered. For the purposes of computing the 30-day period, the date the decision has been rendered is the date of the public hearing at which the Board of County Commissioners made such decision by oral motion. The request for relief must allege that a decision of the Board of County Commissioners is unreasonable or~~

~~unfairly burdens the use of the subject property. A request for relief will be heard by an impartial special master in accordance with the procedure set forth in the Administrative Code.~~

~~(7)(6)~~ *Remand by Board of County Commissioners.* An application remanded for further consideration must be brought to hearing before the Hearing Examiner within six months of the date the remand order is rendered. If the application is not brought forward as ordered within six months, it will be deemed withdrawn. Thereafter, the applicant will be required to file a new application for consideration by the Hearing Examiner and the Board.

~~(7)~~ In matters that were first heard by the Hearing Examiner, only individuals who participated during the proceedings before the Hearing Examiner will be afforded the right to address the Board of County Commissioners. This prohibition does not apply to the Board's legal counsel, county Staff whose sole purpose is to facilitate the zoning hearing, individuals who were represented by legal counsel during the hearing before the Hearing Examiner, or legal counsel representing an individual that testified during the hearing. Notwithstanding, the testimony presented to the Board will be limited to the testimony presented to the Hearing Examiner.

*(c) remains unchanged.*

#### **Sec. 34-85. Final decision; judicial review.**

(a) Any final decision of the Board of County Commissioners may be reviewed by the circuit court unless otherwise provided in this article. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. The petition must be filed within 30 calendar days after the decision has been rendered. For the purposes of computing the 30-day period, the date that the decision has been rendered is the date the signed Resolution is date stamped received by the Minutes Department of the Clerk of Courts. ~~of the public hearing at which the Board of County Commissioners made such decision by oral motion.~~

*(b) through (c) remain unchanged.*

#### **DIVISION 4. HEARING EXAMINER**

#### **Sec. 34-145. Functions and authority.**

(a) *remains unchanged.*

(b) *Variances.*

(1) *remains unchanged.*

(2) *Considerations.* In reaching a decision, the Hearing Examiner must consider the following ~~criteria, recommendations and testimony:~~

- ~~a. Whether exceptional or extraordinary conditions or circumstances exist that are inherent in the land, structure or building involved and whether those exceptional or extraordinary conditions or circumstances create a hardship on the property owner;~~
- ~~b. Whether the exceptional or extraordinary conditions or circumstances result from the actions of the applicant;~~
- ~~c. Whether granting the variance will be injurious to the neighborhood or otherwise detrimental to the public welfare;~~
- a.d. Staff recommendations, including the staff report and attachments thereto;
- b.e. Testimony from the applicant; ~~and~~
- c.f. Testimony from the public;
- d. The Lee Plan;
- e. This chapter; and
- f. Any other applicable County ordinances or County codes.

(3) *Findings.* Before granting any variance, the Hearing Examiner must find that all of the following ~~exist~~ criteria are satisfied:

- a. There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question.
- b. The exceptional or extraordinary conditions or circumstances are not the result of actions of the applicant taken subsequent to the adoption of the ordinance (any action taken by an applicant pursuant to lawfully adopted regulations preceding the adoption of the ordinance from which this chapter is derived will not be considered self-created);
- c. The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to his property;
- d. The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; ~~and~~
- e. through g. remain unchanged.*

*(4) through (7) remain unchanged.*

(c) *Special exceptions.*

- (1) *remains unchanged.*
- (2) *Considerations.* In reaching a decision, the Hearing Examiner must consider the following, ~~whenever applicable:~~
- a. Staff recommendations, including the staff report and attachments;
  - b. Testimony from the applicant;
  - c. Testimony from the public;
  - d. The Lee Plan;
  - e. This chapter; and
  - f. Any other applicable County ordinances or County codes.
- ~~a. Whether there exist changed or changing conditions that make approval of the request appropriate.~~
- ~~b. The testimony of the applicant.~~
- ~~c. The recommendation of staff, including the staff report and attachments thereto;~~
- ~~d. The testimony of the public.~~
- ~~e. Whether the request is consistent with the goals, objectives, policies and intent of the Lee Plan.~~
- ~~f. Whether the request meets or exceeds all performance and locational standards set forth for the proposed use.~~
- ~~g. Whether the request will protect, conserve or preserve environmentally critical areas and natural resources.~~
- ~~h. Whether the request will be compatible with existing or planned uses.~~
- ~~i. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property.~~
- ~~j. Whether a requested use will be in compliance with all general zoning provisions and supplemental regulations pertaining to the use set forth in this chapter.~~

- (3) Findings. Before granting any special exceptions, the Hearing Examiner must find that the applicant has proved entitlement to the special exception by ~~demonstrating compliance with:~~
- a. That there exist changed or changing conditions that make approval of the request appropriate.
  - b. That the request is consistent with the goals, objectives, policies and intent of the Lee Plan.
  - c. That the request meets or exceeds all performance and locational standards set forth for the proposed use.
  - d. That, when applicable, the request will protect, conserve or preserve environmentally critical areas and natural resources.
  - e. That the request will be compatible with existing or planned uses.
  - f. That the request will not cause damage, hazard, nuisance or other detriment to persons or property.
  - g. That the requested use will be in compliance with all zoning provisions pertaining to the use set forth in this chapter and any other applicable County ordinances or codes.
  - a. ~~—The Lee Plan;~~
  - b. ~~—This chapter;~~
  - c. ~~—Any other applicable County ordinances or codes; and~~
  - h.d. In the case of wireless communication facilities the Hearing Examiner must also make the findings required by section 34-1445(b).

*(4) through (6) remain unchanged.*

(d) *Zoning matters.*

- (1) *Functions.* Regarding zoning matters, the Hearing Examiner has the following prescribed duties and responsibilities:
- a. Prepare recommendations to the Board of County Commissioners for changes or amendments relating to the boundaries of the various zoning districts or to the regulations applicable to those districts.
  - b. Make recommendations to the Board of County Commissioners on applications relating to the following:

*1. through 6. remain unchanged.*

~~7. Reinstatements of master concept plans for planned developments.~~

~~87. Applications for mine excavation development planned approval under chapter 12.~~

*c. remains unchanged.*

- (2) *Considerations.* In preparing a recommendation on a zoning matter, the Hearing Examiner must consider the considerations set forth in ~~criteria set forth in section 34-145(c)(2) as well as the following, if applicable:~~

~~a. Whether there exists an error or ambiguity which must be corrected;~~

~~b. Whether urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve a proposed land use change, when reviewing a proposed change to a future urban area category; and~~

~~c. Whether a proposed change is intended to rectify errors on the official zoning map.~~

~~d. Whether the level of access and traffic flow (i.e. median openings, turning movements etc.) is sufficient to support the proposed development intensity.~~

~~e. If the hearing concerns a mine excavation planned development, whether the request meets the criteria and standards set forth in chapter 12.~~

- (3) *Findings.* Before preparing a recommendation to the Board of County Commissioners on a zoning matter, the Hearing Examiner must find that:

*a. through i. remain unchanged.*

j. That urban services, as defined in the Lee Plan, are, or will be, available and adequate to serve a proposed land use change, when reviewing a proposed change to a future urban area category.

k. That the level of access and traffic flow (i.e. median openings, turning movements etc.) is sufficient to support the proposed development intensity.

l. If the hearing concerns a mine excavation planned development, that the request meets the criteria and standards set forth in chapter 12.

- (4) *Authority.*

*a. through b. remain unchanged.*

- c. ~~In reaching his recommendations,~~ The Hearing Examiner has the authority to recommend conditions and requirements to be attached to any request for a special exception or variance included under subsection (d)(1)b.3., 4. or 5. of this section.

- (5) *Decisions.* All decisions of the Hearing Examiner concerning zoning matters under this subsection (d) will be in the form of a recommendation to the Board of County Commissioners. ~~Only a participant or his representative will be afforded the right to address the Board of County Commissioners.~~

*(e) through (f) remain unchanged*

- (g) In reaching a decision or preparing a recommendation, the Hearing Examiner is limited to the authority granted within County regulations. The Hearing Examiner is not authorized to render legal interpretations regarding state or federal statutes, this includes, but is not limited to, the ability for the Hearing Examiner to render decisions regarding preemption of County regulations by state or federal law.

- (h) Deviations or variances from procedures, definitions, or permitted or prohibited uses are prohibited. This does not prohibit the granting of special exceptions as provided for in this Code.

**Sec. 34-202. General submittal requirements for applications requiring public hearing.**

- (a) *All applications.* Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the County, the Director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the Director prior to submitting the application. A copy of the request and the Director's written response must accompany the application and will become a part of the permanent file.

*(1) – (3) remain unchanged.*

- ~~(4) *Area location map.* A map, at a suitable scale, drawn on an eight and one-half inch by 11 inch size sheet of paper, that depicts the property described in the legal description in relation to the surrounding neighborhood. The map must be sufficiently referenced to known major streets or other physical boundaries in the surrounding area so as to be clearly identifiable to the general public. Reserved.~~

*(5) remains unchanged.*

- (6) *Surrounding property owners list.* A complete list, and ~~two~~ one sets of mailing labels, of all property owners, and their mailing addresses, for all property within 500\* feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request. For the purpose of this subsection, names and addresses of property owners will be deemed to be those appearing on the latest tax rolls of

the County at the time of application. The applicant is responsible for the accuracy of such list. ~~In the event that more than six months lapses between the time of application and the date of mailing courtesy notices for the scheduled public hearing, the Director may require the~~ When the application is found complete, or in the case of a planned development, sufficient, the applicant is required to submit a new list and mailing labels.

Applications for wireless communication facilities under section 34-1441, et seq. must include all property within 1,000 feet of the perimeter of the subject parcel.

\*NOTE: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet and 1,250 feet for wireless communication facilities.

(7) – (9) remain unchanged.

(10) *Compliance with specific planning community requirements.* If the subject property is located in ~~one of the following~~ a planning community ~~communities~~, the ~~owner~~/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in Chapter 33.

- a. ~~Estero Planning Community.~~
- b. ~~Greater Pine Island Planning Community.~~
- c. ~~Page Park.~~
- d. ~~Caloosahatchee Shores.~~
- e. ~~Lehigh Acres.~~
- f. ~~North Fort Myers.~~
- g. ~~Matlacha.~~

(b) Additional submittal requirements for owner-initiated applications. In addition to the submittal requirements set forth in (a), every application initiated by a property owner involving a change in the zoning district boundaries, or a request for special exception, deviation or variance, applicable to the property owner's land must include the following:

(1) *Authority.*

- a. *Ownership interests.* An affidavit, signed by the property owner or specified contract purchaser, must be submitted stating whether a Lee County Employee, County Commissioner, or Hearing Examiner has an Ownership Interest in the Property or any legal entity (Corporation, Company, Partnership, Limited Partnership, Trust, etc.) that has an Ownership Interest in the Property or that has contracted to purchase the Property ~~A list of all persons or entities having an ownership interest in the property, including the names of all stockholders and trust beneficiaries.~~ Disclosure with respect to a beneficial ownership interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to the general public, is exempt from the provision of this subsection.



*b. – c. remain unchanged.*

- (2) ~~Reserved. Property restrictions.~~ The application must include a copy of the deed restrictions or other types of covenants and restrictions on the parcel, along with a statement as to how the restrictions may affect the requested action. If there are no restrictions on the property, the applicant must indicate so on the application form.
- (3) ~~Reserved. Structure affidavit.~~ If buildings or structures exist on the property, an affidavit, signed by the property owner or specified contract purchaser, must be submitted stating whether the buildings and structures will be removed. If the property owner intends to retain the existing structures, then the affidavit must state the proposed use of the buildings and structures. The existing structures must be depicted on the boundary survey; and, if the request is for a planned development the structures must be depicted on the Master Concept Plan along with detail indicating whether the structure will be removed or how it will be used. If the request is an amendment of an existing planned development, this affidavit is not required, unless specifically requested by the Director or designee.

*(4) – (8) remain unchanged.*

#### **Sec. 34-203. Additional requirements for applications requiring public hearing.**

*(a) – (b) remain unchanged.*

- (c) ~~Rezoning~~ *Rezoning* other than planned developments and developments of regional impact. Requests for rezonings, other than planned developments and those determined to be development of regional impact must include a statement of the basis or reason for the rezoning. The statement must be directed to the guidelines for decision-making embodied in sections 34-145(c)(2)a., e., i., and j., 34-145(d)(2) a. and b., and 34-145(d)(3). A statement explaining the nature of the request and how the property qualifies for the rezoning. This statement should discuss the considerations set forth in section 34-145(d)(2) and explain how the request meets the applicable required findings set forth in section 34-145(d)(3). This statement may be utilized by the Board of County Commissioners, Hearing Examiner and staff in establishing a factual basis for the granting or denial of the rezoning.
- (d) *remain unchanged.*
- (e) *Special exceptions.* Except for special exceptions that are Developments of County Impact (see section 34-341), all applications for a special exception must, in addition to the requirements of sections 34-202(a) and (b) ~~and 34-203(e)(1) and (2)~~, include the following:
- (1) A statement explaining the nature of the request and how the property qualifies for the special exception. This statement should discuss the considerations set forth in section 34-145(c)(2) and explain how the request meets the applicable required findings set forth in section 34-145(c)(3). ~~A statement as to how the~~

~~property qualifies for the special exception requested, and what impact granting the request would have on surrounding properties. Such statement must be directed, at a minimum, to the guidelines for decision-making embodied in section 34-145(c)(2). This statement may be utilized by the Hearing Examiner and staff in establishing a factual basis for granting or denial of the special exception.~~

- (2) A traffic impact analysis of projected trip generation for the development and a site development plan, drawn to scale, detailing the proposed use, including, where applicable, the following:

- a. ~~The location and current use of all existing structures on the site, as well as those on adjacent properties within 100 feet of the perimeter boundaries of the site.~~
- b. All proposed structures and uses to be developed on the site.
- c. Any existing public streets, easements or land reservations within the site, and the proposed means of vehicular access to and from the site.
- d. ~~A traffic impact analysis of projected trip generation for the development.~~
- e. ~~Proposed fencing and screening, if any.~~
- d.f. Any other reasonable information which may be required by the Director which is commensurate with the intent and purpose of this chapter.

(3) – (4) *remain unchanged.*

- (5) On-premises consumption of alcoholic beverages. If the request is for a consumption on premises special exception, the application must include the following: permit:

- a. The property owners list and map (see section 34-202(a)(6) and (7)) (4) and (5)) must be modified to include all property within 500 feet of the perimeter of the subject property.
- b. Additional material is required as set forth in section 34-1264(c)(1) and (2). The site plan must include a detailed parking plan.
- c. ~~A written statement describing the type of state liquor license to be acquired, e.g., 2 COP, SRX, 11C, etc., and the anticipated hours of operation for the business, must be submitted.~~
- c. A traffic impact analysis of projected trip generation for the development is not required for special exceptions for consumption on-premises.

(6) *remains unchanged.*

- (7) Reserved.
- (8) *remains unchanged.*
- (9) ~~Family day care home exemption. The operation of a family day care home under F.S. § 125.0109 requires an exemption from the special exception requirements for child day care facilities. Applications for a family day care home must include:~~
  - ~~a. A notarized statement establishing that the family day care home will operate:~~
    - ~~1. In the applicant's residence; and~~
    - ~~2. On property owned by the applicant; or~~
    - ~~3. On property covered by a lease to the applicant for residential purposes, including the right to operate a family day care home.~~
  - ~~b. A copy of the applicant's state family day care home license or registration issued in accordance with F.S. § 402.313.~~
  - ~~c. A special processing fee in accordance with the External Fees and Charges Manual in lieu of the application fee for a special exception.~~
- ~~(10) Wireless communication facilities. (Refer to section 34-1441, et seq.)~~
- (f) *Variances.* Every application for a variance from the terms of this chapter must, in addition to the requirements of section 34-202(a) and (b), include the following:
  - (1) A statement that includes the section number and particular regulation from which a variance is requested and how the property qualifies for the variance. This statement should discuss the considerations set forth in section 34-145(b)(2) and explain how the request meets the applicable required findings set forth in section 34-145(b)(3). A document describing:
    - ~~a. The section number and the particular regulation of the Land Development Code from which relief (variance) is requested;~~
    - ~~b. The reason why the variance is needed;~~
    - ~~c. What effect, if any, granting of the variance would have on adjacent properties; and~~
    - ~~d. The nature of the hardship which is used to justify the request for relief.~~
  - (2) A site plan, drawn to scale, detailing ~~describing:~~

- a. Existing public streets, easements or other reservations of land within the site;
  - b. All existing and proposed structures on the site; and
  - c. ~~All existing structures within 100 feet of the perimeter boundary of the site; and~~
  - d. ~~The location of the proposed variance, from the adopted standards.~~
- (3) Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.
- (4) ~~Variance.~~ Street setbacks on collector and arterial roads.
- a. ~~In the case of a variance from required street setbacks on collector and arterial roads, the applicant:~~
    - 1. May modify the property owners list and property owners map (see section 34-202(a)(6) and (7)) to show only the names and locations of property owners that abut the perimeter of the subject property.
    - 2. Must submit a site plan, drawn to scale, showing:
      - i. ~~All structures, easements, and rights-of-way, etc., within 100 feet of the peripheral boundary of the subject property;~~
      - i.ii. The location of all proposed structures, easements, rights-of-way and vehicular access onto the property, including entrance gates or gatehouses; and
      - ii.iii. The extent of modification from street setbacks requested.
      - iii. Any other reasonable information which may be required by the Department which is commensurate with the intent and purpose of this Code.
- (5) b. ~~Wireless communication facilities.~~ In the case of variances concerning wireless communication facilities, refer to section 34-1453.

(g) – (h) remain unchanged.

#### **Sec. 34-204. Submittal requirements for Administrative Action applications.**

- (a) *All applications.* Every request for Administrative actions not requiring a public hearing under this chapter must include the following. Upon written request, on a form prepared

by the County, the Director may modify the submittal requirements as set forth in section 34-203(h).

(1) – (2) remain unchanged.

~~(3) *Property restrictions.* The application must include a copy of the deed restrictions or other types of covenants and restrictions on the parcel, along with a statement as to how the restrictions may affect the requested action. If there are no restrictions on the property, the applicant must indicate so on the application form.~~

~~(4) *Structure affidavit.* If buildings or structures exist on the property, an affidavit, signed by the property owner or specified contract purchaser, must be submitted stating whether the buildings and structures will be removed. If the property owner intends to retain the existing structures, then the affidavit must state the proposed use of the buildings and structures. The existing structures must be depicted on the boundary survey; and, if the request is for a planned development the structures must be depicted on the Master Concept Plan along with detail indicating whether the structure will be removed or how it will be used. If the request is an amendment of an existing planned development, this affidavit is not required, unless specifically requested by the Director or designee.~~

(5) – (6) remain unchanged.

(7) *On-premises consumption of alcoholic beverages.* If the request is for a consumption on premises permit, additional material is required as set forth in section 34-1264(c)(1). ~~the applicant must submit a sketch on an eight and one-half by 11-inch paper showing the location of the establishment requesting the consumption on premises in relationship to the perimeter boundary of the legal description.~~

(8) – (9) remain unchanged

#### **Sec. 34-205. Development of Regional Impact Essentially Built Out Determination**

(a) A development of regional impact may be determined to be “essentially built-out” if the applicant shows that the development of regional impact meets the criteria under subsections (a)(1) or (a)(2).

(1) *Essentially Built-out Determination-Option I.*

a. The state land planning agency and the County agree in writing that the remaining amount of development to be built within the Project does not create the likelihood of additional regional impacts that have not been previously reviewed.

b. The project has been determined to be an essentially built-out DRI through an “Agreement” executed by the developer, the state land

planning agency, and the County, in accordance with § 380.032, F.S., establishing the terms and conditions under which the development may be continued.

c. If the project is determined to be essentially built out, development may proceed pursuant to the Agreement after the termination or expiration date in the development order without further DRI review subject to the Lee Plan and LDC or subject to a modified DRI analysis created under the Agreement.

d. To be qualified as essentially built out under Option I, the project must also meet the following:

1. The developers are in compliance with the terms and conditions of the development order except the buildout date; and,

2. The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph § 380.06(19)(b), F.S., for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or

3. The state land planning agency and the County have agreed in writing that the amount of development to be built does not create the likelihood of additional regional impacts not previously reviewed.

4. The single-family residential portions of a development may be considered “essentially built out” under Option I if:

i. all of the workforce housing obligations and all of the infrastructure and horizontal development is complete,

ii. at least 50 percent of the dwelling units have been completed, and

iii. more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination.

5. The mobile home park portions of a development may be considered “essentially built out” under Option I if:

i. all the infrastructure and horizontal development is complete, and

ii. at least 50 percent of the lots are leased to individual mobile home owners.

(2) *Essentially Built-out Determination-Option II.* To be qualified as essentially built out under Option II, the project must meet the following

- a. The developers are in compliance with the terms and conditions of the development order except the build out date;
  - b. All the mitigation requirements in the development order have been satisfied; and,
  - c. The amount of proposed development that remains to be built is less than 40 percent of any DRI threshold.
- (b) An applicant seeking an Essentially Built-out Determination must submit three hard copies and one electronic copy of the following:
  - (1) A list of each development order condition and each developer commitment contained in the DO and a statement demonstrating how and when each condition/commitment was fulfilled.
  - (2) A summary of the total development built and total development remaining for each land use category. Identify the geographic location of parcels with remaining unbuilt development entitlements and the nature of those entitlements.
  - (3) Variance Report and mailing labels for all property owners within the DRI.
  - (4) The most recent Master Plan (Map H).
  - (5) Legal description and Sketch of the entire DRI.
  - (6) A Draft Resolution to be executed by the BoCC which sets forth the following information:
    - (a) the history of development within the DRI, including amendments to the DRI DO, and the current status of development within the DRI;
    - (b) a statement confirming the public notice that was provided for consideration of the EBO determination;
    - (c) a statement regarding compliance with Chapter 380 and other applicable Florida Statutes, local development regulations, and Lee Plan provisions, including findings that the requirements of subsections (a) and (b) above have been met; and,
    - (d) a provision incorporating and adopting the proposed amendments to the DRI DO consistent with the EBO determination, including all DRI DO conditions to remain in effect (if any) after adoption of the EBO determination and Agreement.
  - (7) Draft amendment to the DRI DO in strike-through and underline format incorporating the EBO determination and findings of compliance with applicable

Florida Statutes, local development regulations, and Lee Plan provisions, including § 380.06(15)(g), F.S., as well as the conditions that remain applicable to future development within the DRI.

- (8) In addition, for Option I Determinations, a draft Agreement to be executed by the developer, the state land planning agency, and the County, in accordance with § 380.032, F.S., establishing the terms and conditions under which the development may be continued pursuant to the Agreement after the termination or expiration date contained in the development order.
- (c) Once the request is found sufficient, County staff will prepare a report evaluating the application. The report will be available to the public within 14 days before the scheduled hearing.
- (d) Applications for determinations of Essentially Built Out will not be considered by the Board of County Commissioners until the application is found sufficient by DCD Staff. Applications for determinations of Essentially Built Out will not be considered by the Board of County Commissioners if any of the parcels located within the DRI DO contains unabated code enforcement violations. The Application will be placed on hold until such time as the violation has been abated.
- (e) Applications for determinations of Essentially Built Out will proceed directly to the Board of County Commissioners and will be heard at a publicly advertised zoning hearing.

**~~Secs. 34-205–~~ Sec. 34-206. Reserved.**

## DIVISION 8. ENFORCEMENT

### **Sec. 34-268. Administrative variances.**

- (a) The Director is authorized to administratively approve variances of the following: Upon written request on a form prepared by the County, the Director is authorized to modify the setbacks in sections 34-651 through 34-1041 and 34-1741 et seq. and 34-3206 of this chapter under the following circumstances:

  - (1) Street, rear, side, or waterbody setbacks to allow; may be modified to permit

    - a. ~~the~~ remodeling of or additions to existing structures that are nonconforming with regard to a specific setback so long as the remodeling or addition will not result in:

      - a.i. An increase in the height of the structure; or
      - b.ii. A further diminution of the setback. The Director may approve bay windows, chimneys and similar architectural features that may encroach further into the setback provided the encroachment does not protrude beyond the existing overhang of the building.



- ~~b.(2)~~ ~~Street, rear, side, or waterbody setbacks may be modified to permit construction of access appurtenant to an existing structure for disabled persons.~~
  - ~~c.(3)~~ ~~Street, rear, side, or waterbody setbacks may be modified to allow the replacement of stairs or decking that provides access into an existing dwelling unit.~~
  - ~~d.(4)~~ ~~Street, rear, side, or waterbody setbacks may be modified to legitimize minor errors in setbacks that occurred at the time of construction to be legitimized.~~
  - ~~e.(5)~~ ~~Street (local streets only), rear or side setbacks for lots that qualify for a single-family determination, pursuant to the Lee Plan, may be modified to permit the construction of a single-family dwelling unit so long as the proposed lot coverage does not exceed 45 percent for lots that qualify for a single-family determination, pursuant to the Lee Plan.~~
  - ~~f.(6)~~ ~~Buildings or structures that are not in compliance with current setback regulations and which can be proven to have been permitted, may also be reviewed by the Director for consideration under this section.~~
- ~~(2)(7)~~ Sign, landscaping, buffer widths, and open space requirements on P-property affected by eminent domain proceedings, as well as property affected by voluntary sale under threat of condemnation by the sovereign. Administrative variance is limited to signs, landscaping, buffer widths, and open space.
- ~~(3)~~ Setbacks in conventional zoning districts, not covered by section 34-268(a), where the encroachment is:
- a. 10% or less of the minimum required setback for proposed buildings; or
  - b. 20% or less of the minimum required setback for existing buildings.
- ~~(4)~~ Relief from Chapter 34 requirements that are necessary to facilitate development of existing nonconforming buildings or structures that have been discontinued or abandoned for six consecutive months (section 34-3242(2)) and relief from Chapter 30 requirements for signs that have lost their nonconforming status pursuant to section 30-55(b)(2). Relief from Chapter 30 and 34 regulations may be granted to the extent that it is the minimum that will bring the site more into compliance with this Code given the existing site constraints. Nonconforming open space, buffering and landscaping are subject to the regulations of section 10-416 and, as required, must be brought into conformance to the maximum extent possible.
- ~~(5)~~ Landscaping required by section 34-1743(b)(3) to allow existing, required or optional nonconforming residential project walls to be repaired or replaced.

- (6) Property development regulations for all religious facilities and places of worship provided in section 34-2051(a) for properties zoned residential and located in a platted subdivision.
  - (7) Requirements not listed above that are found by the Director to be similar in nature.
- (b) Before approving any administrative variance, the Director must find that all of the following exist:
  - (1) There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;
  - (2) The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and
  - (3) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

~~The Director, prior to approving the modifications, must make the following findings of fact:~~

  - ~~(1) There are no apparent deleterious effects upon the adjoining property owners;~~
  - ~~(2) The modifications will not have an adverse impact on the public health, safety and welfare;~~
  - ~~(3) The modifications will be the minimum required.~~
- (c) Applicants seeking an administrative variance must submit the following:
  - (1) A written request on a form prepared by the County which includes the submittal requirements set forth in section 34-204 and, as applicable, sections 34-202 and 34-203.

The applicant must demonstrate that the variance request meets the criteria for granting an administrative variance set forth in section 34-268(b).
  - (2) A detailed site plan of the overall development which indicates existing and proposed lot lines, buildings and uses, streets and accessways, off-street parking, water management facilities, buffering and open space.
  - (3) A detailed listing of the section number(s) and the specific regulation(s) of chapter 34, chapter 10 and/or chapter 30, if applicable, from which relief is sought. This information must also be shown on the site plan.

- (4) Pertinent calculations which demonstrate that the overall development complies with zoning and development standards ordinance standards.
- (5) Letters of no objection from all adjacent property owners, including those which may be separated from the subject property by any right-of-way or easement, or as required by the Director.
- (d) Upon completion of the review of documents submitted, the Director may approve the request with or without conditions to ensure that the overall development complies with the development standards.
- ~~(e)~~(e) Decisions by the Director pursuant to this section are discretionary and may not be appealed in accordance with section 34-145(a) of this chapter. If a request for an administrative deviation is denied, or the Applicant disapproves of the conditions imposed, the Applicant may seek a variance through the normal public hearing process provided under Sec. 34-145.

## **ARTICLE IV. PLANNED DEVELOPMENTS**

### **DIVISION 1. GENERALLY**

#### **Sec. 34-341. Employment of planned development designation.**

- (a) The Lee Plan requires Developments of County Impact to be developed as planned developments. These Developments of County Impact, defined in subsection (b) of this section, if not already zoned for the use desired, must be rezoned only to the most applicable planned development category. Other proposed developments, regardless of size, may seek a planned development designation where the developer desires and the Division Director determines that it is in the public interest to do so.

Development of private recreational facilities in Southeast Lee County requires private recreational facility planned development (PRFPD) district zoning, which must comply with the special regulations set forth in section 34-941 as well as the other requirements set forth in this article.

Development of Mixed-Use Communities in Southeast Lee County that do not qualify for administrative approval in accordance with chapter 32, article IV, may request compact planned development (Compact PD) district zoning as set forth in chapter 32.

Development of a mining excavation requires mining excavation planned development (MEPD) district zoning, which must comply with the process and regulations set forth in chapter 12.

- (b) The Lee Plan provides that certain owner-initiated rezonings and special exceptions meeting specified thresholds will be reviewed as Developments of County Impact. The Development of County Impact thresholds are further categorized as major or minor planned developments as follows:

(1) *Major planned developments.*

- a. ~~Any request for rezoning of land to a~~ PRFPD or Compact PD in Southeast Lee County;
- b. A residential development of 500 ~~300~~ or more dwelling units;
- c. A commercial development or activity ~~located on a parcel of ten or~~ on 15 or more acres or that includes ~~400,000~~ 150,000 square feet or more of floor area;
- d. An industrial development or activity ~~located on a parcel of ten or~~ on 20 or more acres or that includes ~~400,000~~ 200,000 square feet or more of floor area;
- e. ~~Any request for a~~ mining excavation;
- f. Non-commercial schools (except Lee County School District and religious facility schools) proposed to have over 100 students;
- g. ~~Animal or reptile exhibits, aquariums, arenas, civic centers, convention or exhibition halls, correctional facilities and prisons, fairgrounds, museums, planetaria, race tracks, regional parks, stadiums, and zoos, Any cultural facility (34-622(c)(10)), recreational facility, commercial (34-622(c)(18)), or park, group II (34-622(c)(32))~~ on ten or more acres of land;
- h. A health care facility, ~~→~~ Group IV (hospital) that is not a part of a commercial or community facility planned development;
- ~~i. Any other development required to apply for planned development zoning pursuant to section 34-901 through 34-904, and as set forth in sections 34-2471 through 34-2479, pertaining to sports/amusement parks and recreational facilities;~~
- ~~ij.~~ Residential uses within the Mixed Use interchange area as specified by Lee Plan Policy 1.3.6;
- ~~j.k.~~ Any combination (mixed use) of the above-listed land uses where the sum of the percentages of each applicable individual threshold is equal to or greater than:
  - (1) 100 percent for two land uses, or
  - (2) 125 percent for three or more land uses;
- ~~k.l.~~ Any development of regional impact not included in subsections (b)(1)(b) through ~~(j)~~ (i) of this section;

- ~~l.m.~~ Any development which includes the above ground storage of more than 40,000 gallons of petroleum;
- ~~m.n.~~ Any development proposed under the ~~n~~New ~~e~~Community ~~section of the~~ land use element of the Lee Plan;
- ~~n.o.~~ Any proposed hotel/motel that will contain more than 200 rental units, ~~or that will exceed the equivalency factors set forth in section 34-1802(4)b. when divided by the Lee Plan maximum standard density for the property in question.~~

(2) *Minor planned developments.*

- a. Any proposed planned development that does not meet or exceed the thresholds in section 34-341(b)(1) for a major planned development. A residential development of 299 or less dwelling units abutting a County park;
- b. Any proposed industrial development on less than 20 acres or with less than 200,000 square feet of floor area, which requires a rezoning, and which meets or exceeds one or more of the following criteria, must be rezoned only to an industrial planned development:
  - (1) Any development involving the manufacturing of the following products, regardless of the land area involved:
    - (a) Chemicals and allied products groups I and II (excluding cosmetics, perfumes, etc.) (section 34-622(c)(6)).
    - (b) Fabricated metal products group I (section 34-622(c)(14)).
    - (c) Lumber and wood products groups V and VI (section 34-622(c)(26)).
    - (d) Paper and allied products group I (section 34-622(c)(31)).
    - (e) Petroleum manufacturing (section 34-622(c)(34)).
    - (f) Primary metal industries (section 34-622(c)(35)).
    - (g) Research and development laboratories group III (section 34-622(c)(41)).
    - (h) Rubber and plastic products group I (section 34-622(c)(44)).
    - (i) Stone, clay, glass and concrete products group IV (section 34-622(c)(48)).

- (i) Textile mill products group III (section 34-622(c)(50)).
- (2) Refuse and trash dumps.
- (3) Sanitary landfills.
- (4) Salvage yards or junkyards.
- (5) Auto wrecking yards.
- (6) Resource recovery facilities to produce energy.
- (7) Impound yards.
- ~~— Botanical or zoological gardens, community parks, libraries, nature centers, religious facilities (excluding place of worship), state or federal parks, on ten or more acres of land;~~
- ~~c. A health care facility – Group I or II, social service – Group III or IV, continuing care facility (CCF) of 50 or more beds, that is not a part of a residential, commercial, or community facility planned development;~~
- ~~d. Any other development required to apply for planned development zoning set forth in sections 34-651 through 34-903;~~
- ~~c.e. Except as listed below, any other application for planned development rezoning that does not meet or exceed the thresholds in section 34-341(b)(1) will be reviewed as minor planned development.~~
- ~~1. Existing development. An application for an existing development, such as a mobile home development, that has already been developed but does not conform to the regulations for a conventional district, that requests a rezoning to a planned development classification, will be reviewed in the same manner as a minor planned development except that a traffic impact statement will not be required.~~
- ~~d.2. Amendments to application. Applications for a Amendments to an approved major or minor master concept plan or its attendant documentation, or for the extension of a vacated master concept plan originally approved prior to December 2, 1991 will be treated procedurally as minor planned developments. These applications will require only as much information, as deemed necessary by the Director, needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in development, environment and background (surrounding land use, traffic~~

volumes, water, wastewater and other service availability, etc.), that have occurred since the original application.

(c) *remains unchanged.*

## DIVISION 2. APPLICATION AND PROCEDURE FOR APPROVAL

### Sec. 34-373. Application.

- (a) *Minimum required information for planned development zoning applications.* Rezoning applications for all planned developments, with the sole exception of mine excavation planned developments (MEPD) under chapter 12, must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. A MEPD application must be submitted in accord with section 12-110 and is subject to the sufficiency timing provisions outlined in section 34-372(d).

Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

(1) – (3) *remain unchanged.*

- (4) *Description of existing conditions.* The application for a planned development must be accompanied by:

a. *remains unchanged.*

~~b. A map showing the location of the property to be developed in relation to arterial and collector streets as well as the location of existing easements and rights of way on or abutting the property.~~

~~c. A map or other depiction of the existing zoning and current land uses (i.e. single family residence, multiple family building, retail commercial, office building, etc.) surrounding the tract or parcel to a distance of 500 feet.~~

~~d. An aerial photograph with the site clearly delineated.~~

~~b.e.~~ Maps drawn at the same scale as the master concept plan marked or overprinted to show:

- i. soils, classified in accordance with the USDA/SCS System;
- ii. vegetation and ground cover, classified in accordance with the Florida Land Use and Cover Classification system;
- iii. significant areas of rare and unique upland habitats as defined in the Lee Plan; ~~and~~

- iv. a County topographic map (required if available) or a USGS quadrangle map showing the subject property; and
- v. existing and historic flow-ways.
- c.f. A Florida Land Use, Cover and Classification System (FLUCCS) map at the same scale as the Master Concept Plan, prepared by an environmental consultant. The FLUCCS map must clearly delineate any federal and state jurisdictional wetlands and other surface waters, including the total acreage of federal and state wetlands.
- ~~g. A map or other depiction of the property in relation to existing and proposed public transit routes, as well as to bus stops, if located within the Lee Tran public transit service area.~~
- d.h. The nature and location of any known or recorded historical or archaeological sites as listed on the Florida Master Site File or the Lee County Historical Site Survey, and the location of any part of the property that is located within level 1 or level 2 zones of archaeological sensitivity pursuant to chapter 22. The plan must show the outline of historic buildings and approximate extent of archaeological sites. A description of proposed improvements that may impact archaeological or historical resources must also be provided.
- e.i. Additional submittal requirements for PRFPD district applications are set forth in section 34-941.
- f.j. Additional submittal requirements for Compact PD district applications are set forth in section 34-931 et seq. and chapter 32.
- (5) ~~A narrative explanation as to how the proposed development complies with the Lee Plan, the design standards set forth in section 34-411, and the guidelines for decision-making embodied in sections 34-145(c)(2)a and e. and 34-145(d)(3). A single narrative explaining the nature of the request and how the property qualifies for the rezoning to a planned development. This narrative should include how the proposed development complies with the Lee Plan and the Land Development Code. This narrative may be utilized by the Board of County Commissioners, Hearing Examiner and staff in establishing a factual basis for the granting or denial of the rezoning.~~
- (6) Master concept plan. All applications must be accompanied by a graphic illustration (master concept plan) of the proposed development. PRFPDs must comply with section 34-941. Compact PDs must comply with chapter 32.

If blasting is proposed to be conducted on the property in order to excavate lakes or other site elements, the location of all proposed blasting must be shown. See section 34-202(b)(6) for other required information.



Copies of the master concept plan must be provided in two sizes, 24 inches by 36 inches, and 11 inches by 17 inches in size. Both sizes of the master concept plan must be clearly legible, depict the correct scale for the size drawing and be drawn at a scale sufficient to adequately show and identify the following information:

- a. The ~~exact~~ location and explanation of all existing easements, whether or not those easements are recorded. If an easement is based upon a recorded document, the official records book reference must be stated.
- b. The ~~exact~~ location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development. If a subdivision, the plan must also show the general location of all proposed internal street rights-of-way or easements and the general location of all points of vehicular ingress and egress from the proposed internal rights-of-way or easements into multiple-family, commercial, or industrial use lots.
- c. *remains unchanged.*
- d. Individual development areas (i.e. residential, retail, office, manufacturing, mixed use-listed, etc.) with detail showing:
  - i. ~~the boundary of each development area within which buildings, parking or other uses will be located;~~
  - ii. ~~the maximum height, in feet and number of habitable stories. If parking under the buildings is proposed, the number of stories proposed for parking must be indicated and included in the total maximum height of the building.~~
  - iii. ~~if residential, the maximum number of dwelling units by type;~~
  - iv. ~~if a hotel or motel, the number of rooms by size;~~
  - v. ~~if a health care facility, the number of beds; and~~
  - vi. ~~if commercial or industrial, the type(s) and the total floor area of each type.~~
- e. *through l. remain unchanged.*
- (7) *remains unchanged.*
- (8) A schedule of uses keyed to the master concept plan as well as a summary for the entire property including the following information:

- a. The types of uses proposed for the entire site. For projects with residential uses, the summary must include the types of proposed dwelling units;
- b. The number of units ~~(gross square feet for commercial/industrial uses, number of units for residential or motel/hotel uses, beds for institutional types of uses, etc.)~~ for each proposed use:
  - i. For residential uses provide the maximum number of dwelling units by type.
  - ii. For a hotel or motel provide the number of rooms.
  - iii. For the following facilities provide the number of beds and unit types: health care, social service, assisted living, continuing care, and other "group quarters".
  - iv. For commercial, office, retail, and industrial uses provide the type(s) and the total floor area of each type.
- c. The proposed percentage of open space for the entire site.
- d. The maximum height, in feet, in each individual development area. If parking under buildings is proposed, it must be indicated and included in the total maximum height of the building.

(9) *remains unchanged.*

(b) through (d) *remain unchanged.*

## ARTICLE VI. DISTRICT REGULATIONS

### DIVISION 1. GENERALLY

#### **Sec. 34-622. Use activity groups.**

(a) – (b) *remain unchanged.*

(c) Use activity groups are as follows:

(1) – (37) *remain unchanged.*

- (38) Recreation facilities, commercial. Recreational facilities, not specifically regulated elsewhere in this Code, operated as a business and open to the public for a fee. This does not include facilities owned or operated by a government unit.

*GROUP III. Outdoor facilities.*

With the exception of water slides, Group III does not include amusement devices, amusement attractions or structures regulated by F.S. ch. 616 and the State Department of Agriculture and Consumer Services.

Any outdoor cultural facility operated as a commercial establishment

Golf courses, miniature

Golf driving ranges (article VII, division 35)

Passive and active recreational and educational activities including but not limited to, hiking, and nature trails, paintball and gun ranges, zip lining, paragliding, and similar activities ~~requiring few where little~~ or no on-site facilities or capital investment are required and ~~which utilize~~ the natural environment, with little or no alteration of the natural landscape, is utilized

Swimming pools, tennis courts and other similar outdoor activities not grouped elsewhere

Water slides, aquatic centers

## DIVISION 2. AGRICULTURAL DISTRICTS

### Sec. 34-653. Use regulation table.

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Accessory uses, buildings, and structures:	34-1171 et seq. and 34-2441 et seq.	P	P	P
<del>Docks, seawalls</del>	<del>34-1863</del>	<del>P</del>	<del>P</del>	<del>P</del>
<del>Fences, walls</del>	<del>34-1741 et seq.</del>	<del>P</del>	<del>P</del>	<del>P</del>
<del>Nonroofed accessory structures</del>	<del>34-2141 et seq.</del>	<del>P</del>	<del>P</del>	<del>P</del>
<u>Residential accessory uses</u>	<u>Note (19), 34-622(c)(42), 34-1171 et. seq., 34-1863, 34-1741 et seq., 34-2141 et seq.</u>	<u>P</u>	<u>P</u>	<u>P</u>
Bed and breakfast (df)	Note (16), 34-1494	<u>P</u> <del>SE</del>	<u>P</u> <del>SE</del>	—
Caretaker's residence	Note (22) and (25)	<u>P</u> <del>EO/SE</del>	P	EO/SE
Cemeteries		<u>EO/SE</u>	<u>EO/SE</u>	EO

Commercial fishing equipment storage as an accessory use to a single family or mobile home residence, Greater Pine Island only		<u>34-1179</u>	P	P	P
Consumption on premises		34-1261 et seq., 34-3152 Note 29	AA/SE	AA/SE	AA/SE
Day care center, adult or child		34-1412, 34-2054, Note (13), (15), & (16)	EO/SE	EO/SE	EO/SE
EMS, fire or sheriff's station		<u>34-3152</u> Note 29	SE	SE	SE
Paint ball range, outdoor			SE	SE	SE
Produce stands:		34-1711 et seq.			
	Permanent		<u>P</u> EO/SE	<u>P</u> EO/SE	<u>P</u> EO/SE
Recreation facilities:					
	Commercial, <del>((34-622(c)(38))</del> - Group III	<u>34-622(c)(38)</u> , Note (10)	SE	SE	SE
	Personal	Note (28 <del>39</del> )	P	P	P
	Private-Onsite		<u>P</u> EO/SE	<u>P</u> EO/SE	<u>P</u> EO/SE
Research and development laboratories <del>(34-622(c)(41))</del> , group I		<u>34-622(c)(41)</u>	P	P	P
Residential accessory uses <del>(34-622(c)(42))</del>		Note (19), <u>34-1171</u> et seq.	P	P	P

Notes:

- (1) Any expansion which will bring the number of beds to 50 or more requires a special exception. ~~PD zoning. See section 34-341 and Table 34-934.~~
- (2) - (5) *remain unchanged.*
- (6) Expansion of facility to ten or more acres requires a special exception. ~~PD zoning. See section 34-341 and Table 34-934.~~
- (7) Any new facility of ten or more acres or any expansion of an existing facility to ten or more acres requires a special exception. ~~PD zoning. See section 34-341 and Table 34-934.~~
- (8) Any new facility of 50 or more beds, or any expansion of an existing facility which will bring the number of beds to 50 or more or which changes the use, requires a special exception. ~~PD zoning. See section 34-341 and Table 34-934.~~
- (9) *remains unchanged.*
- (10) Limited to passive and active recreational and educational activities including, but not limited to, hiking and nature trails, paintball and gun ranges, zip lining, paragliding, and similar activities where ~~the activities require little or no on site facilities or capital investment are required~~, and ~~utilize the natural environment, with little or no alteration of the nature landscape, is utilized.~~

(13) ~~Reserved. Family day care home exemption. The operation of a family day care home under F.S. § 125.0109 requires an exemption from the special exception requirements for child day care facilities. See section 34-203(e)(9).~~

(14) *remains unchanged.*

(15) ~~Reserved. A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.~~

(16) – (28) *remain unchanged.*

~~(29) See section 34-3152.~~

~~(30) Minimum property size for a picnic pavilion is 10 acres. Structure is limited to 1,000 square feet with less than 100 square feet for an enclosed bathroom.~~

### DIVISION 3. RESIDENTIAL DISTRICTS

#### *Subdivision II. One- and Two-Family Residential Districts*

#### **Sec. 34-694. Use regulation table.**

Use regulations for one- and two-family residential districts are as follows:

**TABLE 34-694. USE REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS**

		Special Notes or Regulations	RSC- 1	RSC- 2	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC- 1	TFC- 2	TF-1
	Accessory uses, buildings and structures:	34-1171 et seq., 34-2441 et seq. 34-3106	P	P	P	P	P	P	P	P	P	P	P
	Animals (equines)	34-1291 et seq.	—	—	—	—	—	—	SE	SE	—	—	—
	Docks, seawalls	34-1863	P	P	P	P	P	P	P	P	P	P	P
	Fences, walls	34-1741 et seq.	P	P	P	P	P	P	P	P	P	P	P
	Nonroofed accessory structures	34- 2194(e)	P	P	P	P	P	P	P	P	P	P	P

	Residential accessory uses	Note (13), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq., 34-2141 et seq.	P	P(4)	P	P	P	P	P	P	P	P	P
Accessory apartment		Note (1) & (10), 34-1177	—	—	<u>AA</u> <u>SE</u>	<u>AA</u> <u>SE</u>	<u>AA</u> <u>SE</u>	<u>AA</u> <u>SE</u>	<u>AA</u> <u>SE</u>	<u>AA</u> <u>SE</u>	P	P	—
Aircraft landing facilities, private:													
	New:												
	Aircraft landing strip and ancillary hangars, sheds and equipment	34-1231 et seq.	—	—	—	—	—	—	—	—	—	—	—
	Heliport	34-1231 et seq.	—	—	—	—	—	—	—	—	—	—	—
Animals, equines and reptiles		34-1291 et seq.	=	=	=	=	=	=	<u>SE</u>	<u>SE</u>	=	=	=
Assisted living facility		Notes (2), (14) & (156), 34-1411	—	—	—	—	—	—	—	—	—	—	P
Boat ramps		Note (8)	EO/S E	EO/S E	EO/S E	EO/S E	EO/S E	EO/S E	EO/S E	EO/S E	EO/S E	EO/S E	EO/S E
Clubs, private			P	P	<u>PSE</u>	<u>PSE</u>	<u>PSE</u>	<u>PSE</u>	<u>PSE</u>	<u>PSE</u>	<u>PSE</u>	<u>PSE</u>	<u>PSE</u>
Commercial fishing equipment storage as an accessory use to		34-1179	P	P	P	P	P	P	P	P	P	P	—

single-family or mobile home residence, Greater Pine Island only												
Day care center, adult or child	<u>34-1412, 34-2054, Note (7), (9) &amp; (10)</u>	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Dwelling unit:												
Duplex	<u>34-3107, 34-3108, Note (10) &amp; (15)</u>	—	—	—	—	—	—	—	—	P	P	P
Multiple-family building	<u>34-3021</u>	—	—	—	—	—	—	—	—	—	—	—
Two-family attached	<u>34-3107, 34-3108, Note (10) &amp; (15)</u>	—	—	—	—	—	—	—	—	—	—	P
Townhouse		—	—	—	—	—	—	—	—	—	—	—
Zero-lot line		—	—	—	—	—	—	—	—	—	—	—
Guest house	<u>Note (10), 34-1178</u>	—	P	—	—	—	—	—	—	—	—	—
Models:												
Model unit	<u>34-1951 et seq.</u>	—	—	—	—	—	—	—	—	—	—	—
Parks ( <del>34-622(c)(32)</del> ), group I	<u>34-622(c)(32) Note (5)</u>	P	P	P	P	P	P	P	P	P	P	P
Recreation facilities:												
Private—On-site		$\frac{P}{EO/S}$ E	$\frac{P}{EO/S}$ E	$\frac{P}{EO/S}$ E	$\frac{P}{O/SE}$	$\frac{P}{EO/S}$ E	$\frac{P}{EO/S}$ E	$\frac{P}{EO/S}$ E	$\frac{P}{EO/S}$ E	$\frac{P}{EO/S}$ E	$\frac{P}{EO/S}$ E	$\frac{P}{EO/S}$ E
Residential accessory uses ( <del>34-</del>	<u>Note (13), 34-1171 et seq.</u>	P	P (4)	P	P	P	P	P	P	P	P	P

622(e)(42))												
Servant's quarters	Note (10)	—	P	—	—	—	—	—	—	—	—	—

Notes:

- (1) *remains unchanged.*
- (2) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, requires a special exception. ~~PD zoning. See section 34-341 and Table 34-934.~~
- (3) Any new facility of ten or more acres or any expansion of an existing facility to ten or more acres, requires a special exception. ~~PD zoning. See section 34-341 and Table 34-934.~~
- (4) *remains unchanged.*
- (5) Reserved. ~~Recreational halls require a special exception approval.~~
- (6) *remains unchanged.*
- (7) Reserved. ~~Family day care home exemption. The operation of a family day care home under F.S. § 125.0109 requires an exemption from the special exception requirements for child day care facilities. See section 34-203(e)(9).~~
- (8) *remains unchanged.*
- (9) Reserved. ~~A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.~~
- (10) – (14) *remain unchanged.*
- (15) ~~See sections 34-3107 and 34-3108.~~
- (16) ~~Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.~~

#### **Sec. 34-695. Property development regulations table.**

Property development regulations for one- and two-family residential districts are as follows:

TABLE 34-695. PROPERTY DEVELOPMENT REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC-1	TFC-2	TF-1
Two-family attached:												
Lot area (square		—	—	—	—	—	—	—	—	<u>12,000</u>	<u>12,000</u>	12,000



	feet)												
	Lot width (feet)		—	—	—	—	—	—	—	—	<u>120</u>	<u>120</u>	120
	Lot depth (feet)		—	—	—	—	—	—	—	—	<u>100</u>	<u>100</u>	100
Minimum setbacks:													
	Side yard (feet):	Notes (1) and (4), <u>34-2191</u> et seq.											
	Two-family		—	—	—	—	—	—	—	—	<u>10 (3)</u>	<u>10 (3)</u>	10 (3)

*Subdivision III. Multiple-Family Districts*

**Sec. 34-714. Use regulation table.**

Use regulations for multiple-family districts are as follows:

TABLE 34-694. USE REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RM-2 (Note 5)	RM-3, RM-6, RM-8, RM-10 (Note 5)
Accessory uses, buildings, and structures:	34-1171 et seq., 34-2441 et seq., 34-3106	P	P
<del>Decks, seawalls</del>	<del>34-1863</del>	<del>P</del>	<del>P</del>
<del>Fences, walls</del>	<del>34-1741 et seq.</del>	<del>P</del>	<del>P</del>
<del>Nonroofed accessory structures</del>	<del>34-2194(c)</del>	<del>P</del>	<del>P</del>
<u>Residential accessory uses</u>	<u>Note (13), 34-622(c)(42), 34-1171 et seq., 34-1863, 34-1741 et seq., 34-2141 et seq.</u>	<u>P</u>	<u>P</u>
Aircraft landing facilities, private:			
New:			
<del>Aircraft landing strip and ancillary hangars, sheds and equipment</del>	<del>34-1231 et seq.</del>	—	—
<del>Heliport</del>	<del>34-1231 et seq.</del>	—	—
Helistop	34-1231 et seq.	SE	SE
Assisted living facility	Note (2), (14), & (167) 34-1493, 34-1411	P	P
Clubs:			

Private		<u>P</u> SE	<u>P</u> SE
Day care center:			
Child	34-1412, 34-2054, Note (6), (9), & (10)	SE	SE
Dwelling unit:	34-1493, 34-1494		
Duplex	34-3107, 34-3108, Note (10) & <del>(16)</del>	P	P
Two-family attached	34-3107, 34-3108, Note (10) & <del>(16)</del>	P	P
Zero-lot line	Note <del>(10)</del>	—	—
Essential services	34-1611 et seq., 34-1748	P	P
Essential service facilities, Group I <del>(34-622(c)(13))</del> :	<u>34-622(c)(13)</u> , 34-1611 et seq., 34-1741 et seq., 34-2142	<u>P</u>	<u>P</u>
Group I	<u>34-1611 et seq.</u> , 34-1741 et seq., 34-2142	P	P
Health care facilities <del>(34-622(c)(20))</del> , groups I and II (less than 50 beds)	<u>34-622(c)(20)</u> , Note (2), (10) & <del>(16)</del>	P	P
Heliport or helistop	<u>34-1231 et seq.</u>	See Aircraft landing facilities, private.	
Parks <del>(34-622(c)(32))</del> , group I	<u>34-622(c)(32)</u> , Note (8)	P	P
Personal services <del>(34-622(c)(33))</del> , groups I and II (ancillary use only)	<u>34-622(c)(33)</u> , 34-3021	P	P
Recreation facilities:			
Private—On-site		<u>P</u> EO/SE	<u>P</u> EO/SE
Residential accessory uses <del>(34-622(c)(42))</del>	Note (13), 34-1171 et seq.	P	P
Temporary uses	34-3041 et seq.	<u>TP</u>	<u>TP</u>
Timeshare units	Note (10), 34-1494, 34-2020(a)	P	<u>P</u> —

Notes:

- (1) Permitted only when accessory to a lawfully permitted single-family dwelling unit.
- (2) New facilities of 50 or more beds, or the expansion of an existing facility to 50 or more beds, requires a special exception. ~~CFPD zoning unless approved as part of another PD development.~~
- (3) Expansion of a facility to ten or more acres requires a special exception. ~~PD zoning. See section 34-341 and Table 34-934.~~
- (4) Real estate sales are limited to sales of lots, homes or units within the development, except as may be permitted in section 34-1951 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding three years from the date the certificate of occupancy for the sales office is issued. The Director may grant one two-year extension. Additional time will require a new special exception approval.

- (5) Redevelopment of an "existing only" golf course with residential buildings or structures requires a special exception. ~~PD zoning.~~
- (6) ~~Reserved. Family day care home exemption. The operation of a family day care home under F.S. § 125.0109 requires an exemption from the special exception requirements for child day care facilities. See section 34-203(e)(9).~~
- (7) Non-commercial only.
- (8) ~~Reserved. Recreational halls require a special exception approval.~~
- (9) ~~Reserved. A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.~~
- (10) Not permitted in Airport Noise Zone B.
- (11) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (12) Reserved.
- (13) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004.
- (14) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- (15) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (16) ~~See sections 34-3107 and 34-3108.~~
- (17) — Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

#### *Subdivision IV. Mobile Home Residential Districts*

#### **Sec. 34-735. Use regulation table.**

Use regulations for mobile home districts are as follows:

**TABLE 34-735. USE REGULATIONS FOR MOBILE HOME DISTRICTS**

	Special Notes or Regulations	MHC-1, MHC-2	MH-1	MH-2	MH-3	MH-4
Accessory uses, buildings, and structures:	34-1171 et seq., 34-2441 et seq., 34-3106	P	P	P	P	P
<del>Animals (equines)</del>	<del>34-1291 et seq.</del>	<del>—</del>	<del>—</del>	<del>—</del>	<del>—</del>	<del>SE</del>
<del>Docks, seawalls</del>	<del>34-1863</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>
<del>Fences, walls</del>	<del>34-1741 et seq.</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>

Nonroofed accessory structures	<u>34-2194(c)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Residential accessory uses	Note (7), <u>34-622(c)(42)</u> , <u>34-1171 et. seq.</u> , <u>34-1863</u> , <u>34-1741 et seq.</u> , <u>34-2141 et seq.</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Storage, open	<u>34-3005(b)</u> , Notes ( 3 ) & (4)	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>	<u>SE</u>
Aircraft landing facilities, private:						
New:						
Aircraft landing strip and ancillary hangars, sheds and equipment	<u>34-1231 et seq.</u>	—	—	—	—	—
Heliport	<u>34-1231 et seq.</u>	—	—	—	—	—
Helistop	<u>34-1231 et seq.</u>	SE	SE	SE	SE	SE
Animals and reptiles:						
Equines	<u>34-1291 et seq.</u>	==	==	==	==	SE
Boat ramps	Note <u>(4)(6)</u>	—	EO/SE	EO/SE	EO/SE	EO/SE
Clubs, private		<u>P SE</u>	<u>P SE</u>	<u>P SE</u>	<u>P SE</u>	<u>P SE</u>
Commercial fishing equipment storage as an accessory use in residential areas, Greater Pine Island only	<u>34-1179</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Day care center, adult or child:						
Adult	Note <u>(58)</u>	SE	SE	SE	SE	SE
Child	<u>34-1412</u> , <u>34-2054</u> , Note <u>(5)</u> , <u>(7)</u> & <u>(8)</u>	SE	SE	SE	SE	SE
Dwelling unit:						
Mobile home	Note <u>(640)</u> , <u>34-1921 et seq.</u>	P	P	P	P	P
Single-family residence, conventional	Note <u>(640)</u>	P	P	P	P	P
Entrance gates, gatehouses	<u>34-1741 et seq.</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Heliport or helistop	<u>34-1231 et seq.</u>	See Aircraft landing facilities, private.				
Home care facility	Note <u>(58)</u>	P	P	P	P	P
Home occupation:						
No outside help	Note <u>(742)</u>	P	P	P	P	P
With outside help	Note <u>(742)</u> , <u>34-1772(c)</u>	AA	AA	AA	AA	AA
Parks ( <del>34-622(c)(32)</del> ), group I	<u>34-622(c)(32)</u> , Note <u>(4)</u>	P	P	P	P	P

Park trailer	Note <del>(5)</del> (8) & (9)	—	—	P	—	—
Place of worship	Note (58), 34-2051 et seq.	—	EO/SE	EO/SE	EO/SE	EO/SE
Recreation facilities:						
Private—On-site		<u>P</u> EO/SE	<u>P</u> EO/SE	<u>P</u> EO/SE	<u>P</u> EO/SE	<u>P</u> EO/SE
Religious facilities	Note (1) & (58), 34-2051 et seq.	—	SE	SE	SE	SE
<del>Residential accessory uses (34-622(42))</del>	<del>Note (12), 34-1171 et seq.</del>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<del>Signs in compliance with chapter 30</del>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Subordinate commercial uses:	Note (3), 34-3021	EO/SE	EO/SE	EO/SE	EO/SE	EO/SE
<del>Food stores, group I (34-622(16))</del>		<u>EO</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>
<del>Parts and supplies for mobile homes or RV's</del>		<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>
<del>Personal services (34-622(33)):</del>						
<del>Group I</del>		<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>
<del>Group II</del>		<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>
<del>Specialty retail store (34-622(47)), group I</del>		<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>	<u>EO/SE</u>
Temporary uses	34-3041 et seq.	<u>TP</u>	<u>TP</u>	<u>TP</u>	<u>TP</u>	<u>TP</u>

Notes:

- (1) Expansion of facility to ten or more acres requires a special exception. ~~PD zoning. See section 34-341 and Table 34-934.~~
- (2) *remains unchanged.*
- (3) Open storage must be in conjunction with a mobile home development and comply with the fencing and screening requirements of 34-3005(b). ~~Subordinate uses permitted only in conformity with section 34-3021.~~
- (4) ~~Recreational halls require a special exception approval.~~
- (5) ~~Family day care home exemption. The operation of a family day care home under F.S. § 125.0109 requires an exemption from the special exception requirements for child day care facilities. See section 34-203(e)(9).~~
- (4)(6) Non-commercial only.
- (7) ~~A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.~~

~~(5)(8)~~ Not permitted in Airport Noise Zone B.

~~(9)~~ Not permitted in Airport Noise Zone B.

~~(6)(10)~~ Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.

~~(11)~~ Reserved.

~~(7)(12)~~ Not permitted in Airport Noise Zone unless accessory to a lawful mobile home or single-family residence. See section 34-1004

~~(8)(13)~~ Not permitted in Airport Noise Zone B unless pre-empted by state law.

#### DIVISION 4. RECREATIONAL VEHICLE PARK DISTRICTS

##### *Subdivision II. Conventional Recreational Vehicle Districts*

#### **Sec. 34-791. Use regulation table.**

Use regulations for recreational vehicle districts are as follows:

TABLE 34-791. USE REGULATIONS FOR RECREATIONAL VEHICLE DISTRICTS

	Special Notes or Regulations	RV-1	RV-2	RV-3	RV-4
Accessory uses, buildings, and structures:	34-1171 et seq., 34-2441 et seq.	P	P	P	P
<u>Signs in accordance with chapter 30</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Administrative office or <u>caretaker</u> residence	Note (8)	P	P	P	P
Day care center, adult or child:					
Child	<u>34-1412, 34-2054, Note (3), (6) &amp; (9)</u>	EO/SE	EO/SE	EO/SE	EO/SE
<del>Entrance gates, gatehouses</del>	<del>34-1741 et seq.</del>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Parks, <del>(34-622(e)(32))</del> , group I	<u>34-622(c)(32)</u>	P	P	P	P
Recreation facilities:					
Private—On-site		<u>P</u> <u>EO/SE</u>	<u>P</u> EO/SE	<u>P</u> EO/SE	<u>P</u> EO/SE
<u>Signs in accordance with chapter 30</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Tents, transient parks only	Note (9), <del>(10)</del>	P	P	P	P

Notes:

(1) – (2) remain unchanged.

- (3) ~~Reserved. Family day care home exemption. The operation of a family day care home under F.S. § 125.0109 requires an exemption from the special exception requirements for child day care facilities. See section 34-203(e)(9).~~
- (4) – (5) *remain unchanged.*
- (6) ~~Reserved. A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.~~
- (7) *remains unchanged.*
- (8) In Airport Noise Zone B, ~~an administrative~~ a caretaker's residence is not permitted
- (9) *remains unchanged.*
- (10) ~~Reserved.~~

## DIVISION 5. COMMUNITY FACILITIES DISTRICTS

### Sec. 34-813. Use regulation table.

Use regulations for community facilities districts are as follows:

TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

		Special Notes or Regulations	CF- 1	CF- 2	CF- 3	CF- 4
Day care center:						
	Child	<u>34-1412, 34-2054, Note (4), (6), &amp; (7)</u>	—	SE	P	—
Essential service facilities, <u>Group I</u> <del>(34-622(c)(13))</del> :		<u>34-622(c)(13), 34-1611 et seq., 34-1741 et seq., 34-2142 et seq.</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
	<u>Group I</u>	<u>34-1611 et seq., 34-1741 et seq., 34-2142 et seq.</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

Notes:

- (1) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, or which changes the use, must request a special exception. ~~and be approved as a PD. See section 34-341 and Table 34-934.~~
- (2) ~~Except for government owned and operated parks (section 34-622(c)(32)), F-facilities proposed for ten or more acres or the expansion of an existing facility that will bring the number of acres to ten or more acres or that changes the use, must request a special exception. and be approved as a PD. See section 34-341 and Table 34-934.~~
- (3) *remains unchanged.*

- (4) ~~Reserved. Family day care home exemption. The operation of a family day care home under F.S. § 125.0109 requires an exemption from the special exception requirements for child day care facilities. See section 34-203(e)(9).~~
- (5) *remains unchanged.*
- (6) ~~Reserved. A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.~~
- (7) – (14) *remain unchanged.*

## DIVISION 6. COMMERCIAL DISTRICTS

### Sec. 34-843. Use regulations table.

Use regulations for conventional commercial districts are as follows:

TABLE 34-843. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

		Special Notes or Regulations	C- 1A	C-1	C-2	C- 2A	CN- 1	CN- 2	CN- 3 (21, 23)	CC	CG	CS- 1	CS- 2	CH	CT	CR	CI	CP
Aircraft landing facilities, private:																		
	New:																	
	Aircraft landing strip and ancillary hangars, sheds and equipment	34-1231 et seq.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Heliport	34-1231 et seq.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Animals Keeping and breeding of Class I or Class II(df)		34-1291 et seq.	—	SE	SE	SE	—	—	—	—	—	—	—	—	SE	—	—	—
Amusement park, less than ten acres			—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Animals:																		
	Keeping and breeding of Class I or Class II(df)	34-1291 et seq.	=	SE	SE	SE	=	=	=	=	=	=	=	=	SE	=	=	=
Assisted living facility		Note (9), (29),	—	P—	P—	—	—	—	P	—	—	—	—	—	P(13)	—	—	—



	34-1411 et seq.																
Auto parts store:	<u>34-1351, 34-1353</u>	P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	—
No installation service	<u>34-1351</u>	P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	—
With installation service	<u>34-1351, 34-1353</u>	—	P	P	P	—	—	—	P	P	—	—	—	—	—	—	—
Automobile repair and service (34-622(c)(2)):																	
Group II	<u>34-1351, 34-1353</u>	—	—	P	P	—	—	—	—	<u>P</u> <u>SE</u>	—	—	—	—	—	P	—
Business services (34-622(c)(5)):																	
Group II	<u>Note (34), 34-1352</u>	--	P	P	P	--	--	SE	--	P	--	--	--	--	--	P	--
Clubs:																	
Country		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Day care center, adult, child	<u>34-1412, Note (25)</u>	P	P	P	P	P	P	P	P	<u>P</u> <u>EO</u>	—	—	—	P	P	—	—
Drive-in theater	<u>Note (25)</u>	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Dwelling unit:																	
Duplex	<u>34-3107, 34-3108, Note (25) &amp; (35)</u>	P	P	P	P	—	—	—	—	—	—	P	—	—	—	—	—
Two-family attached	<u>34-3107, 34-3108, Note (25) &amp; (35)</u>	P	<u>P</u> <u>—</u>	<u>P</u> <u>—</u>	P	—	—	—	—	—	—	—	—	—	—	—	—
Townhouse	Note (25)	EO	<u>P</u> <u>—</u>	<u>P</u> <u>—</u>	EO	—	—	—	—	—	—	—	—	—	—	—	—
Mobile home		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
EMS, fire or sheriff's station	<u>34-3152 Note (33)</u>	P	P	P	P	—	—	—	P	P	P	—	—	—	P	P	—
Excavation:																	
Mining		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Food stores (34-622(c)(16)):																	
Group I	<u>34-3152 Note (33)</u>	P	P	P	P	P (12)	P (12)	P	P	P	—	—	—	P	P	—	—
Heliport or helistop		See Aircraft landing facilities, private															

Impound yard	<del>34-3152</del> <del>Note (33)</del>	—	EO (33)	EO (33)	—	—	—	—	EO (33)	EO (33)	—	—	—	—	—	—
<del>Racetracks (34-622(c)(37)):</del> <del>Groups I and II</del>	<del>CPD only</del>	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Rental or leasing establishments (34-622(c)(39)):																
Group I	34-1352 34-3001 et seq., <del>34-3152</del> <del>Note (33)</del>	P	P	P	P	—	P	P	P	P	—	—	P	P	—	—
Restaurants (34-622(c)(43)):																
Group I	<del>34-3152</del> <del>Note (33)</del>	P	P	P	P	—	P	P	P	P	—	SE (5)	P	P	P	—
Group II	<del>34-3152</del> <del>Note (33)</del>	P	P	P	P	—	P	P (24)	P	P	SE	SE (5)	P	P	—	—
Group III	<del>34-3152</del> <del>Note (33)</del>	P	P	P	P	—	P	P (24)	P	P	—	SE (5)	P	P	P	—
Social services, group I <del>(34-622(c)(46)):</del>	<del>34-622(c)(46)</del>	P	P	P	P	—	—	—	P	—	P	—	—	—	—	—
Group I		P	P	P	P	—	—	—	P	—	P	—	—	—	—	—
Group II		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Group III	Note (9) & (25)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Group IV	Note (9) & (25)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Wholesale establishment (34-622(c)(56)):																
Group I		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Group II		—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Notes:

(1) – (12) remain unchanged.

(13) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, requires a special exception. ~~PD zoning. See section 34-341 and Table 34-934.~~

(14) – (32) remain unchanged.

~~(33) — See section 34-3152.~~

~~(33)~~(34) Limited to four pumps, unless a greater number is approved as part of a special exception.

~~(34)(35) See sections 34-3107 and 34-3108. Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352.~~

## DIVISION 7. MARINE-ORIENTED DISTRICTS

### Sec. 34-873. Use regulations table.

Use regulations for marine-oriented districts are as follows:

TABLE 34-873. USE REGULATIONS FOR MARINE-ORIENTED DISTRICTS

	Special Notes or Regulations	CM	IM	PORT
Fish market, enclosed	Note (13)	<u>EO</u> —	SE	—
Hotel/motel:	Note (11), 34-1801 et seq.	<u>EO/SE</u>	—	—
<u>Research and development laboratories, group IV</u>	<u>34-622(c)(41)</u>	<u>P</u>	<u>P</u>	<u>--</u>

## DIVISION 8. INDUSTRIAL DISTRICTS

### Sec. 34-901. Purpose and intent.

(a) *Generally.*

- (1) The purpose and intent of the industrial districts is to regulate the continuance of certain land uses and structures lawfully existing as of August 1, 1986, which were originally permitted by the County Zoning Regulations of 1962, as amended, or 1978, as amended.
- (2) It is also the purpose and intent of the industrial districts to encourage industrial growth in accordance with the goals, objectives and policies set forth in the Lee Plan, and to guide most industrial growth into the future urban areas where required infrastructure exists or can be feasibly extended. However, some rural-oriented industrial activities will also be permitted in the nonurban areas.
- ~~(3) It is the intent of this chapter that any proposed industrial development which requires a rezoning, and which meets or exceeds one or more of the following criteria, must be rezoned only to an IPD industrial planned development:~~
  - ~~a. Any development exceeding the thresholds set out in section 34-203.~~
  - ~~b. Any development involving the manufacturing of the following products, regardless of the land area involved:~~
    - ~~1. Chemicals and allied products groups I and II (excluding cosmetics, perfumes, etc.) (section 34-622(c)(6)).~~

2. ~~Fabricated metal products group I (section 34-622(c)(14)).~~
  3. ~~Lumber and wood products groups V and VI (section 34-622(c)(26)).~~
  4. ~~Paper and allied products group I (section 34-622(c)(31)).~~
  5. ~~Petroleum manufacturing (section 34-622(c)(34)).~~
  6. ~~Primary metal industries (section 34-622(c)(35)).~~
  7. ~~Research and development laboratories group III (section 34-622(c)(41)).~~
  8. ~~Rubber and plastic products group I (section 34-622(c)(44)).~~
  9. ~~Stone, clay, glass and concrete products group IV (section 34-622(c)(48)).~~
  10. ~~Textile mill products group III (section 34-622(c)(50)).~~
- c. ~~Refuse and trash dumps.~~
  - d. ~~Sanitary landfills.~~
  - e. ~~Salvage yards or junkyards.~~
  - f. ~~Auto wrecking yards.~~
  - g. ~~Resource recovery facilities to produce energy.~~
  - h. ~~Impound yards.~~

~~(3)(4)~~—In the industrial development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those which are specifically related to adjoining industrial uses as provided in Policy 1.1.7 of the Lee County Comprehensive Plan.

*(b) – (d) remain unchanged.*

#### **Sec. 34-903. Use regulation table.**

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

				Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Caretaker's residence				Note (17)	<del>AA SE</del>	<del>AA SE</del>	—
Consumption on premises				34-1261 et seq., <del>34-3152</del> <del>Note 18</del>	AA/SE	AA/SE	—
Day care center, child				<del>34-1412, 34-2054, Note (10), (13) &amp; (16)</del>	P	—	—
Day care center, adult				<del>34-1412, 34-2054, Note (10), (13) &amp; (16)</del>	P	—	—
<del>Dumps, refuse and trash</del>				<del>IPD only, 34-1831 et seq., Note (9)</del>	—	—	—
EMS, fire or sheriff's station				<del>34-3152</del> <del>Note 18</del>	P	P	P
Excavation:							
	Mining				—	—	—
<del>Junkyard or salvage yard</del>				<del>IPD only, 34-1831 et seq., Note (9)</del>	—	—	—
	Fabricated metal products (34-622(c)(14)):						
		Group I		<del>IPD only, Note (9)</del>	—	—	—
	Paper and allied products (34-622(c)(31)):						
		Group I		<del>IPD only, Note (9)</del>	—	—	—
	<del>Petroleum (34-622(c)(34))</del>			<del>IPD only, Note (9)</del>	—	—	—
	<del>Primary metal industries (34-622(c)(35))</del>			<del>IPD only, Note (9)</del>	—	—	—
	Stone, clay, glass or concrete products (34-622(c)(48)):						
		Group IV		<del>IPD only, Note (9)</del>	—	—	—
	Textile mill products (34-622(c)(50)):						
		Group III		<del>IPD only, Note (9)</del>	—	—	—
Rental or leasing establishments (34-622(c)(39)):							
	Group II			34-1201 et seq., 34-1352, 34-3001 et seq., <del>34-3152</del> <del>Note (18)</del>	P	P	—
Research and development laboratories (34-622(c)(41)):							
	Group III			<del>IPD only, Note (9)</del>	—	—	—
Restaurant (34-622(c)(43)):							

	Group I	<u>34-3152 Note (18)</u>	P	P	P
	Group II	<u>34-1261 et seq., 34-3152 Note (18)</u>	P	P	—
Sanitary landfills		<u>IPD only, 34-1831 et seq., Note (9)</u>	—	—	—
Wrecking yard:					
	Auto	<u>IPD only, 34-1831 et seq., Note (9)</u>	—	—	—
	Other	<u>IPD only, 34-1831 et seq., Note (9)</u>	—	—	—

Notes:

- (1) *remains unchanged.*
- (2) New facilities of ten or more acres or expansion of an existing facility to ten or more acres requires a special exception. ~~PD zoning. See section 34-341 and Table 34-394.~~
- (3) *remains unchanged.*
- (4) Expansion of an existing facility to over 50 beds requires a special exception. ~~PD zoning unless otherwise approved as part of another planned development. See section 34-341 and Table 34-394.~~
- (5) – (9) *remains unchanged.*
- (10) ~~Reserved. Family day care home exemption. The operation of a family day care home under F.S. § 125.0109 requires an exemption from the special exception requirements for child day care facilities. See section 34-203(e)(9).~~
- (11) – (12) *remains unchanged.*
- (13) ~~Reserved. A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.~~
- (14) – (17) *remain unchanged.*
- (18) ~~See section 34-3152.~~

## DIVISION 9. PLANNED DEVELOPMENT DISTRICTS

### Sec. 34-934. Use regulations table.

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

		Special Notes or Regulations	RPD	MHPD	RVPD	Compact PD	CFPD	CPD	IPD Note (37)	AOPD	MPD	MEPD
Business services (34-												

622(c)(5)):												
Group II	<u>Note (50), 34-1352</u>	--	--	--	--	--	P	P	P	P	--	

Notes:

*(1) – (49) remain unchanged.*

(50) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352.

#### **Sec. 34-937. Commercial uses in RPD and MHPD districts.**

Commercial uses permitted in a residential or mobile home planned development district are limited to the convenience and utility of the residents. These commercial uses must meet the following conditions:

*(1) - (2) remain unchanged.*

(3) The following commercial uses shall not be counted against the limitation set forth in subsection (a)(2) of this section:

a. Day care center ~~(section 34-1412).~~

*Remainder of section remains unchanged.*

#### **Sec. 34-941. Private recreational facilities planned developments.**

*(a) – (f) remain unchanged.*

(g) *Submittal requirements.* In addition to the submittal requirements for planned developments set forth elsewhere in this Code, PRFPD applications must include:

*(1) – (2) remain unchanged.*

(3) A narrative explanation as to how the proposed development complies with the Lee Plan, as well as the guidelines for decision-making embodied in sections 34-145(c)(3)a. and b.(2)a, and e., and 34-145(d)(3).

*(4) remains unchanged.*

### **DIVISION 10. SPECIAL PURPOSE DISTRICTS**

#### *Subdivision II. Environmentally Critical District*

#### **Sec. 34-983. Use regulations.**

No land, body of water or structure may be used or permitted to be used and no structure may be hereafter erected, constructed, moved, altered or maintained in the EC district for any purpose other than as provided in this section.

(1) – (2) *remain unchanged.*

- (3) *Special exceptions.* Upon a finding that the proposed use is consistent with the standards set forth in section 34-145(c)(3)–(2), as well as all other applicable County regulations, the Hearing Examiner may permit any specific use from the following list as a special exception, subject to conditions set forth in this chapter and in the resolution of approval:

*a. – c. remain unchanged.*

## ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

### DIVISION 2. ACCESSORY USES, BUILDINGS AND STRUCTURES

#### **Sec. 34-1179. ~~Reserved. Commercial fishing equipment storage as accessory use to residence in Greater Pine Island area.~~**

- (a) ~~Permitted use. The storage and repair of commercial fishing equipment, specifically fishing nets and crab traps, shall be permitted as an accessory use to a single-family or mobile home residence in the AG, RSC, RS, TFC and MH zoning districts located within the Greater Pine Island area only, when in compliance with the conditions set forth in subsection (b) of this section.~~

- (b) ~~Conditions.~~

- ~~(1) The storage and repair of commercial fishing equipment such as nets and traps shall clearly be subordinate to the use of the property for residential purposes.~~
- ~~(2) Storage and repair of equipment shall be limited to equipment owned or leased by the occupant of the residence only.~~
- ~~(3) Storage of equipment shall comply with the setback requirements for accessory buildings and structures as set forth in division 2 of this article; provided that, with the exception of boats, no storage shall be permitted between the street right-of-way and the principal building.~~
- ~~(4) Fishing nets, when not being repaired, shall be stored neatly and covered by canvas or other suitable material.~~
- ~~(5) Crab traps, when not being repaired, built or rebuilt, shall be stacked neatly. Stacking of traps shall not exceed six feet in height.~~



~~(6) The open storage of discarded or derelict nets, traps, boats or other fishing equipment shall be prohibited.~~

~~(7) The occupant of the property shall be responsible for maintaining the property free of rats and vermin.~~

## DIVISION 5. ALCOHOLIC BEVERAGES

### **Sec. 34-1264. Sale or service for on-premises consumption.**

(a) Approval required. The sale or service of alcoholic beverages for consumption on the premises is not permitted until the location has been approved by the County as follows:

(1) Administrative approval. The Director of the Department of Community Development may administratively approve the sale or service of alcoholic beverages for consumption on the premises when in conjunction with the following uses, if the proposed use satisfies the requirements set forth in this division. When circumstances so warrant the Director may determine administrative approval is not the appropriate action and that the applicant must instead apply for approval as a special exception. Such circumstances may include the previous denial by the Director or by a hearing board of a similar use at that location, the record of public opposition to a similar use at that location, and similar circumstances. When the Director has approved a request for consumption on the premises at a location where the actual building has not been constructed, the Director may not approve another request for consumption on the premises within one year's time, which could potentially violate the distance requirements. If the first building is completed within less than one year, and it can be shown the second use would not violate the prescribed distance requirements, the Director may approve the second location subject to all other requirements contained in this division.

*a. – f. remain unchanged.*

g. Restaurants groups II, III and IV, and restaurants with brew pub license requirements, provided the standards set forth in subsections (b)(2)b and (b)(3) of this section are met. Outdoor seating in conjunction with a group II, III or IV restaurant may be approved administratively provided:

1. The outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership; or

2. The outdoor seating area is within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership but is a tenant of a multi-occupancy complex that is adjacent to an arterial or collector road.

*h. – i. remain unchanged.*

(2) Special exception.

a. A special exception for consumption on the premises is required for:

1. Any establishment not covered by subsection (a)(1) of this section; or
2. Any establishment, except those covered by section 34-1264(a)(1)(g), which provides outdoor seating areas for its patrons consuming alcoholic beverages; ~~except a group II, III or IV restaurant may have outdoor seating approved administratively provided the outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership.~~

*b. – c. remain unchanged.*

*(b) remains unchanged.*

*(c) Procedure for approval.*

(1) Administrative approval.

a. Application. An applicant for a consumption on the premises permit must submit the following information on the form provided by the County:

*1. – 2. remain unchanged.*

3. ~~An notarized~~ authorization from the property owner to apply for the permit.

4. Location by STRAP and street address.

5. Type of state liquor license being requested and anticipated hours for the sale and service of alcoholic beverages.

*6. – 7. remain unchanged.*

8. ~~A notarized affidavit executed by the applicant~~ sworn statement indicating that no religious facilities, day care centers (child), noncommercial schools, dwelling units or parks are located within 500 feet of the building.

*Remainder of section is unchanged.*

DIVISION 10. CARE FACILITIES AND CENTERS

**Sec. 34-1412. Family day care home exemption.**

The operation of a family day care home under F.S. § 125.0109 requires an exemption from the special exception requirements for child day care facilities. Applications for a family day care home must include:

- a. A sworn statement establishing that the family day care home will operate:
  - 1. In the applicant's residence; and
  - 2. On property owned by the applicant; or
  - 3. On property covered by a lease to the applicant for residential purposes, including the right to operate a family day care home.
- b. A copy of the applicant's state family day care home license or registration issued in accordance with F.S. § 402.313.
- c. A special processing fee in accordance with the External Fees and Charges Manual in lieu of the application fee for a special exception.
- d. A plan demonstrating required parking in compliance with 34-2020(b).

**~~Secs. 34-1412, Sec. 34-1413.~~ Reserved.**

#### DIVISION 16. FARM PRODUCE STANDS, U-PICK OPERATIONS, AND COMMUNITY GARDENS

##### **Sec. 34-1716. Standards for community gardens.**

Community gardens may be permitted by right in certain zoning districts subject to the following regulations. Community gardens are not subject to review under Chapter 10.

- (1) – (8) *remains unchanged.*
- (9) Application. An application for administrative approval must be submitted to the Department of Community Development along with the following documentation:
  - a. ~~Notarized~~ Letter signed by the property owner giving permission for use of property.
  - b. *through c. remain unchanged.*
  - d. The site plan must show the location of all existing structures on the property ~~as well as on adjacent properties within 100 feet of the perimeter boundary of the site.~~
  - e. *through g. remain unchanged.*

## DIVISION 17. FENCES, WALLS, GATES AND GATEHOUSES

### **Sec. 34-1742. Construction of fences.**

*(a) – (e) remain unchanged.*

- (f) Except as provided below, no barbed wire, spire tips, sharp objects, hog wire, game fence, horse wire or other similar materials or electrically charged fences may be erected within 100 feet of any residential area or residential zoning district under separate ownership:

*(1) – (4) remain unchanged.*

(5) The use of hog wire is permitted on lands owned, for purposes of conservation, by Lee County, the State of Florida, or other governmental entities.

### **Sec. 34-1744. Location and height of fences and walls other than residential project fences.**

*(a) remains unchanged.*

*(b) Height.*

*(1) remains unchanged.*

- (2) Except as provided for in section 34-1743 (b)(1), the maximum permitted height for fences and walls is as follows:

a. Residential areas:

- i. A fence or wall located between a street right-of-way or easement and the minimum required street setback line may not exceed three feet in height, except that fences may be a maximum height of four feet so long as the fence is of open mesh screening\* and does not interfere with vehicle visibility requirements (see section 34-3131) at traffic access points.

\*For purposes of this section only, open mesh screening may include vertical picket-type fencing provided that the minimum space between vertical members must be a minimum of one and one-half times the width and thickness of the vertical members or bars. i.e. if the vertical members are two and one-quarter inches wide and three-quarter inch thick (total three inches), then the minimum space between them must be four and one-half inches ( $1.5 \times 3.0 = 4.5$ ). In no case may the space between vertical members or bars be less than 3 7/8 ~~four~~ inches.

*Remainder of section is unchanged.*

## DIVISION 24. MODEL HOMES, UNITS AND DISPLAY CENTERS

**Sec. 34-1954. Model homes and model units.**

(a) – (c) *remain unchanged.*

(d) *Time limitations.*

(1) *Model homes.* Approval for a model home will be valid for a period of time not exceeding three years from the date of issuance of a certificate of occupancy for a model home, unless the Director or Hearing Examiner (as applicable) grants an additional specified time limit. Upon expiration of the approval, the owner may; 1) apply for an administrative extension of the model home use approval; 2) apply for a change of use permit to convert the model to a living unit; or 3) remove the model from the property.

(2) *remains unchanged.*

**DIVISION 26. PARKING**

**Sec. 34-2020. Required parking spaces.**

All uses are required to provide off-street parking based on the single-use development requirement unless the use is located in a development that qualifies as a multiple-use development, in which case, the minimum required spaces for multiple-use developments may be used. Use of the multiple-use development minimum parking regulations is optional.

Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested.

(a) – (b) *remains unchanged.*

(c) *Parking reduction for non-residential uses.* The Director may administratively approve a reduction to the minimum required number of parking spaces for non-residential uses by a maximum of 10 percent if one or more of the following conditions are satisfied and approval is obtained in accordance with section 34-2020(e):

(1) – (5) *remain unchanged.*

(6) *Park-and-ride spaces.* Parking spaces in excess of the minimum requirement for the principal use(s) may be used as park-and-ride spaces if designated by Lee County Transit (LeeTran) and approved by the Director. No part of a parking lot used to satisfy required parking for any use on the same premises may be used for park-and-ride. However, the minimum parking requirements for multiple-use development may be used to determine the required parking for the use(s) located on the same premises. If applicable, pedestrian accommodations must be provided from the parking spaces to the transit stop.

(d) – (f) *remains unchanged.*

## DIVISION 27. PLACES OF WORSHIP AND RELIGIOUS FACILITIES

### **Sec. 34-2054. Day care centers.**

A day care center, with less than 100 children, owned by the entity with title to the place of worship and operated within the building housing the place of worship is not required to obtain special exception approval.

### **Secs. 34-~~2053~~ 2054 - 34-2080. Reserved.**

## DIVISION 35. SPORTS/AMUSEMENT PARKS AND RECREATIONAL FACILITIES

### **Sec. 34-2471. Applicability of division.**

The regulations set forth in this division for specific sports/amusement parks and facilities are in addition to any other applicable regulations. In the case of conflict, the most restrictive regulations shall apply. Government owned and operated parks, as found in section 34-622(c)(32), are exempt from this division.

## DIVISION 37. SUBORDINATE AND TEMPORARY USES

### *Subdivision II. Temporary Uses*

### **Sec. 34-3041. Generally.**

*(a) through (d) remain unchanged.*

(e) Time limit.

(1) *remains unchanged.*

(2) A temporary use permit may not be renewed or reissued to the same applicant or on the same premises for a similar use more than four times in a calendar year or within 45 days from the date of expiration of the previous temporary use permit, except for community gardens as described in section 34-1716 and seasonal farmer's market (section 34-3048).

*Remainder of section is unchanged.*

### **Sec. 34-3048. ~~Reserved.~~ Seasonal Farmers' Market**

(a) Farmers' market are allowed in the parking lot or grassed areas of properties development with churches, schools, clubs (df), parks (34-622(c)(32)), commercial or industrial uses, or on-site recreational facilities (df). Farmers' markets are prohibited on vacant lots.

- (b) Farmers' markets are permitted from October through April. A temporary use permit may be issued for no more than 4 days a week in the same location. A year round farmers' market requires compliance with this Code.
- (c) The application for the temporary use permit must include the following:
- (1) A site plan indicating the layout and boundaries of the market. The market may be located within parking areas with written consent of the property owner. The market is not permitted in open space or preserves areas, as designated on an approved local development order, or within a County right-of-way. Adequate pedestrian and vehicular access to the site must be demonstrated;
  - (2) The day of the week and hours of operation for the market.
- (d) Each vendor is responsible for securing and displaying all necessary licenses, including but not limited to any license/approval required when offering prepared food for consumption, etc. (i.e., Florida Department of Agriculture, Food Safety, and Department of Business and Professional Regulation, etc.). Allowed products and services are limited to:
- (1) Unprocessed agricultural products such as fruits, vegetables, grains, flowers, and plants;
  - (2) Processed agricultural products such as milk, cheese, oils, vinegars, meats, poultry, eggs, honey, spices, coffee, jams, nuts, sauces, pasta, soaps, ice cream, herbal preparations, jellies;
  - (3) Prepared foods such as ready-to-eat baked goods, breads, meats, cheeses, cakes, and pies;
  - (4) Food booths, with proper licensing, where preparation of food occurs on site;
  - (5) Agriculture-related crafts, such as handmade wreaths, swags, dry flower arrangements, pressed flowers, scented sticks and potpourri; candles, scented sticks;
  - (6) Items designed to promote water, soil, or energy conservation, such as rain barrels, organic fertilizer, compost boxes, and related educational materials;
  - (7) Musical entertainment may occur only at one location within the market area and must comply with the County noise ordinance; and
  - (8) Other goods and services determined by the Zoning Director to be substantially similar to the above vendor types.
- (e) Prohibited Items and Vendors: Used goods, antiques, collectibles, and all other goods and services not expressly set forth above or as determined by the Director.

- (f) The Department of Community Development has the authority to modify or revoke the farmers' market temporary use permit upon a finding at a duly noticed public hearing of a violation of any condition of the temporary use permit approval. Prior to revoking a permit, the permittee will be given written notice of the violation and the action necessary to correct the same. The notice will be delivered served in compliance with FSS 162.12. The notice will provide that failure to correct the violation will result in the revocation of the Temporary Use Permit.