

ORDINANCE NO. 09-23

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE, CHAPTERS 1, 2, 6, 10, 14, 22, 26, 30, 33, and 34.

AMENDING LDC CHAPTER 1, GENERAL PROVISIONS; AMENDING RULES OF CONSTRUCTION AND DEFINITIONS, AND REPEALING THE DEFINITIONS OF "SIDEWALK" AND "STREET AND ROAD" (§1-2); AND

AMENDING LDC CHAPTER 2, ADMINISTRATION; CREATING LEGAL AUTHORITY FOR DEVELOPMENT PERMIT DENIALS (§2-4); AMENDING HEARING EXAMINER PROVISION PERTAINING TO INTENT (§2-420); CODE ENFORCEMENT AUTHORITY OF LEE COUNTY HEARING EXAMINER (§2-421); AMENDING SPECIAL MAGISTRATE PROCEEDINGS UNDER THE FLORIDA LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION ACT (§2-440); AMENDING HURRICANE PREPAREDNESS REGULATIONS PERTAINING TO APPLICABILITY (§2-482); DEFINITIONS OF "COASTAL HIGH HAZARD AREA" AND "HURRICANE VULNERABILITY" (§2-483); IMPACT MITIGATION (§2-485); AND

AMENDING LDC CHAPTER 6, BUILDINGS AND BUILDING REGULATIONS; AMENDING MEMBERSHIP; APPOINTMENT OF MEMBERS TO BOARD OF ADJUSTMENT AND APPEALS (§6-74); CREATING BUILDING PERMIT EXTENSION PROVISIONS (§6-116); DEFINITIONS (§6-405); AMENDING DESIGNATION OF COORDINATOR FOR FLOOD PLAIN REGULATIONS (§6-441); DUTIES AND RESPONSIBILITIES OF COORDINATOR (§6-442); GENERAL STANDARDS (§6-471); SPECIFIC STANDARDS (§6-472); STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS OR FLOODWAYS (§6-473); STANDARDS FOR SUBDIVISION PROPOSALS (§6-474); STANDARDS FOR AREAS OF SHALLOW FLOODING (§6-475); AND

AMENDING LDC CHAPTER 10, DEVELOPMENT STANDARDS, DEFINITIONS (§10-1); SPECIFIC REQUIREMENTS (§10-8); PREREQUISITE ZONING APPROVALS FOR DEVELOPMENT ORDER SUBMITTALS (§10-103); DEVIATIONS AND VARIANCES (§10-104); APPEALS (§10-112); DURATION OF DEVELOPMENT ORDER (§10-115); EXTENSIONS (§10-123); ADDITIONAL REQUIRED SUBMITTALS (§10-154); BIKEWAYS AND PEDESTRIAN WAYS (§10-256); MARINA DESIGN (§10-257); REFUSE AND SOLID WASTE DISPOSAL FACILITIES (§10-261); FUNCTIONAL CLASSIFICATION OF COUNTY ROADS (§10-284); CONNECTION SEPARATION (§10-285); TRAFFIC IMPACT STATEMENTS (§10-286); TRAFFIC IMPACT MITIGATION PLAN (§10-287); TURN LANES (§10-288); PERIMETER STREETS (§10-289); LOCAL STREETS (§10-290); REQUIRED STREET ACCESS (§10-291); PRIVATE STREETS (§10-293); CONTINUATION OF EXISTING STREET PATTERN (§10-294); STREET

STUBS TO ADJOINING PROPERTY (§10-295); STREET DESIGN AND CONSTRUCTION STANDARDS (§10-296); CONTROLLED ACCESS ROADS (§10-298); CREATING PROVISIONS RELATED TO LIMITED ACCESS ROADS (§10-299); AMENDING DRAINAGE EASEMENTS (§10-328); EXCAVATIONS (§10-329); POTABLE WATER SYSTEMS (§10-352); SANITARY SEWER SYSTEMS GENERALLY (§10-353); SUBMITTAL REQUIREMENTS (§10-414); OPEN SPACE (§10-415); LANDSCAPE REQUIREMENTS (§10-416); SURFACE WATER MANAGEMENT SYSTEMS (§10-418); PLANT MATERIAL STANDARDS (§10-420); PLANT INSTALLATION AND MAINTENANCE STANDARDS (§10-421); MANAGEMENT PLANS (§10-474); SITE DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL DEVELOPMENTS (§10-610); AMENDING ILLUSTRATIONS FOR PUBLIC LOCAL STREETS (§10-709); PRIVATE LOCAL STREETS (§10-710); ACCESS STREETS (§10-711); AND

AMENDING LDC CHAPTER 14, ENVIRONMENTAL AND NATURAL RESOURCES AMENDING MANATEE PROTECTION REGULATIONS PERTAINING TO PURPOSE OF DIVISION (§14-151); REPEALING DEFINITIONS AND RULES OF CONSTRUCTION, ADOPTING APPROVAL OF MANATEE PROTECTION PLAN (§14-152); REPEALING PENALTY FOR VIOLATION OF DIVISION (§14-153); REPEALING ENFORCEMENT OF DIVISION AND CREATING PROVISIONS REGARDING JURISDICTION (§14-154); EXEMPTIONS (§14-156); REPEALING DESIGNATION OF REGULATED AREA (§14-158); DESIGNATION OF SPECIAL MANAGEMENT AREAS (§14-159); ADDITIONAL AREAS OF SPECIAL MANAGEMENT (§14-160); AMENDING DEFINITION OF "BEACH FURNITURE OR EQUIPMENT" (§14-170); "ADMINISTRATOR" "ILLICIT DISCHARGE OR ILLICIT STORMWATER DISCHARGE" (§14-475); AMENDING STORMWATER POLLUTION PREVENTION PLAN (SWP3 CRITERIA) (§14-477); CLEANWATER ENFORCEMENT (§14-479); AND

AMENDING LDC CHAPTER 22, HISTORIC PRESERVATION; AMENDING DEFINITION OF "CERTIFICATE OF APPROPRIATENESS" (§22-3); AMENDING ORGANIZATION; MEETINGS (§22-73); ARCHAEOLOGICAL SITES AND DISTRICTS (§22-106); RELIEF FROM ZONING REGULATIONS (§22-174); CREATING PROCEDURE FOR REMOVAL OF DESIGNATION OR CHANGE IN STATUS (§22-205); REMOVAL OF DESIGNATION OR CHANGE IN STATUS REPORT (§22-206); NOTICE; ACTION BY BOARD; RECORDING (§22-207); AND

AMENDING LDC CHAPTER 26, MARINE FACILITIES, STRUCTURES AND EQUIPMENT TO AMEND DEFINITIONS PERTAINING TO DOCK AND SHORELINE STRUCTURES (§26-41); AMENDING VIOLATIONS AND PENALTIES (§26-42); COMPLIANCE WITH APPLICABLE REGULATIONS (§26-44); PERMITS REQUIRED (§26-45); VARIANCES (§26-46); NON CONFORMING STRUCTURES (§26-48); AMENDING LOCATION AND

DESIGN PROVISIONS FOR DOCKING FACILITIES AND BOAT RAMPS (§26-71); FISHING PIERS, OBSERVATION DECKS, OR KAYAK/CANOE STRUCTURES (§26-73); BOATHOUSES (§26-74); SEAWALLS, RETAINING WALLS, AND RIPRAP REVETMENT (§26-75); DREDGING; NEW AND MAINTENANCE (§26-76); TURBIDITY; PROTECTION OF VEGETATION (§26-77); MARINA DESIGN AND LOCATION (§26-78); CREATING MANATEE PROTECTION PLAN PROVISIONS PROVIDING FOR FACILITY SITING CRITERIA (§26-79); TRANSFER OF (WATERCRAFT) SLIP CREDITS (§26-80); AND BEACH DUNE WALKOVERS (§26-81); AMENDING MARINE SANITATION DEFINITIONS (§26-112); PENALTY FOR VIOLATION OF ARTICLE II AND INJUNCTIVE RELIEF (§26-113); APPLICABILITY OF ARTICLE (§26-114); AND MARINE SANITATION FACILITIES (§26-116); AND

AMENDING LDC CHAPTER 30, SIGNS, TO AMEND DEFINITION OF "INSTRUCTIONAL SIGN" (§30-2); APPLICABILITY OF CHAPTER (§30-4); AND

AMENDING LDC, CHAPTER 33, PLANNING COMMUNITY REGULATIONS, AMENDING PROVISION APPLICABLE TO INTENT OF ESTERO PLANNING COMMUNITY INTENT (§33-402); AND

AMENDING LDC CHAPTER 34, ZONING DEFINITIONS (§34-2); AMENDING FUNCTIONS AND AUTHORITY OF BOCC (§34-83); HEARING EXAMINER OFFICE ESTABLISHED (§34-141); FUNCTIONS AND AUTHORITY (§34-145); DEPARTMENT OF COMMUNITY DEVELOPMENT POWERS AND DUTIES (§34-172); GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING (§34-202); CREATION OF ENFORCEMENT COMPLIANCE (§34-265); AMENDING ADMINISTRATIVE VARIANCES (§34-268); PLANNED DEVELOPMENT APPLICATION PROVISIONS (§34-373); USE AND DEVELOPMENT REGULATIONS FOR CONVENTIONAL DISTRICTS (§34-621); USE ACTIVITY GROUPS (§34-622); AGRICULTURAL DISTRICTS USE REGULATIONS TABLE (§34-653); USE REGULATIONS TABLE FOR ONE AND TWO FAMILY RESIDENTIAL DISTRICT (§34-694); USE REGULATIONS TABLE FOR MULTIPLE FAMILY DISTRICTS (§34-714); USE REGULATIONS TABLE FOR MOBILE HOME DISTRICTS (§34-735); USE REGULATIONS TABLE FOR RECREATIONAL VEHICLE PARK DISTRICTS (§34-791); USE REGULATIONS TABLE FOR COMMUNITY FACILITIES DISTRICTS (§34-813); PURPOSE AND INTENT OF COMMERCIAL DISTRICT (§34-841); USE REGULATIONS TABLE FOR CONVENTIONAL COMMERCIAL DISTRICT (§34-843); PURPOSE AND INTENT FOR MARINE-ORIENTED DISTRICTS (§34-871); USE REGULATIONS TABLE FOR MARINE-ORIENTED DISTRICTS (§34-873); USE REGULATIONS FOR INDUSTRIAL DISTRICTS (§34-903); USE REGULATIONS FOR PLANNED DEVELOPMENTS (§34-934); USE REGULATIONS FOR SPECIAL PURPOSE DISTRICTS (§34-983);

AMENDING MODIFIED LAND DEVELOPMENT REGULATIONS FOR DEVELOPMENT OVERLAY DISTRICTS (§34-1143); AMENDING SUPPLEMENTARY DISTRICT REGULATIONS FOR LOCATION AND SETBACKS (§34-1174); ACCESSORY APARTMENTS (§34-1177); ENCLOSURE OF ANIMAL CLINIC FACILITIES (§34-1322); AUTOMOTIVE REPAIR AND SERVICE (§34-1351); CREATING PROVISIONS PERTAINING TO CONVENIENCE FOOD AND BEVERAGE STORES, AUTOMOTIVE SERVICE STATIONS, FAST FOOD RESTAURANTS AND CAR WASHES (§34-1353); AMENDING ASSISTED LIVING FACILITIES (§34-1411); CONTINUING CARE FACILITIES (§34-1414); CREATING PROVISIONS FOR LOCATION OF HEALTHCARE FACILITIES (§34-1415); AMENDING DENSITY DEFINITIONS (§34-1512); AFFORDABLE HOUSING TRUST FUND (§34-1520); ENTRANCE GATES AND GATEHOUSES (§34-1748); HOME OCCUPATION PERMITTED USES; OPERATION (§34-1772); BOATS, FLOATING STRUCTURES, FLOATING EQUIPMENT AND LIVE-ABOARDS (§34-1861); MARINAS, FISH HOUSES AND DOCKING FACILITIES (§34-1862); CONSTRUCTION AND MAINTENANCE OF DOCKS, SEAWALLS AND OTHER STRUCTURES DESIGNED FOR USE ON OR ADJACENT TO WATERWAYS (§34-1863); AMENDING PARKING DEFINITIONS (§34-2012); PARKING LOT STRUCTURES (34-2017); EXCEPTIONS FOR ESSENTIAL SERVICE FACILITIES GROUP I (§34-2142); HEIGHT LIMITATIONS FOR SPECIAL AREAS AND LEE PLAN LAND USE CATEGORIES (§34-2175); ANCILLARY TEMPORARY USES IN PARKING LOTS (§34-3048); AND

AMENDING APPENDIX K PERTAINING TO ROAD IMPACT FEE BENEFIT DISTRICTS TO REFLECT 4 INSTEAD OF 5 DISTRICTS; AND

PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Section 125.01(1)(h) authorizes counties to establish, coordinate, and enforce zoning regulations necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners adopted the Lee County Land Development Code, which contains regulations applicable to the development of land in Lee County; and

WHEREAS, Goal 24 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the county maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

WHEREAS, Lee Plan Policies 14.5.3, 24.1.9, 52.1.1 and 110.6.2 require county staff and private citizen committees to review existing development regulations to determine whether the regulations can be further fine tuned and streamlined in order meet the goals, objectives and policies of the Lee Plan; and

WHEREAS, the Board of County Commissioners of Lee County, Florida has adopted a comprehensive Land Development Code; and

WHEREAS, the Land Development Code Advisory Committee was created by the Board of County Commissioners to explore amendments to the Land Development Code; and

WHEREAS, the Lee Plan includes marina facilities siting criteria and marina design criteria in Objectives 128.5 and 128.6; and

WHEREAS, the marina facilities siting criteria set forth in Objective 128.5 and Policies 128.5.1 through 128.5.12 of the Lee Plan must be considered in evaluating new or substantially expanded marinas, other wet slip facilities and boatramps; and

WHEREAS, the marina design criteria set forth in Objective 128.6 and Policies 128.6.1 through 128.6.16 of the Lee Plan must be utilized in evaluating the design of new marinas, or expansion of wet slip facilities at existing marinas; and

WHEREAS, policies regulating water-dependent uses in the county are found in Policies 128.1.1 and 128.2.1, and are mapped in the Appendix of the Lee Plan, as Map 12; and

WHEREAS, the Lee County Manatee Protection Plan (Manatee Protection Plan), dated June 17, 2004, was approved by the Board of County Commissioners on June 29, 2004, for the benefit of both the incorporated and unincorporated areas of Lee County; and

WHEREAS, the Lee County Manatee Protection Plan was officially incorporated in to the Lee Plan on May 16, 2007 (CPA 2005-41); and

WHEREAS, the Board of County Commissioners adopted Ordinance 88-30 (now Chapter 34, Article II, Division 4) providing for the establishment of the Hearing Examiner public hearing process for zoning and land use matters; and

WHEREAS, the Board of County Commissioners adopted Ordinance 90-1 establishing the Hearing Examiner public hearing process and granting the Hearing Examiner the authority and powers to enforce Lee County codes and regulations in accord with Chapter 162, Florida Statutes; and

WHEREAS, the duties of the Hearing Examiner for Code Enforcement purposes are stated in Chapter 2 of the Lee County Land Development Code; and

WHEREAS, the duties of the Hearing Examiner for Zoning purposes are stated in Chapter 34 of the Lee County Land Development Code; and

WHEREAS, it is the intent of the Board of County Commissioners to clarify that the Office of the Hearing Examiner was created to handle all duties related to the application, interpretation, and enforcement of its laws through both the Code Enforcement and Zoning/Land Development public hearing process; and

WHEREAS, the Land Development Code Advisory Committee has reviewed the proposed amendments to the Code and recommended modifications as indicated; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on May 13, 2009, and recommended their adoption; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on June 3, 2009, and found them consistent with the Lee Plan, as indicated.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: AMENDMENT TO LDC CHAPTER 1

Lee County Land Development Code Chapter 1 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 1

GENERAL PROVISIONS

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

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

(b) *Generally.*

- (1) All general provisions, terms, phrases and expressions contained in this Land Development Code will be liberally construed in order that the true intent and meaning of the Board of County Commissioners may be fully carried out.
- (2) Terms used in this Land Development Code, unless otherwise specifically provided, have the meanings prescribed by the statutes of the state for the same terms.

- (3) In the event of any difference in meaning or implication between the text of this Land Development Code and any caption, illustration, summary table or illustrative table, the text ~~shall~~ will control.
- (4) ~~Any words~~ Words used in the present tense ~~shall~~ include the future; and ~~any~~ words in the singular number ~~shall~~ include the plural, and vice versa, unless the context clearly indicates the contrary; and words of the masculine gender ~~shall~~ will be construed to include the feminine gender and vice versa.
- (5) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either . . . or," the conjunction ~~shall~~ will be interpreted as follows:
 - a. "And" indicates that all the connected terms, conditions, provisions or events ~~shall~~ apply.
 - b. "Or" indicates that the connected terms, conditions, provisions or events may apply singly but not in any combination.
 - c. "Either . . . or" indicates that the connected terms, items, conditions, provisions or events ~~shall~~ apply singly but not in combination.
- (6) The provisions of this Land Development Code ~~shall~~ will be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety and welfare.
- (7) This Land Development Code constitutes the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where ~~any~~ provisions of this Land Development Code conflict such that one provision causes greater restrictions to be imposed than another provision, the provision imposing the greater restriction or regulation will control.

State law references: Construction of statutes, F.S. ch. 1.

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

~~**Sidewalk.** The term "sidewalk" means any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.~~

~~**Street and road.** The terms "street" and "road" include any street, avenue, boulevard, road, alley, viaduct or other public or private highway in the county.~~

The balance of this section remains unchanged.

SECTION TWO: AMENDMENT TO LDC CHAPTER 2

Lee County Land Development Code Chapter 2 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 2

ADMINISTRATION

ARTICLE I. IN GENERAL

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

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

ARTICLE VII. HEARING EXAMINER

Sec. 2-420. Intent.

The intent of this article is to promote, protect and improve the health, safety and welfare of the citizens of Lee County by ~~creating the position of hearing examiner and granting the power to impose administrative fines, including costs of prosecution, and other noncriminal penalties in order to provide an equitable, expeditious, effective and inexpensive method of enforcing any Lee County code, ordinance or regulation in effect.~~ within the Office of the Lee County Hearing Examiner the powers and authority granted in FS ch. 162, for the enforcement of Lee County codes and regulations; and the power and authority to take action in accord with the duties set forth in chapter 34. With this delegation of power and authority, the Lee County Hearing Examiner's Office is a governmental entity/office with jurisdiction over multiple functions, powers and authorities.

Sec. 2-421. ~~Greation of position of hearing examiner.~~ Code enforcement authority of Lee County Hearing Examiner.

~~For the purpose of enforcing Lee County codes and regulations the position of hearing examiner is hereby created pursuant to F. S. ch. 162: The office of the Hearing Examiner is hereby granted the power to impose administrative fines, including costs of prosecution, and other noncriminal penalties in order to provide an equitable, expeditious and effective method of enforcing any Lee County code, ordinance or regulation. The Board of County Commissioners~~ Office of the Hearing Examiner will hire provide the

requisite number of Hearing Examiners necessary to appropriately handle execute the ~~volume of code enforcement cases requiring prosecution:~~ assigned duties and responsibilities.

ARTICLE VIII. SPECIAL MASTER MAGISTRATE

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

(a) *Special master-magistrate proceedings.* Special master-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 master-magistrate recommendation.* If the Board of County Commissioners elects to adopt the recommendation of the special master 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 master-magistrate recommendation.* The Board of County Commissioners may elect to modify the special masters 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 master-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 master-magistrate recommendation.* The deliberations of the Board of County Commissioners regarding whether to accept, reject or modify the special master-magistrate recommendation will be made at a public hearing.

ARTICLE XI. HURRICANE PREPAREDNESS

Sec. 2-482. Applicability.

This article applies only to development required to obtain a development order under chapter 10 and is applicable to all new residential development within unincorporated Lee County that is located in a land falling category 1, 2, or 3 storm surge area. ~~This article also applies to new and existing developments of regional impact.~~ The provisions of this article are intended to supersede the provisions of Lee County Administrative Code 7-9 in the event of a conflict. Under this article, residential

development includes, but is not limited to, all assisted living facilities, dwelling units, living and housing units, mobile homes, recreational vehicle developments (including recreational vehicles qualifying as permanent residences under this Code), hotel and motel, health care facilities Groups I, II and IV, and social services facilities Groups ~~II~~ III and IV, as these terms are defined in chapter 34. This article does not eliminate the shelter requirements applicable to mobile home or recreational vehicle developments contained in section 10-258 to the extent this obligation is fulfilled by compliance with this article.

Sec. 2-483. Definitions.

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

Coastal high hazard area means that area of the hurricane vulnerability zone defined as the ~~landfalling~~ land falling category 1 ~~evacuation~~ storm surge zone as delineated by the Southwest Florida Regional Planning Council.

Hurricane vulnerability zone means the areas delineated by a regional hurricane evacuation study as requiring evacuation in the event of a ~~landfalling~~ land falling category ~~three~~ 3 hurricane event.

Balance of section remains unchanged.

Sec. 2-485. Impact mitigation.

(a) *Authority.* The division director will make the final decision with respect to the acceptability of the type and degree of mitigation offered to address the proposed development. This determination will be based upon consideration of the type and intensity of development, its location and the incremental effect on the hurricane preparedness program created by the development. The mitigation requested by the county must have a reasonable relationship to the incremental impact of the development. Appropriate calculation of the impacts in accordance with section 2-484 will constitute sufficient evidence of the reasonable relationship.

The division director has the authority to deny acceptance of a proposed type of mitigation if the proposal is determined to be inappropriate for the location involved (~~e.g. vertical evacuation in a coastal high hazard area~~) or constitutes the creation of an unacceptable shelter facility (e.g. on-site shelter without all appropriate shutters).

The option chosen by the developer to mitigate shelter and evacuation impacts must be approved prior to the issuance of a development order for any residential development that precipitates the requirement to mitigate under this article. The payment in lieu option must be satisfied prior to the issuance of a building permit.

(b) *Shelter impacts.* One or a combination of the following options may be used to address the impacts on the hurricane shelter program precipitated by the proposed residential development except for those residential developments listed in section (5) below. The division will determine acceptability and appropriateness of the type of mitigation proposed.

- (1) *Land donation.* A donation of land must meet the following minimum criteria:
 - a. The ~~structure~~ land must be located outside the coastal high hazard area.
 - b. through d. *No change.*
- (2) *Donate use of private structure.* A donation of the use of a private structure must meet the following minimum criteria:
 - a. *No change.*
 - b. The structure must be constructed and capable of use as a primary public hurricane shelter. Specifically, the structure and all required equipment and supplies must be:
 1. Elevated to the anticipated ~~landfalling~~ land falling category ~~three~~ 3 flood level; and
 2. Constructed to withstand winds of at least ~~130~~ 150 miles per hour according to the Florida Building Code; and
 3. through 5. *No change.*
 6. The structure, and all restrooms and support facilities, must comply with all regulations regarding accessibility for persons with disabilities.
 - c. *No change.*
- (3) *No change.*
- (4) *On-site shelter.* Provision of an on-site shelter must meet the following minimum criteria:
 - a. The on-site shelter must be located outside the coastal high hazard area unless constructed in accordance with the standards set forth in section 2-485(b)(5)a for the uses referred to therein.

- b. *No change.*
 - c. The structure and all required equipment and supplies must be:
 - 1. Elevated to the anticipated ~~landfalling~~ land falling category ~~three~~3 flood level; and
 - 2. Constructed to withstand winds of at least ~~130~~ 150 miles per hour according to the Florida Building Code; and
 - 3. through 5. *No change.*
 - 6. The structure, and all restrooms and support facilities, must comply with all regulations regarding accessibility for persons with disabilities.
 - d. and e. *No change.*
- (5) *Health care facilities--Group I (nursing and personal care facilities), and Group II (skilled nursing care facilities and hospices) and Group IV (hospitals), assisted living facilities with 17 or more beds, continuing care facilities, and Social Services Groups III and IV.*
- a. The facility must be located outside the coastal high hazard area unless designed to address shelter and evacuation impacts on-site as follows.
 - 1. On-site shelters and all required equipment and supplies for these facilities must comply with the following standards:
 - i. Elevation to the anticipated storm surge from a land falling Category 5 storm.
 - ii. Construction to withstand winds of 200 mph in accordance with the Florida Building Code.
 - iii. Construction with minimum exterior glass with all glazed openings provided with impact protection in accordance with the Florida Building Code.
 - iv. Equipped with emergency power and potable water supplies to last up to five days.
 - v. Protected with adequate ventilation, sanitary facilities, and first aid medical equipment.

2. Developer/operator must conduct annual training of the on-site shelter managers. The training is to be conducted by the Red Cross and approved by Lee County Emergency Management.
3. Developer/operator must submit a post storm recovery plan including post storm evacuation plan for review and approval by Lee County Emergency Management.

- b. Facilities located within the category 2 or 3 ~~landfalling~~ land falling storm surge areas must construct sufficient hurricane shelter space for its residents meeting the construction standards set forth in ~~either section 2-485(b)(2)b. or section 2-485(b)(4)e.~~ This requirement may not be satisfied by payment in lieu of constructing the shelter.

(c) *Evacuation impacts.* One or a combination of the following options may be used to address the impacts on hurricane evacuation routes with respect to evacuation timing and infrastructure precipitated by the proposed residential development. Acceptability and appropriateness of the type of mitigation proposed will be determined by the Division and the Lee County Department of Transportation (DOT).

(1) and (2) *No change.*

(3) *Vertical evacuation.* The viability of this mitigation option will be based upon the following criteria:

- a. The structure must be elevated above the anticipated category ~~three~~ 3 ~~landfalling~~ land falling hurricane storm surge and must be able to withstand wind speeds of at least ~~140~~ 150 miles per hour ~~for an essential facility.~~

- b. *No change.*

(d) *Mitigation options that will address both shelter and evacuation impacts:* One or a combination of the following options will constitute full mitigation of both shelter and hurricane evacuation impacts for residential development, with the exception of those residential developments listed in section 2-485(b)(5)b:

(1) *No change.*

(2) *Elevation above hurricane flooding levels.* This option requires construction of residential units above the category ~~three~~ 3 ~~landfalling~~ land falling storm surge level. This option is available only for construction located outside the coastal high hazard area and does not subject the construction to standards in excess of those applicable in the county building codes.

- (e) *No change.*

SECTION THREE: AMENDMENT TO LDC CHAPTER 6

Lee County Land Development Code Chapter 6 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 6

BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. IN GENERAL

DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS

Sec. 6-74. Membership; appointment of members.

The Board of Adjustment and Appeals ~~shall~~ will consist of 13 members. ~~Such board shall consist of as follows:~~ one architect or engineer, one general contractor, one residential or building contractor, one plumbing contractor, one electrical contractor, one mechanical contractor, one aluminum contractor, one solar contractor, one representative from the fire service, one roofing contractor, one sign or outdoor advertising contractor, one mobile home installer and one representative of ~~handicapped~~ disabled persons. Members of the county board of adjustment and appeals ~~shall~~ will be appointed by the Board of County Commissioners.

ARTICLE II. CODES AND STANDARDS

DIVISION 3. BUILDING CODE

Sec. 6-116. Building permit extensions.

(a) *Duration of a building permit.* A building permit is valid for 180 days from date of issuance or from the date of the last approved and required inspection. Permits that have not passed a required inspection within 180 days from date of issuance of the permit, or from the date of a previously approved and required inspection, may be extended for an additional 90 days. Failure to either pass a required inspection or request a permit extension within the 180-day period provided will result in expiration of the permit. Thereafter, a new permit will be required to continue construction.

(b) *Permit extensions by the Building Official.*

(1) Permit extensions may be granted by the Building Official or designee, subject to the criteria set forth in this section. Permit extension requests must be submitted in writing no later than seven days prior to the expiration of the building permit. The permit extension request must include:

- a. The permit number;
- b. Construction site address;
- c. Responsible contractor's name;
- d. A detailed statement setting forth the reasons or factors making the extension necessary; and,
- e. Documentation providing evidence of a good faith effort toward completion of construction.

Failure to provide satisfactory proof of a good faith effort constitutes an appropriate basis for denial of the request for a permit extension.

- (2) *Basis for grant of extension.* The Building Official may, but is not required to, grant a permit when, based upon sufficient evidence, the Building Official finds:

- a. Demonstration of a good faith effort with respect to completion of construction during the effective period of the building permit; and,
- b. The delay in completing construction was due to factors outside of the builder, developer, or property owner's control.

(c) *Conditions on extension.* The Building Official may impose conditions as part of the permit extension. Any conditions imposed will be determined at the time the Building Official makes a decision. These conditions may include, but are not limited to, requiring:

- (1) Compliance with all current technical codes and other county and state regulations effective at the time of the request for extension;
- (2) Payment of any incremental increase in impact fees since the permit was initially issued or a previous extension was granted; or,
- (3) Submission of revised plans.

(d) *Fees.* The Building Official will charge a fee for the processing of each permit extension request, in accordance with the applicable schedule of fees.

- (e) *Applicability.* This provision applies to all permits issued under this chapter.

ARTICLE IV. FLOOD HAZARD REDUCTION

DIVISION 1. GENERALLY

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.

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.

The balance of this section remains unchanged.

DIVISION 2. ADMINISTRATION

Sec. 6-441. Designation of administrator coordinator.

The balance of this section remains unchanged.

Sec. 6-442. Duties and responsibilities of administrator coordinator.

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

(1) through (9) *No change.*

(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 shall will be given a reasonable opportunity to appeal the interpretation as provided in this article;

(11) and (12) *No change.*

DIVISION 3. STANDARDS

Sec. 6-471. General standards.

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

- (1) *No change.*
- (2) Manufactured homes must be anchored to prevent flotation, collapse ~~or~~ 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) through (10) *No change.*

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. *No change.*
 - 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 ~~or~~ 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. ~~Recreational vehicles that cannot be placed on the site pursuant to these criteria must comply with subsection (1) of this section and section 6-471(2) unless or until the county becomes an approved community for an exception to this rule. If an exception is approved by the Federal Emergency Management Agency, a recreational~~

~~vehicle that cannot be placed on the site pursuant to the criteria of this subsection must be subject to the provisions set forth in subsection (1) or (1)a. of this section, as applicable, for manufactured homes. Proof that an exception has been granted to the county by the Federal Emergency Management Agency will be established upon the county's receipt of written notice.~~

- (2) *No change.*
- (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. through d. *No change.*
- (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 section 6-472(1) through (3) and Section 6-474, will apply:
 - a. through c. *No change.*
- (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. through d. *No change.*
 - e. For accessory structures located in coastal high-hazard ~~zones~~ 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. through c. *No change.*

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. through g. *No change.*

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. ~~Design safe loading resistance of each wall may not be less than ten and not more than 20 pounds per square foot; or~~ 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. ~~If more than 20 pounds per square foot, a registered professional engineer or architect must certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and 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 law. Breakaway wall collapse must result~~

from a water load that is less than what would occur during the base flood.

i. through l. *No change.*

- (7) *Critical facilities.* Critical facilities must be constructed on a foundation that is properly compacted fill elevated and appropriate for the flood zone in which the facilities are located, and ~~have~~ the lowest floor (including basement) must be elevated above the ~~elevation of 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 ~~or~~ 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) through (7) *No change.*

Sec. 6-474. Standards for subdivision proposals.

(a) ~~Subdivision~~ All proposals must be consistent with the need to minimize flood damage within the flood-prone area.

(b) and (c) *No change.*

(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) and (2) *No change.*

SECTION FOUR: AMENDMENT TO LDC CHAPTER 10

Lee County Land Development Code Chapter 10 is amended as follows with strike

through identifying deleted text and underline identifying new text.

CHAPTER 10

DEVELOPMENT STANDARDS

ARTICLE I. IN GENERAL

Sec. 10-1. Definitions and rules of construction.

(a) *Rules of construction and analogous words and terms.* For the purpose of this chapter, the following analogous words and terms ~~shall~~ will be interpreted to have similar meanings when not inconsistent with the context:

(1) through (4) *No change.*

(5) Where this chapter refers to a specific federal, state or county agency, department or division, it ~~shall~~ will be interpreted to mean "or any succeeding agency authorized to perform similar functions or duties."

(b) *Definitions.* Except where specific definitions are used within a specific section of this chapter for the purpose of such sections, the following terms, phrases, words and their derivations will have the meaning given in this subsection when not inconsistent with the context:

AC means the Lee County Administrative Code.

Access point means an accessway or driveway ~~which~~ that provides vehicle access to a single parcel of land.

ADA Accessibility guidelines means the document that contains scoping and technical requirements for accessibility to site, facilities, buildings and elements by individuals with disabilities. These guidelines are intended to apply to the design, construction, expansion and alteration of sites, facilities, buildings and elements to the extent required under the Americans with Disabilities Act of 1990 (ADA).

ASTM means American Society of Testing Materials.

~~*Bicycle path and lane or bike-path lane* means a bikeway physically separated from motorized vehicular traffic by an open recovery area or barrier and either lying within the highway right-of-way or within an independent right-of-way. the portion of a roadway designated by signing and pavement markings for the preferential or exclusive use of bicyclists.~~

~~*Bikeway* means any road, path or way which is specifically designated or intended to be open to bicycle travel whether such facilities are intended for the exclusive use of~~

bicycles or not; and refers to the term used to describe the various types of facilities that are designed and constructed to accommodate bicycle travel.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind ~~which~~ that has enclosing walls for 50 percent of its perimeter. The term "building" ~~shall be~~ is construed as if followed by the words "or part thereof."

~~*Development review services director* means the county staff person or his designee assigned to oversee the development review process. He shall oversee~~ Oversite includes, but is not limited to the intake of applications for completeness, oversee the review of plans for compliance with this chapter, and issue issuance of notifications to applicants. This term is synonymous with the terms "development review coordinator" and "county engineer" as they are used in this chapter.

Florida Greenbook means the Florida Department of Transportation (FDOT) Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways (commonly referred to as the Florida Greenbook).

Improvement to land means any change to land or ~~to any~~ a structure on the land, and ~~shall include~~ any the movement or grading of land, except grading which is incidental to the removal of exotic vegetation and which is or grading not prohibited by chapter 22; clearing of indigenous vegetation; and, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; provided, however, ~~that any a~~ a change to a building which ~~that~~ does not involve a change in the existing building floor area ~~shall is~~ not be deemed an improvement to land.

Lee County unincorporated bikeways/walkways facilities plan means the network of existing and planned bicycle and pedestrian facilities adopted by the Board and depicted in Lee Plan Map 3D. Planned facilities are specifically defined in Exhibit I to Administrative Code 11-9.

Lot width means the distance between the side lot lines, or a front and side lot line for corner lots, as measured along the minimum required street setback line. ~~(See section 40-705.)~~

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

Obstruction means an item placed on or permanently in a bikeway or pedestrian facility such as light poles, parking meters, newspaper stands, trash cans, mail boxes and street furniture that reduce the minimum width of the facility for some distance.

On-road facility, bikeway or bike lane means ~~a portion of a roadway which has been specifically designated for the use of bicyclists~~ paved shoulder, bike lane or undesignated

bike lane that is contiguous with the roadway travel lanes. This area may be used as a bike facility, but such use is not deemed exclusive.

Paved shoulder means a portion of the roadway contiguous to the roadway travel lanes that provides lateral support of base and surfaces courses. This area may be used for motor vehicle emergencies or by pedestrian and bicyclists.

Pedestrian way means a paved, surfaced a path or way which is specifically designated or intended to be open to pedestrian travel, whether such facilities are intended for the designed for preferential or exclusive use of by pedestrians or not.

Public street or road right-of-way means a street or roadway that has been dedicated is open or available to use by the public, and where the public, through use of the street, or the board, through express action at a public hearing, has accepted the offer of dedication. Regardless of the board's acceptance of the offer of public dedication, the board may or may not have accepted the street for maintenance purposes. The street /road is deemed a public roadway as the result of a dedication to the public, title grant by deed to the public, or easement grant to the county for right-of-way purposes, compliance with the Viewer's Road provisions, compliance with F.S. §95.361 or some other means allowed by law. The public right-of-way generally includes related facilities necessary to support the road, such as drainage areas, turn lanes, sidewalks, etc. A public street may be publically or privately maintained. Public maintenance requires formal Board action to accept the responsibility.

Roadway is a general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes, including the travelway, shoulders and swales, but which has not been accepted by the board.

Setback line, front or street means a line drawn parallel to or concentric with the front lot line at a distance from the lot line equal to the setback required by chapter 34 for the classification of street upon which the lot abuts. If the front line is curved, the setback line shall will be a curved line drawn an equal distance back from the intersections of the side lot lines with the street right-of-way line, and with the required setback measured at the point or points where the setback line is closest to the front lot line. (See section 10-705.)

Shared use path means and refers to a facility 8-12 feet in width, physically separated from motorized vehicular traffic that serves bicycles, pedestrians, hikers, skaters, wheel chair uses, joggers and other non-motorized uses.

Sidewalk means a pedestrian way, paralleling and usually separated from the street a portion of a roadway designed and constructed for preferential use by pedestrians that is at least five feet wide. A sidewalk may be used by a cyclist consistent with F.S. §316.2065.

Sidewalk, off-site means a pedestrian way which that is exterior to a parcel being

improved and located in the right-of-way of the arterial or collector road adjacent to that parcel or within an easement dedicated to the public.

Sidewalk, on-site means a pedestrian way ~~which is~~ located within the boundaries of the parcel ~~being to be~~ improved.

Street.

- (1) The term "street" means:
 - a. An accessway ~~which~~ that affords the principal means of ingress or egress for two or more parcels of land; or
 - b. A right-of-way or roadway ~~which~~ that affords the principal means of ingress or egress for a parcel of land.
- (2) The term "street" is synonymous with the term "avenue," "boulevard," "drive," "lane," "place," "road" or "way," or similar terms.
- (3) The following definitions distinguish and rank streets according to their different functional classifications:
 - a. *Street, arterial* means streets primarily intended to carry large volumes of through traffic connecting major activity centers to other major traffic generators. Access to abutting properties is a secondary function.
 - b. *Street, local* means streets with the primary function being to serve adjacent properties. As such, a local street provides the linkage from adjacent land uses to the collector street system. Through volume service is not a function of local streets.
 - c. *Street, major collector* means streets having the primary purpose of collecting traffic from intersecting local and minor collector streets and distributing this volume to the nearest arterial. A secondary purpose is to carry moderate volumes of through traffic. Access to abutting land uses is a secondary function.
 - d. *Street, minor collector* means streets having the primary purpose of collecting traffic from intersecting local streets and distributing this volume to the nearest major collector or arterial. As such, a minor collector street provides the linkage from neighborhoods (i.e., local streets) to the arterial system, and provides intra-neighborhood access. Access to abutting land uses is a secondary function.

Street right-of-way/road right-of-way means and refers to the ~~is a~~ general term

denoting land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes, ~~which has been dedicated to the public and accepted by the board.~~

Structure means that which is built or constructed. The term "structure" ~~shall be~~ is construed as if followed by the words "or part thereof."

Undesignated bike lane means and refers to the configuration of a paved shoulder in typical sections that includes right turn lanes as depicted in Ch. 9, Bicycle Facilities, Figure 9-8 of the Florida Greenbook. The paved shoulder is continued to the left of the right turn lane, adjacent to the outer most travel lane. The minimum width is 4 feet and the lanes do not have signing or marking.

The balance of this section remains unchanged.

Sec. 10-8. Specific requirements.

Development will be approved and a development order will be issued when the development is designed so as to reasonably achieve the following:

(1) *Preservation of ecological integrity.* The development ~~shall~~ must protect the county's natural, historic and scenic resources, including air, surface and subsurface waters, and ~~shall~~ preserve their ecological integrity. No new causeways ~~which that~~ require filling of wetlands or submerged lands ~~shall~~ may be constructed to any island.

(2) *Traffic pattern.* There must be adequate ingress and egress to the development. Except for single-family and two-family developments, and certain multi-family buildings as provided in section 34-2020(1)c., the proposed structures must be located so as to avoid backing of vehicles into streets, the intermingling of automotive and pedestrian traffic or the intermingling of traffic flow in opposite directions.

Additionally, the development must also achieve the following:

- a. Ingress and egress areas ~~shall~~ must be of sufficient width to provide for servicing of utilities, refuse collection and access for emergency vehicles.
- b. Development ~~shall~~ may not cause traffic hazards or congestion ~~which that~~ results from narrow or poorly aligned streets or from excessive exit and entrance points along arterial and collector streets.
- c. The development ~~shall~~ must be designed ~~so as to~~ minimize traffic impacts on surrounding areas, particularly to prevent traffic related to industrial land uses (see chapter 34) from traveling through predominantly residential areas. Main access points to a development will not be established where traffic is required to travel over local streets through areas with significantly lower densities or intensities,

e.g., multifamily access through single-family residential areas, except where adequate mitigation can be provided.

- d. The development ~~shall~~ must be designed ~~so as to~~ allow for access by emergency vehicles.

(3) *Traffic impact mitigation.*

- a. *Traffic impact studies.* In order to evaluate traffic patterns, traffic circulation and traffic impacts of a development, a traffic impact statement ~~shall~~ must be prepared in accordance with the requirements of this chapter. A traffic impact statement is necessary to:

1. through 6. *No change.*

- b. *Traffic impact mitigation plan.* In order to mitigate the traffic impacts of a development, a traffic impact mitigation plan ~~shall~~ must be prepared in accordance with the requirements of this chapter.

The technical requirements regarding traffic impact statements and traffic impact mitigation plans are specified in article III, division 2, of this chapter.

(4) *Official trafficways map.* Pursuant to the county comprehensive plan, there is hereby adopted as part of this chapter the official trafficways map for the county, which map is dated October 3, 1991, as it may be modified by the Board of County Commissioners. The map is a planning tool that identifies a network of trafficways and right-of-way widths necessary to meet present and anticipated roadway needs of the county. The official trafficways map will be signed by the chairman of the Board of County Commissioners and placed on file with the county department of transportation. Reproductions of the map will be made available to the public. The purpose of the official trafficways map is to:

- a. Identify the rights-of-way needed for the trafficways network necessary to ensure countywide continuity of the transportation system ~~throughout the county~~;
- b. Encourage municipalities within the county to adopt similar right-of-way maps that are basically in agreement with the county's official trafficways map;
- c. Utilize as many existing rights-of-way as possible, and to anticipate future needs in areas where rights-of-way do not exist;
- d. Establish right-of-way widths for future trafficways, including those for roads shown on the county traffic circulation plan map;

- e. ~~Have the official trafficways map~~ c. Constitute the official trafficways map described in the county comprehensive plan;
 - f. Establish harmonious, orderly and progressive development in the county; that would ensure safer and more efficient traffic circulation; and
 - g. Adequately plan for the future transportation needs of the county and its citizens.
- (5) *Bicycle path and pedestrian ways plan.* There is hereby adopted as part of this chapter the official bikeways/walkways facilities plan map, ~~for the county.~~ The map identifies a network of ~~arterial and collector~~ roads which, if improved with bikeways and pedestrian ways, will meet present and anticipated bikeway and pedestrian way needs of the county. The official bikeways/walkways facilities plan map will be signed by the chairman of the Board of County Commissioners and placed on file with the county departments of transportation and community development. Reproductions of the map will be available to the public. The purpose of the official bikeways/walkways facilities plan map is to target certain arterial and collector roadways for the improvements necessary to ensure county-wide continuity of the bicycle and pedestrian transportation system. Bikeways and pedestrian ways are necessary along the roadways depicted on the map for the benefit and protection of the health, safety, and welfare of the residents of Lee County because those facilities serve to: (a) lessen traffic congestion, (b) reduce conflicts between vehicular and pedestrian/cyclist movement, (c) provide safe pedestrian/cyclist circulation to community facilities, and (d) provide safe access to active and passive recreational activity.

(6) through (15) *No change.*

ARTICLE II. ADMINISTRATION

DIVISION 2. DEVELOPMENT ORDERS

Subdivision II. Procedures.

Sec. 10-103. Prerequisite zoning approvals for development order submittals.

(a) In accordance with administrative code policy 13-4, as it may be amended, any applicant who intends to submit an application for development order approval on a project which that was zoned RPD, MHPD, RVPD, CPD, CFPD, IPD or AOPD prior to December 2, 1991, ~~shall~~ must submit four complete sets of plans and documents to the zoning review staff, who will review the submittals for full compliance with the adopted master concept plan and any conditions of approval. Plans may be reviewed concurrently

for compliance with this chapter and with the terms of the zoning approval. No development orders ~~shall~~ may be issued for the project in question until the plans have been determined to be in compliance with the terms of the zoning approval. Specific reference to the districts listed in this section and the required review does not obviate the need to have plans reviewed for zoning compliance for conditions placed on other types of zonings, PUD's, special exceptions, variances and special permits.

(b) All applications for development orders on property zoned RPD, MHPD, RVPD, CPD, CFPD, IPD, AOPD or MPD after December 2, 1991, ~~shall~~ must be reviewed for compliance with the approved master concept plan and all other conditions of approval as part of the development order review process.

(c) For developments that require rezoning, the applicant may make application for a development order and the rezoning simultaneously. The development order will be reviewed for compliance with the requirements of this chapter and the requirements of chapter 12 and 34 for the proposed zoning of the property. No approval of the development order will be granted until the proposed rezoning is approved and a zoning resolution signed by the chairman of the Board of County Commissioners is issued.

Sec. 10-104. Deviation and variances.

(a) *Provisions where deviations are authorized.* The development services director is hereby authorized to grant deviations from the technical standards in the following sections of this chapter.

- (1) Section 10-261 (refuse and solid waste disposal facilities);
- (~~12~~) Section 10-283 (access streets);
- (~~23~~) Section 10-285 (intersection separations);
- (~~34~~) Section 10-296, Table 2 (right-of-way widths for county-maintained streets);
- (~~45~~) Section 10-296, Table 3 (rights-of-way widths for privately maintained streets);
- (~~56~~) Section 10-296 (d)(3) (drainage and 10-296(e) through (i) road specifications);
- (~~67~~) Section 10-296(l) (horizontal curves);
- (~~78~~) Section 10-296(o) (intersection designs);
- (~~89~~) Section 10-296(p) (culs-de-sac);
- (~~910~~) Section 10-322 (swale sections);
- (~~1011~~) Section 10-329 (d)(1)a. (Setbacks for water retention/detention excavations); subject to section 10-329(e)(5);
- (~~12~~) Section 10-329(b)(4)a. (excavation bank slopes);
- (~~113~~) Section 10-352 (public water);
- (~~1214~~) Section 10-353 (public sewer);
- (~~1315~~) Section 10-385(c) (water mains);
- (~~1416~~) Section 10-415(b) (indigenous native vegetation);
- (~~17~~) Section 10-418(3) (surface water management systems; limited to the prohibition of hardened structures behind single family residences for restriction of existing lake bank slopes as provided in section 10-329(b)(4)b);
- (~~1518~~) Section 10-441 (mass transit facilities);

- (4619) Section 10-416(c) (landscaping of parking and vehicle use areas);
(4720) Section 10-610 (Site design standards and guidelines for commercial developments).

(b) through (c) *No change.*

(d) *When submittals may be made.* Requests for deviations may be submitted contemporaneously with the applicant's original development order application, or at any time thereafter, so long as the application has not been withdrawn.

An applicant has six months to submit or resubmit a supplement consisting of drawings or plans setting forth the changes necessary to remedy any deficiencies identified in a written notice provided by the County regarding why the application will not be approved as submitted. If the supplement is not submitted within six months of the date of the written notice regarding deficiencies the application will be deemed withdrawn.

(e) through (i) *No change.*

Sec. 10-112. Appeals.

(a) through (c). *No change.*

(d) *Special ~~Master~~ Magistrate.*

(1) *No change.*

(2) The request for relief must allege that the decision of the director of zoning and development services is unreasonable or unfairly burdens the use of the subject property. The request for relief will be heard by an impartial special ~~master~~ magistrate in accordance with the procedure set forth in the Administrative Code.

(3) The request for relief under FS § 70.51, will not adversely affect the applicant's right to judicial review. However, a request for judicial review will waive the right to a special ~~master~~ magistrate proceeding.

Sec. 10-115. Duration of development order.

(a) and (b) *No change.*

(c) In order for a development order to remain valid and active, significant construction activity must commence within the duration of the development order and the construction of the project to build-out must be actively pursued. Active pursuit of construction of a project to build-out is defined as continuous construction of the required infrastructure improvements shown and specified in the development order or buildings or comprising the project. Actions to secure a permit, land clearing activity and construction

of facilities deemed ancillary to the project by the director will not be considered sufficient to satisfy the "active pursuit" criteria set forth in this section. If a project, including a phased project, is under construction when the development order duration period has elapsed, the developer must either obtain a development order extension or continue the construction to build-out without any periods of construction inactivity which exceed 18 months. For development order projects where there has been a foreclosure action, a deed given in lieu of foreclosure, or title has been transferred pursuant to court ordered sale, and where there is a question of active pursuit of the construction under the development order, the new owner must resume construction of the project within 24 months from the date when the title to the property changes pursuant to the foreclosure, deed in lieu of foreclosure or court sale. Once restarted, construction must continue to build-out without any periods of construction inactivity which exceed 18 months.

(d) *No change.*

Sec. 10-123. Extensions.

(a) *No change.*

(b) An applicant has six months to submit or resubmit a supplement consisting of drawings or plans or text setting forth the changes necessary to remedy deficiencies identified in a written notice provided by the County regarding why the request for extension will not be approved as submitted. If the supplement is not submitted within six months of the date of the written notice regarding deficiencies, the application will be deemed withdrawn.

(c) Where the director recommends a denial of the extension request, or where the developer contests the proposed conditions placed on a development order extension by the director, the developer may request the Board of County Commissioners to grant the extension provided items (1) through (4) can be satisfied.

The grant of an extension is a matter of discretion and not of right.

Sec. 10-154. Additional required submittals.

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

(1) and (2) *No change.*

(3) Boundary survey. A boundary survey meeting of the subject property must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with FS Ch. 177. The survey must be based upon the title certification submitted in accord with section 10-154(2). The boundary survey must identify and depict all easements affecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection. All boundary surveys

must meet the minimum technical standards for land surveying in the state, as set out in chapter 61G 17-6, Florida Administrative Code, must be submitted. For projects of ten acres or more, the The survey must be tied to the state plane coordinate system for the Florida West Zone (North American Datum of 1983/1990 Adjustment) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner. Boundaries The perimeter boundary must be clearly marked with a heavy line and must include the entire area to be developed. The Federal Emergency Management Agency flood zone and required finished floor elevations must be shown. ~~The survey must also depict all easements and encumbrances identified in the title documents as well as apparent easements identified during the field survey.~~ The survey must locate and depict all existing structures and improvements on the subject parcel.

If the subject property consists of one or more undivided lots within a subdivision, then a copy of the subdivision plat may be submitted in lieu of the boundary survey. However, if the dimensions of the subject property differ from those in the original plat, then a boundary survey, including a metes and bounds legal description, will be required.

(4) and (5) *No change.*

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

a. through c. *No change.*

d. Existing elevations based on the ~~National Geodetic Vertical Datum of 1929~~ North American Vertical Datum (NAVD) 1988. Sufficient spot elevations based on the ~~National Geodetic Vertical Datum of 1929~~ shall 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 no case ~~shall~~ may spot elevations be shown at a spacing greater than 200 feet. Spot elevations ~~shall~~ must be shown beyond the development boundary extending a minimum of 25 feet. The director of development review may direct a closer grid pattern or elevations more than 25 feet beyond the development boundary to provide sufficient satisfactory information. For developments of 40 acres or more, contours at one-foot intervals ~~shall~~ must be shown.

e. through m. *No change.*

(7) *Proposed development plan drawings.* Proposed development plan drawings showing at a minimum the following:

a. and b. *No change.*

- c. Proposed buildings or proposed structures. The building envelope, that is, the perimeter of the area within which the building will be built, the height of all buildings and structures, the maximum number of dwelling units or gross floor area, and no less than the minimum number of required parking spaces, including the number of spaces for the handicapped, ~~shall disabled, must~~ be shown.

d. through r. *No change.*

(8) through (27) *No change.*

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS

DIVISION 1. GENERALLY

Sec. 10-256. Bikeways and pedestrian ways.

(a) *Unincorporated bikeways/walkways facilities plan.* ~~The unincorporated bikeways/walkways facilities plan (hereinafter "the plan") shows a proposed network of bikeways and pedestrian ways in the unincorporated areas of Lee County. All development proposed along the arterial and collector roadways depicted on the unincorporated bikeways/walkways facilities plan (hereafter referred to as "the plan" for purposes of this section) must provide for bikeways and pedestrian ways in accordance with this section. Construction of bicycle and pedestrian facilities shown on the plan along the frontage of subject property are deemed to be site-related improvements.~~

(b) All bikeway/walkways required by this section must be designed and constructed following the criteria set forth in this section, the plan, Administrative Code 11-9, the ADA accessibility guidelines, the Florida Greenbook (for county roads) and the Plans Preparation Manual (for state roads).

(~~b~~c) *Provision of off-site bikeways and pedestrian ways for county and state maintained roadways.*

(1) *General.*

a. ~~Off-site~~ All new development along county and state maintained roadways and redevelopment of bikeways and pedestrian ways are required for all new developments and for expansion of any existing development that results property resulting in a 25 percent or greater increase in either:

a 1. Building size or floor area; or

b 2. Residential dwelling units

are required to construct bikeways and pedestrian ways in accord with section 10-256(b).

~~(2) Off-site facilities:~~

~~a. Off-site facilities shown on the bikeways/walkways facilities plan. The developer must construct a bikeway or pedestrian way in the public road right-of-way if the subject property abuts a street shown on the plan.~~

~~Note: The developer may choose to construct the facility outside the public road right-of-way on his own property. If the developer opts to construct the facility across the property in this manner, the easement must be at least two feet wider in width than the bikeway or pedestrian way and perpetually open to the public.~~

b. ~~Off-site facilities; other.1.~~ When any portion of the property to be developed is located within one-quarter mile (as measured along the principal perimeter street) of a collector or arterial road shown on the plan as requiring either a bikeway or pedestrian way, or within a quarter mile (as measured along the principal perimeter street) of an existing facility, the developer must construct a similar facility within the existing road right-of-way from the subject property to the existing or proposed facility. This section will not require the purchase of right-of-way or easements by Lee County where none exist and will only apply where the required new facility can be constructed along a collector or arterial road.

2c. When any portion of a proposed residential subdivision is located within one-quarter mile (as measured along the principal perimeter street) of an existing or proposed bicycle or pedestrian generator such as schools, parks, playgrounds, shopping centers or employment centers, or transit facilities, the developer must construct a bikeway or pedestrian way not less than 8 feet in width within the existing road right-of-way connecting the subdivision to the pedestrian generator. This section will not require the purchase of right-of-way or easements by Lee County where none exist and will only apply where the required new facility can be constructed along a collector or arterial road.

3d. In instances where a proposed development is within one-quarter mile of a collector or arterial road shown on the plan as requiring a bikeway or pedestrian way and is also within one-quarter mile of an existing facility in the opposite direction on the same principal perimeter street, only one connecting link will be required. The director of development services will determine which link would be most beneficial to the intent and purpose of this ordinance code.

- 4 e. When any portion of the parcel located along an arterial or major collector is developed, ~~sidewalks, bike paths or multi-use facilities bikeways and pedestrian ways~~ are required. Material, width and type of facility will be determined by the standards outlined in section 10-256(b) the plan criteria and existing conditions within a quarter mile of the surrounding area of the proposed development. When any portion of a parcel along a minor collector or local street is developed with office or commercial uses, sidewalk is required.
- e f. *Impact fee credit.* Upon county acceptance of the required off-site facility or a bond or other security assuring construction of the facility, the applicant will be entitled to road ~~and/or~~ impact fee credits, park impact fee credits or both for off-site facilities beyond the abutting subject property boundaries as noted in subsections ~~10-256(b)(2)b.1., 2., and 3.~~ 10-256(c)(1)b, c and d only. If the proposed development includes facilities extending beyond the requirements as outlined and described in administrative code 11-9, the applicant will be entitled to impact fee credits in accordance with the above conditions. This option is subject to approval through the development order process, ~~and must comply with all current standards set forth within this section.~~

(32) *Location.*

- a. ~~County roads. Off-site bikeways or pedestrian ways may be located within the county road right-of-way or within any easement if approved by the affected utility companies and the director of development services. The developer must construct a bikeway or pedestrian way within the boundaries of the public road right-of-way on county maintained roads unless an alternative location is approved by the Department of Transportation.~~

The Department of Transportation may approve an alternate location that will allow a facility to be constructed outside the public road right-of-way on property owned or controlled by the developer of the project incurring the requirement to construct if:

1. The developer grants the county no less than an easement interest, meeting standard county title acquisition requirements, over the property deemed necessary to support the facility;
2. The proposed easement area abuts or closely parallels the existing county right-of-way;
3. The easement area is a minimum 2 feet wider than the width of the required bikeway or pedestrian way;

4. The easement area is perpetually open to the public; and
5. The easement is granted without cost to the county.

The County will accept maintenance of the constructed facility upon issuance of the certificate of compliance in accord with this section and section 10-256(c)(4).

- b. State roads. Off-site The developer must construct bikeways or pedestrian ways may be located within on state roads within the boundaries of the state road rights-of-way subject to approval and issuance of a general use permit by FDOT. Facilities along state road rights-of-way may not be constructed in easements abutting the state roadway unless approved by FDOT prior to local development order approval. A copy of the written FDOT approval must be submitted to the county.
- c. Residential subdivisions with county maintained streets must construct pedestrian ways as follows:
 1. A pedestrian way is required along one side of all county-maintained streets internal to a residential development where the proposed gross density exceeds four dwelling units per acre. The pedestrian way must extend from intersection to intersection; and
 2. A pedestrian way is required along one side of all county maintained cul-de-sac streets that serve two dwellings units or more. The pedestrian way must extend from the intersection to the end of the cul-de-sac. Exceptions to this requirement are:
 - i. Where the construction will encroach upon the required setback from a conservation or preservation area; or
 - ii. Where the proposed street forms an exterior boundary to the subdivision.
 3. Waiver of requirement to allow alternative plan. The development services director may waive compliance with the provisions of section 10-256(c)(2)c where the developer provides an alternative plan for an internal bikeway/pedestrian way circulation system that is functionally equivalent to the standards set forth in this section and connects with existing facilities in accord with the requirements set forth in 10-256(c)(2)a and b. The alternative plan must be submitted and

approved in conjunction with the development order supporting subdivision plat approval. The alternative plan must be drawn to a scale sufficient to depict and describe the following:

- i. The location of all lots, along with the number and type of dwelling units on each lot; and
- ii. The location, width and type of each proposed bikeway and pedestrian way including those facilities intended to connect to bikeways and pedestrian ways off-site.

(3) Construction standards.

- a. All construction proposed within county right-of-way must be done in accord with an approved Lee County Department of Transportation Right-of-way Permit. The permit application must include a detailed plan of the existing and proposed conditions. The application is subject to comment and revision prior to issuance of the permit.
- b. Curb ramps (i.e. wheelchair ramps) are required at all intersections where pedestrian ways intersect roadway curb and gutter. Curb ramps must be designed and constructed in accord with section 10-256(b).
- c. Obstructions. A minimum 48 inch wide sidewalk, clear of obstacles, must be maintained within a pedestrian way (i.e. sidewalk five feet or less). Pedestrian ways narrowed for some distance (i.e. distance sufficient to clear the obstruction on either side) to the 48 inch minimum by the installation of a permanent obstacle must provide a passing space of at least 60 inches long by 60 inches wide every 200 linear feet. Permanent obstacles such as utility poles, signs, mailboxes and similar items located within the pedestrian way on county-maintained streets must maintain a minimum eight-foot height clearance above the pedestrian facility.

If permanent obstacles such as utility poles, signs, mailboxes and similar items are located within a facility that is wide enough to accommodate two-way traffic (i.e. eight feet wide or greater) on a county maintained street, then a minimum six-foot wide pathway must be maintained within the facility.

- d. There may be no unsafe curves or sudden elevation changes in the bikeway or pedestrian way that may present a hazard to the user. When possible, development must be designed to promote bicycle and pedestrian street crossings at traffic control signals, crosswalks or intersections.
- e. On-road. Where an applicant proposes to widen an existing roadway

that has existing paved shoulders, undesignated bike lanes, bike lanes or wide outside lanes the applicant must design the roadway improvements to include and accommodate, at minimum, the existing level of bicycle/pedestrian facilities. For example, a new turn lane improvement would be required to include and replace the existing width of paved shoulders.

Where the roadway is proposed for widening and the plan shows proposed paved shoulders, undesignated bike lanes, bike lanes or wide outside lanes adjacent to the roadway, those lanes must be constructed to county specifications as set forth in AC 11-9.

- f. Off-road. All bikeways and pedestrian ways constructed along arterial and collector roads must be constructed of six-inch thick Portland cement concrete or a minimum one and one-half asphaltic concrete of FDOT type S-III on a four-inch limerock base and six-inch type B subgrade. Bikeways and pedestrian ways constructed of Portland cement along local roads must be a minimum of four inches thick and a minimum of six inches thick at driveway crossings. Relief from the required six inch thickness is available through the administrative deviation process. The material used for construction must be the same as the existing facilities within one-quarter mile of the proposed development. The developer may submit an alternative design, subject to the approval of the director of development services, provided the alternative is structurally equal to or better than the options set forth in this subsection.

- (4)g. Time of construction. All off-site bikeway and pedestrian ways must be constructed prior to issuance of a certificate of compliance for the infrastructure of the development unless the developer posts a bond or other surety acceptable to the county as assurance of completion of the improvements. As an alternative to posting surety, the director has the discretion to accept a phasing plan that will provide for the continuous extension of the sidewalk facility and establish a bona fide construction schedule for the off-site facility prior to issuance of any a building permit for vertical construction on property adjacent to the proposed facility.

The county will not require construction of the bikeways or pedestrian way where the right-of-way is scheduled for improvement within two years pursuant to the current CIP and the scheduled right-of-way improvement would result in the destruction of the facility. A fee-in-lieu contribution will be required in those instances, unless the scheduled improvement is under construction. The amount of the funds will be determined by the established criteria in administrative code 11-9. If a county or state project is under construction or has been bid, the

required fee-in-lieu contribution will be based upon the actual bid price of the facility as submitted by the contractor awarded the project.

(4) Maintenance.

- a. Facilities constructed within county owned right-of-way. The county department of transportation will maintain bikeway and pedestrian way facilities located within the county right-of-way boundary that are built to the standards set forth in this code, Lee County administrative codes and other applicable regulations.
- b. Facilities constructed within an easement granted to the county. The county will also maintain bikeway and pedestrian way facilities constructed adjacent to the county right-of-way within a perpetual right-of-way easement on privately held property where:
 - 1. The facilities are constructed in compliance with the standards set forth in this section;
 - 2. An easement instrument, along with the legal description and sketch of the easement area is submitted by the applicant for review and approval by the County Attorney's Office prior to issuance of development order approval;
 - 3. Upon completion of the facilities and prior to issuance of the final development order certificate of compliance allowing the facility to be opened for public use, the easement is formally approved and maintenance responsibility is accepted by the Board of County Commissioners; and
 - 4. The approved easement is recorded in the public records, at the property owner's expense, prior to issuance of the final development order certificate of compliance allowing public use of the sidewalk.

(5) Waiver of construction requirement.

- a. Notwithstanding the provisions of subsections 10-256(a) and (b) a bikeway and pedestrian way will not be required where the development services director determines that:
 - 1. Construction of the bikeway or pedestrian way would be contrary to public safety;
 - 2. Factors suggest absence of need as defined in AC 11-9; or

3. The facilities can be established through "other available means" as defined in AC 11-9.

b. As a condition of granting the waiver, the applicant is required to make a fee-in-lieu contribution equal to the estimated cost of constructing the improvement. The amount of the fee must be determined in accord with the provisions set forth in AC 11-9 and paid prior to the issuance of a development order.

~~(c) Provision of on-site bikeways and pedestrian ways:~~

~~(1) General:~~

~~a. Developments with private, noncounty maintained streets. Interior bikeways and pedestrian ways are encouraged but are not required in any residential subdivision for lots abutting private, noncounty maintained roads.~~

~~b. Residential subdivisions with county-maintained streets. Residential subdivisions with county-maintained streets, must construct pedestrian ways as follows:~~

~~1. Along one side of all county-maintained streets internal to a residential development where the proposed density exceeds one dwelling unit per acre. The pedestrian way must extend from intersection to intersection; and~~

~~2. Along one side of all county-maintained cul-de-sac streets that serve ten dwelling units or more. The pedestrian way must extend from the intersection to the end of the cul-de-sac. Exceptions to these requirements are:~~

~~i. Where the construction would encroach upon the required setback from a conservation or preservation area; and~~

~~ii. Where the proposed street forms an exterior boundary to the subdivision.~~

~~3. Waiver of requirement. The director of development services may exempt from this section developments that provide an alternate plan for an internal bikeway/pedestrian way circulation system if the alternate system is functionally equivalent to the standards set forth herein, connects with existing facilities and meets all off-site requirements. The alternate plan must be~~

submitted simultaneously with the request for a development order for a subdivision plat. The master plan must be drawn to scale sufficient to indicate all lots and include the following:

- i. ~~The location of all lots and the number and type of dwelling units on each lot.~~
- ii. ~~The location, width, and type of each bikeway and pedestrian way including those to be connected to the bikeways/pedestrian ways off-site.~~

~~(d)~~ Provision of bikeways and pedestrian ways on non-county maintained roads.

~~(1)~~ General. Development of any portion of a parcel located along a privately maintained arterial or major collector that is open to the public requires the construction of sidewalks and pedestrian ways in accord with section 10-256. A sidewalk is required to support development of office or commercial uses along a privately maintained minor collector or local street that is open to the public.

~~(2)~~ Location. The bikeway or pedestrian way may be located within the road right-of-way or within an easement if approved by the affected utility and the division director.

~~(3)~~ Time of construction Construction standards.

- a. All on-site facilities must be coordinated with the bikeway/pedestrian way system of the surrounding area. Bikeways and pedestrian ways in a proposed development must connect to existing facilities on adjacent property where easements or stub-outs exist. Pedestrian ways along non-buildable lots, common areas, storm water ponds and other similar areas must be constructed by the developer prior to issuance of a certificate of compliance for the infrastructure unless the developer posts a bond or other surety acceptable to the county as assurance of completion of the improvements. Pedestrian ways along buildable lots will be the responsibility of the lot owner and must be constructed prior to issuance of a certificate of occupancy for any building on the lot. To ensure compliance, the covenants for the development must reflect that the lot owner must construct the required pedestrian way prior to requesting a certificate of occupancy.

~~(d)~~ Construction standards.

~~(1)~~ General.

- a. ~~All construction proposed within Lee County right-of-way requires a~~

~~Lee County DOT Right-of-Way (ROW) Permit. The application must include a detailed plan of the existing and proposed conditions and is subject to comment and revisions prior to issuance.~~

- ~~b. Curb cut ramps (wheelchair ramps) are required at all intersections where pedestrian ways intersect roadway curb and gutter. Curb ramps may not exceed 12 foot horizontal to one foot vertical and must have a slip-resistant surface texture.~~
- ~~c. Bikeways and pedestrian ways. A minimum 48-inch wide pathway, clear of obstacles, must be maintained within a bikeway or pedestrian way (sidewalk five feet or less). Bikeways and pedestrian ways narrowed for some distance to the 48-inch minimum by the installation of a permanent obstacle must provide a passing space of at least 60 inches long by 60 inches wide every 200 feet. Permanent obstacles such as utility poles, signs, mailboxes and similar items located within the pedestrian way on county-maintained streets must maintain a minimum eight-foot height clearance above the facility. If permanent obstacles such as utility poles, signs, mailboxes and similar items are located within a facility that is wide enough to accommodate two-way bike traffic (eight feet or greater) on a county maintained street, then a minimum six-foot wide pathway must be maintained within the bikeway.~~
- ~~d. There may be no unsafe curves or sudden elevation changes in the bikeway or pedestrian way that would present a hazard to the user. When possible, developments must be designed to promote bicycle and pedestrian street crossings at traffic-control signals, crosswalks or intersections.~~

~~(2) Off-site facilities.~~

- ~~a. On-road. Where the bikeways/walkways facilities plan shows the use of bike lanes adjacent to the roadway, those lanes must be constructed to county specifications as set forth in Administrative Code 11-9.~~
- ~~b. Off-road. All bikeways and pedestrian ways constructed off-site or along a street perimeter to the development must be eight feet in width and constructed of four-inch thick Portland cement concrete. A Bikeway may be a minimum one and one-half-inch asphaltic concrete of FDOT type S-III on a four-inch limerock base and six-inch type B sub-grade. The material used for construction must be the same as the existing facilities within one-quarter mile of the proposed development. For facilities constructed of Portland cement concrete, all driveway crossings must be a minimum of six inches thick. The~~

~~applicant may submit an alternate design, subject to the approval of the director, provided it is structurally equal to or better than, the options set forth above.~~

~~(3) On-site facilities.~~

~~b. All sidewalks constructed within the development must be a minimum of four feet in width and constructed of either (1) four-inch thick Portland cement concrete, or (2) a minimum of one and one-half-inch asphaltic concrete of FDOT type S-III on a four-inch limerock base and six-inch type B sub-grade. For facilities constructed of Portland cement concrete, all driveway crossings must be a minimum of six inches thick. The applicant may submit an alternative design, subject to the approval of the director, provided it is structurally equal to or better than, the options set forth above.~~

~~(e4) Maintenance. On-site bikeways and pedestrian ways along privately maintained roadways must be maintained by the property owner's association through the operation and maintenance covenants. The county department of transportation will maintain off-site bikeway and pedestrian way facilities located within county right-of-way. The county department of transportation will also maintain off-site bikeway and pedestrian way facilities, constructed adjacent to the on-site property within a perpetual non-exclusive right-of-way easement upon acceptance by the Board of County Commissioners.~~

~~(f5) Waiver of requirement to construct sidewalks and pedestrian ways along privately maintained roadways. Notwithstanding the provisions of paragraphs (a) through (e), bikeways and pedestrian ways will not be required where Where the director of development services determines that: a waiver from the requirement to construct facilities along privately maintained roads is appropriate, a fee-in lieu contribution will be required. The fee will be established based upon certified engineer's cost consistent with the provisions set forth in administrative code 11-9. The fee-in-lieu (1) Their establishment would be contrary to public safety; (2) A funds-in-lieu contribution of the equivalent cost of construction of the site-related improvement is a condition of approval of the waiver of requirement. The amount of the funds will be determined based on provisions set forth in Administrative Code 11-9 for construction of bicycle and pedestrian facilities. The funds-in-lieu contribution must be paid prior to the issuance of a development order.~~

Sec. 10-257. Marina design.

The marina design criteria set forth in the County's Manatee Protection Plan and

Administrative Code and Lee Plan objective 128.6 and policies 128.6.1 through 128.6.156 of the Lee Plan will be utilized in evaluating the design of new marinas or the expansion of wet slip facilities or boat ramps.

Sec. 10-261. Refuse and solid waste disposal facilities.

(a) *Provision of container spaces.* All new construction of multifamily residential developments, commercial businesses, and industrial uses must provide sufficient on-site space for the placement of garbage containers or receptacles, and sufficient space for recyclable materials collection containers. At a minimum, the following area requirements must be provided:

Commercial Business Building Sq. Ft.	Multifamily Developments Units	Minimum sq. ft. for Garbage Collection	Minimum sq. ft. for Recyclable Collection
	5-25	120	48 <u>96</u>
	25+	468 <u>216</u> sq. ft. (120 + 48 <u>96</u>) for first 25 units plus 4-8 <u>8</u> square feet for each additional dwelling unit.	
0-5,000		60	12 <u>24</u>
5,001-10,000		80	24 <u>48</u>
10,001-25,000		120	48 <u>96</u>
25,000+		468 <u>216</u> sq. ft. (120 + 48 <u>96</u>) for first 25 units plus 4-8 <u>8</u> square feet for each additional dwelling unit.	

(b) A minimum overhead clearance of 22 feet is required and a 12 foot wide unobstructed access opening must be provided to accommodate all storage areas/containers.

(c) All storage areas/containers must be adequately shielded by a landscaped screen or solid fencing along at least three sides. Use of chainlink fencing to meet this requirement is prohibited. Refer to section 10-610(d)(2) for guidelines.

(d) Commercial, industrial and multifamily developments using a compactor for garbage collection must provide sufficient space for the compactor (including receiver) in addition to the space required for recyclable collection.

(e) *Enclosure setbacks.* Container space enclosures may not be located within or encroach into the required perimeter landscape buffer width for the proposed or constructed uses as provided in accord with section 10-416(d)(3) and (4). Concrete wall enclosures may not be located within a public utility or drainage easement.

DIVISION 2. TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

Sec. 10-284. Functional classification of county roads.

(a) *No change.*

(b) All privately maintained roads, both existing and proposed, will be classified by the director of zoning and development services based upon the existing functions of the roads and the guidelines provided in the Lee Plan, and in accordance with the administrative code regulating county functional classification. These classifications will be used to determine compliance with all county regulations pertaining to privately maintained roads. These regulations will include determining compliance with connection spacing and street design and construction standards. The director of zoning and development services will update these functional classifications from time to time as needed, and will provide these classifications to the director of transportation for incorporation into the related Administrative Code referenced in (a) above.

Sec. 10-285. Connection separation.

(a) *Generally.* Connections of streets, access roads or accessways must be in accordance with the minimum standards in table 1 and the additional provisions of this section.

TABLE 1. CONNECTION SEPARATION

Functional Classification	Centerline Distance (feet)
Arterial	660
Collector	330
Local	125
Access roads or accessways	60

Separation will be measured from the centerline of a two lane divided roadway or driveway entrance; and from the outside through lane on a multilane or divided roadway or entrance. Connection separation on a multilane roadway funded in the capital improvement program will be measured based on the roadway design, design typical section or typical section as set forth in section 10-707. The connection separation distances must be determined on both sides of the roadway for undivided roadways. Existing and approved access points must be depicted on both sides of the road along the project frontage and to the nearest access point beyond the project frontage in each direction. The distance between the end of the driveway turning radius and turn lane tapers or turning radii of an adjacent intersection of public roads may also be considered.

Driveways to a single residential building of two dwelling units or less on local streets may be spaced closer than the connection spacing requirements specified for local streets in table 1. Where residential lots are proposed for subdivision on arterial or collector streets as allowed under section 10-174(4), the director may authorize lesser separation distance if joint access agreements are provided to preserve or maximize driveway connection separation distances. Access to residential thru lots must be to the local street, adjacent side street or joint access. Residential lots with access alternatives will not be permitted to access directly on to an arterial or collector. On local streets, where frontage dimensions of existing platted commercial or industrial lots do not accommodate required connection separation distances, the director will assign the access point(s) to accommodate spacing and safety concerns.

(b) Access roads that intersecting another road that also intersects the parallel arterial or collector must have an outer separation of at least 100 feet from the edge of pavement of the arterial or collector. A greater outer separation may be required based upon the estimated queue lengths identified in the FDOT Driveway handbook or an intersection analysis.

(c) On arterial or collector streets where an access road is not required by the county, existing parcels that have insufficient road frontage to meet the minimum connection separation required in table 1 may be required to provide a shared access with the adjoining property within an appropriate cross-access easement or align with an existing or permitted driveway on the opposite side of the road. A deviation will not be required to achieve access under these conditions.

(d) through (j) *No change.*

Sec. 10-286. Traffic impact statements.

Traffic impact statements shall must survey current and anticipated traffic conditions and public transportation in order to identify potential traffic problems posed by the proposed development. Adverse site-related traffic impacts shall must be mitigated by the applicant as specified in the traffic impact mitigation plan and final development order. If traffic generated by the proposed development will add 300 or more vehicle trips during the peak hour to the adjacent road system, the developer shall must submit a traffic impact statement providing a comprehensive assessment of the development's impact on the surrounding road system in accordance with the traffic impact statement guidelines which are available from the director of development review. If traffic generated by the proposed development is not expected to meet this threshold, the developer shall must submit a traffic impact statement providing information regarding the development's traffic generation and impacts at the development's access points onto the adjacent street system.

- (1) The traffic impact statement shall must provide information regarding the development's traffic generation and impacts at the development's access points onto the adjacent street system.

- (2) The traffic impact statement must be prepared in accordance with the current edition of the forms, procedures and guidelines provided by the division of development ~~review~~ services. The developer or his representative ~~shall~~ must assume full occupancy and a reasonable build-out of the development in the preparation of the traffic impact statement.
- (3) The traffic impact statement must be prepared by qualified professionals in the fields of civil or traffic engineering or transportation planning.
- (4) The traffic impact statement ~~shall~~ must be submitted to the director of development ~~review~~ services or his designee for review of sources, methodology, technical accuracy, assumptions, findings and approval. Approval of the traffic impact statement by the director ~~of development review or his designee~~ may be revoked after one year has expired since the date of approval if the assumptions upon which the traffic impact statement was approved are no longer valid. A significant change in the development proposal may result in the revocation of a previous approval of the traffic impact statement ~~being revoked at any time~~.

Sec. 10-287. Traffic impact mitigation plan.

A traffic impact mitigation plan ~~shall~~ must be submitted. The traffic impact mitigation plan ~~shall~~ must be based on the approved traffic impact statement and ~~shall identify in detail~~ on-site and off-site road and intersection improvements necessary to mitigate the proposed development's adverse impacts by maintaining or restoring adopted levels of service on the public road segments providing immediate access to the site, including any collector or arterial to which the adjacent street is tributary.

- (1) *No change.*
- (2) It ~~shall be~~ is a fundamental policy assumption that road improvements specified by the traffic impact mitigation plan ~~shall be~~ are improvements deemed to be over and above the required improvements to the Lee Plan's road network ~~which are to be funded by the roads impact fee~~.
- (3) Approval or approval with conditions of the development order ~~shall be~~ is contingent on a finding by the director ~~of development review or his designee~~ that the traffic impact mitigation plan:
 - a. through c. *No change.*
- (4) Timely implementation of the traffic impact mitigation plan ~~shall be~~ is a condition of the final development order ~~, and no~~ No certificate of occupancy or other permit to occupy or use developed land ~~shall~~ may be issued until the traffic impact mitigation plan is implemented and improvements are in place in proportion to the demand the development generates.

Sec. 10-288. Turn lanes.

Access to streets, roads, or accessways will not be permitted unless turn lanes are constructed by the applicant where turning volumes make such improvements necessary to protect the health, safety and welfare of the public or to reduce adverse traffic impacts on the adjacent street system. Turn lanes must be designed in accordance with standards set forth in the county Administrative Code. Turn lane design must accommodate bicycle and traffic in a manner similar to Illustration 10-288. An existing development may request a one-time exception wherein only the expansion will be used to calculate the traffic generated by the development for the purpose of determining whether turn lanes are required. After utilization of the one-time exception, the further expansion of a facility will be added to the existing facility for the purpose of calculating traffic generation and the entire development (existing and expansion) will be deemed a new development.

Insert graphic Illustration 10-288 attached as Exhibit A

Wherever turn lanes are installed, the surface materials of the added lane must match the surface materials of the existing lanes. If the addition of a turn lane(s) requires a lateral shift of the centerline or other lanes, the entire shifted pavement area must be re-surfaced to create matching surfaces throughout. New and replacement pavement markings must be provided.

On arterial or collector streets with restrictive medians where an access road is not required by the county, existing parcels with insufficient road frontage to meet the minimum connection spacing required in section 10-285 table 1 may be required to provide a continuous right-turn lane on the adjacent arterial or collector street.

Sec. 10-289. Perimeter streets.

Street systems in all developments shall must be designed ~~so as~~ to eliminate existing partial width streets wherever possible and to avoid the creation of new ones. Where an existing partial width street is adjacent to a new development, the unimproved portion of the street shall must be improved by the developer of the new development.

Sec. 10-290. Local streets.

Local streets shall must be designed to discourage excessive speed and through traffic. Traffic calming measures may be approved for construction if the director of development services, in consultation with the director of the department of transportation, determines the measures are appropriate and capable of design and construction consistent with administrative codes 11-3 and 11-14.

Sec. 10-291. Required street access.

General requirements for access are as follows:

(1) *No change.*

(2) All development must abut and have access to a public or private street designed, and constructed or improved, to meet the standards in section 10-296. Any development order will contain appropriate conditions requiring the all streets to which the project proposes access to be constructed or improved as may be appropriate in order to meet the standards in section 10-296. Improvements to offsite streets necessary to provide access to the project must extend, at minimum, from the project's access point to the point at which the street connects to a county or privately maintained street meeting the standards in section 10-296. Direct access for all types of development to arterial and collector streets must be in accordance with the intersection separation requirements specified in this chapter.

(3) and (4) *No change.*

Sec. 10-293. Private streets.

Private streets may be permitted and approved provided:

(1) and (2) *No change.*

(3) ~~All~~ The private streets shall be ~~are~~ maintained through a covenant ~~which that~~ runs with the land in the form of, but not limited to, a homeowners' or condominium association declaration or such other legal mechanisms ~~as will assure providing assurance to the owners of the contiguous property that the street shall will be continually maintained. The owners of the contiguous property shall must be provided with a legal right to enforce the assurance that the road be continually maintained. Legal documents which provide providing for the continual maintenance shall may only be accepted after they are reviewed review and approval by the county attorney's office for compliance with this section.~~

Sec. 10-294. Continuation of existing street pattern.

The proposed street layout ~~shall must~~ be coordinated with the street system of the surrounding area. Streets in a proposed development ~~shall must~~ be connected to streets in the adjacent area where required by the director of development ~~review services~~ to provide for proper traffic circulation.

Sec. 10-295. Street stubs to adjoining property.

Street stubs or an interconnection to adjoining areas ~~shall must~~ be provided where deemed necessary by the director of development ~~review services~~ to give access to such areas to reduce new trips onto an arterial or major collector, or to provide for proper traffic circulation. Street stubs ~~shall may~~ be provided with a temporary cul-de-sac turnaround

within the minimum required platted right-of-way. When adjoining lands are subsequently developed, the developer of the adjoining land ~~shall~~ must pay the cost of extending the street and restoring it to its original design cross section. Where a developer proposes private local streets with controlled admittance, ~~he may propose an~~ the proposed alternate means of interconnection provided ~~that such means does~~ may not require all local traffic to use the arterial network. All interconnections ~~shall~~ must be designed to discourage use by through traffic.

Sec. 10-296. Street design and construction standards.

(a) *Generally.* All streets must be designed, constructed and improved in accordance with the specifications set out in this section, as well as the other requirements of this division. In addition, the following standards will be applicable: American Association of State and Highway Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets, as modified by Florida Department of Transportation (FDOT) Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways (commonly referred to as the Florida Greenbook) FDOT Design Standards, FDOT Drainage Manual and FDOT Standard Specifications, current editions, with supplements, and such other applicable publications, editions and amendments as may be adopted by the state department of transportation, and sound engineering judgment. Access roads shown on the access road location map that do not comply with the construction standards set forth for county maintained streets will not be eligible for road impact fee credits. Construction on State facilities must be done in accord with applicable State statutes and regulations.

(b) *Right-of-way width.* All roads and streets established and constructed in accordance with this chapter must have minimum right-of-way widths or roadway easements complying with the requirements of table 2 for streets proposed for county maintenance or table 3 for proposed private streets.

TABLE 2. SPECIFICATIONS FOR COUNTY-MAINTAINED STREETS

	Arterial	Collector Street	Local Street	Access Street
Standard right-of-way widths:				
Closed drainage	150'	100'	50'	45'
Open drainage	150'	100'	60'	50'
Design Speed (mph):				
Rural section:				
With speed restrictions	60 <u>55</u>	40–45	N/A	N/A
Without speed restrictions	70	45–50	N/A	N/A
Urban section:				
With speed restrictions	35–40	30–35	N/A	N/A
Without speed restrictions	35–50	40–45	N/A	N/A

Notes: *No change*

Table 3. *No change.*

(c) *No change.*

(d) *All roads.*

(1) through (4) *No change.*

(5) *Signs and pavement markings, street lighting and traffic control devices.*

a. and b. *No change.*

c. *Street and intersection improvements; traffic control devices.*

1. *No change.*

2. Traffic control devices and acceleration, deceleration, turning and additional lanes must be specifically indicated on the development order plan. These traffic control devices must be designed and shown on the development order plans as per MUTCD standards. Additional lane and turn lanes must be as indicated by the ~~Manual of Uniform Traffic Standards for Design, Construction, and Maintenance of Streets and Highways~~ adopted under FS § 336.045, Florida Greenbook and sound engineering practice, ~~for state facilities~~. For streets in the county, turn lanes must be as indicated in the county Administrative Code, the turn lane policy and sound engineering practice.

3. *No change.*

(e) *Arterial roads.* The following provisions are in addition to those set forth in section 10-296(d).

(1) *Pavement width.* Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. Typical median width and representative cross sections are shown in section 10-707. Cross-sectional elements such as median width, lane width and shared use path width may be revised consistent with the standards and criteria in the Florida Greenbook. Revisions are subject to approval of the director of transportation on county-maintained roadways and the director of development services on privately maintained roadways.

(2) through (4) *No change.*

(f) *Major collector roads.* The following provisions are in addition to those set forth in section 10-296(d).

- (1) *Pavement width.* Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. See sections 10-707 and 10-708. Cross-sectional elements such as median width, lane width and shared use path width may be revised consistent with the standards and criteria in the Florida Greenbook. Revisions are subject to approval of the director of transportation on county-maintained roadways and the director of development services on privately maintained roadways.

(2) through (4) *No change.*

(g) *Minor collector roads.* The following provisions are in addition to those set forth in section 10-296(d.)

- (1) *Pavement width.* Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. See sections 10-707 and 10-708. Cross-sectional elements such as median width, lane width and shared use path width may be revised consistent with the standards and criteria in the Florida Greenbook. Revisions are subject to approval of the director of transportation on county-maintained roadways and the director of development services on privately maintained roadways.

(2) through (4) *No change.*

(h) *Local and access streets.* The following provisions are in addition to those set forth in section 10-296(d.)

- (1) *Pavement width.* Required pavement widths must provide for on-road or off-road bikeways and will depend on the type of street drainage planned. Pavement widths will be as indicated in the county Administrative Code relating to bikeways and associated roadway widths. See section 10-709. In order for the roadway to be accepted for maintenance by the county, the provisions of this section must be met.

(2) through (3) *No change.*

(4) *Wearing surface.*

- a. *For roads to be publicly maintained.* One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I as outlined in section 10-296(i). However, the applicant may submit a request for an

administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to Portland cement concrete. The design will be subject to structural analysis for comparison with asphaltic concrete. The applicant may install two three-quarter-inch-thick courses of asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the director of development services in consultation with the director of the department of transportation.

- b. *For roads to be privately maintained.* One-inch asphaltic concrete of FDOT type S-III is ~~acceptable~~ required on category B and C streets. However, no asphaltic concrete wearing course is required for category "D" streets though it is acceptable. The use of paver block is permitted subject to the approval of the director at the time of development order approval. If the paver block is approved as part of the original development order, no administrative deviation under 10-104 is required.

(i) *Street and bridge development categories.* For purposes of interpreting the specifications contained herein and section 10-706, development categories are defined as follows:

- (1) Category A includes commercial and industrial developments, and all developments not described in categories B, C and D.

- a. *No change.*

- b. Pavement width two-way traffic. 24-foot pavements for two-way traffic with swale drainage, valley gutter drainage or curb and gutter drainage (27 feet minimum from face of curb to face of curb on nonmountable curbs.) See section 10-710.

- c. through f. *No change.*

- (2) Category B includes residential developments of five or more dwelling units per acre, except for such developments on islands where direct vehicular access to the mainland by a bridge, causeway or street system is not attainable.

- a. Pavement width for one-way traffic. 14-foot pavement for one-way traffic with swale drainage or valley gutter drainage, or 16-foot pavements for one-way traffic with curb and gutter drainage. (19 feet minimum from face of curb to face of curb on nonmountable curbs.)

- a b. *Pavement width two-way traffic.* 20-foot pavements for two-way traffic with swale drainage or valley gutter drainage or 24-foot pavement with curb and gutter drainage (27 feet minimum from face of curb to face of curb on nonmountable curbs.) See section 10-710.
 - c. Access street. 22-foot pavement. See section 10-711.
 - b d. *Subgrade.* Six-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be stabilized in accordance with section 160 of the FDOT standard specifications.
 - e e. *Base.* Minimum of six-inches compacted limerock.
 - d f. *Wearing surface.*
 - 1. *For roads to be publicly maintained.* One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I. The applicant may install two three-quarter-inch-thick courses of FDOT type S-III asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the director of development services in consultation with the director of the department of transportation.
 - 2. *No change.*
- (3) Category C includes residential developments of more than 0.40 but less than five dwelling units per acre, except for such developments on islands where direct vehicular access to the mainland by a bridge, causeway or street system is not attainable.
- a. *Pavement width for one-way traffic.* 14-foot pavement for one-way traffic with swale drainage or valley gutter drainage, or 16-foot pavements for one-way traffic with curb and gutter drainage. (19 feet minimum from face of curb to face of curb on nonmountable curbs.)
 - b. *Pavement width for two-way traffic.* 20-foot pavements for two-way traffic with swale drainage or valley gutter drainage or 24-foot pavement with curb and gutter drainage (27 feet minimum from face of curb to face of curb on nonmountable curbs.)
 - a c. *Access street.* 20-foot pavement. See section 10-711.
 - b d. *Subgrade.* Six-inch thick (minimum) stabilized subgrade LBR 40. If the LBR value of the natural soil is less than 40, the subgrade must be

stabilized in accordance with section 160 of the FDOT standard specifications.

e e. *Base. Six-inches compacted limerock.*

d f. *Wearing surface.*

1. *For roads to be publicly maintained. One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I. The applicant may install two three-quarter-inch-thick courses of FDOT type S-III asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the director of development services in consultation with the director of the department of transportation.*

2. *For roads to be privately maintained. One-inch asphaltic concrete of FDOT type S-III is acceptable.*

(4) Category D includes residential development of 0.4 or less dwelling units per acre, and all residential developments, regardless of size, located on islands where direct vehicular access to the mainland by bridge, causeway or street system is not attainable.

a. through c. *No change.*

d. *Wearing surface.*

1. *For roads to be publicly maintained. One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I. The applicant may install two three-quarter-inch-thick courses of FDOT Type S-III asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. This provision is subject to the approval of the director of development services in consultation with the director of the department of transportation.*

2. *For roads to be privately maintained. One-inch asphaltic concrete of FDOT type S-III is acceptable. However, no asphaltic concrete wearing course is required.*

(j) through (o) *No change.*

Tables 4 and 5 *No change.*

(p) *Culs-de-sac.*

(1) through (3) *No change.*

(4) ~~On all roads to be maintained by and dedicated to the county, the length of a cul-de-sac must be 500 feet or less. This length may be extended to a maximum length of 1,000 feet for single-family residential development only. The length of the dead-end street with cul-de-sac will be measured along the centerline of the pavement from the centerline of the nearest lane of the intersecting street to the center point of the cul-de-sac. This subsection does not apply to privately maintained roads.~~

(5) All streets ending in culs-de-sac that are over 250 feet long must have a standard "No Outlet" traffic sign installed at the street entrance and paid for by the developer.

(q) through (u) *No change.*

Table 6 *No change*

Sec. 10-298. Controlled access roads.

(a) through (d) *No change.*

(e) *Applicability of section.* This section applies to all existing and future controlled access road facilities. These facilities include, but are not limited to:

(1) through (3) *No change.*

(4) Ben Hill Griffin Parkway/Treeline Avenue (from Alico Road to Daniels Parkway) (Resolution 06-11-30, as amended)

(5) Three Oaks Parkway/Imperial Parkway (from East Terry Street to the northern municipal boundary of the City of Bonita Springs) (Resolution 07-09-30, as amended).

Sec. 10-299. Limited access roads.

(a) *Definition.* A limited access road is a roadway that is the subject of resolution adopted by the Board of County Commissioners designating the road as a limited access facility and specifying the access points along the roadway corridor. Limited access roadways are potential toll or expressway facilities.

(b) *Designation.* The Board of County Commissioners may designate a roadway as a limited access facility by adopting a resolution through the same public hearing process applicable to adopting an ordinance affecting the use of land. Adoption of the resolution must be by a super majority vote (four affirmative votes) of the board. The purpose of the limited access resolution is to preserve safety and roadway traffic capacity. The intent of the resolution is to set access points at specific locations and restrict access along the

designated road corridor to assure interchange connections are limited to a few existing and planned public roadways.

(c) *Vested rights.* Adoption of a limited access road resolution does not guarantee, create or vest, in any property owner, a right or property interest with respect to the designated access points, median openings or turning movements. Approval for construction of a new, or use of an existing, access point, median opening or turning movement is reserved to the county. County approval will be based upon facts and circumstances applicable to the request at the time the application for development order or permit approval is submitted. No deviation or variance may be granted from this subsection.

(d) *Amendment to limited access road resolutions.* No public or private road, driveway or other type of access may connect to the limited access road without prior approval of the board. The board will only approve amendment if the public interest will be served thereby.

(e) *Applicability of section.* This section applies to all existing and future limited access road facilities. These facilities include, but are not limited to:

- (1) *Veterans Parkway (from the Caloosahatchee River to Pine Island Road) (Resolution 03-01-37, as amended).*
- (2) *CR 951 (from the Collier County line to Alico Road) (Resolution 06-06-29, as amended).*

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS

DIVISION 3. SURFACE WATER MANAGEMENT

Sec. 10-328. Drainage easements.

(a) *Open drainage easements.* Where a proposed development is traversed by or abuts a watercourse, drainageway, canal, IDD easement, lake, pond or stream, or where such a facility is proposed as part of the a plan, a drainage easement or right-of-way ~~shall~~ must be provided ~~which shall that~~ conforms substantially with the limits of ~~such the~~ watercourse, drainageway, canal, IDD easement, lake, pond or stream. Additionally, ~~the right-of-way shall include on one side of the watercourse, drainageway, canal, IDD easement, lake pond or stream,~~ a 20-foot width wide easement for maintenance purposes must be provided, unless a lesser dimension is approved by the development ~~review~~ services director after consultation with appropriate staff. For canals or flow-ways greater than 50 feet wide, measured at the top of the bank, the developer ~~shall include~~ must provide a 20-foot-wide easement or right-of-way on both sides of the canal or flow-way for maintenance purposes, unless a lesser dimension is approved by the director of development ~~review services~~. This easement or right-of-way ~~shall~~ must be kept clear by the property owners and ~~shall~~ have satisfactory vehicle access. No portion of the required maintenance easement area may be located within the limits of a platted single family

residential lot. Residential docks/facilities may be located within the maintenance easements subject to compliance with section 26-71(g).

(b) *No change.*

Sec. 10-329. Excavations.

(a) through (c) *No change.*

(d) *Standards.* All new excavations for water retention and detention are subject to the following standards:

(1) and (2) *No change.*

(3) *Maximum controlled water depth.* Excavations for water retention or detention permitted under this section may not penetrate through impervious soil or rock layer that prohibits intermingling of various watery strata. The controlled water depth for water retention or detention excavations may not be greater than 12 feet unless the following criteria are met:

a. Excavation depth may exceed 12 feet, to a maximum of 20 feet, if the water depth does not penetrate any impervious soil or rock layer. For all lakes deeper than 12 feet, a "Deep Lake Management Plan" must be submitted and approved prior to development order issuance. The Deep Lake Management Plan must address long-term management strategies for the lakes greater than 12 feet in depth that include, at a minimum, the following:

1. *No change.*

2. Native shade trees, meeting the specifications of section ~~10-416(a)(1)~~ 10-420 must be planted around the lake perimeter, calculated at one tree per 100 feet of lake shoreline measured at control elevation. The tree planting is in addition to other required trees and must be coordinated with lake littoral plant requirements. The planting locations proposed to meet the wetland herbaceous plant requirements set forth in section 10-418, and other additional trees, must be graphically detailed as part of the Deep Lake Management Plan. All plants must be grouped or clustered together around the lake perimeter.

3. and 4. *No change.*

b. and c. *No change.*

d. A post-construction bathymetric survey, sealed by a professional surveyor and mapper, must be submitted prior to certificate of

compliance for all lakes regardless of their depth. Spot elevations must be provided to create a contour map on four-foot intervals depicting the entire lake profile including bank slopes.

e. *No change.*

(4) *Bank slopes.*

- a. Excavation bank slopes for new projects. The design of shorelines of for retention and detention areas must be sinuous rather than straight, as described in division 6 of this article. The banks of excavations permitted under this section must be sloped at a ratio not greater than ~~4~~6 horizontal to 1 vertical from the top of the ~~excavation~~ bank to a water depth of ~~four~~ two feet below the dry season water table. The slopes must be not greater than 2 horizontal to 1 vertical thereafter, except where the director of development services determines that geologic conditions would permit a stable slope at steeper than a two to one ratio. Excavation bank slopes must comply with the shoreline configuration, slope requirements and planting requirements for mimicking natural systems specified in section 10-418. Placement of backfill to create lake bank slopes is prohibited unless, prior to the issuance of a certificate of compliance, the applicant provides signed and sealed test reports from a geotechnical engineer certifying that the embankment was placed and compacted to its full thickness to obtain a minimum of 95 percent of the maximum dry density (modified Proctor) for embankments that will support structures, and 90 percent of maximum dry density (modified Proctor) for other embankments in accord with ASTM D1557.

An administrative deviation may be requested from the required 6 to 1 slope requirement to allow a slope no steeper than 4 to 1. The deviation may be granted if the director is satisfied that the enhanced slope protection measures proposed by the applicant will prevent erosion and scouring. Acceptable enhanced slope protection measures include, but are not limited to, use of enhanced herbaceous plantings in combination with an appropriate geosynthetic turf reinforcement mat or similar shoreline stabilization technique that does not include hardened structures such as those identified in section 10-418(3). The design technique used will be determined by the project engineer based upon evaluation of site specific conditions and the proposed development parameters. The deviation request may be processed under section 10-104 or in conjunction with a planned development zoning application.

- b. Restoration of existing bank slopes. 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. Use of hardened structures for slope restoration is discouraged, but will be considered on a case by case basis taking into consideration specific site conditions. The use of a hardened structure behind 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 12 limited review development order process. 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.

- (5) *Lake maintenance plan.* A lake maintenance plan must be submitted for the long term maintenance of the lake and lake shoreline areas. The plan must be included as part of the application for development order approval and, once approved by the county, must be recorded in the public records as part of the property owners association documents. The lake maintenance plan must include the following elements.
- a. Identification of the entity responsibility for the maintenance of the lake area including the lake shoreline.
 - b. Identification of the methods to remove and control exotic and nuisance plants in perpetuity.
 - c. Requirements that ensure littoral vegetation remains in a healthy and vigorous state in perpetuity. The use of trimming, mowing and herbicides to remove littoral plants must be prohibited.
 - d. Demonstration as to how surface water runoff quantities and flow velocities will be controlled to prevent bank erosion, including but not limited to, routing roof drains away from lake shorelines.
 - e. Requirements that educational materials be provided to residents describing the purpose and function of the bank slope and littoral areas. The materials must also explain the individual property owner's responsibilities with respect to compliance with bank slope and littoral area management plans. Educational materials may take the form of signs and brochures.
- (56) *Fencing.* A four-foot fence may be required, at the discretion of the director, to be placed around excavations for water retention when located less than 100 feet from any property under separate ownership.

- (67) *Test borings.* Test borings must be conducted in conformity with section 12-110(18) when required by the director of zoning and development services.
- (78) *Excavation or fill material.* All large projects where off-site removal is proposed, must provide soil displacement - cut/fill - calculations and plans certified by a registered engineer indicating:
- a. through d. *No change.*
- (89) *Planned Development Zoning and General Mining Permit.* If the director determines the project does not qualify for administrative approval under subsection 10-329(c) "Procedures," then the property owner must apply for mine excavation planned development zoning (MEPD) and a mine operation permit (MOP) pursuant to chapter 12. Approval from the Board of County Commissioners must be obtained prior to the removal of any materials from the excavation site.
- (910) *Director's decision.* The decision of the director is discretionary and may not be appealed.
- (e) *No change.*

DIVISION 4. UTILITIES

Sec. 10-352. Potable water systems.

(a) *Connection to central system required for certain developments.* The following types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned water utility, or within the county utilities' future water service areas as defined in the Lee Plan, must connect to that respective water system:

- (1) through (4) *No change.*
- (5) Any residential, commercial or industrial development of any size where central ~~sewer~~ water lines are or will be available within 90 days of the issuance of the development order.

For purposes of this subsection, the term "available" means located in a public right-of-way or easement adjacent to any portion of the property. The term "gross floor area" has the same meaning as that set forth in section 34-2 for "floor area".

The provisions of this subsection become effective for each investor-owned utility upon the execution of an agreement with the county demonstrating the availability of an equitable program of rebatable agreements.

(b) *Private systems.* If the proposed development is not required to connect pursuant to section 10-252-352(a):

(1) through (3) *No change.*

Sec. 10-353. Sanitary sewer systems generally.

(a) *Connection to central system required for certain developments.* The following types of developments, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned utility, or within the county utilities' future sewer service areas as defined in the Lee Plan, must connect to that respective sewer system:

(1) through (5) *No change.*

For purposes of this subsection, the term "available" means located in a public right-of-way or easement adjacent to any portion of the property. The term "gross floor area" has the same meaning as that set forth in section 34-2 for "floor area".

The provisions of this subsection become effective for each investor-owned utility upon the execution of an agreement with the county demonstrating the availability of an equitable program of rebatable agreements.

(b) *No change.*

DIVISION 6. OPEN SPACE, BUFFERING AND LANDSCAPING

Sec. 10-414. Submittal requirements.

(a) and (b) *No change.*

(c) *Tree location plan.* A tree location plan must be submitted when general trees located within a designated preserve area being claimed for credit. The tree location plan must include specific information about all trees that are being preserved for credit within the entire development footprint. The tree location plan must: (1) be at the same scale as the site plan; (2) show the location of trees to be saved; (3) state the caliper for each tree (4" minimum caliper measured at 4 ½' above ground level); and (4) identify the species of each tree.

Sec. 10-415. Open space.

(a) *No change.*

(b) *Indigenous native vegetation and trees.*

(1) *Preservation.*

- a. *No change.*
- b. If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage requirement must be met through the onsite preservation of existing native trees consistent with subsection 1 through 4 below. Refer to Appendix E and section 34-373(6)(g).

1. through 3. *No change.*

- 4. Effort must be made to preserve heritage trees with at least a 20-inch caliper dbh. ~~(including but not limited to live oak, South Florida slash pine, or longleaf pine with minimum 20-inch caliper dbh).~~ If a heritage tree must be removed from a site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.

5. *No change.*

- c. *No change.*

(2) through (5) *No change.*

(c) and (d) *No change.*

Sec. 10-416. Landscape standards.

(a) through (c) *No change.*

(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) through (8) *No change.*

- (9) *Development abutting natural waterway.* Except where chapter 33 provides a stricter standard for Greater Pine Island (as defined in Goal 14 of the Lee Plan and in section 33-1002), there must be a 25 50-foot wide vegetative buffer landward from the mean high water line of all nonseawalled natural waterways as measured from the mean high water line or top of bank, whichever is further landward.

- a. In residential subdivisions, the buffer must be located within a common area or tract, and outside of all private property boundaries. Location of the buffers in accord with this section will not prevent the issuance of residential dock permits meeting the requirements of section 26-71(g) or prohibit use of the buffer area for passive recreational uses.
- b. Existing native vegetation within the buffer area must be retained. The natural waterway buffer must include, at minimum, six native canopy trees and 50 native shrubs per 100 linear feet, which may be met through credits from the existing native vegetation within the waterway buffer area at a 1:1 credit ratio. If existing native vegetation is not present to meet the buffer vegetation standards, a planting plan must be submitted to environmental sciences for review prior to local development order approval. All proposed plantings within the natural waterway buffer area must be installed to mimic a natural system, and all plantings must comply with the plant standards set forth in section 10-420. The removal or control of exotic pest plants must not involve the use of heavy mechanical equipment such as bulldozers, front end loaders, or hydraulic excavators, or similar equipment is prohibited, unless approved at the time of development order prior written approval is obtained from the county.
- c. The natural waterway buffer must be designed to incorporate the natural resources maintenance easement required under section 10-328(a). Vegetation removal within the buffer is limited to
 - 1. Routine removal of exotics and downed vegetative debris;
 - 2. Limited removal to allow access of vehicles for maintenance of the waterway;
 - 3. Removal permitted as a condition of dock permit approval; and
 - 4. Prior to removal of native vegetation, approval must be obtained from ES staff.

(10) and (11) *No change.*

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) *No change.*

- (2) ~~Plant materials~~ Planted littoral shelf (PLS). The following features are considered sufficient to mimic the function of natural systems, improve water quality and provide habitat for a variety of aquatic species, including wading birds and other waterfowl. in ponds with slopes from 6(H) to 1(V) to not more than 4(H) to 1(V):
- ~~a. Shorelines must be sloped or bermed to direct stormwater through pretreatment systems or swales prior to discharge into the pond.~~
 - a. Size requirements. The PLS shoreline length must be calculated at 25 percent of the total linear feet of the lake at control elevation.
 - b. Location criteria.
 - 1. The PLS should be concentrated at one location of the lake, preferably adjacent to a preserve area, to maximize its habitat value and minimize maintenance efforts. The required PLS may be divided and placed in multiple locations as long as no PLS area is smaller than 1,000 square feet. Whenever possible, the PLS must be located away from residential lots to avoid maintenance and aesthetic conflicts with residential users.
 - 2. The PLS may be located adjacent to control structures and pipe outlets or inlets to maximize water quality benefits and not impede flow.
 - 3. If contained within a lake the PLS must function as a typical freshwater marsh in ponds with slopes from 6(H) to 1(V) to not more than 4(H) to 1(V).
 - c. Shelf configuration.
 - 1. The PLS must be designed to include a minimum of a 20 foot wide littoral shelf extending waterward of the control elevation at a depth of no greater than 2 feet below the control elevation.
 - 2. A detailed cross section of the PLS must be depicted on the approved development order plan.
 - d. Plant selection.
 - 1. Herbaceous plants must be selected based upon the expected water level fluctuations and maximum water depths in which the selected plants will survive. The PLS areas must be planted with at least four different native herbaceous plant species.

2. Plant calculations. The required number of herbaceous plants is calculated based upon placement spaced 2 foot on center for the total area encompassed by the PLS. The PLS must be planted with minimum 2-inch liner container herbaceous plants.

The total number of plants for the PLS may be calculated by taking the total linear feet of shoreline multiplied by 25 percent, then multiplied by the 20 foot wide shelf and divided by four to obtain the two-foot on center spacing.

- 3.b. ~~The minimum required number of native wetland herbaceous plants is one plant per linear foot of lake shoreline as measured at the control elevation water level. Native wetland trees or shrubs may be substituted for up to 50 25 percent of the total number of herbaceous plants required. One tree (minimum four ten-foot height; three-gallon container size at planting or one shrub (minimum 24-inch height; three-gallon container size at planting) 2 inch caliper, with a 4-foot spread) may be substituted for ten 100 herbaceous plants. Trees must meet the minimum standards set forth in section 10-420.~~
- c. ~~Plants must be installed in clusters around the lake perimeter. Placement of clusters at the inlet and outfall areas is strongly encouraged. Clusters must contain a minimum of 25 plants within a 50-square-foot area.~~
- d. ~~At least four species must be planted. Minimum required herbaceous plant size is a two-inch container, referred to as a liner. Trees and shrubs must meet the minimum standards in section 10-420.~~
- e. ~~Sodding or mulching of native wetland plant materials is allowed to establish plantings at the minimum required density in lieu of planted liners.~~
- e. Shelf elevation. The design elevation of the PLS will be determined based upon the ability of the PLS to function as a marsh community and the ability of selected plants to tolerate the expected range of water level fluctuations.
- f. Survival of plant materials. A minimum of 80 percent survivability at one year is required for herbaceous wetland plants. Wetland t Trees and shrubs herbaceous plants must be maintained in perpetuity consistent with section 10-421(b).

(3) and (4) No change.

Sec. 10-420. Plant material standards.

(a) through (i) *No change.*

(j) *Credits.*

(1) through (3) *No change.*

(4) A tree location plan must be submitted when general trees located within a designated preserve area being claimed for credit. The tree location plan must include specific information about all trees that are being preserved for credit within the entire development footprint. The tree location plan must: (1) be at the same scale as the site plan; (2) show the location of trees to be saved; (3) state the caliper for each tree (4" minimum caliper measured at 4 ½' above ground level); and (4) identify the species of each tree.

Sec. 10-421. Plant installation and maintenance standards.

(a) *Installation.* Plant materials must be installed in soil conditions that are conducive to the proper growth of the plant material. Limerock located within planting areas must be removed and replaced with native or growing quality soil before planting.

A plant's growth habit must be considered in advance of conflicts that might be created (e.g. views, signage, overhead power lines, lighting, buildings, circulation). Trees may not be placed where they interfere with site drainage, subsurface utilities, or overhead utility lines, or where they will require frequent pruning in order to avoid interference with overhead power lines. Light poles must be located outside of all parking islands containing required trees. See Illustration 10-421(a).

No change to illustration 10-421(a).

All landscape materials must be installed in a recognized horticultural correct manner. At a minimum, the following installation requirements must be met:

(1) through (8) *No change.*

(b) and (c) *No change.*

DIVISION 8. PROTECTION OF HABITAT

Sec. 10-474. Management plan.

(a) *Components of plan.* The management plan required under this division shall include:

(1) through (3) *No change.*

(b) *Occupied habitat buffer areas established.* Occupied habitat buffer areas must be established for occupied habitat and must extend at a distance appropriate for the listed species as set forth in section 10-719 except where off-site mitigation is permitted accordance with section 10-475. In the event the florida game commission has already established the size and dimensions of an occupied habitat buffer area, those boundaries will supersede the distances shown in section 10-719.

(c) *Development and occupied habitat buffer areas.* The occupied habitat buffer area must remain free of development, except for development which that will not degrade species existing on the site as determined by the director. Occupied habitat buffer areas may be impacted by development if off-site mitigation is utilized in accordance with section 10-475. These buffer areas must be identified on all associated applications and plats where applicable. Buffer areas may not be divided by lot lines unless the director determines that the division of these buffer areas by lot lines is consistent with the protected species management plan. A conservation easement or similar property interest must be granted to the county for the preserved property as a condition of the development order approval or final plat approval, unless the director determines it would not be logistically or economically feasible for the county to maintain the easement. Encroachments into occupied habitat and habitat buffer are permissible only after the incentives set forth in subsection (e) of this section have been exhausted or off-site mitigation is permitted in accordance with section 10-475.

(d) *Conservation easements.* If adjacent parcels include conservation easements or other public interest in the land, effort ~~shall~~ must be made to connect the easements.

(e) *Incentives.* The county will allow certain incentives in return for the preservation of occupied habitat areas. This incentive system ~~will only apply~~ applies only to those areas ~~to which~~ where other incentives have not been utilized and ~~which~~ that are not preserved under chapter 14, article IV, pertaining to wetlands protection. Occupied habitat buffer area incentives are as follows:

(1) *No change.*

(2) Those single-family developments ~~which~~ consisting solely of conventional single-family dwelling units on lots of no less than 6,500 square feet and that do not have an open space requirement will be exempt from division 6 of this article, pertaining to open space, buffering and landscaping except for the minimum buffer requirements, so long as the applicant preserves occupied habitat buffer areas consisting of no less than 10 percent of the development area.

(3) *No change.*

~~(f) Purchase of conservation easement for Florida panther or Florida black bear. The county must either purchase a conservation easement or a fee simple interest in occupied habitat for the Florida panther or the Florida black bear or permit development to encroach in such areas.~~

~~(gf)~~ *Consideration of game commission guidelines for listed species.* In cases where guidelines have been prepared by the game commission for a listed species, those guidelines must be considered in the preparation of the management plan.

~~(hg)~~ *When determination made without game commission expertise.* If the game commission fails to review any plan in conjunction with county staff's allotted time schedules, determinations will be made without the benefit of game commission expertise.

~~(ih)~~ *Responsibility for implementation of management plan; monitoring report review.* The applicant or his successor in interest is responsible for all aspects of the implementation of the management plan. A monitoring report as to the condition of the habitat and management techniques applied to the habitat must be submitted to the director for review on an annual basis from the date that the development order is issued for five consecutive years.

~~(ji)~~ *Management plan finalization.* The management plan must be finalized prior to issuance of the development order.

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

Sec. 10-610. Site design standards and guidelines for commercial developments.

(a) through (d) *No change.*

(e) *Pedestrian walkways and bicycle parking.*

(1) *Pedestrian access standards.* Pedestrian ways, linkages or paths internal to the project must be designed and constructed to provide access between parking areas and building ~~entry(s)~~entries and from the building ~~entry(s)~~entries to surrounding streets, external sidewalks, and out parcels. The pedestrian ways, linkages or paths must provide a safe access through the project from external sidewalk facilities or bus stops to the building entry. ~~The building area must be equipped with bike storage facilities (i.e., bike racks).~~

If external sidewalk facilities are identified on the official bikeways/walkways facilities plan, but are not in existence at the time of development, then the project must construct the internal pedestrian ways, linkages or paths up to the property line, and external sidewalks consistent with section 10-256. Use

of the pedestrian ways/linkages or paths as open space is subject to the limitations set forth in section 10-415(d)(2)d.

At the discretion of the director of development services, pedestrian ways, linkages or paths provided internal to the development that provide separate ingress/egress for pedestrian and bicycle traffic, may qualify for a reduction in the parking space requirement set forth in section 34-2020. Reductions (credit) may be granted as follows:

- 0 to 1,000 sq. feet of path - no credit
- 1,001 to 2,000 sq. feet = one space
- 2,001 to 3,000 sq. feet = two spaces
- 3,001 to 4,000 sq. feet = three spaces
- 4,001 or more sq. feet = four spaces maximum.

(2) *No change.*

(3) *Bicycle parking requirements.*

a. *Number of spaces.* Safe and secure bicycle parking spaces must be provided as follows: spaces totaling five percent of required motor vehicle spaces in accord with section 34-2020 up to 1,000 vehicle spaces. For each 500 spaces above 1,000 vehicle spaces, four additional bicycle parking spaces are required. A minimum of two bicycle parking spaces must be provided.

b. *Design.*

1. A bicycle parking facility suited to a single bicycle may be a stand-alone inverted - U design measuring a minimum of 36 inches high and 18 inches wide [of one and one-half (1½) inch Schedule 40 pipe, ASTM F 1083] bent in one piece ("bike rack") mounted securely to the ground [by a 3/8-inch thick steel base plate, ASTM A 36] so it is capable of securing the bicycle frame and both wheels.
2. Each bicycle parking space must have a minimum of three feet of clearance on all sides of the bike rack.
3. Bicycle parking spaces must be surfaced with materials consistent with those approved for the motor vehicle parking lots, lighted and located no greater than 100 feet from the building entrances providing access to the public.
4. Extraordinary bicycle parking designs and surfaces that depart from the bike rack standard, but are consistent with the

development's design theme may be considered by the development services director. Bike racks that are freely oriented, function without securing the bicycle frame, or require the use of a bicycle kick stand are prohibited.

(f) and (g) *No change.*

ARTICLE V. ILLUSTRATIONS, TABLES AND DIAGRAMS

Sec. 10-709. Public local streets.

(a) The following illustration applies to publicly maintained local streets with closed drainage and on-road bikeways, with a volume of less than 800 vehicles per day:

GRAPHIC LINK: Replace graphic with Illustration 10-709(a) attached as Exhibit A

TABLE INSET:

	CATEGORY B & C	CATEGORY A
1.	1 ½" Type S-III <u>or S-I</u> asphalt concrete (2)	1 ½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk -- one side only	Sidewalk -- one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided on abutting each side of the right-of-way.
- (2) Two 3/4" lifts may be installed in accord with section 10-296(h)(4)a if type S-III is used.

(b) *No change.*

(c) The following illustration applies to local public streets with closed drainage and off-road bikeways:

GRAPHIC LINK: Replace graphic with Illustration 10-709(c) attached as Exhibit A

TABLE INSET:

	CATEGORY B & C	CATEGORY A
1.	1 ½" Type S-III <u>or S-I</u> asphalt concrete (2)	1 ½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade

4.	Sidewalk -- one side only	Sidewalk -- one side only
----	---------------------------	---------------------------

Notes:

- (1) A ten-foot-wide public utility easement must be provided on abutting each side of the right-of-way.
- (2) Two 3/4" lifts may be installed in accord with section 10-296(h)(4)a if type S-III is used.

(d) The following illustration applies to publicly maintained local streets with open drainage and on-road bikeways, with a volume of less than 800 vehicles per day:

GRAPHIC LINK: Replace graphic with Illustration 10-709(d) attached as Exhibit A

TABLE INSET:

	CATEGORY B & C	CATEGORY A
1.	1 ½" Type S-III <u>or S-I</u> asphalt concrete (2)	1 ½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk -- one side only	Sidewalk -- one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided on abutting each side of the right-of-way.
- (2) Two 3/4" lifts may be installed in accord with section 10-296(h)(4)a if type S-III is used.

(e) *No change.*

(f) The following illustration applies to publicly maintained local streets with open drainage and off-road bikeways:

GRAPHIC LINK: Replace graphic with Illustration 10-709(f) attached as Exhibit A

TABLE INSET:

	CATEGORY B & C	CATEGORY A
1.	1 ½" Type S-III <u>or S-I</u> asphalt concrete (2)	1 ½ Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk -- one side only	Sidewalk -- one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided on abutting each side of the right-of-way.
- (2) Two 3/4" lifts may be installed in accord with section 10-296(h)(4)a if type S-III is used.

Sec. 10-710. Private local streets.

- (a) The following illustration applies to private local streets with closed drainage:

PRIVATE LOCAL STREET WITH CLOSED DRAINAGE

GRAPHIC LINK: Replace graphic with Illustration 10-710(a) attached as Exhibit A

Private Local Street with Closed Drainage

TABLE INSET:

	CATEGORY B, C & D	CATEGORY A
1.	1" Type S-III asphalt concrete*	1 ½" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Optional sidewalk	Optional sidewalk

Note:

- (1) A ten-foot-wide public utility easement must be provided on abutting each side of the right-of-way.

*For Category D streets, an asphaltic concrete wearing course is not required.

- (b) The following illustration applies to private local streets with open drainage:

GRAPHIC LINK: Replace graphic with Illustration 10-710(b) attached as Exhibit A

TABLE INSET:

	CATEGORY B, C & D	CATEGORY A
1.	1" Type S-III asphalt concrete*	1 ½" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Optional sidewalk	Optional sidewalk

Note:

- (1) A ten-foot-wide public utility easement must be provided on abutting each side of the right-of-way.

*For Category D streets, an asphaltic concrete wearing course is not required.

Sec. 10-711. Access streets.

(a) The following illustration applies to access streets with swale or ditch--50 feet right-of-way if county maintained or 40 feet right-of-way if privately maintained.

GRAPHIC LINK: Replace graphic with Illustration 10-711(a) attached as Exhibit A

(b) The following illustration applies to privately maintained access streets with underground drainage.

GRAPHIC LINK: Replace graphic with Illustration 10-711(a) attached as Exhibit A

(c) The following illustration applies to county maintained access streets with underground drainage.

~~ACCESS STREET WITH UNDERGROUND DRAINAGE (45-FOOT RIGHT-OF-WAY) FOR COUNTY MAINTAINED STREETS~~

GRAPHIC LINK: Replace graphic with Illustration 10-711(c) attached as Exhibit A

No change to balance of section.

SECTION FIVE: AMENDMENT TO LDC CHAPTER 14

Lee County Land Development Code Chapter 14 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 14

ENVIRONMENTAL AND NATURAL RESOURCES

ARTICLE II. WILDLIFE HABITAT PROTECTION

DIVISION 4. MANATEE PROTECTION; ~~CALOOSA HATCHEE RIVER SYSTEM~~

Sec. 14-151. Purpose of division.

The purpose of this division ~~shall be~~ is to provide increased protection for the natural resources of the Caloosahatchee River system, including the protection of the West Indian manatee in Lee County, submerged grass beds, oyster bars and mangrove shoreline, and to increase boater safety.

~~Sec. 14-152. Definitions and rules of construction.~~

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

~~Okeechobee Waterway~~ means the navigation channel area delineated by official U.S. Coast Guard channel markers that are designated as part of the federal intracoastal waterway system by a yellow stripe under the marker number within the jurisdictional boundaries of this division.

~~Operate~~ means to navigate or otherwise use any vessel in, on or under the water.

~~Slow speed~~ means no speed greater than that which is reasonable and prudent to avoid either intentionally or negligently disturbing, colliding with or injuring manatees, and which comports with the duty of all persons to use due care under the circumstances.

- ~~(1) — A vessel in a slow speed zone that is operating on a plane is not proceeding at slow speed.~~
- ~~(2) — A vessel in a slow speed zone that is in the process of coming off plane and settling into the water, which action creates more than no or minimum wake, is not proceeding at slow speed.~~
- ~~(3) — A vessel in a slow speed zone that produces no wake or minimum wake is proceeding at slow speed.~~
- ~~(4) — A vessel in a slow speed zone that is completely off plane and which has settled into the water and is proceeding without wake or with minimum wake is proceeding at slow speed.~~

~~Slow speed zone~~ means a designated area within which all motorboat operators shall proceed at slow speed not on a plane and producing no or minimum wake.

~~Vessel~~ means a motor-propelled or artificially propelled vehicle and every other description of boat, watercraft, barge and airboat other than a seaplane on the water, used or capable of being used as a means of transportation on the water, including jet skis.

~~Sec. 14-153. Penalty for violation of division.~~

~~Violation of the provisions of this division, or failure to comply with any of its requirements, shall be prosecuted in accordance with F.S. § 370.12(2)(r), except as provided in F.S. § 370.12(2)(s). Citations issued shall be in accordance with the procedures set forth in F.S. §§ 327.72 and 327.73.~~

~~Sec. 14-154. Enforcement of division.~~

~~The provisions of this division shall be enforced by members of all duly authorized law enforcement agencies within the county.~~

Sec. 14-152. Approval of the Manatee Protection Plan.

The Lee County Manatee Protection Plan (Manatee Protection Plan), dated June 17, 2004, was approved by the Board of County Commissioners on June 29, 2004. The terms and conditions contained in the Manatee Protection Plan, as it may be amended from time to time, are incorporated herein by reference.

Sec. 14-155 153. Conflicting provisions.

If any provision in this division is found to be contrary to any other existing county ordinance covering the same subject matter, then the more restrictive provisions shall will apply.

Sec. 14-156. Exemptions from division.

~~(a) — Official vessels or vessels operating under emergencies. The state marine patrol, the county sheriff's department or other official craft and craft operating under emergency conditions shall be exempted from the provisions of this division while performing their official duties or operation in an emergency.~~

~~(b) — Commercial watercraft. Commercial vessels are exempted from the provisions of this division while conducting fish-netting operations, provided the operations are conducted under the safety constraints of careful and prudent vessel operation taking into consideration the weather conditions and range of visibility, water turbulence, proximities to other vessels, persons and wildlife, and all other attendant circumstances so as not to endanger the life, limb or property of any person. At no time shall commercial vessels be operated at greater than slow speed within 100 yards (300 feet) of bathers.~~

~~(c) — Racing vessels. Participant racing vessels in transit to or from racing events sanctioned by the county and vessels participating in those events or in sanctioned practice sessions for those events shall be exempt from the provisions of this division.~~

Sec. 14-157 154. Jurisdiction.

~~The jurisdiction of this division shall will be all public navigable waters, creeks, bayous, canals and channels, whether natural or manmade, and appurtenant adjacent lands within the unincorporated Lee County, and conforming to the following boundaries: The downriver or southwest boundary is a line running from the southwest corner of the west entrance to Shell Creek, to Green Day marker 99 then on to Sword Point, this line being generally considered the mouth of the river. The northeast or upstream boundary is a line drawn perpendicular to the shoreline and one-half mile upstream of the Franklin Locks. If it is determined that the county is preempted by state or federal legislation from exercising jurisdiction over the federally designated Okeechobee Waterway, this division shall not apply to the federally designated Okeechobee Waterway except to the extent the county may obtain such authority by subsequent delegation of the appropriate legislative body or administrative agency having such jurisdiction.~~

~~Sec. 14-158. Designation of regulated area:~~

~~The general regulated area encompassed by this division shall extend from the downriver or southwest boundary of the waters described in section 14-157 to the northeasterly right-of-way line of the Edison Bridge. Within those boundaries and with the exception of the special management zones outlined in section 14-159, all navigable waters, creeks, bayous, canals and channels which feed the Caloosahatchee River and all waters from the shoreline of the river to a line running parallel to the shoreline of the Caloosahatchee River and situated one-quarter mile from the shoreline are designated a slow speed zone. Unless otherwise indicated in this division or superseded by state or federal statute, the marked Okeechobee Waterway channel is excluded from the slow speed restrictions. While in the Okeechobee Waterway Channel, persons shall operate their vessels at a safe speed and in a careful and prudent manner.~~

~~Sec. 14-159. Designation of special management areas:~~

~~Within the area described in section 14-157 there are six special management areas. In special management areas, boat speeds are regulated by this division and state rule. Within the Okeechobee Waterway channel, boat speeds are regulated by state rule:~~

- ~~(1) Special management area 1 consists of the area from the northeast right-of-way of the Edison Bridge upriver to the railroad trestle. With the exception of the marked Okeechobee Waterway channel and the area which falls within the boundaries of special management area 6, this area is designated a yearround slow speed zone.~~
- ~~(2) Special management area 2 consists of the area from a line drawn 100 yards downstream of and parallel to the Caloosahatchee River/U.S. 41 Bridge upriver to a line drawn perpendicular to the shoreline and 500 yards upriver of Red Day marker 40A. With the exception of the marked waterway channel, this area is designated a yearround slow speed zone.~~
- ~~(3) Special management area 3 consists of the area from a line drawn from Shell Creek to Green Day marker 99 upriver to a second line drawn from Shell Point to Little Shell Island. This area, including the Okeechobee Waterway to the extent such waterway may be made subject to the provisions of this division by a grant of authority from the legislative body or agency having jurisdiction over such waterway, is designated a yearround slow speed zone between the hours of 8:00 a.m. to 6:00 p.m. daily.~~
- ~~(4) Special management area 4 consists of the area from a line drawn perpendicular to the shoreline and one-half mile downstream of the Franklin Locks to a second line drawn perpendicular to the shoreline and one-eighth mile upstream of the Franklin Locks. This area shall include the lock chambers, boatramps and basins, and the surrounding areas. This area,~~

~~(3) Any other area that may be so designated by the Board of County~~

~~(2) Any area designated as an official "No Motor Power" zone which is so posted in such a manner and place that such posting may be reasonably expected to be seen and read by a person in operation of a vessel in the area. Operation of a vessel in these areas shall be without motor power. Posting, rowing or wind power is permissible. Such areas are identified on exhibit B attached to the ordinance from which this section is derived, which is on file in the office of the county department of public resources; or~~

~~(1) Any area designated as an official "No Wake-Idle Speed Only" zone or "Slow Speed" zone which is so posted in such a manner and place that such posting may be reasonably expected to be seen and read by a person in operation of a vessel in the area. Such areas are identified on exhibit A attached to the ordinance from which this section is derived, which is on file in the office of the county department of public resources;~~

~~The following areas are hereby designated as areas of special management: designated to provide increased protection of the manatees and other natural resources. management, except as to prohibited areas or regulated areas. These areas are so motor power, whichever is applicable, whenever the vessel is in an area of special vessel at a speed greater than or in excess of either idle speed or slow speed, or under No owner, operator or person in command of any vessel shall permit or operate a~~

Sec. 14-160. Additional areas of special management:

~~(6) Special management area 6 consists of the area from the northeast right-of-way line of the Edison Bridge to a line located one mile upstream of the northeast right-of-way line and drawn perpendicular to the shoreline. This area will further be bounded by the north shoreline of the river and the southerly line of the marked Okeechobee Waterway channel. This area is designated as a yearround boating recreation area where water sports such as water skiing and jet skiing are encouraged. Boat speeds that are appropriate for these activities will be permitted.~~

~~(5) Special management area 5 consists of the area from a line drawn parallel to and 300 feet downstream of the Cape Coral Bridge to a line drawn parallel to and 300 feet upstream of the Cape Coral Bridge, with the exception of the marked Okeechobee Waterway channel. This area is designated a yearround slow speed zone:~~

~~including the Okeechobee Waterway to the extent that such waterway may be made subject to this division by a grant of authority to the county by the appropriate legislative body or agency having jurisdiction over the waterway; is designated a yearround slow speed zone:~~

Commissioners pursuant to the applicable procedure.

ARTICLE II. WILDLIFE AND HABITAT PROTECTION

DIVISION 5. BEACH AND DUNE MANAGEMENT

Sec. 14-170. Definitions.

When used in this division, the following words, terms and phrases have the meanings set forth below, except where their context clearly indicates a different meaning.

Beach furniture or equipment means any manmade apparatus or paraphernalia designed or manufactured for use or actually used on the beach or in the adjacent tidal waters. Examples include: chairs, tables, cabanas, lounges, umbrellas, sailing vessels up to 16 feet in length, personal watercraft, concession storage units, canoes, kayaks, paddle vessels, sailboards, surfboards, fishing gear, sporting equipment, floatables, tents, and bicycles.

No change to balance of section.

ARTICLE VII. CLEAN WATER PROVISIONS

Sec. 14-475. Definitions.

Administrator means the administrative director of the Division of Natural Resources, or designee, who is responsible for administering the provisions of this article.

Illicit discharge or illicit stormwater discharge means any discharge not composed entirely of stormwater into the Lee County MS4, including, but not limited to, discharge from a construction site or an industrial site that has the potential to impact the Lee County MS4. ~~that is not composed entirely of stormwater, except~~ Non-stormwater discharges made in accordance with an approved county issued development order issued consistent with the Lee County MS4 permit, an independent NPDES permit, as a result of fire fighting activities, or otherwise specifically exempted under this article will not be deemed an illicit discharge.

Balance of section remains unchanged.

Sec. 14-477. Stormwater pollution prevention plan (SWP3) criteria.

For purposes of this article, all SWP3s must:

- a. *No change.*
- b. Use best management practices for sediment and erosion control as outlined in the ~~Virginia Erosion Sediment Control Manual, the Manual for Erosion Control and Sediment Control in Georgia, the Florida Land Development Manual~~ Florida Stormwater

Sedimentation Control Inspector's Manual or a similar quality guidance manual;

c. and d. *No change.*

Sec. 14-479. Enforcement.

(a) *No change.*

(b) *Procedure.* Any violation of this article may result in prosecution by any of the methods or procedures set forth below, or by any combination of these procedures. The choice of procedure rests within the reasonable discretion of the director of public works administrator, based upon the nature of the violation, the number of previous violations, and the magnitude of the violation and its threat to the public health, safety and welfare.

(1) *No change.*

(2) ~~Administrative shut down:~~

~~a. If Natural Resources' staff documents competent proof that the discharge from a specific activity or industrial site does not meet minimum water quality criteria as defined in the Surface Water Quality Standards of Chapter 62-302, F.A.C., or site specific permit levels, staff will notify the owner/operator in writing and provide no more than 14 days to return the site to minimum discharge standards or be ordered to shut down.~~

~~b. If the owner/operator fails to remedy the substandard discharge violation, the director of public works may order the facility to shut down. The director's order must be in writing and set forth the basis for the decision to shut the facility down. A copy of the order will be provided to the owner/operator by hand delivery, certified mail or any other legal means of delivery.~~

~~c. Once the facility is shut down, it cannot reopen without the prior written approval of the director of public works. Approval is appropriate only where the owner/operator can demonstrate by substantial competent proof that the operation will meet minimum water quality standards or site specific permit levels.~~

(2) Stop work order. The administrator has the authority to issue a stop work order to ameliorate, minimize or prevent irreparable harm under any of the following circumstances if:

a. The work being done is not in compliance with the provisions of this article;

b. Discharges from the site do not meet the minimum surface water

quality standards set forth in FAC Rule 62-302; or

c. The site specific permit discharge criteria are not being followed.

The notice to stop work must be in writing, state the reasons for the stop work order, and set forth the specific conditions under which work may resume. The notice is effective upon delivery. Notice is deemed received/delivered if hand delivered to the owner of the property, the owner's designated agent or person/entity doing work on the property. In the event hand delivery is not possible, the notice will be deemed delivered if posted on the property in a visible and conspicuous place for no less than 24 hours.

(3) through (5) *No change.*

(c) *No change.*

SECTION SIX: AMENDMENT TO LDC CHAPTER 22

Lee County Land Development Code Chapter 22 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 22

HISTORIC PRESERVATION

ARTICLE I. IN GENERAL

Sec. 22-3. Definitions.

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

Certificate of appropriateness means a written authorization by the historic preservation board or county staff to the owners of a designated property or any building, structure (including docks and signs) or site within a designated historic district, allowing a proposed alteration, relocation, or the demolition of a building, structure or site. Certificates of appropriateness are divided into the following two classes:

- (1) Regular certificate of appropriateness means a certificate of appropriateness issued by the county staff allowing activities ~~which~~ that require the issuance of a building permit but which are classified as ordinary maintenance and repair under the provisions of this chapter and the criteria listed in the U.S. Secretary of the Interior's Standard for Rehabilitation, 36 CFR 67.
- (2) Special certificate of appropriateness means a certificate of appropriateness

issued directly by the historic preservation board and required for any proposed work that will result in the alteration, demolition, relocation, reconstruction, new construction or excavation of a designated historic resource, based upon the criteria listed in the U.S. Secretary of the Interior's Standard for Rehabilitation, 36 CFR 67.

No change to balance of section.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 2. HISTORIC PRESERVATION BOARD

Sec. 22-73. Organization; meetings.

The members of the historic preservation board ~~shall~~ will elect a chairman and a vice-chairman for a one-year term each. The chairman ~~shall~~ will preside at all meetings and ~~shall~~ have the right to vote. The vice-chairman ~~shall~~ will preside in the absence of the chairman. The chairman and vice-chairman may be reelected for an additional one-year term each, but may not serve for more than two consecutive years. The county ~~shall~~ will provide adequate staff to allow the historic preservation board to perform its duties. Staff ~~shall~~ will consist of at least one historic preservation planner, and one clerical person, ~~who shall be responsible for recording and transcribing the minutes of all meetings of the historic preservation board. A representative of the county attorney's office shall be present at all historic preservation board meetings to represent the county. An Assistant County Attorney will represent the Board of County Commissioners at all meetings of the Historic Preservation Board.~~

All meetings of the historic preservation board ~~shall~~ must be open to the public. A public record of the minutes and resolutions of the historic preservation board ~~shall~~ will be maintained and made available for inspection by the public. The historic preservation board ~~shall~~ will meet at least once per month, at a date and time to be decided by the historic preservation board, unless there is no business pending before the historic preservation board. Regardless of the lack of pending business, the historic preservation board ~~shall~~ must meet at least four times during any calendar year.

DIVISION 3. CERTIFICATE OF APPROPRIATENESS

Sec. 22-106. Archaeological sites and districts.

(a) *Designation.* The survey entitled "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" (Piper Archaeological Research, Inc., 1987) ~~shall~~ will be used as the initial database when considering the designation of areas of archaeological sensitivity level 1.

(b) *Certificate of appropriateness.* A certificate of appropriateness ~~shall be~~ is required prior to the issuance of a ~~building permit~~ development approval for activity within

an archaeological site or district designated pursuant to this chapter. Additionally, a certificate of appropriateness is required for new, replacement or enlargement of existing septic tanks, drainfields or other accessory structures associated with septic tank installation, replacement or enlargement. An application for a certificate of appropriateness ~~shall~~ must be accompanied by full plans and specifications indicating areas of work that might affect the surface and subsurface of the archaeological site or sites.

(1) The requirements outlined in article III of this chapter ~~shall~~ apply to all applications and the issuance of all certificates of appropriateness for archaeological sites and districts designated pursuant to this chapter.

(2) *No change.*

(3) To knowingly disturb human burial remains is a third degree felony in the state, pursuant to FS ch. 872, pertaining to offenses concerning dead bodies and graves. The law includes prehistoric as well as historic period interments, and aboriginal burial mounds or cemeteries as well as historic period cemeteries. Procedures for dealing with the accidental discovery of unmarked human burials are outlined in FS ch. 872. If unmarked human burials are suspected or known in an area under consideration for any certificate of appropriateness, the area ~~shall~~ must be surveyed by a professional archaeologist to locate ~~such the~~ remains. Procedures for dealing with human remains ~~shall~~ must be carried out according to FS ch. 872. Any located human interments should be preserved in place if at all possible. If it is necessary to excavate or otherwise move the remains, every effort ~~shall~~ must be made to identify and contact persons who may have a direct kinship, tribal, community or ethnic relationship with the deceased in order to arrange for their appropriate reinternment or disposition.

(c) *Certificate to dig.* The survey entitled "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" ~~shall~~ will be used to identify areas of archaeological sensitivity levels 1 and 2.

(1) A certificate to dig ~~shall be~~ is required prior to or in conjunction with the issuance of a final development order for activity within any area of archaeological sensitivity levels 1 and 2 that may involve new construction, filling, digging, removal of trees or any other activity that may alter or reveal an interred archaeological site. If submerged or wetland areas, such as ponds, sloughs or swamps, ~~are also to~~ will be damaged by development or by dredge and fill activities, these ~~shall~~ areas must also be assessed for their potential to contain significant archaeological sites.

(2) The purpose of a certificate to dig ~~shall be~~ is to allow sufficient time to conduct any necessary investigations, including the location, evaluation and protection of significant archaeological sites in areas suspected of having such archaeological sites.

- (3) The staff of the historic preservation board ~~shall~~ must, within 15 calendar days of receipt of a complete application for a certificate to dig, approve the application for a certificate to dig, or approve the certificate to dig subject to specified conditions, including but not limited to a delay not to exceed 60 days to allow any necessary site excavation or additional archaeological assessment prior to commencement of the proposed construction activity. Staff's decision ~~shall~~ must be based on the application and any other guidelines which the historic preservation board may establish. If the approved certificate to dig requires archaeological excavation, the certificate ~~shall~~ must specify a period of time during which excavation ~~shall~~ may occur, not to exceed 60 days unless the owner agrees to an extension. The owner ~~shall~~ must have an archaeologist conduct excavations as necessary during this period. The certificate to dig and any staff findings ~~shall~~ must be mailed to the applicant by certified mail, return receipt requested, within seven calendar days of its review and approval.
- (4) The applicant ~~shall have~~ has the opportunity to appeal any conditions attached to a certificate to dig by applying for a special certificate of appropriateness within 30 calendar days of the date the conditional certificate to dig is issued. The historic preservation board ~~shall~~ must convene no later than 50 calendar days after the date a completed application for a special certificate of appropriateness is filed with the staff. Approved certificates to dig ~~shall~~ must contain an effective date not to exceed 60 calendar days, at which time the proposed activity may begin, unless the archaeological excavation ~~should uncover~~ evidence of such significance that it warrants designation of the archaeological site as a historic resource pursuant to article III of this chapter.
- (5) All work performed pursuant to the issuance of a certificate to dig ~~shall~~ must conform to the requirements of such certificate. It ~~shall be~~ is the duty of the appropriate county agencies and the staff of the historic preservation board to inspect work for compliance with such certificate. In the event of noncompliance the appropriate county staff ~~shall have~~ has the power to issue a stop work order and all work ~~shall~~ must cease.

ARTICLE III. DESIGNATION OF HISTORICAL DISTRICTS AND RESOURCES

DIVISION 2. INCENTIVES

Sec. 22-174. Relief from zoning regulations.

The zoning department of community development director may, by written administrative decision, approve any relief request for designated historic resources or contributing properties to a designated historic district, for matters involving setbacks, lot width, depth, area requirements, land development regulations, height limitations, open space requirements, parking requirements, signs, docks, and other similar zoning-relief not related to a change in use of the property in question.

- (1) Before granting relief, the zoning director must find that:
 - a. through c. *No change.*
- (2) In granting any relief, the zoning director may prescribe any appropriate conditions necessary to protect and further the interest of the area and abutting properties, including but not limited to:
 - a. through c. *No change.*

The owner of a building, structure or site affected by the operation of this chapter and the decision of the zoning director may appeal that decision according to the provisions of chapter 34 in accord with section 34-145.

- (3) *No change.*
- (4) The provisions of subsection (3) of this section 22-174(3) shall remain in full force and effect as to any request for parking relief, unless and until an annual sunset review and subsequent determination by a majority of the historic preservation board, prior to March first of each year, indicates that those provisions providing for parking relief in the Matlacha historic district are no longer required. In the event of such a determination, the historic preservation board shall may make a recommendation to the Board of County Commissioners so that appropriate action regarding the parking provisions may be taken.

DIVISION 3. PROCEDURE

Sec. 22-205. Removal of designation or change in status.

The removal of a historic resources designation or the change in a designation from contributing to non-contributing property (or the reverse) in a designated district may be initiated in one of three ways: (a) by written petition of the property owner; (b) by majority vote of the historic preservation board; or, (c) at the request of the Board of County Commissioners.

- (1) Removal of designation or change in status initiated by owner. The owner must file a written petition for removal of designation or change in status. The petition must state with specificity the reason for the request and include sufficient information to support investigation of the property in response to the request. The complete petition or subsequently requested report will be presented to the historic preservation board for action. At that time the historic preservation board may:
 - (a) accept a removal of designation petition and direct it to public hearing;
 - (b) direct that a removal of designation report be prepared by either the

staff or the applicant for consideration by the board;

- (c) reject a report submitted and state the specific reasons for the rejection; or,
- (d) deny the removal of designation petition and state the reasons for denial.

Notice must be provided in accord with section 22-207 prior to action under this section.

- (2) *Removal of designation or change in status initiated by historic preservation board or Board of County Commissioners.* The historic preservation board has the authority to direct staff to prepare a removal of designation or change in status report based upon a recommendation of County staff, a request from the historic preservation board or direction by the Board of County Commissioners. Once completed, the requested report will be considered by the historic preservation board at a duly noticed meeting.

Sec. 22-206. Removal of designation or change in status report.

Action by the historic preservation board to accept a removal of a historic resource designation or the change in status from contributing to non-contributing property (or the reverse) must be based upon a report prepared in accord with this section. The report must be in writing and provide specific and detailed information as to why the historic designation applicable to the property should be removed or changed from contributing to non-contributing (or the reverse).

Removal of a historic resource designation or the change in status from contributing to non-contributing property (or the reverse) is appropriate only if the subject property no longer meets the criteria set forth in section 22-204 for the applicable designation.

Sec. 22-207. Notice; action by board; recording.

(a) *Notice to owner.* A notice to the property owner must be filed in accord with section 22-203(1).

(b) *Notice of public hearing.* The county will provide written notice regarding the public hearing in accord with section 22-203(2).

(c) *Decision deadlines.* After review of the report, the historic preservation board must take action in accord with section 22-203(3).

(d) *Recording.* The board's written decision must be recorded as set forth in section 22-203(4).

SECTION SEVEN: AMENDMENT TO LDC CHAPTER 26

Lee County Land Development Code Chapter 26 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 26

MARINE FACILITIES, STRUCTURES AND EQUIPMENT

ARTICLE II. DOCK AND SHORELINE STRUCTURES

DIVISION 1. GENERALLY.

Sec. 26-41. Definitions.

The following words, terms and phrases, when used in this article, will have the following meanings unless the context clearly indicates a different meaning:

Areas of Special Concern (ASC) means those areas as identified and described in the Manatee Protection Plan.

Boat means a vehicle or vessel designed for operation as a watercraft propelled by sail or one or more electric or internal combustion engines. For the purposes of the Manatee Protection Plan, non-mechanically powered canoes and kayaks are not covered by this definition. See also Vessel or Watercraft.

Boat facility means a public or private structure or operation where boats are moored or launched, including commercial, recreational and residential marinas, and boatramps.

Boat ramp means ~~an inclined and stabilized surface that extends into the water from the shore and upon which trailered watercraft can be launched and retrieved~~ a structure, man-made or altered natural feature, or an inclined and stabilized surface extending into the water from the shore, which facilitates the launching and landing of boats into a waterbody or from which trailered watercraft can be launched and retrieved.

Director means the director of the department of community development, or his successor or designee, except when otherwise stated.

Ditch means a man-made trench or canal that was built for a non-navigational purpose. (See Federal Register 33 CFR 329.24 for definition of navigable waterways.)

Egress and ingress means, for the purposes of the Manatee Protection Plan, a continuous pathway of deep water that vessels would most likely travel between a facility and a marked channel.

Invasive exotic vegetation means Australian pine (Casuarina spp.), Brazilian pepper (Schinus terebinthifolius), paper or punk tree (Melaleuca quinquenervia), beach naupaka (Scaevola frutescens or Scaevola taccada) and earleaf acacia (Acacia auriculiformis).

Lawfully has the same meaning as set forth in section 34-2.

Linear Shoreline means the mean high water line in tidally influenced areas and the ordinary high water line along waterways that are not tidally influenced. This definition does not apply to shorelines artificially created after October 24, 1989 through dredge and fill activities (such as boat basins or canals). Shorelines artificially created before October 24, 1989 must have been permitted in accordance with the regulations in effect at that time. Shoreline along man-made ditches (such as mosquito control, flood control ditches, etc.) will not qualify as linear shoreline, regardless of the date of construction unless verifiable documentation of regular navigational use prior to July 1, 2004 exists. For purposes of Manatee Protection Plan, linear shoreline will be calculated using survey quality aerial photographs or by accurate field survey. The calculation of linear shoreline for purposes of Ch. 26 is based upon shoreline owned or legally controlled by the property owner.

Manatee Protection Plan means the Lee County Manatee Protection Plan, dated June 17, 2004, approved by the Board of County Commissioners on June 29, 2004, as it may be amended from time to time.

MFSE means the marine facilities siting element of Lee County's Manatee Protection Plan.

Navigable channel means the area within a natural or artificial waterbody that will allow passage of a watercraft drawing has a minimum of three feet of water depth at mean low water.

Open water means, for the purposes of the Manatee Protection Plan, wide water bodies or water adjacent to passes. Charlotte Harbor is defined as the southern limit of the Charlotte Aquatic Preserve line north to the Lee County line, and Pine Island Sound is defined as the northern limit of the Pine Island Sound Aquatic Preserve line at the north end of the Sound, south to Redfish Pass. Gulf Passes, for the purposes of the Manatee Protection Plan, include Matanzas Pass, Captiva Pass, Redfish Pass, Boca Grande, Big Hickory Pass, Big Carlos Pass, Blind Pass, Hurricane Pass and New Pass.

Private single-family docking facility means a docking facility designed and intended to serve as an accessory use to an existing or proposed single-family dwelling unit.

Public service marina means a marina that generally leases wet storage to the general public on a first come, first serve basis, and also offers services such as the provision of supplies, sewage pump-out, repair of boats and wet or dry storage.

Single-family dock means a fixed or floating structure, including moorings, used for berthing buoyant vessels, that is an accessory use to an existing or proposed single-family

residence, with no more than 2 boat slips per residence when located in a natural waterbody. Notwithstanding, a shared single-family dock approved in accordance with this code may contain up to four boat slips.

Slip or Watercraft-slip means a space designed for the mooring or storage of a single watercraft, regardless of size, which includes wet or dry slips, anchorage, beached or blocked, hoist, parked on trailers, open or covered racks, seawall or the number of parking spaces for boatramps. Piers authorized only for fishing or observation are not considered wet slips.

Structure refers to any water-oriented facility and includes, without limitation, any dock, boardwalk, floating dock, fishing pier, pier, wharf, observation deck, deck, platform, boathouse, mooring piling, riprap, revetment, seawall, bulkhead, retaining wall, jetty, platform groin, geotextile tube, boat lift, davit or boatramp, or any other obstacle, obstruction or protrusion used primarily for the landing, launching or storage of watercraft, erosion control and shoreline stabilization, or for water-oriented activities.

Submerged aquatic vegetation (SAV) means fresh, saline (seagrass) or brackish submerged vegetation that may be used by manatees for food.

Vessel means a motor-propelled or artificially propelled vehicle and every other description of boat, watercraft, barge and airboat (other than a seaplane), used or capable of use as a means of transportation on the water, including jet skis. See Boat or Watercraft.

Warm water refuge means known areas of warm water discharge, deep water or natural springs where manatees aggregate in the wintertime for thermoregulation. Known or recognized warm water refuges are listed in the Manatee Protection Plan.

Watercraft means any vehicle designed for transporting persons or property on, in or through water. See Boat or Vessel.

~~*Watercraft slip or slip* means the area of a structure designated for watercraft mooring.~~

Work means and includes, but is not limited to, all dredging or disposal of dredge material, excavation, filling, construction, erection or installation, or any addition to or modification of a structure on a waterway.

No change to balance of section.

Sec. 26-42. Violations and penalties.

(a) Any person doing work in violation of this article or any approval or permit issued in accordance with this article is subject to ~~prosecution~~ prosecution through the county code enforcement process, described in chapter 2, article VII. Any affected party, including

the county, may seek a civil injunction to enjoin work on a structure conducted in violation of this article, in addition to or in lieu of initiating or pursuing code enforcement action.

- (b) *No change.*

Sec. 26-44. Compliance with applicable regulations.

Permits issued in accordance with this chapter or development orders for work in the unincorporated area of the county do not eliminate the need to obtain all applicable state and federal agency permits. Except when issued in conjunction with a transfer of a watercraft slip, County approval does not constitute a property right.

Sec. 26-45. Permits required.

- (a) *No change.*

(b) Permit applications must be submitted in writing on an appropriate form to the Department of Community Development, and contain the following:

- (1) *No change.*

- (2) The name, address, and telephone number of the property owner's agent, if applicable

- (3) through (8) *No change.*

- (c) *No change.*

- (d) The director has the discretion to require:

- (1) eConstruction drawings sealed by a appropriately qualified professional engineer, P.E. or registered architect; and a

- (2) A boundary or record survey, including labeled delineation of riparian lines, sealed by a professional surveyor and mapper (PSM) identifying the property boundary or riparian extensions into the waterbody in relation to construction or work. The director also has the discretion to require The survey submitted to meet this criteria must be certified to Lee County; and

- (3) submission of a A post-construction as-built survey, sealed by a PSM and certified to the county, prior to issuance of a certificate of completion for any permit under this section.

- (e) The director may conduct on-site inspections to determine if the proposed work or structure meets the required minimum standards.

(f) through (h) *No change.*

- (i) Issuance of a permit for new construction, reconfiguration or the repair of an existing structure that changes the configuration in a manner not consistent with the terms and conditions of the Manatee Protection Plan is prohibited.

Sec. 26-46. Variances.

(a) Variances from the requirements of this article may be requested in accordance with section 34-145(b). The hearing examiner may grant a variance from the provisions of this article only upon finding the following criteria have been met:

(1) and (2) *No change.*

- (3) The variance requested is consistent with the Lee Plan and the Manatee Protection Plan.

(b) *No change.*

Sec. 26-48. Nonconforming structures.

A nonconforming structure may be repaired, replaced or altered if the size, dimensions, and location of the structure is and will remain ~~otherwise~~ in compliance with existing regulations, including the Manatee Protection Plan and section 26-75(b)(4) (regarding seawalls). Nonconforming structures ~~can~~ may be altered, if in the opinion of the director, the proposed work will not cause an increase in the nonconformity.

DIVISION 2. LOCATION AND DESIGN

Sec. 26-71. Docking facilities and boat ramps.

Docking facilities will be permitted ~~only~~ in accordance with the following regulations:

(a) *Number of slips.*

(1) *No change.*

- (2) A shared property line dock can be permitted for up to four slips with a joint use agreement in compliance with section 26-71(g).

(3) *No change.*

(b) *Length of docks.* No private single-family dock, including mooring area, may be permitted or constructed in a natural or artificial waterbody to exceed any of the following lengths as measured from the mean high water line seaward:

- (1) 200 feet;
- (2) 25 percent of the navigable channel width. In artificial waterbodies, the navigable channel is measured from mean high waterline to mean high waterline. Watercraft mooring areas that are waterward of the dock will be deemed 10 feet in width; or
- (3) *No change.*
- (c) *Maximum dimensions.*
- (1) Docking facilities in natural ~~water bodies~~ waterbodies must comply with the following maximum dimensional requirements:

No change to table or Figure 26.1.

- (2) and (3) *No change.*

- (d) *Setbacks.*

- (1) *No change.*

- (2) All private single-family docking facilities in natural waterbodies must be set back from all adjoining side lot and side riparian lines as follows:

a. and b. *No change.*

c. Boat lifts and mooring pilings –no less than 10 feet.

- (3) through (5) *No change.*

- (e) *Location.*

- (1) and (2) *No change.*

- (3) Docks located at the end of a canal may require a survey sealed by a PSM depicting the riparian area. The dock must be designed to allow for adequate ingress/egress and mooring within the subject property's riparian area.

- (f) *Minimum water depths.*

- (1) Single family docking facilities. There must be a minimum depth of three feet mean low water for all watercraft slips on private single-family docking facilities in natural waterbodies.

- (2) Water depths adjacent to and within a multi-slip docking facility or a marina. must ensure that a minimum one foot clearance is provided between the deepest draft of a vessel and the bottom at mean low water or the top of marine resources (e.g. seagrasses). Except when a reduced water depth for a public service marina has been approved by variance, there must be a minimum depth of one foot clearance between the deepest draft of a vessel (with the engine in the down position) and an unvegetated bottom or the top of submerged aquatic vegetation (e.g. seagrasses) at mean low water, with a minimum water depth of at least four feet within mooring areas, turning basins, and ingress and egress pathways. The hearing examiner may grant a variance to the minimum water depth for a public service marina in accordance with section 34-145(b), only upon finding the request is consistent with the provisions of Manatee Protection Plan.

(g) Interest in land to support residential dock/facility approval. In order to obtain a permit for a residential dock and related facilities, the property owner/applicant must have a recorded right to access the water meeting the following criteria:

- (1) A deed describing the residential lot with at least one boundary being the waterway along which the dock facility is proposed. The lot described must be a buildable lot with sufficient square footage to meet county requirements;
OR
- (2) A recorded easement granting access to the waterbody for purposes of constructing and using a dock/facility meeting the following criteria.
- a. The easement must be over land contiguous to the residential lot such that an extension of the side lot lines will allow access to the water beyond the rear lot line;
 - b. The easement must be for the benefit of a residential lot that is a buildable lot under county regulations; and
 - c. The easement must be necessary to gain access to the waterbody over and through waterway buffer and maintenance areas required for development approval under chapter 10.

(h) Joint use agreements. Adjacent property owners seeking approval for a shared docking facility must submit a draft joint use agreement to Environmental Sciences. The agreement must be approved by the County Attorney's office prior to permit issuance, and must:

- (1) Identify each party by name, including mailing address. The parties must be the owners of the property abutting each other that will benefit from the dock facility.

- (2) Identify the physical location of the subject parcels, including STRAP numbers, a legal description and accompanying sketch.
- (3) Identify the specific location of the docking facilities including: the name of the waterbody, the dimensions of the facilities, and the dimensions of the land that will be used in conjunction with the facilities.
- (4) Provide, as an attachment to the agreement, a detailed sketch of the facility identifying the various docking facilities, subject property boundaries and the upland area intended to be encumbered by the normal use of these facilities. This sketch must be consistent with the statements made to comply with section 26-71(h)(3).
- (5) Specifically identify those areas that will be the subject of access easements to provide access (ingress/egress) to the docking facilities from each of the benefitted parcels. Depending on the facilities and parties involved, these easements may be reciprocal in nature. The easements must be specifically granted to each party named in the agreement and must run with the land (i.e. be part of the title to the primary residential parcel) in perpetuity. Grant of dock easement rights to parcels that do not abut the docking facility parcel is prohibited.
- (6) Provide, as an attachment, a sketch prepared by a registered PSM, based on the legal description and identifying the access easements granted.
- (7) Indicate who will be responsible for the cost of construction and maintaining the facilities. This can be accomplished by inclusion of cost sharing provisions.
- (8) Indicate that the parties understand and agree to abide by all applicable Federal, State and local regulations pertaining to the construction, maintenance and use of the facilities.
- (9) Be submitted as a draft to Environmental Sciences for review by staff and the County Attorney's Office prior to recording.
- (10) Be recorded in the public records at the applicant's cost. In order to satisfy the minimum recording requirements imposed by the Florida Statutes, there must be two witnesses to each party's signature and each party must acknowledge the agreement before a notary public. Additional requirements can be found in F.S. §695.26. A copy of the recorded agreement or a document identifying the recording information must be submitted to the County prior to permit issuance.

Sec. 26-73. Fishing piers, or observation decks or kayak/canoe structures.

Fishing piers, or observation decks or kayak/canoe structures may be permitted in areas where water depth is insufficient for watercraft mooring. Kayak/canoe structures are for use with non-motorized watercraft. Fishing piers, and observation decks and kayak/canoe structures must meet the following criteria:

(1) Design. The design and construction must:

- a. ~~Be designed to prohibit watercraft mooring;~~
- (2)b. ~~Be constructed to p~~ Provide access walkways and terminal platforms at five feet above mean high water; except that the terminal end of a kayak/canoe structure used for launching kayaks/canoes may be constructed lower than five feet above mean high water;
- (3)c. ~~Have~~ Provide fixed handrails, including intermediate rails, installed around the perimeter of the structure, except for the terminal end of a kayak/canoe structure; and
- (4)d. ~~Have~~ Include a "no boat mooring" sign placed facing the water on the terminal platform of the structure; and
- e. Be set back from all adjoining side lot and riparian lines no less than 25 feet on natural water bodies. In manmade waterbodies, no setback is required.

(2) Dimensions. The design and construction must:

- a. Provide access walkways that do not exceed a total of four feet in width in natural water bodies.
- b. Not extend waterward more than 200 feet from the mean high waterline.
- c. Not exceed 260 square feet for the terminal platform for fishing piers or observation decks;
- d. Not exceed 160 square feet for the terminal platform for kayak/canoe structures; and
- e. Not extend waterward more than 25 percent of the navigable channel width.

Sec. 26-74. Boathouses.

The following regulations apply to all boathouses associated with private single-family residential uses, except where specifically superseded by other provisions of this article:

(a) *No change.*

(b) *Setbacks.* The minimum setbacks for boathouses measured from side lot lines and riparian lot lines to the nearest point of the structural beam of the boathouse roof are as follows:

Natural ~~water bodies~~ waterbodies--25 feet.

Artificial ~~water bodies~~ waterbodies--10 feet.

When a boathouse is constructed on or adjacent to two or more adjoining lots under common ownership and control, the setbacks will be measured from the exterior property lines.

(c) *No change.*

Sec. 26-75. Seawalls, retaining walls and riprap revetment.

(a) *Seawalls on artificial waterbodies and retaining walls.*

(1) ~~Except where the director determines there is no reasonable alternative, seawalls and retaining walls must be placed landward of the mean high water line and all wetland vegetation, including mangrove prop roots and pneumatophores. If, as a result of the seawall or retaining wall installation, wetlands vegetation dies within one year of the seawall installation, the dead vegetation must be replaced with the same species and numbers at the property owner's expense. These requirements do not apply~~ Seawalls may be permitted in an artificial upland canal with a minimum of 50 percent of the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls. A new or replacement seawall must be installed in line with the existing seawall alignment or adjoining seawalls and placed no greater than one foot waterward of an existing seawall. Until the backfill area is stabilized, silt fence or sod must be placed immediately landward of the seawall cap to minimize erosion into the water.

(2) Riprap rock or other similar approved material must be placed waterward along 50 percent of the linear length of a new or replacement seawall. This riprap is not required where it would interfere with designated watercraft tie-up areas. The rock must be placed a minimum of three feet in height above the bottom, waterward of the seawall, or up to the mean high water line. The rock must be a minimum average size of 12 inches in diameter.

- (b) Seawalls on natural waterbodies.
 - (1) The Lee Plan through Objective 105.1 and Policy 105.1.3 regulates hardened structures along the natural shoreline.
 - (2) New or expanded seawalls are not allowed along natural waterbodies, including the Gulf of Mexico.
 - (3) Other hardened structures, including but not limited to geotextile tubes, groin, fencing and other similar structures, may be permitted along natural waterbodies, except along the Gulf of Mexico.
 - (4) Lawfully existing seawalls along natural waterbodies may be maintained or repaired and may be replaced with the same type structure, built to the same dimensions and in the same location as the previously existing structure.
- (c) Retaining walls. Retaining walls must be setback a minimum of five feet from the mean high water line or landward of any wetland vegetation.
- (bd) *Riprap revetment.*
 - (1) Riprap must be located and placed so as not to damage or interfere with the growth of wetland vegetation.
 - (2) Material used for riprap should be sized properly for intended use, be a minimum average of 12 inches in diameter, and installed on top of filter fabric or equivalent material to prevent erosion of subgrade. Riprap must be clean and free of debris deemed harmful to the environment and public safety.
 - (3) Mangroves or other approved wetland vegetation must be planted three feet on center in compliance with section 26-77(b)(32) for added shoreline stabilization and ecological benefit within the riprap. Other wetland mitigation techniques may be considered in lieu of vegetation planting. No vegetation planting is required for riprap revetments constructed in artificial upland canals with a minimum of 50 percent of the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls.

Sec. 26-76. Dredging; new and maintenance.

- (a) All dredging limits must be clearly defined.
- (b) Methods to control turbidity and dispose of dredging spoil must be indicated.
- (c) Dredging that is permitted for commercial or multi-family projects must provide a bathymetric grid/survey of post dredging depth at no less than 10'

intervals and be prepared, signed and sealed by a PSM or professional engineer prior to final inspection.

- (d) Beach renourishment projects will not require a Lee County dredging permit.

Sec. 26-77. Turbidity; protection of vegetation.

- (a) *No change.*

- (b) *Protection of vegetation.*

- (1) and (2) *No change.*

- (3) *Mangrove removal.*

- a. Mangrove removal in conjunction with construction of riprap revetments, seawalls, or retaining walls along natural ~~water bodies~~ waterbodies is prohibited.

- b. *No change.*

Sec. 26-78. Marina design and location.

Marina locations must be consistent with Lee Plan Objective 128.5 and all of its implementing policies, including the Manatee Protection Plan and Lee County Administrative Code 13-21. Marinas must be designed and constructed in a manner consistent with Lee Plan Objective 128.6 and all of its implementing policies.

Sec. 26-79. Facility siting criteria.

The general screening process in the Manatee Protection Plan will be used to identify desirable locations for new marine facilities, as well as to evaluate the redesign and expansion of existing sites. The results of the screening process will also result in a determination of the maximum number of slips that may be approved at a requested location. The screening criteria are set forth in the Manatee Protection Plan and Lee County Administrative Code Section 13-21.

Sec. 26-80. Transfer of (watercraft) slip credits (TSC).

(a) *Transfer of slips.* The Manatee Protection Plan provides for the transfer of (watercraft) slips when certain requirements are satisfied.

(b) *Director responsible.* The director of the division of natural resources, or his designee, will be responsible for approving the number of slips that may be recognized or transferred. The director, or his designee, will also be responsible for approving all

transfers.

(c) *Appeal of director's decision.* Appeals from the decision of the director may be appealed to the Lee County Hearing Examiner in accord with the procedures set forth in chapter 34 for appeals of administrative decisions. The hearing examiner may grant the appeal only upon a finding that the applicable criteria in the Manatee Protection Plan have been met.

(d) *Credits from shorelines with legally existing docks.* The Manatee Protection Plan contains provisions that may give credit for the removal of legally existing docks.

(e) *Procedural rules for creating transfer (watercraft) slip credit under the Lee County Manatee Protection Plan.* Lee County Administrative Code Section 13-21 has been adopted to supplement and implement the transfer of (watercraft) slips pursuant to the provisions of the Manatee Protection Plan.

Sec. 26-81. Beach/Dune Walkovers.

Walkovers must be constructed in a manner that minimizes disturbance to the dune and beach system and existing vegetation. Vegetation impacted during construction must be replaced with similar native vegetation suitable for beach and dune stabilization in compliance with section 14-178(b). The construction of dune walkovers may not occur during the marine turtle nesting season, May 1 through October 31.

(1) *Florida department of environmental protection.*

- a. *Prior to issuance of a county permit, the applicant must provide a copy of the FDEP permit approval for the walkover.*
- b. *The conditions and requirements set forth in this section are in addition to and supplement the FDEP permit guidelines.*

(2) *General Design.*

- a. *The walkover must be constructed and located in existing natural openings, if available. The walkover must extend to the seaward edge of the existing line of vegetation and the terminal end must be perpendicular to the shoreline to prevent possible sea turtle entrapment.*
- b. *Decks, platforms or lights are not permitted on beach/dune walkovers.*

(3) *Design criteria for single family developments*

- a. *The maximum width of the walkover structure is four feet. Railings are*

limited to a handrail with no more than two center guard rails.

- b. The posts for the walkover structure must be a maximum of four-inches in diameter and may not be encased in concrete.

(4) Design criteria for multifamily/commercial developments

- a. The maximum width of the walkover is six-feet. If more than one walkover is permitted, they must be spaced a minimum 100 feet apart.
- b. The pilings for the walkover must be a maximum of six-inches in diameter.

ARTICLE III. MARINE SANITATION

Sec. 26-112. Definitions.

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

Approved discharge device means a device ~~which~~ that is currently listed by the United States Coast Guard as an approved marine sanitation device.

Boat includes every description of vessel, watercraft or other artificial contrivance used, or ~~which is capable of being used,~~ use as a means of transportation, as a mode of habitation or as a place of business or professional or social association on waters of the county, including but not limited to:

- (1) Foreign and domestic watercraft engaged in commerce;
- (2) Passenger or other cargo-carrying watercraft;
- (3) Privately owned recreational watercraft;
- (4) Airboats and seaplanes; and
- (5) Houseboats or other floating homes.

Live-aboard means use of a boat as a living unit for temporary or permanent human habitation; or any boat or vessel represented as a place of business, a professional or other commercial enterprise, or a legal residence. To be a legal live-aboard for purposes of this article, a boat ~~shall~~ must contain sleeping facilities, kitchen facilities and an approved discharge device. A commercial fishing boat is expressly excluded from the term "live-aboard" in accordance with F.S. ch. 327, as amended or replaced.

Marina. For purposes of this article only:

- (1) Class I marina means any place ~~which allows~~ allowing for the mooring of

boats for nonlive-aboard purposes.

- (2) Class II marina means any place ~~which allows~~ allowing for the mooring of boats for ~~any~~ live-aboard purposes.

The balance of this section remains unchanged.

Sec. 26-113. Penalty for violation of article; injunctive relief.

~~Any p~~ Persons ~~who is~~ convicted of violating the provisions of this article ~~shall~~ will be subject to punishment as provided in section 1-5. Each day that ~~such a~~ violation is committed or permitted to continue ~~shall~~ constitutes a separate offense and ~~shall~~ will be punishable ~~as such~~ under this section. In addition to such penalties, the Board of County Commissioners or any affected party may bring injunctive action to enjoin ~~any~~ violations of this article.

Sec. 26-114. Applicability of article.

(a) This article ~~shall apply~~ applies to waters of the unincorporated areas of the county. ~~(b) This article shall and will be operative to the extent that it is not in conflict with F.S. ch. 327 or any other state or federal regulation.~~

Sec. 26-116. Marina sanitation facilities.

(a) ~~Any m~~ Marinas that ~~which~~ provides mooring ~~for of~~ boats for live-aboard purposes with installed onboard sewer systems ~~which are not designed and approved for overboard discharge must have:~~

- (1) Public restrooms with facilities for sewage disposal and bathing.
- (2) A county approved sewage disposal system to ~~which~~ accommodate pump out ~~by all live-aboard vessels can pump out, and such system must be approved by the county.~~
- (b) Overboard disposal of refuse is prohibited.
- (c) All garbage ~~shall~~ must be collected at least once a week and transported in covered vehicles or covered containers. Burning of refuse in the marina is prohibited.
- ~~(d) Any class II marina not in conformity with this section shall have one year from the date of passage of the ordinance from which this article is derived to conform.~~

SECTION EIGHT: AMENDMENT TO LDC CHAPTER 30

Lee County Land Development Code Chapter 30 is amended as follows with strike

through identifying deleted text and underline identifying new text.

CHAPTER 30

SIGNS

ARTICLE I. IN GENERAL

Sec. 30-2. Definitions and rules of construction.

(a) *No change.*

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

Instructional sign means a sign located entirely on the property to which it pertains and which is intended to provide direction to pedestrians or vehicular traffic or to control parking on private property. Examples include "entrance" signs, "exit" signs, "one-way" signs, "pedestrian walk" signs, "handicapped disabled parking" signs, etc.

The balance of this section remains unchanged.

Sec. 30-4. Applicability of chapter.

(a) *No change.*

(b) *Exceptions.*

(1) and (2) *No change.*

(3) This chapter does not apply to

a. ~~h~~ Holiday and community banners located on light poles; or to

b. ~~e~~ Community identifications signs located within the right-of-way when approved by the Lee County Department of Transportation;

c. Tourist Oriented Directional Signs (TODS) as regulated by AC 11-18;
or

d. Specific Services Sign Programs regulated by AC 11-16.

SECTION NINE: AMENDMENT TO LDC CHAPTER 33

Lee County Land Development Code Chapter 33 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 33

PLANNING COMMUNITY REGULATIONS

ARTICLE II. ESTERO PLANNING COMMUNITY

DIVISION 3. CORRIDOR OVERLAY DISTRICTS

Subdivision I. Corkscrew Road and Sandy Lane

Sec. 33-402. Intent.

The Corkscrew Road and Sandy Lane districts will be developed as the Estero Planning Community's Main Street, a corridor of architecturally appealing and attractively landscaped retail, office, residential and institutional developments that cater to the needs of the community. These districts are depicted in Appendix I, Map 1.

SECTION TEN: AMENDMENT TO LDC CHAPTER 34

Lee County Land Development Code Chapter 34 is amended as follows with strike through identifying deleted text and underline identifying new text.

CHAPTER 34

ZONING

ARTICLE I. IN GENERAL

Sec. 34-2. Definitions.

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

Animals, Class I means all animals described in F.S. § 372.922(2)(a) and listed in Florida Administrative Rule 68A-6.002(1)(a).

Animals, Class II means all animals described in F.S. § 372.922(2)(b) and listed in Florida Administrative Rule 68A-6.002(1)(b).

Community residential home means a dwelling unit licensed to serve clients of the state department of health and rehabilitative services which that provides a living

environment for one to six unrelated residents who operate as the functional equivalent of a family, including such supervision and care by a supportive staff as may be necessary to meet the physical, emotional and social needs of the residents. Residents include only aged persons as defined in FS § 400.618(3), as amended; physically disabled ~~or handicapped~~ disabled persons as defined in FS § 760.22(7), as amended; developmentally disabled persons as defined in FS § 393.063(11), as amended; nondangerous mentally ill persons as defined in FS § 394.455(3), as amended; or children as defined in FS § 39.01(8) and FS § 39.01(10), as amended.

Existing only. The use is permitted only if it lawfully existed on September 27, 1993 or was granted a special exception within two years prior to that date and commenced the approved construction within two years after that date. A use that qualifies as "existing only" will not be classified as a nonconforming use. It will be afforded the same privileges as a permitted use and may be expanded or reconstructed, in accordance with all applicable current regulations, but only on the specific parcel on which it is located, as that parcel was legally described on September 27, 1993. Where the use of a structure or building is discontinued or abandoned for 12 months or more, the use no longer qualifies as "existing only", see section 34-621.

Multi-slip docking facility means two or more docks which will that provide vessel mooring slips to unrelated individuals, either for rent or for sale. A multi-slip docking facility is distinguished from a marina in that it has no commercial activity associated with it, including boat rentals or those uses or activities listed under transportation services group I (see section 34-622(c)(53)). The term "multi-slip docking facility" does not include boat ramps.

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

Recreation facilities. The following definitions do not apply to the PRFPD district.

(1) and (2) *No change.*

(3) *Recreation facilities, private on-site* means recreation equipment or facilities such as residential multi-slip docking facilities; community horse stables, arenas, riding paths, paddocks or similar facilities; swimming pools, tennis, shuffleboard, handball or racquetball courts; or swings, slides, and other playground equipment ~~which are~~ that is owned, leased or operated by a homeowners', co-op, or condominium association and located in the development or neighborhood controlled by the association.

(4) *No change.*

Transient guest means any a guest registered as provided for in F.S. § 513.01(11); that registers, rents, leases, or lets a living unit or accommodations for six months or less.

ARTICLE II. ADMINISTRATION

DIVISION 2. BOARD OF COUNTY COMMISSIONERS

Sec. 34-83. Functions and authority.

- (a) *No change.*
- (b) *Zoning actions.*
- (1) through (3) *No change.*
- (4) *Decisions and authority.*
 - a. In exercising its authority, the Board of County Commissioners:
 - 1. through 3. *No change.*
 - 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.
 - 5. 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. and c. *No change.*
- (5) *No change.*
- (6) *Special ~~master~~ magistrate.* Final decisions under this section may be the subject of a request for relief under FS § 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) *No change.*

- (c) *No change.*

DIVISION 4. HEARING EXAMINER

Sec. 34-141. ~~Additional powers and authority.~~ Office established.

The Office of Hearing Examiner is hereby created and established.~~—, The hearing examiner shall have the powers and authority set forth in this division. in accord with the provisions of this Code (See editors note). The Hearing Examiner has the powers set forth in this division, as well as the powers and authority set forth in Chapter 2, Article VII.~~

Editors note: The Office of the Hearing Examiner was originally created under Lee County ordinance 88-30, which was codified as part of this Code in 1994. Once codified, ordinance 88-30 was repealed.

Sec. 34-145. Functions and authority.

- (a) *No change.*

- (b) *Variances.*

- (1) through (3) *No change.*

- (4) *Authority.*

- a. The hearing examiner has the authority to grant, deny, or modify any request for a variance from the regulations or restrictions of this Code; provided, however, that no use variance as defined in this chapter, or any variance from definitions or procedures set forth in any ordinance, may be granted. If the hearing examiner determines denial is appropriate, then the decision must include a citation to the specific legal authority for the denial in accord with section 2-4.

- b. through d. *No change.*

- (5) *No change.*

- (c) *Special exceptions.*

- (1) through (3) *No change.*

- (4) *Authority.*

- a. The hearing examiner must grant the special exception unless he finds the request is contrary to the public interest and the health, safety, comfort, convenience and welfare of the citizens of the county, or that

the request is in conflict with subsection (c)(3) of this section. If the hearing examiner determines denial is appropriate, then the decision must include a citation to the specific legal authority for the denial in accord with section 2-4.

b. through d. *No change.*

(5) *No change.*

(d) and (e) *No change.*

DIVISION 5. DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 34-172. Powers and duties.

(a) through (d) *No change.*

(e) *Authority to issue stop work orders.* The director, after consultation with the county attorney's office, has the authority to issue a stop work order on property that is the subject of a violation of the provisions of this code. The stop work order may continue until the violation is resolved to the satisfaction of the county.

DIVISION 6. APPLICATIONS AND PROCEDURES FOR CHANGES, PERMITS, INTERPRETATIONS AND APPROVALS

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) *No change.*

(2) *Boundary survey.* A boundary survey of the subject property must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with FS Ch. 177. The survey must be based upon the title certification submitted in accord with section 34-202(a)(3). The boundary survey must identify and depict all easements affecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection.

All boundary surveys must meet the minimum technical standards for land surveying in the state, as set out in chapter 61G 17-6, F.A.C. The survey must be tied to the state plane coordinate system for the Florida West Zone (North America Datum of 1983/1990 Adjustment) with two coordinates, one coordinate being the point of beginning (POB) and the other an opposing corner. The perimeter boundary must be clearly marked with a heavy line and must include the entire area to be developed.

If the subject property consists of one or more undivided lots within a subdivision, then a copy of the subdivision plat may be submitted in lieu of the boundary survey. However, if the dimensions of the subject property differ from those in the original plat, then a boundary survey, including a metes and bounds legal description, will be required.

(3) ~~Confirmation of ownership. If at any time during the review process the director concludes there is a question regarding ownership of the property, the director may require submittal of title certification. The title certification must be either an opinion of title meeting the Florida Bar Standards or certification of title prepared by a title abstractor or company. /Title certification. A document, no greater than 90 days old at the time of initial zoning application submittal, must be submitted to establish the following information concerning title to the subject property: (a) the owner or owners of the fee title; (b) all easements encumbering the property; and, (c) the legal description of the property. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company. The certification must be unequivocal. A title binder/commitment or title insurance policy is not acceptable to meet this requirement.~~

(4) through (10) *No change.*

(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) through (7) *No change.*

(8) *Potable water and sanitary sewer connection.* A letter from the appropriate utility entity indicating the utility entity's name and ability to provide service to support the proposed development. If the project does not propose to connect to the potable water and central sewer system, a written explanation as to the reasons why connection will not be made must be submitted along with an explanation as to the means proposed to meet the water and sewer needs for the project.

DIVISION 8. ENFORCEMENT

Sec. 34-265. Compliance.

Failure to comply, or remain in compliance, with the provisions of this code and conditions of approval under this chapter constitutes a violation of this code.

Sec. 34-268. Administrative variances.

(a) 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) *No change.*
- (2) Street, rear, side, or waterbody setbacks may be modified to permit construction of handicapped access appurtenant to an existing structure for disabled persons.

ARTICLE IV. PLANNED DEVELOPMENTS

DIVISION 2. APPLICATION AND PROCEDURE FOR APPROVAL

Sec. 34-373. Application.

- (a) through (c) *No change.*
- (d) *Sufficiency.*
- (1) ~~All applications for planned developments will be deemed sufficient unless a letter advising the applicant of insufficiencies has been provided reviewed within 15 working days of submittal of the application; and, a letter advising the applicant of the status of the application will be provided. If insufficient, the letter will include a brief explanation as to why the application is not complete for review and request the necessary additional information. All amended applications will be deemed sufficient unless a subsequent letter advising the applicant of any insufficiencies has been mailed within 15 working days of the resubmittal. The contents of insufficiency letters will be limited to brief explanations of the manner in which insufficient applications do not comply with the formal requirements in this section.~~

After notice of insufficiency, the applicant has 60 days to submit supplemental or corrected documents, unless a longer time is agreed to in writing by the director and the applicant prior to the expiration of the 60 days. If the supplement or corrections are not submitted within the 60 days (or other time period agreed to) the application will be deemed withdrawn. This submittal and review process will be repeated until the application is found sufficient for hearing.

Once an application has been found sufficient any new information submitted by the applicant, or any changes made to information submitted by the applicant may, at the discretion of the director, be grounds for a deferral or continuance of the public hearing, depending on the advertised status of the hearing and may result in revocation of the finding of sufficiency.

- (2) *No change.*

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 34-621. Use and development regulations for conventional districts.

- (a) *No change.*

(b) *Use regulations tables.* Divisions 2 through 9 of this article contain use regulations tables that list specific uses or use activity groups followed by a symbol indicating whether the use is permitted by right (P), special exception (SE) or by administrative approval (AA), or not permitted at all. In all instances, unless specifically noted to the contrary, the symbols used in the use regulations tables shall have the following meaning:

EO	<i>Existing only.</i> The use is permitted only if it lawfully existed on September 27, 1993, or was granted a special exception within the two years prior to that date, and commenced the approved construction within two years after that date. A use that qualifies as "existing only" will not be classified as a nonconforming use. It will be afforded the same privileges as a permitted use and may be expanded or reconstructed, in accordance with applicable current regulations, but only on the parcel on which located, as that parcel was legally described on September 27, 1993. <u>If an "existing only" use is discontinued or abandoned, whether intentionally or unintentionally, for a period of 12 months or more, the use will no longer qualify as "existing only"; and, resumption of the use, without first obtaining all required county approvals, will be deemed illegal.</u>
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The balance of this section remains unchanged.

Sec. 34-622. Use activity groups.

- (a) *No change.*
- (b) *Applicability; interpretation of schedule.*
- (1) When a particular activity group is shown as a permitted or permissible use

within the use regulations of a zoning district, it ~~shall~~ will be interpreted to mean any of the uses listed under that particular use activity group in this section, unless specifically noted to the contrary.

- (2) When an individual use ~~which~~ that is included within an activity group is listed specifically within the use regulation, it ~~shall~~ will be interpreted to mean only that use and ~~shall~~ may not be interpreted to mean other uses within the activity group in which it is located.

(3) and (4) *No change.*

- (5) Whenever a use group title includes the word "manufacturing," it ~~shall~~ will be interpreted to also include repair of the type of product contained within the listing. However, this is not to be interpreted as requiring repair establishments to be placed within one of these use groups if:

a. and b. *No change.*

- (c) *Use activity groups are as follows:*

(1) through (12) *No change.*

- (13) *Essential service facilities.* This group includes buildings or above-ground structures, exceeding 27 cubic feet in volume, required to provide essential services, including electricity, communications, telephone, cable television, gas, water, sewage, solid waste and resource recovery. This does not include wireless communication facilities which are regulated by section 34-1441 et seq.

GROUP I (section 34-1611 et seq.)

Electric substations

Natural gas or water regulation stations

Pumping stations (excluding above-ground water storage facilities)

Communications, telephone and electrical distribution facilities up to 425 square feet in area and 10 feet in height.

Transmission or metering stations

GROUP II (all new essential service facilities, group II must be approved as a planned development)

Above-ground water storage facilities

Communications, telephone and electrical distribution facilities exceeding 425 square feet in area or 10 feet in height

Electric substations

Sewage disposal or treatment facilities
Solid waste transfer station
Water treatment facilities

GROUP III

Electric power generating plants
Resource recovery facilities such as incinerators or generation of energy from waste materials
Sanitary landfills (section 34-1831 et seq.)

(14) through (32) *No change.*

(33) *Personal services.* This major group includes establishments primarily engaged in providing services generally involving the care of the person or his apparel.

GROUP I

ATM's (automatic teller machines)
Barbershops or beauty shops
Clothing alterations and repair, including dressmakers, seamstresses and tailors
Coin-operated laundries wherein coin-operated or other facilities are provided for self-service laundering or dry cleaning
Laundromats
Laundry agents wherein the establishment may do its own pressing and finish work but the laundering or dry cleaning is performed elsewhere
Massage establishments
Photo agents wherein dropoff and pickup film processing services are provided but the actual processing and developing is done elsewhere
Shoe repair services wherein shoe repair or shoeshining for individual customers is performed

GROUP II. The following uses are permitted provided that lodging facilities or resorts are not included:

Beauty spas
Health clubs or spas
~~Massage establishments~~
Massage parlors (article VII, division 3)
Reducing or slenderizing salons
Steam or Turkish baths

No change to balance of subsection

(34) through (45) *No change.*

(46) *Social services.* This major group includes establishments providing social services and rehabilitation services to those persons with social or personal problems requiring special services and to the ~~handicapped~~ disabled and the disadvantaged.

GROUP I, II and III. No change.

GROUP IV. Establishments primarily engaged in providing long-term living facilities for individuals and in which health care is incidental.

Homes for children
Homes for ~~retarded~~ intellectually challenged persons
Homes for the aged
Homes for the deaf or blind
Homes for the emotionally disturbed
Homes for the physically ~~handicapped~~ disabled
Orphanages
Rehabilitation centers
Rest homes

(47) through (56) *No change.*

ARTICLE IV. DISTRICT REGULATIONS

DIVISION 2. AGRICULTURAL DISTRICTS

Sec. 34-653. Use regulations 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
<u>Accessory apartments</u>	<u>34-1171 and 34-1180</u>	<u>P</u>	<u>P</u>	<u>P</u>
Amateur radio antennas and satellite earth stations/tower	34-1175	Refer to 34-1175 for regulations		

Caretaker's residence	Note(22) and(25)	EO/SE	EO/SEP	EO/SE
Docks, seawalls	34-1863	P	P	P
Entrance gates, gate houses	34-1741 et seq.	P	P	P
Fences, walls	34-1741 et. seq.	P	P	P
nonroofed accessory structures	34-2141 et seq.	P	P	P
signs in compliance with chapter 30		P	P	P
Essential Services facilities (34-622(c)(13)):				
Group I	34-1611 et. Seq, 34-1741 et seq., 34-2142 et seq.	P	P	P
Group II	34-1611 et. Seq, 34-1741 et seq., 34-2142 et seq.	EO/SE	EO/SE	EO/SE
<u>Feed and supply store</u>		=	<u>SE</u>	=
Healthcare facilities (34-622(c)(20)), groups I and II (less than 50 beds)	Note (8), <u>(11)</u> and (16)	EO	EO	EO
Social services (34-622(c)(46), groups III and IV	Note (8) , <u>(11)</u> & (16), 34-3021	EO	EO	EO

Notes:

(1) through (10) *No change.*

(11) ~~Reserved:~~ Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

(12) through (24) *No change.*

(25) Only in conjunction with a bona fide agricultural use.

No change to balance of section.

DIVISION 3. RESIDENTIAL DISTRICTS

Subdivision II. One and Two-family Districts

Sec. 34-694. Use regulations table.

Use regulations for one- and two-family residential districts are as follows:

TABLE 34-694. USE REGULATIONS FOR ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC-1	TFC-2	TF-1
Assisted living facility	Notes (2) & (14) & (16), 34-1411	--	--	--	--	--	--	--	--	--	--	-P
Essential Services facilities (34-622(c)(13)):												
Group I	34-1611 et. Seq, 34-1741 et seq., 34-2142 et seq.	P	P	P	P	P	P	P	P	P	P	P
Group II	34-1611 et. Seq, 34-1741 et seq., 34-2142 et seq.	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE

Notes:

(1) through (15) *No change.*

(16) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

No change to balance of section.

Subdivision III. Multiple-family Districts

Sec. 34-714. Use regulations table.

Use regulations for multiple-family districts are as follows:

TABLE 34-714. USE REGULATIONS FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

	Special Notes or Regulations	RM-2 (Note 5)	RM-3, RM-6, RM-8, RM-10 (Note 5)
Assisted living facility	Note (2) & (14) & <u>(17)</u> , 34-1493, 34-1411	P	P
Essential Services facilities (34-622(c)(13)):			
Group I	34-1611 et. Seq, 34-1741 et seq., 34-2142 et seq.	P	P
Group II	34-1611 et. Seq, 34-1741 et seq., 34-2142 et seq.	SE	SE
Health care facilities (34- 622(c)(20)), groups I and II (less than 50 beds)	Note (2) & (10) & <u>(17)</u>	P	P

Notes:

(1) through (16) *No change.*(17) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.*No change to balance of section.**Subdivision IV. Mobile Home Residential Districts***Sec. 34-735. Use regulations table.**

Use regulations for mobile home districts are as follows:

TABLE 34-735. USE REGULATIONS FOR MOBILE HOME DISTRICTS

	Special Notes or regulations	MHC-1, MHC-2	MH-1	MH-2	MH-3	MH-4
Essential Services facilities (34-622(c)(13)):						
Group I	34-1611 et. Seq, 34-1741 et seq., 34- 2142 et seq.	P	P	P	P	P
Group II	34-1611 et. Seq, 34-1741 et seq., 34- 2142 et seq.	--	SE	SE	SE	SE

No change to balance of table.

DIVISION 4. RECREATIONAL VEHICLE PARK DISTRICTS

Sec. 34-791. Use regulations table.

Use regulations for the 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
Essential Services facilities (34-622(c)(13)):					
Group I	34-1611 et. Seq, 34-1741 et seq., 34-2142 et seq.	P	P	P	P
Group II	34-1611 et. Seq, 34-1741 et seq., 34-2142 et seq.	EO/SE	EO/SE	EO/SE	EO/SE

No change to balance of table.

DIVISION 5. COMMUNITY FACILITIES DISTRICTS

Sec. 34-813. Use regulations table.

Use regulations for the community facilities districts are as follows:

TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

	Special Notes or regulations	CF-1	CF-2	CF-3	CF-4
Assisted living facility	Note (1) & (11) & (13), 34-1411	--	P	--	--
Essential Services facilities (34-622(c)(13)):					
Group I	34-1611 et. Seq, <u>34-1741 et seq., 34-2142 et seq.</u>	P	P	P	P SE

Group II	34-1611 et. Seq., 34-1741 et seq., 34-2142 et seq.	SE	SE	SE	
Health care facilities (34-622(c)(20)):					
Group I (less than 50 beds)	Note (1)& <u>(7)</u> & <u>(13)</u>	--	P	--	--
Group II (less than 50 beds)	Note (1)& <u>(7)</u> & <u>(13)</u>	--	P	--	--
Group III (less than 50 beds)	Note (1)	--	--	EO	P
Group IV	Note (1)& <u>(7)</u> & <u>(13)</u>	--	--	EO	P
Social Services (34-622(c)(46)):					
Group III	Note (1)& <u>(7)</u> & <u>(13)</u>	--	P	--	P
Group IV	Note (1)& <u>(7)</u> & <u>(13)</u>	EO	P	--	--

Notes:

(1) through (12) *No change.*

(13) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

No change to balance of section.

DIVISION 6. COMMERCIAL DISTRICTS

Sec. 34-841. Purpose and intent.

(a) through (n) *No change.*

(o) *CR rural commercial district.* The purpose and intent of the CR district is to designate and to facilitate the proper development and use of land for limited commercial purposes in the nonurban areas of the county. In addition to the neighborhood scale provision of basic goods and services, it is the intent that the rural commercial district be used to provide other goods and services, specific to rural productive activities, such as farming or ranching, and for the rural lifestyle in general. The standard of physical development ~~shall~~ must be or ~~shall~~ closely approximate that of a minor commercial place development as set forth in standard ~~13-1(2)~~ 6.1.2.1 of the Lee Plan.

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	C1-A	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
Assisted living facility	Note (9), (29), 34-1411 et seq.	--	--	--	--	--	--	P	--	--	--	--	--	P(13)	--	--	--
Auto parts store: No installation service With installation service	34-1351 34-1351, 34- 1353	P --	P P	P P	P P	-- --	P --	P --	P P	P P	-- --	-- --	-- --	-- --	-- --	-- --	-- --
Automobile repair and service (34-622(c)(2)): Group I Group II	34-1351, 34- 1353 34-1351, 34- 1353	-- --	P --	P P	P P	-- --	-- --	-- --	P --	P SE	-- --	-- --	-- --	-- --	-- --	P P	-- --
Automobile service station	Note(34), 34- 1351, 34-1353	--	P	P	P	--	P	--	P	P	--	--	P	SE	P	P	--
Car wash	34-1353	--	P	P	P	--	--	--	P	P	--	--	P	--	--	--	--
Convenience food and beverage store	34-1353	P	P	P	P	--	SE (19)	--	P	P	--	--	--	SE (19)	P	P	--
Essential service facilities (34-622(c)(13)): Group I Group II	34-1611 et seq. 34-1611 et seq.	P SE	P SE	P SE	P SE	P SE	P SE	P --	P SE	P SE	P SE	P SE	P SE	P SE	P SE	P SE	P SE
Health care facility (34- 622(c)(20)): Group I (less than 50 beds) Group II (less than 50 beds) Group III	Note (9) & (25) Note (9) & (25)	-- -- P --	-- -- P --	-- -- P --	-- -- P --	-- -- P --	-- -- P --	-- -- P --	-- -- P --	-- -- P --	P(13) P(13) P(13) P(13)	SE(13) SE(13) SE(13) SE(13)	-- -- -- --	-- -- -- --	-- -- P --	-- -- -- --	-- -- -- --

Group IV	Note (9) & (25)																
Parking lot: Accessory Commercial Garage, public parking Temporary	Note (14), 34-3049	P -- -- P	P SE SE P	P SE SE P	P -SE P P	P -- -- P	P -- -- P	P -- -- --	P SE SE P	P SE SE P	P -- -- P	P -- -- P	P -- -- P	P -- -- P	P -- -- P	P -- -- P	P -- -- P
Restaurant, fast food	34-1353	--	P	P	P	--	--	--	P	P	--	--	P	P	SE	--	--
Social services (34-622(c)(46)): Group I Group II Group III Group IV	Note (9) & (25) Note (9) & (25)	P -- -- --	P -- -- --	P -- -- --	P -- -- --	-- -- -- --	-- -- -- --	-- -- -- --	P -- -- --	-- -- -- --	P -- -- --	-- -- -- --	-- -- -- --	-- -- -- --	-- -- -- --	-- -- -- --	-- -- -- --
Storage: Indoor only Storage, open	34-3001 et seq. 34-3001 et seq. 34-1352	P --	P P	P P	P P	P --	P --	P --	P P	P P	P --	P --	P --	P --	P --	P P	-- --

Notes:

(1) through (8) *No change.*

(9) ~~Reserved.~~ Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

(10) through (35) *No change.*

No change to balance of section.

DIVISION 7. MARINE-ORIENTED DISTRICTS

Sec. 34-871. Purpose and intent.

(a) *CM marine commercial district.* The purpose and intent of the CM district is to permit the designation of suitable locations for, and to ensure the proper development and use of, land and adjacent waters for commercial marinas and other uses incidental to ~~such those~~ facilities. The principal uses of land ~~at these locations shall be~~ are limited to waterfront-dependent uses required for the support of recreational boating and fishing. The marina siting and design criteria ~~to be used are those~~ set forth under objectives 128.5 and 128.6 of the Lee Plan and in the Manatee Protection Plan.

(b) *IM marine industrial district.* The purpose and intent of the IM district is to permit the designation of suitable locations for, and to ensure the proper development and use of, land and adjacent waters for commercial and industrial waterfront-dependent land uses. ~~Such These~~ uses are more intense than those normally encountered in a recreational marina, yet fall short of the intensity of use represented by the storage and commodity handling facilities and equipment attendant to the waterborne commerce movement facilities ~~which that~~ are the principal focus of the PORT district. The marine industrial district is intended to accommodate ~~such~~ uses such as boatbuilding, major hull and engine maintenance and repair, landing, icing and shipping of fish and seafood (fish and seafood processing requires a special exception), and other uses of similar scope and scale. The marina siting and design criteria ~~to be used are those~~ set forth under objectives ~~98-5~~ 128.5 and ~~98-6~~ 128.6 of the Lee Plan and in the Manatee Protection Plan.

(c) *PORT district.* The purpose and intent of the PORT district is to designate and facilitate the proper development and use of land and adjacent waters in a suitable location and of appropriate characteristics for use in support of waterborne commerce movement, including, but not limited to. ~~Such uses include~~ wharfs and docks for sea- and river-going bulk carriers (ships and barges), bulk storage of commodities, warehousing for goods received or awaiting shipment, and other uses of similar scope and scale, including ~~such~~ accessory uses ~~as are necessary~~ for the competent administration of a port facility.

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
Essential service facilities (34-622(c)(13)): Group I Group II	34-1611 et seq. 34-1611 et seq.	P SE	P SE	P SE
Storage: Indoor only Open	34-3001 et seq. 34-3001 et seq.; <u>34-1352</u>	P P	P P	P P

No change to balance of table.

DIVISION 8. INDUSTRIAL DISTRICTS

Sec. 34-903. Use regulations table.

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

	Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Essential service facilities (34-622(c)(13)): Group I Group II Group III	34-1611 et seq. 34-1611 et seq. 34-1611 et seq., CFPD, IPD or MPD only	P SE EO	P SE --	P SE --
Storage: Indoor Open	34-3001 et seq. 34-3001 et seq.; <u>34-1352</u>	P P	P P	P (3) P (3)

No change to balance of table.

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	CFPD	CPD	IPD (note (37))	AOPD	MP D	MEPD
Assisted living facility	Note (35) & (47), 34-1491 et seq., 34-1411	P(3)	--	--	P	P	--	--	P	--
Auto parts store	<u>34-1353</u>	P(4)	P(4)	--	--	P	--	--P(46)	P	--
Automobile repair and service (34-622(c)(2)), all groups	34-1351, <u>34-1353</u> --	----	--	--	--	P	P	P-- <u>P(46)</u>	P	--
Automobile service station	Note (41), <u>34-1351, 34-1353</u>	P(4)	P(4)	--	--	P	P	P	P	--
Bait and tackle shop		P(4)	P(4)	--	--	P	P	--P(46)	P	--
Boats: Boat parts store Boat ramps and dockage (not marinas)		P(4) P	P(4) P	-- P	-- P	P P	P P	--P(46) --	P P	-- --

Boat rental	34-1352, 34-3001 et seq.	P(4)	P(4)	--	--	P	P	--	P	--
Boat repair and service		--	--	--	--	P	P	--	P	--
Boat sales	Note (5)	--	--	--	--	P	--	-P(46)	P	--
Boat storage, dry		--	--	--	--	P	--	--	P	--
Boatyard		--	--	--	--	--	P	--	P	--
Car wash	34-1353	--	--	--	--	P	--	P	P	--
Clothing stores, general (34-622(c)(8))		--	--	--	--	P	--	-P(46)	P	--
Clubs:										
Country		P	P	P	--	P	--	--	P	--
Commercial		--	--	--	--	P	--	-P(46)	P	--
Fraternal, membership organization	34-2111	--	--	--	--	P	--	-P(46)	P	--
Private	34-2111	P	P	P	--	P	--	--	P	--
Convenience food and beverage store	34-1353	P(4), (27)	P(4), (27)	--	--	P	P	P(40)	P(27)	--
Cultural facilities (34-622(c)(10))		--	--	--	P	P	--	-P(46)	P	--
Day care center, child, adult	Note(28)	P(4)	P(4)	P(8)	P	P	P	-P(46)	P	--
Department store		--	--	--	--	P	--	-P(46)	P	--
Dwelling unit:										
Single-family	Note (29)	P	P	--	--	--	--	--	P	--
Duplex, single-family	Note (29) & (43)	P	--	--	--	EO	--	--	P	--
Two-family attached	Note (28) & (43)	P	--	--	--	--	--	--	P	--
Townhouse, Multiple-family building	Note (28)	P	--	--	--	P(10)	--	--	P	--
Mobile home	Note (30)	--	P	--	--	--	--	--	P	--
Zero lot line	Note (28)	P	--	--	--	--	--	--	P	--
Essential Services facilities (34-622(c)(13)):										
Group I	Note(1), 34-1611 et. seq, 34-1741 et seq., 34-2141 et seq.	P	P	P	P	P	P	P(13)	P	--
Group II	Note (1) and (45) 34-1611 et. seq, 34-1741 et seq., 34-2142 et seq.	P	P	P	P	P	P	P(13)	P	--
Group III	Note(1), 34-1611 et. seq, 34-1741	--	--	--	P	--	P	--	P	--

	et seq., 34-2142 et seq.									
Excess spoil removal	Note (42)10-329	P	P	P	--	P	P	<u>-P</u>	P	--
Food stores (34-622(c)(16)): Group I Group II		P(4) P(4)	P(4) P(4)	P --	-- --	P P	P(9) P(9)	<u>-P(46)</u> <u>-P(46)</u>	P P	-- --
Hardware store		P(4)	P(4)	--	--	P	--	<u>-P(46)</u>	P	--
Health care facilities (34-622(c)(20)): Group I Group II Group III Group IV	Note (28) & (47) Note (28)& (47) Note (28)& (47)	P P P(4) --	-- -- P(4) --	-- -- -- --	P P P P	P P P P	-- -- P --	-- -- P --	P P P P	-- -- -- --
Household and office furnishings (34-622(c)(22)), all groups		--	--	--	--	P	--	<u>-P(46)</u>	P	--
Impound yard	34-1831 et seq., 34-2443	--	--	--	--	--	P	<u>-P</u>	--	--
Lawn and garden supply stores	34-2081	--	--	--	--	P	--	<u>-P(46)</u>	P	--
Motion picture production studio		--	--	--	--	P	P	<u>-P</u>	P	--
Package store	34-1261 et seq.	P(4)	P(4)	--	--	P	--	<u>-P(46)</u>	P	--
Paint, glass and wallpaper		--	--	--	--	P	--	<u>-P(46)</u>	P	--
Parks (34-622(c)(32)): Group I Group II		P --	P --	P --	P P	P --	P --	P <u>-P(46)</u>	P P	-- --
Parking lot: Accessory Commercial Garage, public parking Temporary	34-2022	P -- -- --	P -- -- --	P -- -- --	P -- -- P	P P P P	P -- P P	P <u>-P</u> P P	P P P P	-- -- -- --
Personal services (34-622(c)(33)): Group I Group II Group III Group IV	34-3021	P(4) -- -- P(4)	P(4) -- -- P(4)	P(8) -- -- --	-- -- -- --	P P P P	P -- P --	P(18) <u>-P(18)</u> <u>-P(46)</u> <u>-P(46)</u>	P P P P	-- -- -- --
Pet services		--	--	--	--	P	--	<u>-P(46)</u>	P	--

Pet shop		P(4)	P(4)	--	--	P	--	--P(46)	P	--
Photofinishing laboratory	Note (5)	--	--	--	--	--	P	--P(46)	P	--
Printing and publishing (34-622(c)(36))	Note (5)	--	--	--	--	P	P	--P(46)	P	--
Real estate sales office	Note(23), 34-1951 et seq., 34-3021	P	P	P	--	P	--	--P	P	--
Recreational facilities: Commercial (34-622(c)(38)) Groups I, III		--	--	--	--	P	--	P(18)	P	--
Commercial (34-622(c)(38)) Group IV		--	--	--	--	P	--	--P(46)	P	--
Group V		--	--	--	P	P	--	--	P	--
Personal	Note (1)	P	P	P	P	P	P	--	P	--
Private--on-site	Note (1)	P	P	P	P	P	P	--	P	--
Private--off-site	Note (3)	P	P	P	P	P	P	--	P	--
Rental or leasing establishment (34-622(c)(39)):										
Group I	34-1352, 34-3001 et seq.	P(4)	P(4)	P(8)	--	P	--	--P(46)	P	--
Group II	34-1201 et seq., 34-1352, 34-3001 et seq.	P(4)	P(4)	--	--	P	P	--P(46)	P	--
Group III	34-1352, 34-3001 et seq.	--	--	--	--	P	P	P	P	--
Group IV	34-1201 et seq., 34-1352, 34-3001 et seq.	--	--	--	--	P	P	P	P	--
Repair shops (34-622(c)(40)):										
Group I		P(4)	P(4)	--	--	P	P	--P(46)	P	--
Groups II, III, IV		--	--	--	--	P	P	--P(46)	P	--
Group V		--	--	--	--	P	P	--	P	--
Restaurant, fast food	<u>34-1353</u>	--	--	--	--	P	--	P(18)	P	--
Restaurants (34-622(c)(43)):										
Groups I and III		P(4)	P(4)	--	--	P	P	P	P	--
Group II		P(4)	P(4)	--	P(1)	P	P	P	P	--
Group IV		--	--	--	--	P	P	--P(46)	P	--

Social Services (34-622(c)(46)): Group I Group II Group III Group IV	Note (28)& (47) Note (28)& (47)	-- -- -- --	-- -- -- --	-- -- -- --	-- P P P	P P P --	-- P -- --	--P(46) --P(46) --P(46) --P(46)	P P P P	-- -- -- --
Specialty retail shops (34-622(c)(47)): Group I Group II Group III Group IV		P(4) P(4) -- P(4)	P(4) P(4) -- P(4)	-- -- -- --	P(1) -- -- --	P P P P	-- -- -- --	P(18) P(18) --P(46) --P(46)	P P P P	-- -- -- --
Storage: Indoor only Storage, Open Large-scale storage of noxious or hazardous materials (flammable, toxic, explosive, corrosive, etc.) including liquid petroleum, fractions and distillates thereof, and fuel gases	Note(1), 34-3001 et seq. Note(5), 34-1352, 34-3001 et seq. Note(5), 34-3001 et seq.	P(4) -- --	P(4) -- --	P P(15) --	P -- --	P P --	P P P	P P P(16)	P P --	-- -- --
Studios (34-622(c)(49))		--	--	--	--	P	--	--P(46)	P	--
Temporary uses	Note (1), 34-3041 et seq.	P	P	--	P	P	--	--P	P	--
Theater, indoor or outdoor (drive-in)	Note (32), 34-2471 et seq	--	--	--	--	P	--	--P(46)	P	--
Used merchandise stores (34-622(c)(54)): Group I Groups II, III and IV		P(4) --	P(4) --	-- --	-- --	P P	-- --	--P(46) --P(46)	P P	-- --
Variety store		P(4)	P(4)	--	--	P	--	--P(46)	P	--
Vehicle and equipment dealers (34-622(c)(55)): Groups I, II and III Group IV Group V	34-1352 34-1352 34-1352	-- -- --	-- -- --	-- P(17) --	-- -- --	P P P	P P P	--P(46) -- P(25)	P P P	-- -- --

Notes:

(1) through (17) *No change.*

(18) Permitted only when contained within in accord with AOPD approval for Southwest Florida International Airport within the airport terminal facility or in conjunction with a hotel/motel. Permitted in accord with AOPD approval for Page Field General Aviation Airport within an airport terminal facility or non-aviation development area as depicted on Lee Plan Map 3G.

(19) through (37) *No change.*

(38) Aviation related school only. A school permitted within the Southwest Florida International Airport AOPD must be aviation related. Schools permitted within the Page Field General Aviation Airport AOPD are limited to those set forth in section 34-622(c)(45) provided they are located in the non-aviation area as depicted on Map 3G.

(39) *No change.*

(40) Only one convenience food and beverage store, as identified in Lee Plan Table 5(a), is permitted at Southwest Florida International Airport. This store must be located within the Airport Lands boundary, adjacent to the airport entrance road and near or adjacent to the terminal parking and rental car facilities. Only one convenience food and beverage store use is permitted at Page Field General Aviation Airport. This store must be located within the non-aviation development area as depicted on Lee Plan Map 3G and identified in Lee Plan Table 5(b).

(41) through (44) *No change.*

(45) All new or expanded essential services group II uses must be approved as a planned development.

(46) Permitted only as part of an AOPD approval for Page Field General Aviation Airport. Use must be included in Lee Plan Table 5(b) and be located within the non-aviation development area as depicted on Lee Plan Map 3G.

(47) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.

No change to balance of table.

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) *Permitted uses.* In the EC district, no land or water use is permitted by right except for those uses and developments permitted by the Lee Plan in wetlands, including:

a. through i. *No change.*

j. Essential services and essential service facilities, group I, existing only.

k. Roadways, as approved by the Board of County Commissioners during the acquisition process.

l. Accessory building or structure provided it is incidental and subordinate to the principal use of the premises, and located on the same premises.

m. Bona fide agricultural livestock grazing use on Conservation 20/20 lands if approved by the Board of County Commissioners as a necessary part of the land amendment under a specific land stewardship plan for the property.

- (2) Conservation 20/20 property. A land stewardship plan applicable to the management of the property acquired under the 20/20 program must be approved by the Board of County Commissioners. The Land Stewardship Plan will define the uses allowed and appropriate given the environmental characteristics of each parcel. Uses identified in section 34-983(1) are potential uses of the 20/20 property, however, if a use is not specifically identified in the land stewardship plan approved by the Board, the use is not permitted on the Conservation 20/20 parcel.

- (2 3) *Special exceptions.* Upon a finding that the proposed use is consistent with the standards set forth in section 34-145(c)(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. through c. *No change.*

DIVISION 11. REDEVELOPMENT OVERLAY DISTRICTS

Sec. 34-1143. Modified land development regulations, the master plan.

The District Master Site Plan (Plan or MSP) contains graphic and textual aspects which that modify the following specified land development regulations. All other Lee County land development regulations remain in full effect. A reduced copy of the San Carlos Island MSP is adopted by reference and included in reduced form in Appendix I. In general, the SCC and SCF Sub-districts retain the uses allowed in the underlying zoning districts. The SCW and SCCE Sub-districts alter the uses from those of the underlying zoning district to allow those uses set forth in Table 1, below. In addition, the type of approval required for certain uses has been modified, as also set forth in Table 1.

(a) through (c) *No change.*

(d) *Property development regulations - all sub-districts.*

- (1) *Required off-street parking.* Off-street parking is generally required in accordance with section 34-2011 et seq. Those requirements assume that patrons of each land use will arrive in a private automobile that will be parked in a private lot on the same premises. With the existing public parking lots in the district that may be used by the local merchants for customer parking, the number of off-street parking spaces required for any given land use must conform to section 34-2020, except that marinas and other water related uses will provide at least the following minimum number of parking spaces:

Boat slips: Two spaces per five slips.

Dry storage: One on space per six slips.

Charter or party fishing boats, including passenger carrying vessels such as sunset trips, eco-trips etc., but excluding local or international cruise ships: One space per four passengers, based on the maximum capacity of the boats using the docks or loading facilities.

- (2) Alternative parking surfaces for parking lots may be permitted within the District, except for parking lots abutting San Carlos Boulevard, provided that

a. *No change.*

b. Handicapped Parking spaces for disabled persons must be paved with asphalt or concrete to provide a smooth surface without gaps or holes that would create a danger to the user.

(e) and (f) *No change.*

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 2. ACCESSORY USES, BUILDINGS AND STRUCTURES

Sec. 34-1174. Location and setbacks generally.

(a) *Permitted locations.* Except as may be provided elsewhere in this chapter, all accessory uses, buildings and structures must be located on the same premises and must have the same zoning classification as the principal use. For purposes of this section, the zoning classification must consist of the following groups of zoning districts:

(1) through (7) *No change.*

(8) Districts described in article VI, division 9, of this chapter (planned development districts).

(b) *Setback from streets.* No accessory use, building or structure may be located closer to a street right-of-way line or street easement than the principal building, except as provided for in division 30, subdivision III, of this article, or as set forth in this subsection.

(1) *No change.*

(2) Accessory uses, buildings and structures may be located on through lots as follows. For purposes of this subsection only, secondary street is defined as the street opposite the street which provides principal vehicular access as determined by the prior development pattern of that block.

a. *No change.*

b. On through lots with a dedicated buffer easement of ten feet or more (located on the property) and immediately adjacent to the secondary street, accessory uses, buildings and structures ~~shall~~ may not encroach into the easement.

c. On through lots with an abutting residential project fence or wall accessory use, buildings and structures ~~shall~~ must be set back a minimum of five feet from the property line.

(3) *No change.*

(c) *No change.*

(d) *Setbacks from side and rear property lines.* Unless the side or rear property line abuts a body of water (see section 34-2194), the following setbacks ~~shall~~ apply:

- (1) *Agricultural accessory buildings and structures.* Except for those structures specified in division 6 of this article, pertaining to animals, all accessory agricultural buildings and structures ~~shall~~ must be set back a minimum of five feet from any rear property line and ~~shall be no~~ may not be closer to a side property line than the minimum required side setback for the district in which the property is located, or ten feet, whichever is less.
- (2) *Residential accessory buildings and structures.* Except as provided in sections 34-1175 and 34-1176, all accessory residential buildings and structures ~~shall~~ must be set back a minimum of five feet from any rear property line and ~~shall be no~~ may not be closer to a side property line than the minimum required side setback for the district in which the property is located, or ten feet, whichever is less.
- (3) *Commercial and industrial accessory buildings and structures.* All accessory buildings and structures for a principal commercial or industrial use ~~shall~~ must be set back:

a. and b. *No change.*

(e) *Prohibited locations.* Nothing contained in this chapter ~~shall~~ may be construed as permitting placement of any accessory building or structure within a utility or other easement prohibiting such building or structure, or closer to adjacent property than permitted by the minimum buffer requirements set forth in chapter 10, or closer to any other building than permitted by the county building code.

(f) *No change.*

Sec. 34-1177. Accessory apartments.

(a) *Purpose.* The purpose of this section is to facilitate the provision of affordable housing, ~~or to strengthen the family unit, and or to~~ provide increased opportunities for housing the elderly and persons with special needs.

(b) *Applicability.* This section sets forth the requirements for accessory apartments, when subordinate to a single-family detached dwelling unit. The requirements of this section apply to accessory apartments whether they are listed as a permitted use or a use by special exception.

(c) *Definition.* For purposes of this section, the term "accessory apartment" means a living unit, with or without cooking facilities, constructed subordinate to a single-family residence that could be made available for rent or lease.

(d) *Off-street parking.* In addition to the requirements of section 34-2020(1)a, one

additional space ~~shall be~~ is required for the accessory apartment, and all required parking must be provided on the site.

(e) *Maximum floor area.*

- (1) *Attached apartments.* If the accessory apartment is constructed as part of the principal building, the maximum floor area of the accessory apartment ~~shall~~ may not exceed 50 percent of the floor area of the main dwelling unit.
- (2) *Detached apartments.* If the accessory apartment is not constructed as part of the main dwelling unit, the maximum floor area ~~shall be 500 square feet or is~~ 50 percent of the floor area of the main dwelling unit, ~~whichever is less.~~

In no event ~~shall~~ may the maximum lot coverage permitted for the zoning district in which the property is located be exceeded. The accessory apartment ~~shall be~~ is limited to one family, as defined in this chapter.

(f) *Minimum lot size.* An accessory apartment may be permitted on a lawfully existing lot of record ~~which that~~ conforms to the minimum lot size of the district in which it is located. However, in no case ~~shall~~ may the lot area be less than 6,000 square feet.

(g) *Garage conversions.*

- (1) *Attached garages.* An attached garage may be converted to an accessory apartment.
- (2) *Detached garages.* A detached garage may be converted to an accessory apartment provided that the garage is not closer to the street right-of-way or easement than the principal dwelling unit. In no instance ~~shall~~ may the conversion be permitted where the garage encroaches in the front setback.

The minimum number of parking spaces ~~shall~~ must be maintained after the conversion of an attached or detached garage.

(h) *Appearance.* The entrance to the accessory apartment, when constructed as part of the principal residence, ~~should~~ must be designed ~~in such a manner as~~ to retain the appearance of a single-family residence.

(i) *Density.*

- (1) An accessory apartment, for the purposes of density, is termed a dwelling unit in accordance with the Lee Plan.
- (2) For the purposes of ~~establishing eligibility for bonus densities~~ density, an

accessory apartment ~~shall be~~ is considered an affordable unit, allowing density calculations to be based on the future land use category bonus density range.

DIVISION 7. ANIMAL CLINICS AND FACILITIES

Sec. 34-1322. Enclosure of facilities.

- (1) *No change.*
- (2) *Facilities not completely enclosed.* Any animal clinic, kennel or boarding facility which contains outdoor pens, cages, runs or exercise facilities shall be required to meet the following minimum requirements in addition to the regulations in the applicable zoning district:
 - a. *Lot size.* Minimum lot size is ~~five~~ two acres.
 - b. *No change.*

DIVISION 8. AUTOMOTIVE BUSINESSES; ~~DISPLAY, RENTAL, REPAIR OR STORAGE OF VEHICLES OR EQUIPMENT;~~ CONVENIENCE FOOD AND BEVERAGE STORES; FAST FOOD RESTAURANTS

Subdivision I. Display, Rental, Repair or Storage of Vehicles or Equipment

Sec. 34-1351. Automotive repair and service.

- (a) All services performed by an automotive repair and service establishment, including repair, painting and body work activities, ~~shall~~ must be performed within a completely enclosed building.
- (b) Whenever an automotive repair and service establishment is within 75 feet of a residential use, all refuse and vehicle parts ~~shall~~ must be stored within a completely enclosed area.

Subdivision II. Convenience Food and Beverage Stores, Automotive Service Stations, Fast Food Restaurants, and Car Washes.

Sec. 34-1353. Convenience food and beverage stores, automotive service stations, fast food restaurants, and car washes.

- (a) *Purpose and intent.* The purpose and intent of this section is to ensure that establishments such as convenience food and beverage stores with or without gas pumps, automobile service stations with or without gas pumps, fast food restaurants, and car

washes, accessory or stand alone, do not adversely impact adjacent land uses. The hours of operation, high levels of traffic, noise, glare and intensity associated with these uses may be incompatible with surrounding uses, specifically residential uses. In the interest of protecting the health, safety and welfare of the public, the following regulations apply to the location, design, operation, landscaping and related activities:

(b) *Applicability.* This section applies to all stand alone or accessory convenience food and beverage stores, automobile service stations, fast food restaurants and car washes.

(c) *Minimum lot area.* All buildings and structures must comply with the following minimum lot dimensions and area:

- (1) Minimum frontage: 150 feet of frontage on a vehicular right-of-way
- (2) Minimum depth: 150 feet
- (3) Minimum lot or parcel area: 25,000 square feet

(d) *Minimum Setbacks.* All buildings and structures must comply with the following setbacks:

- (1) Street setback: 50 feet for arterials and collectors
- (2) Side yard setback: 15 feet
- (3) Rear yard setback: 20 feet

(e) *Street right-of-way buffer landscaping.* The following landscape requirements are in addition to the requirements set forth in section 10-416.

- (1) Landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer that is a minimum of 25 feet in width; or, 15 feet in width if abutting an internal accessway to a commercial development.
- (2) For projects with an open drainage system, an undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum height of two feet as measured from the grade of the parking lot.

For projects with a closed drainage system a berm is not required.

- (3) The required number of trees is five canopy trees per 100 linear feet. Three sabal palm trees may be clustered to meet one canopy tree requirement.

Palms are limited to a maximum of 50 percent of the right-of-way tree requirement. Palms must be clustered and planted in staggered heights, a minimum of three palms per cluster, spaced at a maximum of four feet on center, with a minimum of a four foot difference in height between each tree.

(4) All of the trees must be a minimum of 14 feet in height at the time of installation. Trees must have a minimum of a three and one-half inch caliper at 12 inches above the ground and a six-foot spread. At installation, shrubs must be a minimum of three gallon, 24 inches in height at time of planting and maintained at a minimum of 36 inches in height within one year of planting. The shrubs must be planted three feet on center.

(5) Landscaping adjacent to the rear and side property lines must comply with the minimum requirements established in section 10-416 dependent on adjacent land uses.

(f) Separation. Uses must be separated from adjacent residentially zoned or developed properties by:

(1) An architecturally designed eight-foot high masonry wall or fence a minimum of 25 feet from the property line and landscaped with a minimum of five trees and 18 shrubs per 100 lineal feet; or

(2) A 30-foot wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property.

The wall or fence must be constructed of materials similar in color and texture to those utilized for the principal structure. Landscaping must be planted between the wall or fence and the abutting property.

(g) Canopies.

(1) Flat-roof canopies are prohibited. Canopies must be consistent with the architectural design and features of the principal structure.

(2) Canopy lighting must comply with section 34-625(4)c.

(3) Canopies must be of one color, consistent with the predominant color of the principal structure.

(h) Accent banding. Color accent banding on all structures, including canopies, is prohibited.

(i) Primary facades. All sides of a building facing adjacent rights-of-way external to the development project must be designed with primary facade features in compliance

with section 10-600.

(j) Variances or deviations. The provisions of this section apply to all new development, including redevelopment.

- (1) A deviation or variance from the requirements stated in this section must be obtained through the public hearing process unless the project qualifies for administrative relief under section 34-1353(j)(2). The applicant must demonstrate that the granting of the deviation or variance will not have an adverse impact on adjacent land uses in addition to the requirements set forth in section 34-145.
- (2) Projects rendered nonconforming by the adoption of section 34-1353 may obtain administrative relief to facilitate development or redevelopment of the site. The purpose of this administrative relief is to allow "retrofit", development or redevelopment of these projects sites in a manner that most closely complies with section 34-1353 given the existing site constraints.

DIVISION 10. CARE FACILITIES AND CENTERS

Sec. 34-1411. Assisted living facilities.

(a) Location Generally. Assisted Living Facilities (ALFs) having 49 beds or less, may be located in zoning districts by right or by special exception, as specified in the district use regulations, but they are subject to the density ranges for the land use category applicable to the subject property. Density must be calculated in accordance with sections 34-1491 through 1495. Facilities with 50 or more beds are permissible in RPD, CFPD, CPD and MPD districts when approved as part of the master concept plan. ~~All assisted living facilities with 17 or more beds must comply with the hurricane preparedness impact mitigation provisions contained in section 2-485(b)(5)b.~~

(b) through (d) No change.

(e) Location. No ALF may be constructed within the Coastal High Hazard area of the County unless the ALF facilities are constructed to meet the hurricane preparedness impact mitigation provisions set forth in section 2-485(b)(5)a to serve as on-site shelters for its occupants.

Sec. 34-1414. Continuing care facilities.

(a) through (e) No change.

(f) Location. No CCF may be constructed within the CHH areas of the county unless those facilities are constructed to meet the hurricane preparedness impact mitigation provisions set forth in section 2-485(b)(5)a to serve as on-site shelters for its occupants. CCF to be located in category 2 or 3 land falling storm areas must provide hurricane shelter

facilities on site in accordance with section 2-485(b)(5)b.

Sec. 34-1415. Location of healthcare facilities.

No new Healthcare Facilities groups I, II, or IV may be constructed within the CCH areas of the county unless those facilities are constructed to meet hurricane preparedness impact mitigation provisions for shelter on site as set forth in section 2-485(b)(5)a.

Healthcare Facilities groups I, II or IV located in category 2 or 3 land falling storm areas must provide shelter facilities on site in accordance with section 2-485(b)(5)b.

Healthcare Facilities groups I, II or IV located in areas of special flood hazard where base flood elevation data has been provided as set forth in Chapter 6, Article IV must also comply with the standards set forth in section 6-472(7).

DIVISION 12. DENSITY

*Subdivision III. Housing Density for Provision of Very Low, Low, and
Moderate and Work Force Income Housing*

Sec. 34-1512. Definitions.

Bonus density bonus program means the program created by this subdivision to stimulate the construction of very low - low- ~~and moderate and work force~~ - income housing in the county, by permitting qualifying developers, by their participation in the program, to exceed the standard density limits otherwise imposed by law.

Eligible household means a household that is comprised of one or more natural persons determined by the county to be of very low, low, ~~or moderate~~ or work force income according to HUD's households income limits adjusted for household size. The HUD Handbook is used to determine whether an individual will qualify as a household member. Whenever the handbook indicates that an individual is a household member, the individual's full income must be included in annual income calculations.

Work Force Income means a person or household whose annual (gross) income does not exceed 140 percent of area median income as determined by HUD.

No change to balance of section.

Sec. 34-1520. Affordable Housing Trust Fund.

(a) *No change.*

(b) The fund will be used to assist the county in its efforts to provide needed

housing for eligible households. The assistance may include rental assistance for the construction, development or rehabilitation of rental or homeowner housing. Preference will be granted to qualifying affordable housing projects that are within a ten mile radius of the project generating the contribution into the fund., ~~mortgage assistance for eligible households to become potential homeowners, housing rehabilitation, demolition of dilapidated housing, and relocation of residents to safe, sanitary and decent housing, and other purposes the board of county commissioners may approve by resolution. The major purpose, however, will be to obtain home ownership for eligible households. In any given fiscal year, at least 75 percent of the fund must be used to assist eligible households.~~

DIVISION 17. FENCES, WALLS, GATES AND GATEHOUSES

Sec. 34-1748. Entrance gates and gatehouses.

The following regulations apply to entrance gates or gatehouses that control access to three or more dwelling units or recreational vehicles, or any commercial, industrial or recreational facility:

- (1) An entrance gate or gatehouse that will control access to property 24 hours a day may be permitted provided that:
 - a. It is not located on a publicly dedicated street or street right-of-way; and
 - b. ~~1.~~ Appropriate evidence of consent is submitted from all property owners who have the right to use the subject road or from a property owner's association with sufficient authority is submitted; and
 - ~~2 c.~~ If it is to be located within a planned development, it ~~must be~~ is an approved use in the schedule of uses; and
 - ~~ed.~~ The gate or gatehouse is located*:
 1. A minimum of 100 feet back from the existing or planned intersecting street right-of-way or easement; or
 2. through 4. *No change.*
 - ~~d e.~~ The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the development services director.
- (2) through (5) *No change.*

DIVISION 18. HOME OCCUPATIONS

Sec. 34-1772. Permitted uses; operation.

(a) and (b) *No change.*

(c) No employees other than members of the immediate family residing in the dwelling may be permitted to work at the residence, but may be employed to work elsewhere provided that the employees do not come to the residence for equipment, vehicles, or supplies. Under special conditions, such as a ~~handicapped~~ disabled person or retiree needing clerical assistance, the director may allow one employee who is not a resident of the home to work at the residence.

(d) There ~~l~~ may be no exterior indication that the dwelling is used for any purpose other than a residence, except that one non-illuminated nameplate, not exceeding one square foot (144 square inches) in area, may be attached to the building on or next to the entrance.

(e) No commodities, stores or display of products on the premises may be visible from the street or surrounding residential area. No outdoor display or storage of materials, goods, supplies or equipment used in the home occupation may be permitted on the premises, unless approved by Special Exception. Vehicles and trailers for use by the employees may not be parked or stored on the premises unless completely enclosed within a building.

(f) through (h) *No change.*

DIVISION 21. MARINE FACILITIES, STRUCTURES AND EQUIPMENT

Sec. 34-1861. Boats, floating structures, floating equipment and live-aboards.

(a) No boat, floating structure or other floating equipment ~~shall~~ may be moored to mangroves except for in an emergency purposes.

(b) No person ~~shall~~ may discharge or permit or control or command to discharge any raw sewage, garbage, trash or other waste materials into the waters of the county.

(c) No boats, floating structures or other floating equipment designed to accommodate one or more living units, or designed or used for retail sales, ~~shall~~ may be permitted to anchor, moor, tie up or ~~otherwise~~ be attached to any a wharf, pier or other structure emanating from real property or to real property itself within unincorporated areas of the county except in conformity with the regulations contained in this chapter and ~~all~~ other applicable county ordinances.

(d) Except as provided in this subsection, no person ~~shall~~ may live aboard ~~any~~ a vessel under his command or control, which is moored to real property or to ~~any~~ a dock, pier, seawall or other structure attached to real property in the unincorporated area of the county, except at a marina (see section 34-1862) ~~which that~~ is properly zoned for ~~such~~ marina use under the provisions of this chapter. The provisions of this subsection ~~shall~~ will not apply to:

- (1) Live-aboard vessels equipped with an approved discharge device and occupied by a licensed captain and his immediate family;
- (2) Commercial vessels, ~~such as~~ including commercial fishing boats, tugs, barges, salvage vessels, passenger vessels or cargo vessels, when used in commerce and navigation; or
- (3) The mooring of ~~any vessels necessitated by~~ responding to an emergency.

The exceptions granted by subsections (d)(1) and (2) of this section are not intended to apply to personal fishing boats used for recreation or to fishermen with marine products licenses.

Sec. 34-1862. Marinas, fish houses and docking facilities.

(a) *No change.*

(b) *Marina siting criteria.* The marina siting criteria set forth in the Manatee Protection Plan and objective 128.5 and policies 128.5.1 through 128.5.12 of the Lee Plan must be considered in evaluating new or substantially expanded marinas, other wet slip facilities and boatramps.

(c) *Marina design criteria.* The marina design criteria set forth in the Manatee Protection Plan and objective 128.6 and policies 128.6.1 through ~~128.6.15~~ 128.6.16 of the Lee Plan must be utilized in evaluating the design of new marinas, or expansion of wet slip facilities at existing marinas.

Sec. 34-1863. Construction and maintenance of docks, seawalls and other structures designed for use on or adjacent to waterways.

Construction, placement, erection and maintenance of docks, mooring piles, seawalls, watercraft landing facilities and other structures designed for use on, or adjacent to waterways, must be in compliance with the Manatee Protection Plan established building permit procedures and with chapter 26, article II. See section 34-1171, *et seq.*

DIVISION 26. PARKING

Sec. 34-2012. Definitions.

For purpose of this division only, certain words or phrases are defined as follows:

Parking space means an area of land designed or intended for parking one vehicle. Parking spaces are designated as ~~handicapped~~ disabled spaces or standard spaces, depending on the purpose of the space.

Balance of section remains unchanged.

Sec. 34-2017. Parking lot surface.

(a) *High turnover parking lots.*

(1) No change.

(2) *Parking spaces.* All parking spaces, except those seaward of the coastal construction control line, must have a paved, dustfree, all-weather surface from the aisle to the parking block or curb. All ~~handicapped~~ disabled parking spaces, including ~~handicapped~~ disabled parking spaces seaward of the coastal construction control must be paved with asphalt or concrete to provide a smooth surface without gaps or holes which ~~that~~ create a danger to the user. For all other parking spaces, the term "paved" will be interpreted to mean and include asphalt, concrete, paving block and other similar types of treatment. Parking spaces, excluding ~~handicapped~~ disabled parking spaces, located seaward of the coastal construction control line must be stabilized with treatments approved by the director of zoning and development services or his designee.

(b) *Low turnover parking lots.*

(1) No change.

(2) ~~Handicapped~~ Disabled parking spaces must be paved with asphalt or concrete to provide a smooth surface without gaps or holes which would create a danger to the user.

(c) and (d) No change.

DIVISION 30. PROPERTY DEVELOPMENT REGULATIONS

Sec. 34-2142. Exception for essential service facilities group I.

Essential service facilities group I ~~shall~~ are not be required to meet the minimum

required lot area and dimensions for the district wherein located, provided that access, buffering, drainage, retention, parking and other provisions of ~~this chapters and chapter 10~~ and 34 are satisfied.

Subdivision II. Height

Sec. 34-2175. Height limitations for special areas and Lee Plan land use categories.

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

- (a) *No change.*
- (b) *Lee Plan land use categories.*
 - (1) Intensive development and central urban land use categories. Buildings may be as tall as 135 feet above minimum flood elevation with no more than 12 habitable stories.
 - (2) Urban community land use category. Buildings may be as tall as 95 feet above minimum flood elevation with no more than eight habitable stories.
 - (3) Airport lands and tradeport land use categories. Buildings may be as tall as 45 feet above minimum flood elevation with no more than three habitable stories. With the consent of the port authority, the board of county commissioners may approve building heights up to 95 feet above minimum flood elevation with no more than eight habitable stories.
 - (4) Industrial interchange, industrial commercial interchange, general interchange and general commercial interchange land use categories. Buildings may be as tall as 75 feet above minimum flood elevation with not more than six habitable stories.
 - (5) Suburban, outlying suburban and rural land use categories. Buildings may be as tall as 45 feet above minimum flood elevation with no more than three habitable stories, except that such buildings may be as tall as 75 feet above minimum flood elevation with no more than six habitable stories when the applicant demonstrates that the additional height is required to increase common open space for the purposes of preserving environmentally sensitive land, securing areas of native vegetation and wildlife habitat, or preserving historical, archaeological or scenic resources.
 - ~~(6) Variances or deviations from this subsection are prohibited.~~

DIVISION 37. SUBORDINATE AND TEMPORARY USES

Subdivision II. Temporary Uses

Sec. 34-3048. Ancillary temporary uses in parking lots.

(a) *No change.*

(b) In approving a temporary permit, the director ~~shall~~ may require that the area of the lot to be used is clearly defined and ~~that the use will not obstruct pedestrian and vehicular movements to portions of the lot not so used.~~

SECTION ELEVEN: AMENDMENT TO APPENDIX K

Lee County Land Development Code Appendix K is hereby repealed and placed with the Impact Fee Benefit District Map and District descriptions attached as Exhibit B.

SECTION TWELVE: CONFLICTS OF LAW

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

SECTION THIRTEEN: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FOURTEEN: CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Code; and that sections of this ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

SECTION FIFTEEN: EFFECTIVE DATE

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the application for such project is complete and found sufficient before the effective date hereof.

Commissioner Hall made a motion to adopt the foregoing ordinance, seconded by Commissioner Judah. The vote was as follows:

Robert P. Janes	Absent
Brian Bigelow	Aye
Ray Judah	Aye
Tammara Hall	Aye
Frank Mann	Aye

DONE AND ADOPTED this 23rd day of June 2009.

ATTEST:
CHARLIE GREEN, CLERK

LEE COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: Marcia Wilson
Deputy Clerk

BY: Ray Judah
Ray Judah, Chairman

Approved as to form by:

Dawn E. Perry-Lehnert
Dawn E. Perry-Lehnert
County Attorney's Office



Attachments:

Exhibit A- Chapter 10 illustrations (10-288, 10-709, 10-710, and 10-711)

Exhibit B- Impact Fee District Map and Descriptions - Appendix K

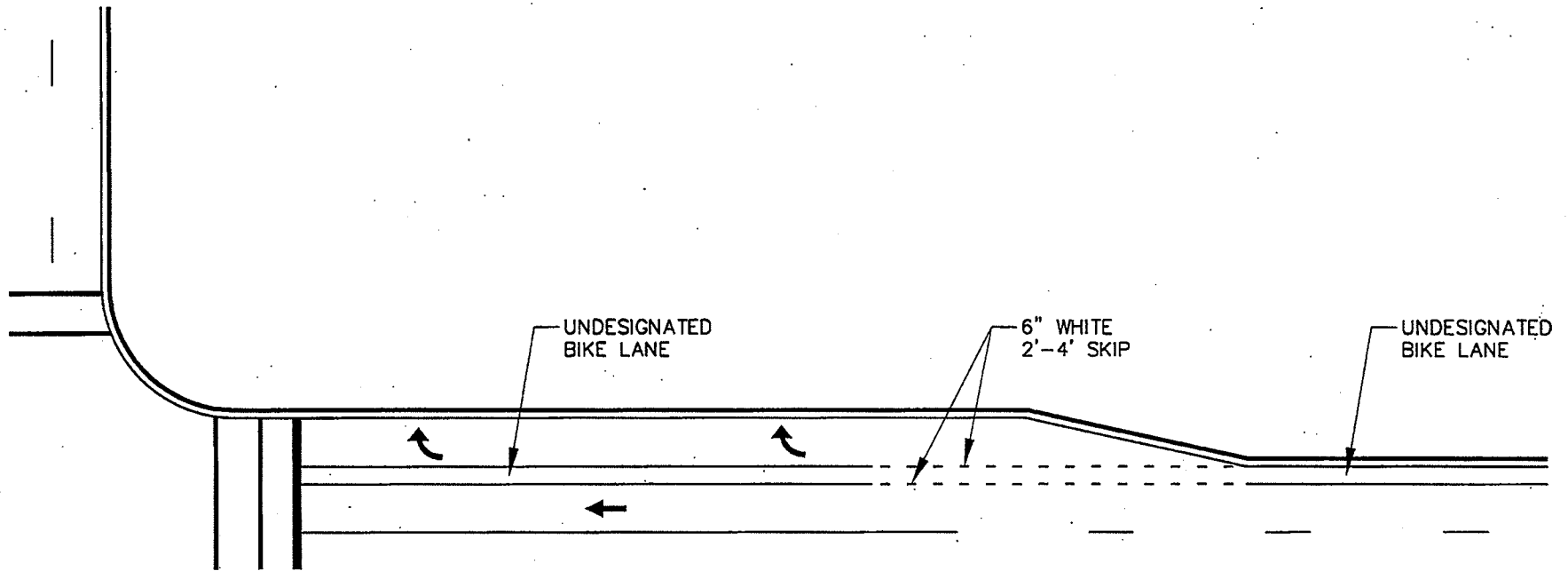


ILLUSTRATION 10-288
DRIVEWAY OR INTERSECTION
SEPARATE RIGHT TURN LANE
WITH UNDESIGNATED BIKE LANE

N.T.S.

Exhibit A

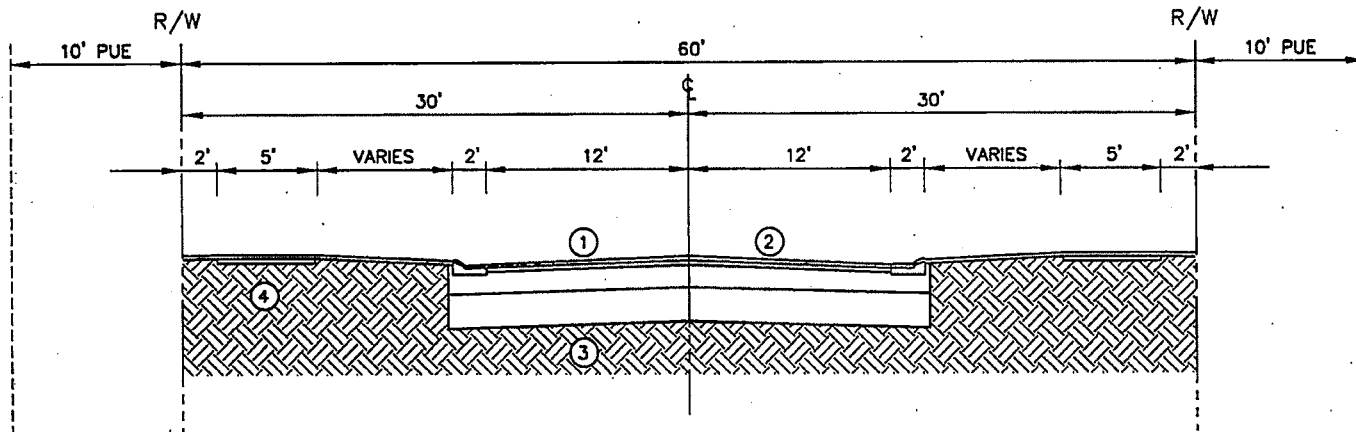


ILLUSTRATION 10-709 (a)
PUBLICLY MAINTAINED LOCAL STREET
WITH CLOSED DRAINAGE, ON-ROAD BIKEWAYS
 N.T.S.

TABLE INSET:

	CATEGORY B & C	CATEGORY A
1.	1 1/2" Type S-III or S-I asphalt concrete (2)	1 1/2" Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk — one side only	Sidewalk — one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.
- (2) Two 3/4" lifts may be installed in accord with Section 10-296 (h)(4)a if type S-III is used.

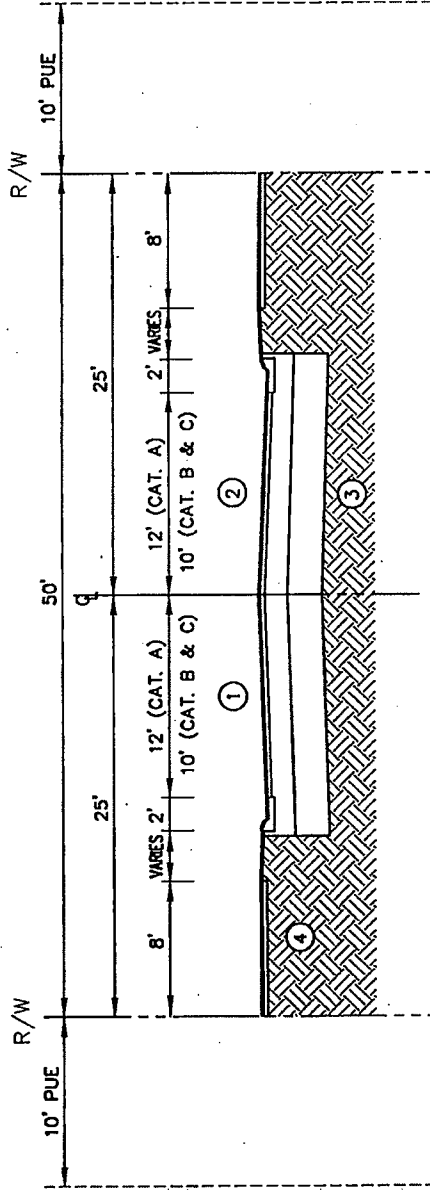


ILLUSTRATION 10-709 (c) PUBLICLY MAINTAINED LOCAL STREET WITH CLOSED DRAINAGE AND OFF-ROAD BIKEWAYS

N.T.S.

TABLE INSET:

	CATEGORY B & C	CATEGORY A
1.	1 1/2" Type S-III or S-I asphalt concrete (2)	1 1/2" Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.
- (2) Two 3/4" lifts may be installed in accord with Section 10-296 (h)(4)a if type S-III is used.

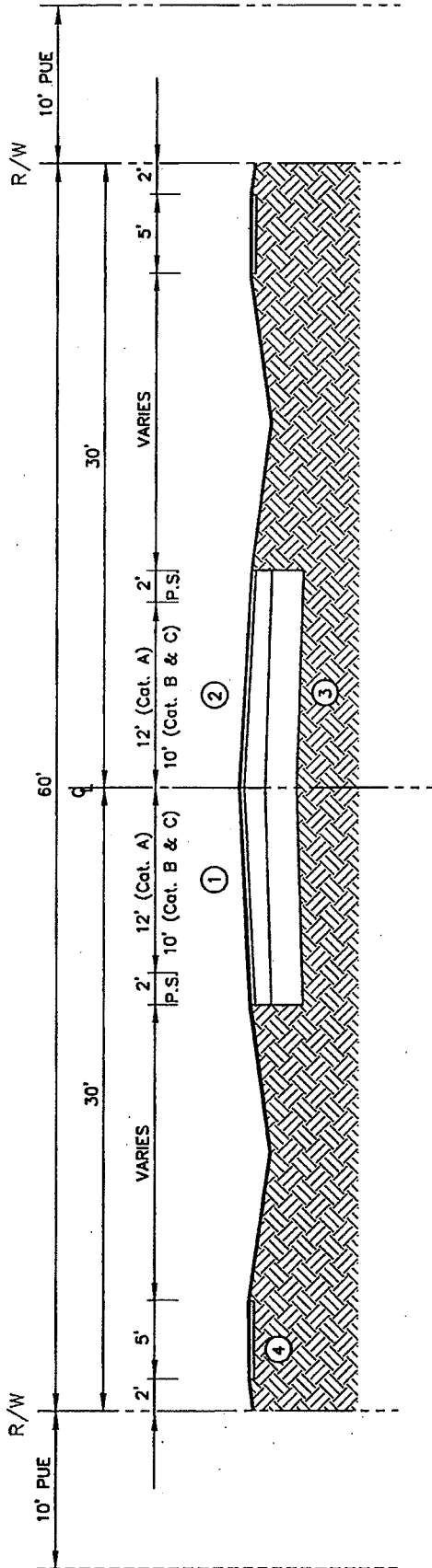


ILLUSTRATION 10-709 (d) PUBLICLY MAINTAINED LOCAL STREET WITH OPEN DRAINAGE, ON-ROAD BIKEWAYS

N.T.S.

P.S. = Paved Shoulder

TABLE INSET:

	CATEGORY B & C	CATEGORY A
1.	1 1/2" Type S-III or S-I asphalt concrete (2)	1 1/2" Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.
- (2) Two 3/4" lifts may be installed in accord with Section 10-296 (h)(4)a if type S-III is used.

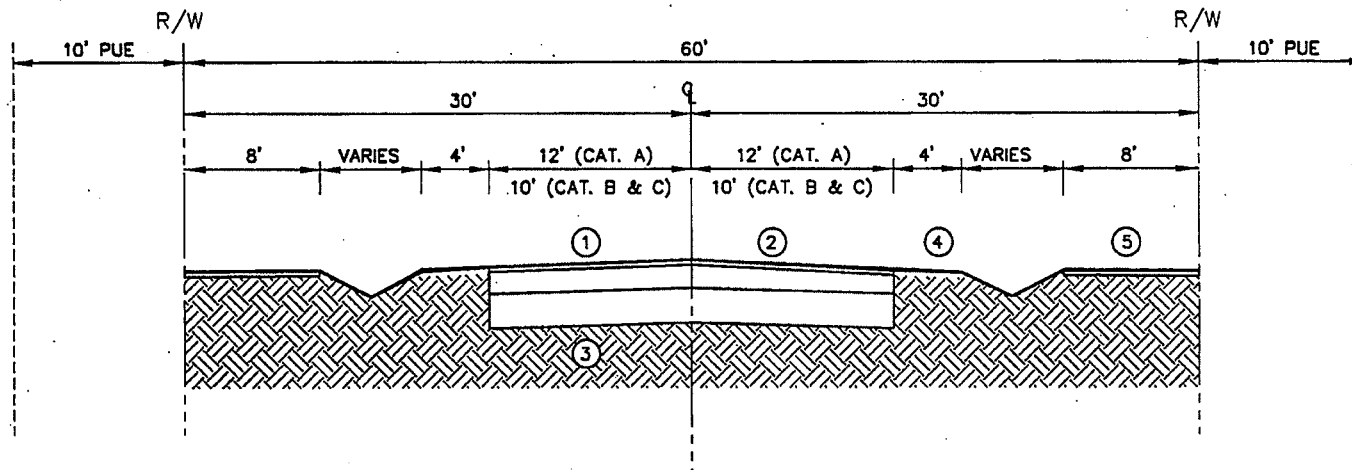


ILLUSTRATION 10-709 (f)
PUBLICLY MAINTAINED LOCAL STREET
WITH OPEN DRAINAGE AND OFF-ROAD
BIKEWAYS

N.T.S.

TABLE INSET:

	CATEGORY B & C	CATEGORY A
1.	1 1/2" Type S-III or S-I asphalt concrete (2)	1 1/2" Type S-I asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Sidewalk - one side only	Sidewalk - one side only

Notes:

- (1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.
- (2) Two 3/4" lifts may be installed in accord with Section 10-296 (h)(4)a if type S-III is used.

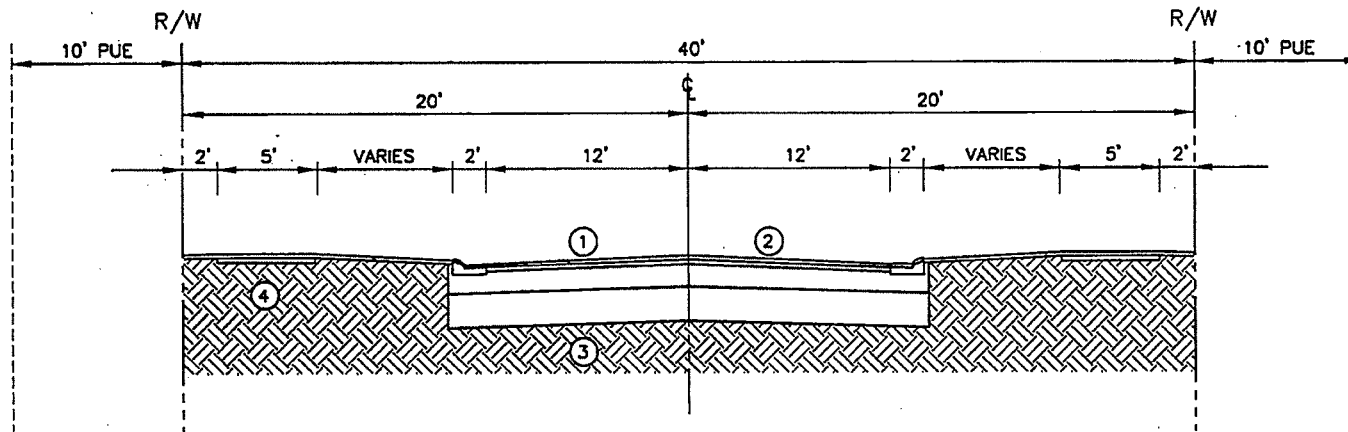


ILLUSTRATION 10-710 (a)
PRIVATE LOCAL STREET
WITH CLOSED DRAINAGE

N.T.S.

TABLE INSET:

	CATEGORY B, C & D	CATEGORY A
1.	1" Type S-III asphalt concrete*	1 1/2" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Optional Sidewalk	Optional Sidewalk

Notes:

- (1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.

*For Category D streets, an asphaltic concrete wearing course is not required.

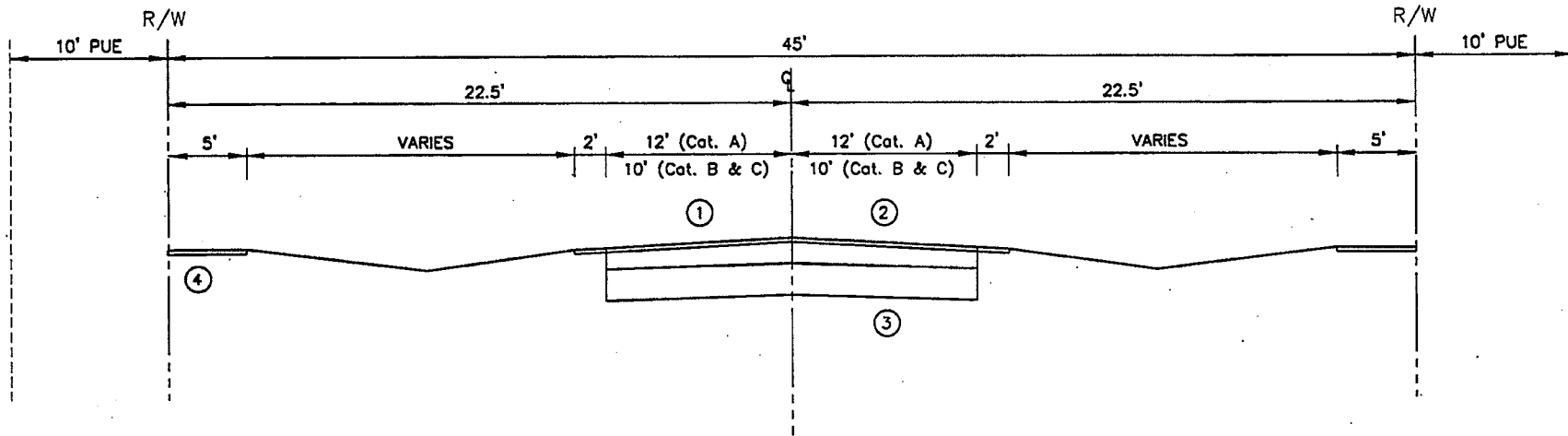


ILLUSTRATION 10-710 (b)
PRIVATE LOCAL STREET
WITH OPEN DRAINAGE

N.T.S.

TABLE INSET:

	CATEGORY B, C & D	CATEGORY A
1.	1" Type S-III asphalt concrete*	1 1/2" Type S-III asphalt concrete
2.	6" Base	8" Base
3.	6" Stabilized subgrade	12" Stabilized subgrade
4.	Optional Sidewalk	Optional Sidewalk

Notes:

- (1) A ten-foot-wide public utility easement must be provided abutting each side of the right-of-way.

*For Category D streets, an asphaltic concrete wearing course is not required.

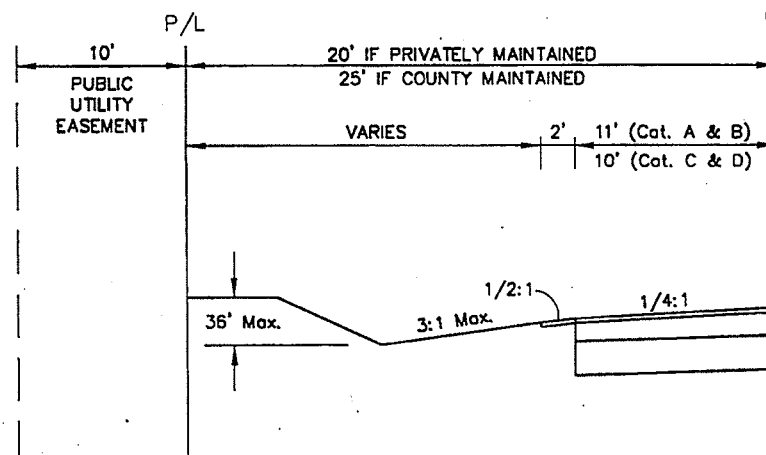


ILLUSTRATION 10-7II(a)
ACCESS STREET
WITH SWALE OR DITCH
 N.T.S.

Note:

- (1) This standard applies to frontage streets only. The local street standards apply to all other access streets including reverse frontage.

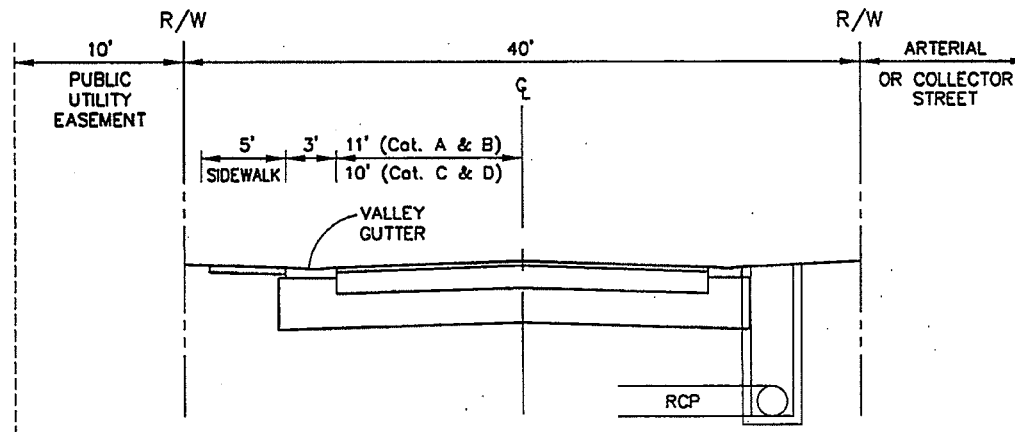


ILLUSTRATION 10-7II (b)
ACCESS STREET
WITH UNDERGROUND DRAINAGE

N.T.S.

TABLE INSET:

DEVELOPMENT CATEGORY	MINIMUM PAVEMENT WIDTH	ASPHALTIC CONC. SURFACE COURSE	BASE	STABILIZED SUBGRADE LBR 40
A	22'	1 1/2" Type S-I	8"	12"
B	22'	1" Type S-III	6"	6"
C	20'	1" Type S-III	6"	6"
D*	20'	N/A	6"	6"

Note:

* The county will not accept maintenance of these streets in this type development.

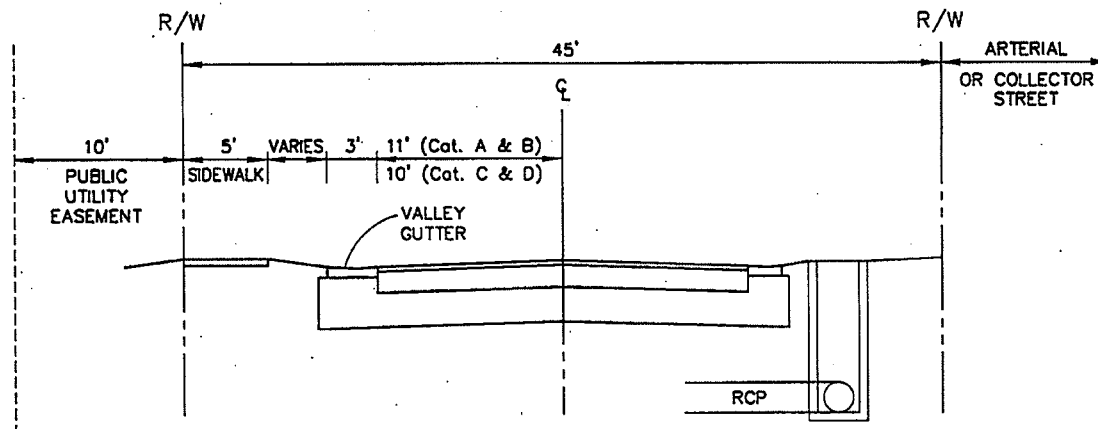


ILLUSTRATION 10-7II (c)
ACCESS STREET
WITH UNDERGROUND DRAINAGE

N.T.S.

TABLE INSET:

DEVELOPMENT CATEGORY	MINIMUM PAVEMENT WIDTH	SURFACE COURSE	BASE	STABILIZED SUBGRADE LBR 40
A	22'	1 1/2" Type S-III	8"	12"
B	22'	1 1/2" Type S-III	6"	6"
C & D	20'	1 1/2" Type S-III	6"	6"
D*	20'	N/A	6"	6"

Note:

* The county will not accept maintenance of these streets in this type development.

Appendix K
Map 1: District Descriptions

Central District. (District 53) Bounded on the north and west by the Okeechobee Waterway; on the south by Cypress Lake Drive, Daniels Parkway and SR 82; and on the east by the Hendry County line.

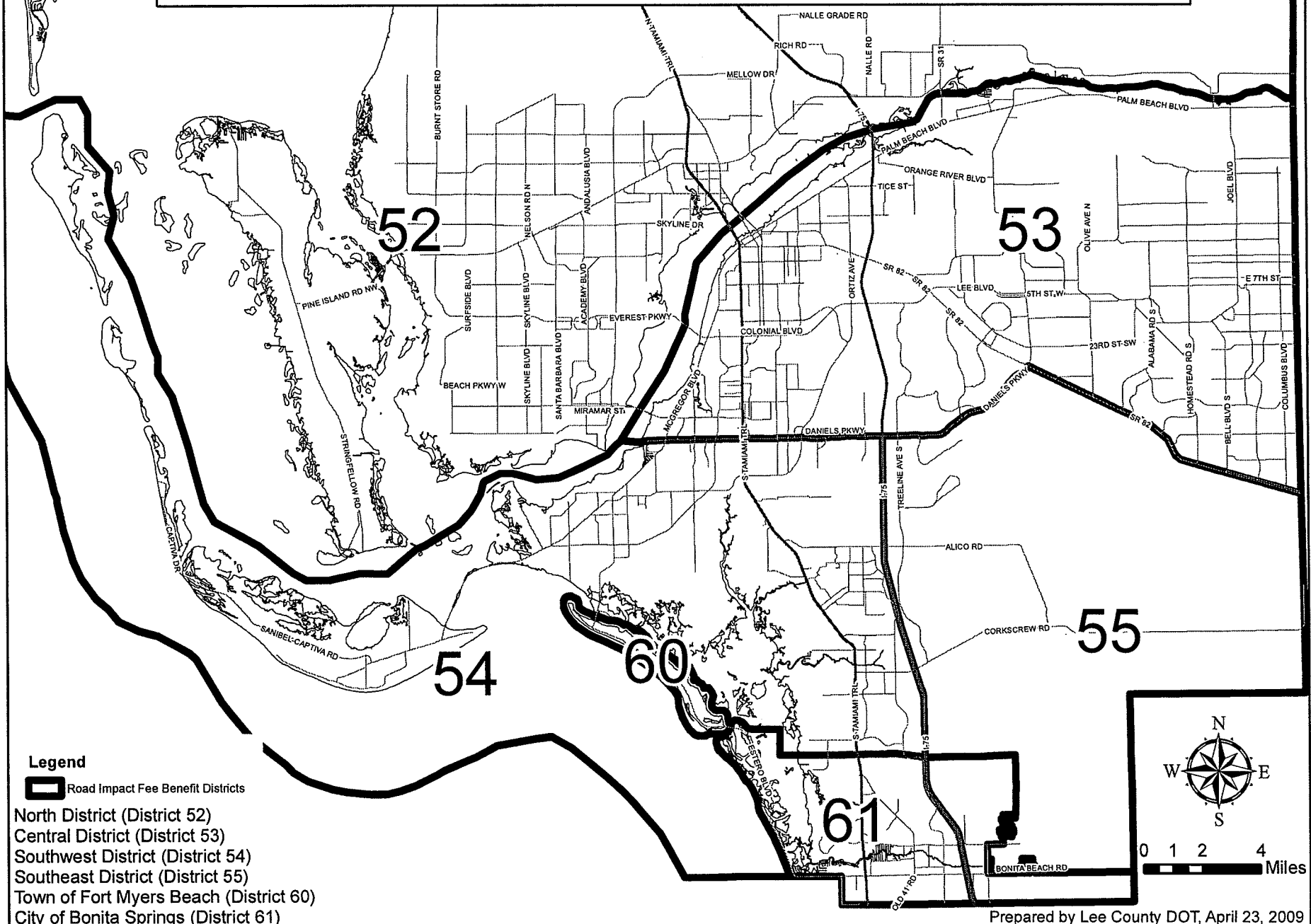
Southeast District. (District 55) Bounded on the west by Interstate 75 (I-75); on the north by the Central District; on the east by the Hendry County line and the Collier County line; and on the south by the Collier County line.

Southwest District. (District 54) Bounded on the east by I-75; on the south by Collier County line; on the west by the Gulf of Mexico; and on the north by the navigational channel into Boca Grande Pass, the Intracoastal Waterway within Pine Island Sound and San Carlos Bay, the Okeechobee Waterway, and the southern boundary of the Central District.

North District. ~~Bounded on the north by Charlotte Harbor and the Charlotte County line; on the east by the Hendry County line; on the south by the Intracoastal Waterway within San Carlos Bay and the Okeechobee Waterway; and on the west by the Intracoastal Waterway within Pine Island Sound and Charlotte Harbor.~~ Bounded on the north by the (District 52) Charlotte County line; on the east by the Hendry County line; on the south by the Intracoastal Waterway within San Carlos Bay, the Okeechobee Waterway and the main navigational channel into Boca Grande Pass; and on the west by the Gulf of Mexico from Boca Grande Pass to the Charlotte County line.

Boca District. ~~Represents Gasparilla Island bounded by the Charlotte County line on the north, on the east by the Intracoastal Waterway within Charlotte County Line to Boca Grande Pass including Cayo Pelau, on the south by the main navigational channel into Boca Grande Pass, and on the west by the Gulf of Mexico from Boca Grande Pass to the Charlotte County Line.~~

ROAD IMPACT FEE BENEFIT DISTRICTS





FLORIDA DEPARTMENT *of* STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

July 7, 2009

Honorable Charlie Green
Clerk of Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Ms. Lisa L. Pierce, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated June 29, 2009 and certified copy of Lee County Ordinance No. 09-23, which was filed in this office on July 1, 2009.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

RECEIVED
MINUTES OFFICE
2009 JUL 10 PM 2:37

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
850.245.6600 • FAX: 850.245.6735 • TDD: 850.922.4085 • <http://dlis.dos.state.fl.us>

COMMUNITY DEVELOPMENT
850.245.6600 • FAX: 850.245.6643

STATE LIBRARY OF FLORIDA
850.245.6600 • FAX: 850.245.6744

STATE ARCHIVES OF FLORIDA
850.245.6700 • FAX: 850.488.4894

LEGISLATIVE LIBRARY SERVICE
850.488.2812 • FAX: 850.488.9879

RECORDS MANAGEMENT SERVICES
850.245.6750 • FAX: 850.245.6795

ADMINISTRATIVE CODE AND WEEKLY
850.245.6270 • FAX: 850.245.6282