ORDINANCE NO. 11-08

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE, CHAPTERS 1, 2, 10, 12, 14, 22, 30, 33, AND 34.

AMENDING LDC CHAPTER 1, SPECIFICALLY: AMENDMENTS TO LAND DEVELOPMENT CODE (§1-13).


AMENDING LDC CHAPTER 12, SPECIFICALLY: APPROVAL PROCESS FOR MINE EXCAVATION PLANNED DEVELOPMENT (§12-108) AND WATER QUALITY AND QUANTITY ISSUES (§12-117).

AMENDING LDC CHAPTER 14, SPECIFICALLY: PLANNING COMMUNITY REGULATIONS (§14-1).

AMENDING LDC CHAPTER 22, SPECIFICALLY: APPEALS (§22-42).

AMENDING LDC CHAPTER 30, SPECIFICALLY: PLANNING COMMUNITY REGULATIONS (§30-56) AND PERMANENT SIGNS IN COMMERCIAL.


AMENDING LDC CHAPTER 34, SPECIFICALLY: DEFINITIONS (§34-2), COMPLIANCE WITH SPECIFIC PLANNING COMMUNITY
REQUIREMENTS (§34-6), CONDUCT OF MEETINGS; REPORTS AND RECORDS (§34-144), FUNCTIONS AND AUTHORITY (§34-145), GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING (§34-202), SUBMITTAL REQUIREMENTS FOR ADMINISTRATIVE ACTION APPLICATIONS (§34-204), PRELIMINARY REVIEW AND NOTICE CERTIFICATION (§34-233), NOTICES (§34-236), APPLICATION (§34-373), PREHEARING STIPULATION (§34-376), AMENDMENTS TO APPROVED MASTER CONCEPT PLAN (§34-380), DURATION OF RIGHTS CONFERRED BY ADOPTED MASTER CONCEPT PLAN (§34-381), USE ACTIVITY GROUPS (§34-622), REQUESTS FOR ZONING VERIFICATION (§34-625), USE REGULATION TABLE FOR AGRICULTURAL DISTRICTS (§34-653), USE REGULATIONS TABLE FOR TWO-FAMILY RESIDENTIAL DISTRICTS (§34-694), USE REGULATIONS TABLE FOR MULTIPLE-FAMILY RESIDENTIAL DISTRICTS (§34-714), USE REGULATIONS TABLE FOR MOBILE HOME DISTRICTS (§34-765), USE REGULATIONS TABLE FOR RECREATIONAL VEHICLE DISTRICTS (§34-791), USE REGULATION TABLE FOR COMMUNITY FACILITIES DISTRICTS (§34-813), USE REGULATION TABLE FOR CONVENTIONAL COMMERCIAL DISTRICTS (§34-843), USE REGULATION TABLES FOR MARINE-ORIENTED DISTRICTS (§34-873), USE REGULATION TABLE FOR INDUSTRIAL DISTRICTS (§34-903), USE REGULATION TABLES FOR PLANNED DEVELOPMENT DISTRICTS (§34-934), PRIVATE RECREATIONAL FACILITIES PLANNED DEVELOPMENTS (§34-941), USE REGULATIONS ENVIRONMENTALLY CRITICAL DISTRICT (§34-983), APPLICABILITY (§34-1001), PURPOSE, AND INTENT (§34-1002), DEFINITIONS (§34-1003), REPEALING FLIGHT OBSTRUCTION SURFACES (§34-1004), CREATING AIRPORT PROTECTION ZONES (§34-1005), AIRPORT NOISE ZONES (§34-1006), CREATING AIRPORT RUNWAY CLEAR ZONES, AIRPORT SCHOOL PROTECTION ZONES (§34-1007), AIRPORT RESIDENTIAL PROTECTION ZONES (§34-1008), AND AIRPORT OBSTRUCTION NOTIFICATION ZONE (§34-1009), LCPA TALL STRUCTURES PERMIT (§34-1010), AIRPORT COMPATABILITY DISTRICT VARIANCES (§34-1011), LAND USE RESTRICTIONS AND OBSTRUCTION IDENTIFICATION (§34-1012), AND NONCONFORMING USES (§34-1013), ACCESSORY APARTMENTS (§34-1177), ADDITIONAL DWELLING UNIT ON LOT IN AGRICULTURAL DISTRICTS (§34-1180), SALE OR SERVICE FOR ON-PREMISES CONSUMPTION (§34-1264), CONVENIENCE FOOD AND BEVERAGE STORES, AUTOMOTIVE SERVICE STATIONS, FAST FOOD RESTAURANTS, AND CAR WASHES (§34-1353), VARIANCES OR DEVIATIONS PREVIOUSLY PROVIDED UNDER §34-1353 (§34-1354), DEFINITIONS (§34-1442), APPLICABILITY AND EXEMPTIONS (§34-1443), PERMISSIBLE WIRELESS FACILITY LOCATIONS (§34-1444), DEVELOPMENT REVIEW PROCESS (§34-1445), APPLICATION SUBMITTAL REQUIREMENTS (§34-1446), DEVELOPMENT REGULATIONS (§34-1447), DISCONTINUED USE (§34-1451),
APPLICABILITY OF DIVISION (§34-1711), REPEALING DEFINITIONS (§34-1712), REPEALING ROADSIDE STANDS (§34-1714), STANDARDS FOR COMMUNITY GARDENS (§34-1716), CONSTRUCTION OF FENCES (§34-1742), LOCATION AND HEIGHT OF FENCES AND WALLS OTHER THAN RESIDENTIAL PROJECT FENCES (§34-1744), ENTRANCE GATES AND GATEHOUSES (§34-1748), SEC. 34-2013. ACCESS (§34-2013), PARKING LOT SURFACE (§34-2017), REQUIRED SPACES (§34-2020), MEASUREMENT; PERMITTED ENCROACHMENTS (§34-2191), NONCOMMERCIAL SCHOOLS (§34-2381), TEMPORARY TELEPHONE DISTRIBUTION EQUIPMENT (§34-3047), REPEALING ANCILLARY TEMPORARY USES IN PARKING LOTS (§34-3048), GENERALLY (§34-3041), REPEALING TEMPORARY PARKING LOTS (§34-3049), AND WATER ORIENTED RENTAL ESTABLISHMENTS; OUTDOORS (§34-3151), NON WATER-DEPENDENT USES (§34-3152), LOT OF RECORD DEFINED; GENERAL DEVELOPMENT STANDARDS (§34-3272).

AMENDING APPENDIX C-AIRPORT NOISE ZONES, APPENDIX J - DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE AND APPENDIX L - COMMUNITY PARK IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS.

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, the Board of County Commissioners of Lee County, Florida, has adopted a comprehensive Land Development Code (LDC); 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, pursuant to the Board of County Commissioners' direction on multiple occasions, specific amendments were directed to be brought forward before the next round of LDC Amendments; and,

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

WHEREAS, the LDCAC has reviewed the proposed amendments to the LDC on May 13, 2011, and recommended modifications as indicated; and,

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on May 11, 2011, and recommended their adoption; and,

WHEREAS, the Local Planning Agency reviewed the proposed amendments on May 23, 2011, 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-GENERAL PROVISIONS

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. 1-13. - Amendments to Land Development Code

(a) remains unchanged.

(b) Amendments to any of the provisions of this Land Development Code may be made by amending such provisions by specific reference to the section or subsection number of this Land Development Code in the following language: "That section ____________ of the Lee County Land Development Code, is hereby amended to read as follows ...." The new provisions shall then be set out in full as desired.

(c) If a new section or subsection not heretofore existing in the Land Development Code is to be added, the following language may be used: "That the Lee County Land Development Code, is hereby amended by adding a section to be numbered ____________, which section or subsection shall read as follows: ...." The new section shall then be set out in full as desired.
(d) Repeal of any of the provisions of this Land Development Code may be effected by repealing such provisions by specific reference to the section or subsection number of this Land Development Code in the following language: "That section ______ of the Lee County Land Development Code, is hereby repealed in its entirety."

(b) Every ordinance introduced which proposes to amend or repeal any portion of this Land Development Code must be enacted in accordance with § 125.66, F.S., shall show, by proper reference, the chapter, article and section proposed to be amended; or, if it proposes to add to this Land Development Code a new chapter, article or section, it shall indicate, with reference to the arrangement of this Land Development Code, the proper number of such chapter, article or section.

SECTION TWO: AMENDMENT TO LDC CHAPTER 2-ADMINISTRATION

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 II. CONCURRENCE MANAGEMENT SYSTEM
DIVISION 1. CONCURRENCE MANAGEMENT PROVISIONS

Sec. 2-46. - Concurrency certification.

(a) through (c) no change

(d) Determination of sufficient capacity. Once the director has considered the impacts of a proposed development in accordance with subsection (c) of this section, he will then determine whether there will be sufficient capacity for these facilities to serve the development at the time the impacts of the development will occur without causing these facilities and services to function at a level of service below the minimum regulatory levels established for these facilities and services in the Lee Plan. Except for traffic impacts, which will be determined in accordance with the policies under objectives 37.3 22.3 and 37.4 22.4 of the Lee Plan, the director will add the expected impacts of the development to the levels of use of the facility at the time of the determination. Anticipated additional use will be derived from other reasonably foreseeable factors. If this sum is less than the capacity of the facility in question to operate during the effective period of a certificate of concurrency compliance at the minimum regulatory levels of services prescribed in the Lee Plan and the development's projected traffic is in compliance with objectives 37.3 22.3 and 37.4 22.4 of the Lee Plan, the director will certify the conclusion by a written statement. The written statement will identify the development in question and the development permit for which the certification has been made. The director's statement will be known as a certificate of concurrency compliance and is limited to the exact development permit application for which he has issued his certificate. Applications for an amendment to a development order granting a development permit for which a certificate of concurrency
compliance has been issued will require another, separate concurrency review by the
director.

*Balance of section remains unchanged.*

**Sec. 2-191. – Unauthorized Communications.**

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

* * *

Unauthorized communication means communication in any form, whether written, verbal or graphic with the Hearing Examiner, the Hearing Examiner's staff, a County Commissioner or executive assistant to any County Commissioner, by any person outside of a public hearing required by section 34-83(b)(1) (Board consideration of rezoning, MEPD, extension and reinstatement of master concept plans, special exceptions that meet the criteria for developments of county impact, developments of regional impact, and certain appeals from Hearing Examiner decisions); section 34-83(b)(6) (Board consideration as to final decisions that are the subject of F.S. § 70.51); section 2-420 et seq. (Code enforcement proceedings); or, section 34-145 (Hearing Examiner consideration of rezoning matters, special exceptions, variances, and appeals from administrative decisions/action). Communications regarding procedural aspects of a proceeding are not deemed unauthorized.

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

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

Sec. 2-427. - Penalties and liens.

(a) through (d) remain unchanged.

(e) Release of Lien. The Hearing Examiner has the authority to issue a release of code enforcement lien imposed in accordance with section 2-427. Unless otherwise provided under the Code, a release of a special assessment lien must be issued by the Board of County Commissioners.

(f) Foreclosed Lien. If a lien imposed under applicable county code enforcement regulations is foreclosed by a senior lien holder and the new property owner, or representative, requests a release of the County's lien, the County may charge a fee for processing and recording the release, in accordance with the County fee manual.

SECTION THREE: AMENDMENT TO LDC CHAPTER 6- BUILDINGS AND BUILDING REGULATIONS

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

ARTICLE II. CODES AND STANDARDS

DIVISION 3. BUILDING CODES

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

FBC Section 105.2 pertaining to Work Exempt from Permit is amended to include the following:

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

(a) Replacement of windows, doors or garage doors, within any 12 month period, when less than 25 percent of the total glazed area.

(b) Replacement of a water heater.

(c) Replacement of plumbing or electric fixtures.

(d) Installation, replacement or repair of low voltage systems for the following:
(1) Telephones
(2) Data transmission
(3) Fire and security systems
(4) Closed circuit and cable TV paging systems and speakers
(5) Landscaping and pool lighting

(e) Roof repair, including replacement of wood, within any 12 month period, when less than 25 percent of the total roof area.

(f) One hundred square feet or less of drywall, within any 12 month period, where no fire separation is involved.

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

(1) Car cover. Must be less than 200 square feet in size and less than 10 feet in height, with a wood, metal or plastic frame and covered with canvas, plastic or vinyl covering.

(2) Garden or yard trellis. Must be less than 12 feet in height.

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

Secs. 6-417-118—6-210. - Reserved.

SECTION FOUR: AMENDMENT TO LDC CHAPTER 10-DEVELOPMENT STANDARDS

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 1-IN GENERAL

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

(a) remains unchanged.

(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:

(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:

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*Development permit* has the same meaning as given for that term in F.S. § 163.3164(7)(b).

**Decision of the Development Review Director** means any act of the Director of Zoning and Development Services in interpreting or applying this chapter to a particular request for a requirement waiver, limited review processing, or a development order, or any other request or matter relating thereto. In cases where making a decision involves the practice of engineering, as defined in F.S. § 471.005(6), where such decision must be made only by a professional engineer or someone supervised by a professional engineer pursuant to rule 21H-26.001, Florida Administrative Code, the Director of Zoning and Development Services must be a professional engineer, registered in the state. If the Director of Zoning and Development Services is not a registered professional engineer, the Zoning and Development Director must adopt the decision of the County's professional engineer, or the person who is designated to act on behalf of the County's professional engineer and who is supervised by the professional engineer, as the basis for whatever final formal decision is made by the zoning and development services Director. In those cases, the phrase "decision of the Development Review Director" means the decision made by the County's professional engineer, or a person supervised by the County's professional engineer, and adopted by the Zoning and Development Services Director. In those cases, the phrase "decision of the Development Review Director" means the decision made by the County's professional engineer, or a person supervised by the County's professional engineer, and adopted by the Zoning and Development Services Director.

*Balance of section remains unchanged.*

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

(a) through (c) remain unchanged.

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

1. Estero Planning Community.
ARTICLE 2-ADMINISTRATION

Sec. 10-104 Deviations 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) through (20) remain unchanged.
(21) Section 10-716 (piping materials in right of way).

Balance of provision remains unchanged.

Sec. 10-112. - Appeals.

(a) through (c) remains unchanged.

(d) Special Magistrate.

(1) The applicant may file a request for relief under F.S. § 70.51, within 30 days from the conclusion of an administrative appeal or four months from the initiation of an administrative appeal, even if that appeal has not concluded.

(2) The request for relief must allege that the decision of the Director 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 magistrate in accordance with the procedure set forth in the Administrative Code.

Sec. 10-115. - Duration of development order.

(a) All development orders for projects that are not large projects as defined below, will be valid for a period of six years from the date of issuance for those items specifically approved in the development order, or for the life of the surety or performance bond if the bond is for a period of less than six years. A development which is the subject of a duly executed development agreement will be authorized for the period prescribed in the development agreement.

(b) For large projects the initial development order will be valid for a period of nine years, subject to the following:

(1) Large projects, for the purpose of this provision, only includes projects that contain either 200,000 square feet of office uses, 300 residential dwelling
units, 200,000 square feet of retail uses, a total of 200,000 square feet of office or retail uses, 500,000 square feet of industrial uses, or projects with equivalent development intensities.

(2) The initial development order for a large project that does not authorize the entire proposed development and where tracts of land are designated as future development areas will be valid for a period of nine years. Prior to development in subsequent phases, the applicant must obtain a new development order for the undeveloped portion of the project, or subsequent phase, and pay all applicable fees. Each development order for subsequent phases will be valid for a period of six years.

(3) The initial development order for a large project that authorizes the entire proposed development, but which will be constructed in phases, will be valid for a period of nine years. The first subsequent phase must be constructed within six years from the expiration date of the initial development order. Construction of each subsequent phase must be completed within six years from date the previous phase was required to be completed. If construction is not completed within the time frames provided, the applicant must obtain a new development order, meeting current regulations, for the undeveloped portion of the project and pay all applicable fees.

(c)(b) The development order is valid for those items specifically approved, and the development order file will become inactive when the certificate of compliance is issued for the project or when the last certificate of compliance is issued for the last phase of a phased project. For large phased projects where tracts of land are designated as future development areas, the development order for subsequent phases must be approved within six years of the development order approval of the last phase approved. If the development order for a subsequent phase is not approved within six years of the last phase approved, the applicant must obtain a new development order for the undeveloped portion of the project and pay all applicable fees.

(d)(e) In order for a development order to remain valid and active, significant construction activity must commence within the duration of the development order and the construction of the project to build-out must be actively pursued. Active pursuit of construction of a project to build-out is defined as continuous construction of the required infrastructure improvements shown and specified in the development order or buildings comprising the project. Actions to secure a permit, land clearing activity and construction of facilities deemed ancillary to the project by the Director will not be considered sufficient to satisfy the "active pursuit" criteria set forth in this section. If a project, including a phased project, is under construction when the development order duration period has elapsed, the developer must either obtain a development order extension or continue the construction to build-out without any periods of construction inactivity which exceed 18 months. For development order projects where there has been a foreclosure action, a deed given in lieu of foreclosure, or title has been transferred pursuant to court ordered sale, and where there is a question of active pursuit of the construction under the development order, the new owner must resume construction of the project within 24 months from the date when the title to the property
changes pursuant to the foreclosure, deed in lieu of foreclosure or court sale. Once
restarted, construction must continue to build-out without any periods of construction
inactivity which exceed 18 months.

(e)(d) All documents approving the issuance of development orders must contain
language in large print stating that the development order's concurrency certificate is
only effective for three years from the approval. No vested right to a concurrency
certificate will exist solely due to the existence of an otherwise effective development
order.

Sec. 10-118. - Amendments generally.

(a) If an applicant wishes to amend any part of a development for which a development
order has been issued, he shall submit, on the forms to be prescribed by the Director
of Development Review, an application for an amendment to the development order.
The development order amendment application shall be accompanied by revised
plans, reports and other appropriate submittals to allow the Director of Development
Review to ensure that the proposed amendment complies with the requirements of
this chapter. The amendment process may not be used to substantively modify the
scheme of development as originally approved under an approved development
order.

(b) Development order amendment applications and submittals will be prepared,
reviewed and processed in accordance with the procedures specified in sections 10-
108, 10-109 and 10-110, as well as other procedural and technical sections of this
chapter.

(c) A development order amendment fee, in accordance with the adopted fee schedule,
shall be paid by the applicant prior to review of the amendment submittal.

(d) Development order amendments for planned developments must remain in
substantial compliance with the current approved master concept plan for the
project. An application for an amendment to a development order that is not in
substantial compliance with the approved master concept plan will not be approved
until the master concept plan is amended or the application is revised to comply with
this subsection.

Sec. 10-123. - Extensions.

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

1. The applicant requests the extension in writing, prior to the expiration date of
the development order; and
2. The applicant's request identifies the reasons for the extension; and
(3) All surety or performance bonds, if applicable, are extended by the developer; and
(4) The development order is in compliance with the Lee Plan and all other County Land Development Regulations at the time the development order extension is granted; and
(5) In no case may the Director approve more than two extensions be approved that would extend a development order more than ten years from the date of the original approval.

(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. 10-151. - Generally.

(a) Except as may be specifically waived by the Director of Zoning and Development services in accordance with section 10-152, the documents and graphics required to apply for a development order will be as specified in this subdivision.

(b) through (d) remain unchanged.

Sec. 10-152. - Requirement waiver.

The Director of Zoning and Development services may waive the requirement for any submittal item deemed unnecessary for an adequate review of the proposed development. Such a waiver of the required number or nature of submittals does not constitute a change in the substantive standards or requirements of this chapter.

Sec. 10-154. - Additional required submittals.

(1) and (2) remain unchanged.

(3) Boundary survey. A boundary survey of the subject property must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. The survey must be based upon the title certification submitted in accord with section 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 5J-17, Florida Administrative Code. The survey must be tied to the state plane coordinate system for the Florida West Zone (the most current Adjustment is required) (North American 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. The Federal Emergency Management Agency flood zone and required finished floor elevations must be shown. 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) through (25) remain unchanged.

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

a. **Surety or cash performance bond**. Security in the form of a surety or cash performance bond must be posted with the Board and made payable to the County in an amount equal to 110 percent of the full cost of installing the required improvements approved by the County. If the proposed improvement will not be constructed within one year of issuance of the final development order, the amount of the surety or cash performance bond must be increased by ten percent compounded for each year of the life of the surety or bond. Alternatively, the surety or cash performance bond may be renewed annually at 110 percent of the cost of completing the remaining required improvements if approved by the Director of Zoning and Development Services. Prior to acceptance, bonds must be reviewed and approved by the County Attorney's Office. Surety instruments will be reviewed and approved in accord with the provisions set forth in administrative code 13-19.

b. remains unchanged.

(27) remains unchanged.
Prior to issuance of a development order, if a project's storm water management system directly discharges into a Drainage or Water Control District (created pursuant to Chapter 298, F.S.) canal or includes work to be performed within a Drainage or Water Control District right of way, the Applicant must submit proof that the Applicant has received all Drainage or Water Control District approvals necessary for the project to discharge directly into a Drainage or Water Control District canal or to perform work within the right of way.

Sec. 10-173. - General requirements for limited review process.

Development orders being processed in accordance with the procedures in this division will be reviewed for compliance with the following general requirements:

(1) through (5) remain unchanged.

The Director of Zoning and Development Services is authorized to impose conditions consistent with the provisions of this chapter in order to mitigate adverse impacts generated by the proposed development.

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

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

(1) through (3) remain unchanged.

(4) Any subdivision of land into four or less lots for single-family detached dwelling units or two-family attached dwelling units, where zoning district regulations permit such subdivision; provided, however, that:

a. through f. remain unchanged.

  g. An application for a lot split must include all parcels under common ownership, including any abutting residual parcels, if under common ownership with the property subject to the lot split and are part of the original parent parcel. If all lots are not under common ownership, the applicant must provide proof that the applicant made a bona fide, good faith effort to request by certified mail, return receipt requested, all other property owners to join in the lot split application. Proof of the current property owner's refusal to consent to the lot split or the failure of the current property owner to respond to the applicant's request, after a reasonable time for a response, will obviate the need to include that parcel. Further development on any lots that do not join in the lot split application may not occur until the lot has been legally created in accordance with the provisions of this code.

  h. All parcels, including residual parcels, must conform to the minimum property development regulations for the zoning district in which they are located.
Any subdivision of land into four lots or less for a use other than single-family detached dwelling units, two-family attached dwelling units or agricultural; provided, however, that:

a. Each lot must meet or exceed all requirements of the zoning district in which it is located, or the subdivision is approved by the Director of Zoning and Development Services under the provisions of section 34-2221(1), and the overall development complies with all other requirements of this chapter;

j. An application for a lot split must include all parcels under common ownership, including any abutting residual parcels, if under common ownership with the property subject to the lot split and are part of the original parent parcel as the parent parcel existed on January 28, 1983. If all lots are not under common ownership, the applicant must provide proof that the applicant made a bona fide, good faith effort to request by certified mail, return receipt requested, all other property owners to join in the lot split application. Proof of the current property owner’s refusal to consent to the lot split or the failure of the current property owner to respond to the applicant’s request, after a reasonable time for a response, will obviate the need to include that parcel. Further development on any lots that do not join in the lot split application may not occur until the lot has been legally created in accordance with the provisions of this code.

k. All parcels, including residual parcels, must conform to the minimum property development regulations for the zoning district in which they are located.

(6) through (13) remain unchanged.

(14) is reserved

(15) Notice of Intent to Commence Water Retention Excavation for AG use or as an amenity to a single-family residence where blasting activities will not be conducted and where no more than 1,000 cubic yards of spoil will be removed offsite. (See Section 10-329(c)1)

DIVISION 5. PLATS

Sec. 10-211. - Plat Required

(1) All subdivisions as defined in this chapter are required to have a plat of the parcel of land containing the subdivision, showing all of the information required by F.S. ch. 177, pt. I, by this chapter, and by any adopted administrative code, approved by the County and recorded in the official records of the County, prior to the approval of any building permits.
(2) Building permits may be issued for model buildings and sales centers prior to recording of the plat, subject to evidence of unified control and provided that any certificate of occupancy issued is for model or sales use only, until the plat has been recorded.

(3) Plats are not required for an initial lot split granted under the limited review process, as provided in section 10-174. However, if, subsequent to an initial lot split, an additional lot split is requested, and that lot split results in the creation of more than four lots out of the original parent parcel as the parent parcel existed on January 28, 1983, then a Chapter 177, F.S., plat is required.

   a. The plat required as a result of the additional lot split must include all lots that were part of the parent parcel as it existed on January 28, 1983. However, if all parcels are not under common ownership with the parcel subject to the additional lot split, the applicant must provide proof that the applicant made a bona fide, good faith effort to request, by certified mail, return receipt requested, the property owners of lots not under common ownership, but part of the parent parcel as it existed on January 28, 1983, to join in the plat.

   b. Proof of the current property owner's refusal to consent to the plat or failure of the current property owner to respond to the applicant's request after a reasonable time for a response will obviate the need to include all lots that were part of the parent parcel as it existed on January 28, 1983.

   c. In the event that a property owners' association covering portions of the parent parcel has been formed to provide for the maintenance of common infrastructure, the owners of the lot to be created must provide documentation consenting to become a member of the Association as a condition of approval.

   d. All platted parcels, including residual parcels, must conform to the minimum property development regulations for the zoning district in which they are located.

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS
DIVISION I. GENERALLY

Sec. 10-256. - Bikeways and pedestrian ways.

(a) Unincorporated bikeways/walkways facilities plan. All development proposed along the arterial and collector roadways depicted on the unincorporated bikeways/walkways facilities plan (Lee Plan Maps 3D-1 and 3D-2) or the Greenways Multipurpose Recreational Trails Master Plan, (Lee Plan Map 22) (hereafter referred to as "the plan" for purposes of this section) must provide for bikeways and pedestrian ways. Construction of bicycle and pedestrian facilities shown on the plan along the frontage, or an acceptable alternate location approved by the Development Services Director, of subject property are deemed to be site-related improvements.
(b) through (c) (2)b. remain unchanged.

c. Residential subdivisions with County maintained streets must construct pedestrian ways as follows:

1. and 2. remain unchanged.

3. **Waiver of requirement to allow alternative plan.** The Development Services Director may waive compliance with the provisions of section 10-256(a)(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(a)(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:

*Balance of section remains unchanged.*

**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:

<table>
<thead>
<tr>
<th>Commercial Business Building Sq. Ft.</th>
<th>Multifamily Developments Units</th>
<th>Minimum sq. ft. for Garbage Collection</th>
<th>Minimum sq. ft for Recyclable Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-25</td>
<td>120</td>
<td>96</td>
<td></td>
</tr>
<tr>
<td>25+</td>
<td>216 sq. ft. (120 + 96) for first 25 units plus 8 square feet for each additional dwelling unit.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-5,000</td>
<td>60</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>5,001-10,000</td>
<td>80</td>
<td>48</td>
<td></td>
</tr>
<tr>
<td>10,001-25,000</td>
<td>120</td>
<td>96</td>
<td></td>
</tr>
<tr>
<td>25,000+</td>
<td>216 sq. ft. (120 + 96) for first 25,000 sq. ft. units plus 8 sq. ft. for each additional dwelling unit 1,000 sq. ft.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
DIVISION 2. - TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES

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

(a) County maintained roads will be classified by the Director of Transportation based upon the existing functions of the roads, and the guidelines provided in the Lee Plan, and in accordance with the Administrative Code 11-1 regulating County functional classification. These classifications will be used to determine compliance with all County regulations dependent on functional classification except those regulations that will rely on the future roadway classifications as noted below. For the purpose of determining compliance with the connection spacing and right-of-way width/design speed requirements of this chapter, the Lee Plan future functional classification Map 3B will be used to classify new arterial and collector streets. All development standards for new roadways will also be based on the future classifications in Map 3B. The Director of Transportation will update the existing functional classifications from time to time as needed, and will present the map and list to the Board for adoption in accordance with the related Administrative Code.

Balance of section remains unchanged.

Sec. 10-285. - Connection separation.

(a) Generally. Connections of streets, access roads or accessways must be in accordance with the minimum standards of Lee Plan Policy 40.1.2 in table 1 and criteria for exceptions in the additional provisions of this section.

<table>
<thead>
<tr>
<th>Roadway Functional Classification</th>
<th>Centerline Distance (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arterial</td>
<td>660</td>
</tr>
<tr>
<td>Collector</td>
<td>330</td>
</tr>
<tr>
<td>Local</td>
<td>125</td>
</tr>
<tr>
<td>Access roads or accessways</td>
<td>60</td>
</tr>
</tbody>
</table>

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

Balance of section remains unchanged.

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

(a) Generally. All streets must be designed, constructed and improved in accordance with the specifications set out in this section, as well as the other requirements of this division. In addition, the following standards and criteria will be applicable: American Association of State and Highway Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets, as modified by Florida Department of Transportation (FDOT) 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. Construction on State facilities must be done in accord with applicable State statutes and regulations.

(b) and (c) remain unchanged.

(d) All roads.

(1) Remains unchanged.

(2) A deviation from these standards must meet the specifications established by FDOT standards for road design must meet the standards and criteria established by FDOT in the Florida Greenbook with consideration of the Plans Preparation Manual and guidance in AASHTO publications. Deviations on county-maintained roadways are also subject to review by the Director of the Department of Transportation.

(3) through (5) remain unchanged.

(e) Arterial roads.

(1) and (2) remain unchanged.

(3) Base. Minimum of eight-inches compacted limerock or an alternative design for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with limerock.

(4) Wearing surface. Two and one-half inch asphaltic concrete of FDOT type S-1. A skid-resistant surface plus typically one inch of S-III in conformance with the provisions of section 331, FDOT specifications is required for the surface course. The wearing surface for turn lanes that are added to existing roadways.
must match the materials and surface of the existing roadway. However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to SUPERPAVE and Portland cement concrete, for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with asphaltic concrete.

(f) Major collector roads.

(1) and (2) remain unchanged.
(3) **Base.** Minimum of eight-inches compacted limerock or an alternative design for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with limerock.
(4) **Wearing surface.** One and one-half inch asphaltic concrete of FDOT type S-1 plus one inch of S-III. The wearing surface for turn lanes that are added to existing roadways must match the materials and surface of the existing roadway. However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to SUPERPAVE and Portland cement concrete, for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with asphaltic concrete.

(g) Minor collector roads.

(1) and (2) remain unchanged.
(3) **Base.** Minimum of eight-inches compacted limerock or an alternative design for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with limerock.
(4) **Wearing surface.** One and one-half inch asphaltic concrete of FDOT type S-1. The wearing surface for turn lanes that are added to existing roadways must match the materials and surface of the existing roadway. However, the applicant may submit a request for an administrative deviation in accord with section 10-104(a)(5) for an alternative design, including but not limited to Portland cement concrete, for public or private streets. The design will be reviewed by the Department of Transportation subject to structural analysis for comparison with asphaltic concrete.

(h) remains unchanged.

(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 streets . . .
a. through d. remain unchanged.

e. **Base.** Minimum of eight-inches compacted limerock or an alternative reviewed by the Department of Transportation on a county-maintained road subject to structural analysis for comparison with limerock.

f. remains unchanged.

(2) Category B streets . . .

a. through d. remain unchanged.

e. **Base.** Minimum of six-inches compacted limerock or an alternative reviewed by the Department of Transportation on a county-maintained road subject to structural analysis for comparison with limerock.

f. **Wearing surface.**

1. **For roads to be publicly maintained.** One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I. The applicant may install two three-quarter-inch-thick courses of FDOT type S-III asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. An alternative design reviewed by the Department of Transportation on a county-maintained road, including but not limited to Portland cement concrete, may be utilized subject to structural analysis comparison. This provision is subject to the approval of the director of development services in consultation with the Director of the Department of Transportation.

2. **Remains unchanged.**

(3) Category C streets . . .

a. through d. remain unchanged.

e. **Base.** Six-inches compacted limerock or an alternative reviewed by the Department of Transportation on a county-maintained road subject to structural analysis for comparison with limerock.

f. **Wearing surface.**

1. **For roads to be publicly maintained.** One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I. The applicant may install two three-quarter-inch-thick courses of FDOT type S-III asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. An alternative design reviewed by the Department of Transportation on a county-maintained road, including but not limited to Portland cement concrete, may be utilized subject to structural analysis comparison. This provision is subject to the approval of the Director of Development Services in consultation with the Director of the Department of Transportation.

2. **Remains unchanged.**

(4) Category D streets . . .

a. and b. remain unchanged.
c. **Base.** Six-inches compacted limerock, shell rock, or soil cement or an alternative subject to structural analysis for comparison.

d. **Wearing surface.**

1. *For roads to be publicly maintained.* One-and-one-half-inch asphaltic concrete of FDOT type S-III or FDOT type S-I. The applicant may install two three-quarter-inch-thick courses of FDOT Type S-III asphalt concrete with the second course to be placed after substantial buildout of the development. Assurance of completion is required for the second course of asphalt. An alternative design, including but not limited to Portland cement concrete, may be utilized subject to structural analysis comparison. This provision is subject to the approval of the Director of Development Services in consultation with the Director of the Department of Transportation.

*Balance of section remains unchanged.*

**Sec. 10-326. - Inlet spacing.**

Drainage inlets for roadways with closed drainage systems must be designed in accordance with state and Lee County Department of Transportation guidelines. Inlets must have the capacity to handle the design flow. When an existing swale is enclosed, inlets or manholes must be provided at a maximum 200-400-foot spacing for any pipes 24 inches and smaller.

**Sec. 10-328. - Drainage easements.**

(a) *Open drainage easements.* Where a proposed development is traversed by or abuts a watercourse, drainageway, canal, IDD easement, lake, pond or stream, or where such a facility is proposed as part of a plan, a drainage easement or right-of-way must be provided that conforms substantially with the limits of the watercourse, drainageway, canal, IDD easement, lake, pond or stream. Additionally, on one side of the watercourse, drainageway, canal, IDD easement, lake, pond or stream, a 20-foot wide easement for maintenance purposes must be provided, unless a lesser dimension is approved by the Development Services Director after consultation with appropriate staff. For canals, lakes or flow-ways greater than 50 feet wide, measured at the top of the bank, the developer must provide a 20-foot-wide easement or right-of-way on both sides of the canal, lakes or flow-way for maintenance purposes, unless a lesser dimension is approved by the Director of Development Services. This easement or right-of-way must be kept clear by the property owners and have satisfactory vehicle access. No portion of the required maintenance easement area may be located within the limits of a platted single family residential lot. Residential docks/facilities may be located within the maintenance easements subject to compliance with section 26-71(g).

(b) *remains unchanged.*
Sec. 10-329. - Excavations.

(a) through (c) remain unchanged.

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

(1) through (3) remain unchanged.

(4) Bank slopes. a. Excavation bank slopes for new projects. The design of shorelines for retention and detention areas must be sinuous rather than straight, as described in division 6 of this article. The banks of excavations permitted under this section must be sloped at a ratio not greater than 6 horizontal to 1 vertical from the top of bank to a water depth of two feet below the dry season water table. The slopes must be not greater than 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) and (6) remain unchanged.

(7) Test borings. Test borings must be conducted in conformity with section 12-110(18) when required by the Director of Zoning and Development Services.

(8) through (10) remain unchanged.

(e) remains unchanged.

(f) 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.
ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS
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 delineated on Map 6 in the Lee Plan, must connect to that respective water system:

*The balance of section (a) remains unchanged.*

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 delineated on Map 7 in the Lee Plan, must connect to that respective sewer system:

*The balance of section (a) remains unchanged.*

Sec. 10-355. - Easements; location of water and sewer lines.

(a) through (e) remain unchanged.

(f) **Reduction or waiver of requirements.** The width of the utility easements specified in subsections (a) through (e) of this section may be reduced, or the requirement for the utility easements may be eliminated, or the number and location of the utility easements may be reduced or modified, if all of the applicable utility companies state, in writing, that the easement may be eliminated or reduced in width. This action must reduction or waiver of the utility easement requirements may only be addressed at time of local development order review and platting, as applicable.

(g) remains unchanged.

Sec. 10-414. - Submittal requirements.

(a) and (b) remain unchanged.

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

Sec. 10-420. - Plant material standards.

(a) through (i) remain unchanged.

(i) Credits.

(1) and (2) remain unchanged.

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

(5) remains unchanged.

Sec. 10-443. - Exceptions.

(a) and (b) remain unchanged.

(c) The Director of Zoning and Development Services may waive the requirements of section 10-442 where a developer has provided bikeways or pedestrian ways and those facilities provide equivalent access to the nearest bus stop.

Sec. 10-716 Piping materials for use in right of way.

Approved utility piping materials for use in rights-of-way are as follows:

<table>
<thead>
<tr>
<th>Lines in traveled way</th>
<th>Concrete</th>
<th>Plastic Type</th>
<th>DI</th>
<th>Steel</th>
<th>Aluminum</th>
<th>HDPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>No</td>
<td>Yes (2)</td>
<td>Yes (6)</td>
<td>No</td>
<td>No</td>
<td>Yes (2)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(3)(6)(9)(10)</td>
<td>Yes (6)(2)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sewer force main</td>
<td>No</td>
<td>Yes (2)(4)(6)(9)(10)</td>
<td>Yes (6)</td>
<td>No</td>
<td>No</td>
<td>Yes (2)</td>
</tr>
<tr>
<td>Sewer gravity main</td>
<td>No</td>
<td>Yes (2)</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Reuse main</td>
<td>No</td>
<td>Yes (2)</td>
<td>Yes (2)</td>
<td>No</td>
<td>No</td>
<td>Yes (2)</td>
</tr>
<tr>
<td>Stormwater drain</td>
<td>Yes</td>
<td>No</td>
<td>Yes (3)(5)</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>------------------</td>
<td>-----</td>
<td>----</td>
<td>------------</td>
<td>----</td>
<td>----</td>
<td>-----</td>
</tr>
<tr>
<td>Sewer force main</td>
<td>No</td>
<td>Yes</td>
<td>Yes (2)(4)(9)</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Sewer gravity main</td>
<td>No</td>
<td>Yes</td>
<td>Yes (2)(3)(2)</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Reuse main</td>
<td>No</td>
<td>Yes</td>
<td>Yes (2)</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Stormwater drain</td>
<td>Yes</td>
<td>No</td>
<td>Yes (7)(3)</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Sewer gravity main</td>
<td>No</td>
<td>Yes</td>
<td>Yes (5)</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Utility conduit</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes (2)(1)</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Stormwater lines in drainage easement</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Yes (1)(8)(4)</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

(1) Asphalt-coated, or aluminum-clad, corrugated pipe with approved connections.
(2)(1) Encased in concrete, if in banks more than one layer; otherwise, SDR 26, ASTM 2241 or DR 25 AWWA C 900, DR 17 HDPE, or thicker.
(3)(2) SDR 18 Type I, AWWA C 900, or thicker only. In accordance with the LCU Design Manual requirements or all requirements, specifications, and design manual of the utility service area provider (including all casing pipe requirements), whichever is more stringent.
(4)(3) SDR 25, ASTM 2241 or AWWA C 900 or thicker. In compliance with the latest edition of the FDOT Standards for Road and Bridge Construction and related indexes, including, but not limited to, supplemental specifications, Standard Modifications and approved materials list.
(5)(4) SDR 35 or thicker only (ASTM 3034).
(6) In steel casing.
(7) ASTM D3350, AASHTO M294.
(8)(5) Not on County-maintained roads.
(9)(5) Not on County-maintained Arterial or Collector roads.
(10) High-Density Polyethylene (HDPE) DR 11.

SECTION FIVE: AMENDMENT TO LDC CHAPTER 12- RESOURCE EXTRACTION

Lee County Land Development Code Chapter 12 is amended as follows with strike through identifying deleted text and underline identifying new text.
CHAPTER 12. RESOURCE EXTRACTION
ARTICLE II. MINING AND EXCAVATION

Sec. 12-108. - Approval process for mine excavation planned development.

(a) through (g) remain unchanged.

(h) Sufficiency of applications and review. Applications submitted with respect to zoning and development approval under this article will be reviewed by County staff within 30 business days after receipt; and, a letter advising the applicant of the status of the application will be provided. If insufficient, the letter will include a brief explanation as to why the application is not complete for review and request the necessary additional information. The applicant will have 60 days to submit a written response and the requested information. If the applicant requires more than 60 days to submit a response, the County may grant an additional 60 days to respond based upon the applicant's written request to the Director substantiating diligent pursuit of the response or resubmittal. If the applicant fails to submit a response or request additional time within the 60-day period, the County may deem the application withdrawn. This submittal and review process will be repeated until the application is found sufficient for hearing, if a rezoning request, or approval if of a MDO/MOP request.

Balance of section remains unchanged.

Sec. 12-117. - Water quality and quantity issues.

(a) through (b) (1) b. remains unchanged.

c. Water collected from monitoring wells must be analyzed by an environmental laboratory certified by the State of Florida. Sample collection and analytical protocols must meet be in accord with FAC ch 62-160. Reporting format of the water quality sample monitoring results must be in accordance with the standards established by the Lee County Environmental Laboratory. Surface and groundwater samples must be collected at the same time in order to provide a contemporaneous reading of the water quality.

Balance of section remains unchanged.

SECTION SIX: AMENDMENT TO LDC CHAPTER 14-ADMINISTRATION

Lee County Land Development Code Chapter 14 is amended as follows with strike through identifying deleted text and underline identifying new text.
Chapter 14 ENVIRONMENT AND NATURAL RESOURCES
ARTICLE I. IN GENERAL

Sec. 14-1. - Planning community regulations.

Activities in the following communities must also comply with the regulations set forth in chapter 33 pertaining to the specific community.

(a) Estero Planning Community.

(b) Greater Pine Island.

(c) Page Park.

SECTION SEVEN: AMENDMENT TO LDC CHAPTER 22-HISTORIC PRESERVATION

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 II. ADMINISTRATION AND ENFORCEMENT
DIVISION 1. GENERALLY

Sec. 22-42. - Appeals

(a) Any owner of a building, structure or site affected by the operation of this chapter may appeal a decision of the historic preservation board by filing a written notice of appeal within 15 days of the date the written decision of the historic preservation board was rendered. The notice of appeal must be filed with the hearing examiner Department of Community Development and a copy provided to the historic preservation board staff, which shall state the decision being appealed, the grounds for the appeal and a summary of the relief sought.

(b) Appeals shall otherwise be pursued using the procedure set forth in section 34-145(a), pertaining to appeals from administrative matters, and in accordance with the county Administrative Code § 2-6 adopted to implement the provisions of chapter 34.

(c) remains unchanged.

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 II. ADMINISTRATION AND ENFORCEMENT

Sec. 30-56. - Planning community regulations.

Applications and permit approvals for signs and sign structures associated with projects located in the following planning communities must also comply with the regulations set forth in Chapter 33 pertaining to the specific planning community.

(a) Estero Planning Community.
(b) Greater Pine Island.
(c) Page Park.

SECTION NINE: AMENDMENT TO LDC CHAPTER 33 PLANNING COMMUNITY REGULATIONS
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 III. GREATER PINE ISLAND
DIVISION 1. IN GENERAL

Sec. 33-1004. - Community review.

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

(1) Planned development zoning actions.
(2) Special exception and variance requests. This includes all requests that will be decided by the hearing examiner; and
(3) Conventional rezoning actions.
(4) Development orders and Type 1, 2, 10 and 12 limited review development orders.

(b) Meeting requirements. The applicant for projects that require review under this section must conduct one informational session within the boundaries of the Pine Island Community where the agent will provide a general overview of the project for any interested citizens. The applicant is fully responsible for providing: advertising, providing the meeting space, and security. Subsequent to this meeting, the applicant must provide staff with a summary that contains the following information: the date, time, and location of the meeting; a list of attendees; a summary of the concerns or issues that
were raised at the meeting; and a proposal for how the applicant will respond to any
issues.

DIVISION 4. SIGNS

Sec. 33-1042. - Wall-mounted identification signs.

A wall-mounted identification sign may be placed on the front wall of a building that is
closer than 15 feet to the front property line provided the building was lawfully
constructed and the sign otherwise meets the requirements of section 30-153. Wall-
mounted signs must be architecturally compatible with the design theme, material and
color palette of the principal building.

Sec. 33-1043. - Ground-mounted identification signs.

Commercial and industrial establishments wishing to place a ground-mounted
identification sign pursuant to section 30-153(3)a.2, 3 and 4 are limited to a maximum
sign area of 48 square feet and a maximum height and width of 12 feet (as measured in
accordance with sections 30-91 and 30-92). Ground-mounted signs must be
architecturally compatible with the design theme, material and color palette of the
principal building.

Sec. 33-1084. - Maximum height of wireless communication facilities.

The overall height of wireless communications facilities must not exceed the height
limitations set forth in section 33-1088. For stealth wireless communication facilities
only, these height limitations may be increased by one foot for each one-half foot that
every required street, side, and rear setback is increased.

ARTICLE IV. PAGE PARK PLANNING COMMUNITY
DIVISION 3. SPECIFIC USE STANDARDS
SUBDIVISION 1. MIXED-USE STANDARDS

Sec 33-1360. - Business license required.

At least one resident in each live-work unit must maintain a valid County Local
Business Tax receipt (formerly occupational license) for the business on the premises.
Proof of payment of the annual Local Business Tax will be required to be submitted to
the Department of Community Development County annually, as part of the approval
process for any local development order or amendment request.

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.
Sec. 34-2. - Definitions.

Piped Music means recorded background music transmitted by radio, telephone, or satellite to built-in sets in offices, restaurants, waiting rooms, etc.

Produce stand means any structure, vehicle, trailer or other contrivance which is erected, emplaced or parked and which is used or intended to be used for the display or sale of agricultural products grown or produced on the same premises, or agricultural products grown or produced on other farms if the farms are located within the County and are under the control of the operator of the produce stand. Nonagricultural products shall not be displayed or sold from produce stands. See section 34-1713 for applicable regulations.

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

(1) No change.

(2) Recreation facilities, personal means recreation equipment or facilities such as swimming pools, tennis, shuffleboard, handball or racquetball courts, swings, slides and other playground equipment and an open, roofed picnic pavilion. Provided as These uses must be an accessory use on the same premises and in the same zoning district as the principal permitted use, with the exception of the picnic pavilion and designed to be used primarily by the owners, tenants, or employees of the principal use and their guests.

(3) and (4) remain unchanged.

Use, temporary means an outdoor use or activity which is permitted only for a limited time such as promotional events, tent sales, charity events, craft or art fairs, car shows, retail stands, food stands, or other similar uses deemed appropriate by the Director. Temporary uses are subject to specific regulations and permitting procedures.

Warehouse, high cube means large warehouses and distribution centers with a high level of mechanization and low level of on-site employment located within a building with a minimum gross floor area of 100,000 square feet, a minimum ceiling height of 24 feet, dock-high loading bays at a minimum ratio of 1 door per 10,000 square feet of high cube warehouse floor area, and a maximum accessory office floor area of 5% of the overall building. High-cube warehouses may only be located within IPD and MPD and may not be used for manufacturing or labor-intensive purposes.
Sec. 34-6. - Compliance with specific planning community requirements.

If the subject property is located in one of the following communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in chapter 33.

(1) Estero Planning Community.

(2) Greater Pine Island.

(3) Page Park.

ARTICLE II-ADMINISTRATION

Sec. 34-144. - Conduct of meetings; reports and records.

(a) and (b) remain unchanged.

(c) Reports of decisions. After a public hearing is held, the Hearing Examiner shall make a written report of his decision in accordance with the rules and procedures set forth in the applicable administrative code, and provide a copy of the report of decision (by either electronic means or hard copy) to all parties of record, appropriate County staff and the Board of County Commissioners.

(d) Records.

(1) The Hearing Examiner shall provide for a court reporter at all proceedings under § 34-145. At a minimum, a summary of testimonies shall be provided in the report of decision itself or as a separate document in addition thereto. Transcripts shall be provided only upon request, at an appellant's request, and the appellant must bear the costs thereof of transcription.

(2) Remains unchanged.

(e) Attendance at hearings. The Hearing Examiner may request staff members with personal knowledge of relevant facts to attend hearings and produce relevant documents, and shall advise the County Administrator of any failure to comply with the Hearing Examiner's requests.

(f) In addition to the provisions found within this Code, all hearings before the Hearing Examiner must comply with the procedures established in Administrative Code 2-6.
Sec. 34-145. - Functions and authority.

(a) *Appeals from administrative action.*

(1) *Function.* The Hearing Examiner is authorized to will hear and decide appeals where it is alleged that a County administrative official charged with the administration and enforcement of the provisions of this code (or other ordinance that provides for similar review) erred there is an error in issuing or denying any order, requirement, decision, interpretation, determination or action of any administrative official charged with implementing the administration and enforcement of the provisions of this land-development code (or any other ordinance that provides for similar review); provided, however, that:

a. The Hearing Examiner is not authorized to hear appeals based on No appeal to the Hearing Examiner may lie from any act by an administrative official pursuant to:
   1. acts of administrative officials pursuant to An-orders, resolutions, or directives of the Board of County Commissioners directing him to perform such act; or
   2. Any ordinances or other regulations or provision in this Code that provides a different appellate procedure.
   3. zoning verification letters.
   4. an administrative official's determinations or interpretations of the Lee County Comprehensive Plan, State or Federal Statutes, State or Federal Codes, Rules, or Regulations. If the Hearing Examiner must interpret or apply the Lee County Comprehensive Plan, State or Federal Statutes, State or Federal Codes, Rules or Regulations in reaching a decision on an appeal, the Hearing Examiner is not authorized to hear the appeal and the case must be dismissed.

b. An appeal to the Hearing Examiner must be in writing on forms provided by the Hearing Examiner, and must be duly filed with the Hearing Examiner within 30 calendar days, but not thereafter, after such act or decision by the administrative official. The appeal must specify the grounds for the appeal compliance with the provisions of Administrative Code 2-6.

c. No appeal may be considered by the Hearing Examiner where it appears to be a circumvention of an established or
required procedure. Specifically, in no case may an appeal be heard when the Hearing Examiner determines that if the case would be should more appropriately addressed be heard on as a request for a variance, special exception, or rezoning.

d. through g. remain unchanged.

(2) Considerations.
   a. In reaching his a decision, the Hearing Examiner must consider the following criteria, as well as any other issues that are pertinent and reasonable:

   1. Whether appeal is of a nature properly brought to him before the Hearing Examiner for a decision, or whether there is an established procedure for handling the request other than through the appeal process (i.e., a variance or special exception, etc.).
   2. the plain and ordinary meaning of all applicable ordinance or code provisions, unless the language is unclear or ambiguous then the intent of the ordinance or code provision applied or interpreted may be considered.
   3. The effect the ruling will have when applied generally to this Code.
   b. Staff recommendations, the testimony of the Parties appellant and witnesses and testimony of the general public must also be considered.
   c. Cases under this section will be handled as a Appeals from administrative actions, with the exception of § 34-145(a)(2)d, are de novo proceedings, and All pParties will be entitled to may present evidence and testimony as to any laws or facts supporting their position in the case.
   d. Appeals pursuant to § 22-42, or other provision authorizing the Hearing Examiner to review decisions of a commission or board, are not de novo proceedings and will be limited to a determination of whether the board afforded procedural due process, the board applied the correct law, and whether the record contains competent and substantial evidence to support the Board’s actions.

(3) Findings. Before granting any an appeal, the Hearing Examiner must find that determine if an error was made in the order, requirement, decision, interpretation, determination or action of by the administrative official charged with the administration and enforcement of the provisions of this Code or other ordinance that provides for similar review.

(4) Authority.
a. In exercising his authority, The Hearing Examiner may has the authority to reverse, affirm or modify any the decisions or actions of any the administrative official charged with the administration or enforcement of this chapter. In appeals pursuant to § 22-42, or other appeals of decisions or actions of any commission or board, the Hearing Examiner may only remand the matter to the board or commissioner for further proceedings consistent with the Hearing Examiner’s findings and conclusions of law.

b. Subject to the limitations set forth in subsection § 34-145(a)(4) of this section, the Hearing Examiner may make a decision to take the appropriate action that the Hearing Examiner finds the administrative official should have taken. To that end, he the Hearing Examiner has the power of the administrative official from whom the appeal is taken. The Hearing Examiner may only take an action that the administrative official is authorized to take under the this Code. The Hearing Examiner is not authorized to take an action that requires the approval or authorization of the Board of County Commissioners.

(5) Remains unchanged.

(b) Variances.

(1) Function. The Hearing Examiner will hear and decide all requests for variances from the terms of the regulations or restrictions of the land development code and such other ordinances as may be assigned to him by the Board of County Commissioners, except that no use variance may be heard or considered.

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

a. Whether exceptional or extraordinary conditions or circumstances exist which that are inherent in the land, structure or building involved and whether those exceptional or extraordinary conditions or circumstances create a hardship on the property owner;

b. Whether the exceptional or extraordinary conditions or circumstances do not result from the actions of the applicant;

c. Whether granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

d. Staff recommendations, including the Staff Report and attachments thereto;
e. Testimony from the applicant; and

f. Testimony from the public.

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

a. through f. remain unchanged.

g. For variances from the Airport Compatibility District regulations, the Hearing Examiner must also find that the variance can be accommodated in the navigable airspace without an adverse impact to the aviation operation of SWFIA or Page Field.

(4) Authority.

a. Remains unchanged.

b. In reaching his decision, the Hearing Examiner has the authority to may attach conditions and requirements necessary for the protection of the health, safety, comfort, convenience and welfare of the general public. The conditions or requirements must be reasonably rationally related to the variance requested and the potential impacts of the request on surrounding uses.

c. remains unchanged.

d. All decisions of the Hearing Examiner concerning variances filed as part of a rezoning or from the Airport Compatibility District regulations must be in the form of a recommendation to the Board of County Commissioners. Only a participant or his representative will be afforded the right to address the Board of County Commissioners.

(5) Remains unchanged.

(6) Variances from Airport Compatibility District Regulations. The Hearing Examiner will issue a recommendation to the Board of County Commissioners for a final decision in all cases seeking a variance from the Airport Compatibility District regulations.

(7) Effective Date. Final decisions in a variance case, including attached conditions, become effective and enforceable on the date the final decision is issued by the Hearing Examiner.

(c) Special Exceptions.
(2) **Considerations.** In reaching his decision, the Hearing Examiner must consider the following, whenever applicable:

a. Whether there exist changed or changing conditions that make approval of the request appropriate.
b. The testimony of any the applicant.
c. The recommendation of staff, including the Staff Report and attachments thereto;

   *Sections d. through j. remain unchanged.*

(3) **Remains unchanged.**

(4) **Authority.**

a. **Remains unchanged.**

b. In reaching his a decision, the Hearing Examiner has the authority to may attach conditions and requirements necessary for the protection of the health, safety, comfort, convenience or welfare of the general public. The conditions and requirements must be reasonably rationally related to the special exception requested and the potential impacts of the request on surrounding uses.

c. **Remains unchanged.**

d. All decisions of the Hearing Examiner concerning special exceptions filed as part of a rezoning or that meet the criteria for a Development of County Impact or from the Airport Compatibility District regulations must be in the form of a recommendation to the Board of County Commissioners. Only a participant or his representative will be afforded the right to address the Board of County Commissioners.

(5) **Remains unchanged.**

(6) **Final decisions in a special exception case, including attached conditions, become effective and enforceable on the date the final decision is issued by the Hearing Examiner.**

(d) **Zoning matters.**

(1) **Remains unchanged.**
(2) Considerations. In preparing his a recommendation on any a zoning matter, the Hearing Examiner must consider the criteria set forth in subsection §34-145(c)(2) of this section as well as the following, if applicable:

a. through e. remain unchanged.

(3) Findings. Before preparing his a recommendation to the Board of County Commissioners on a rezoning zoning matter, the Hearing Examiner must find that:

Balance of subsection remains unchanged.

(e) remains unchanged.

(f) Equitable Jurisdiction. Unless specifically provided, the Hearing Examiner does not have the authority to render decisions based on equitable law in any proceeding under §34-145(a) through (d).

Sec. 34-202. - General submittal requirements for applications requiring public hearing.

(a) All applications. Every request for actions requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the county, the director may modify the submittal requirements contained in this section where it can be clearly demonstrated that the submission will have no bearing on the review and processing of the application. The request for a waiver or modification must be submitted to the director prior to submitting the application. A copy of the request and the director's written response must accompany the application and will become a part of the permanent file.

(1) Legal description and sketch to accompany legal description. A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with Florida Statutes, Ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. A sketch of the undivided, platted lots to be rezoned is not required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

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

All boundary surveys must meet the minimum technical standards for land surveying in the state, as set out in chapter 5J-17 61G-17-6, F.A.C. The survey must be tied to the state plane coordinate system for the Florida West Zone (the most current Adjustment is required) (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) through (5) remain unchanged.

(6)  
Surrounding property owners list. A complete list, and two sets of mailing labels, of all property owners, and their mailing addresses, for all property within 500* feet of the perimeter of the subject parcel or the portion thereof that is the subject of the request. For the purpose of this subsection, names and addresses of property owners will be deemed to be those appearing on the latest tax rolls of the County at the time of application. The applicant is responsible for the accuracy of such list. In the event that more than six months lapses between the time of application and the date of mailing courtesy notices for the scheduled public hearing, the Director may require the applicant to submit a new list and mailing labels.

Applications for wireless communication facilities under section 34-1441, et. seq. must include all property within 1,000 feet of the perimeter of the subject parcel.

*NOTE: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet and 1,250 feet for wireless communication facilities.

(7) through (9) remains unchanged.

(10)  
Compliance with specific planning community requirements. If the subject property is located in one of the following planning communities, the owner/applicant will be required to demonstrate compliance with the
requirements applicable to the specific community as outlined in Chapter 33.

a. Estero Planning Community.

b. Greater Pine Island Planning Community.

c. Page Park.

Balance of section remains unchanged.

**Sec. 34-204. Submittal requirements for Administrative Action applications.**

(a) All applications. Every request for Administrative actions not requiring a public hearing under this chapter must include the following. However, upon written request, on a form prepared by the County, the Director may modify the submittal requirements as set forth in Section 34-203(h).

1. Legal description and sketch to accompany legal description. A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with Florida Statutes, Ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the zoning action with accurate bearings and distances for every line. If the application seeks to rezone undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

2. The STRAP (Section, Township, Range, Area, Parcel) number for the subject property. This number is used by the Property Appraiser to identify the subject property.

3. Property restrictions. The application must include a copy of the deed restrictions or other types of covenants and restrictions on the parcel, along with a statement as to how the restrictions may affect the requested action. If there are no restrictions on the property, the applicant must indicate so on the application form.

4. Structure affidavit. If buildings or structures exist on the property, an affidavit, signed by the property owner or specified contract purchaser, must be submitted stating whether the buildings and structures will be removed. If the property owner intends to retain the existing structures,
then the affidavit must state the proposed use of the buildings and structures. The existing structures must be depicted on the boundary survey; and, if the request is for a planned development the structures must be depicted on the Master Concept Plan along with detail indicating whether the structure will be removed or how it will be used. If the request is an amendment of an existing planned development, this affidavit is not required, unless specifically requested by the Director or designee.

(5) Additional material. Depending on the specific type of action requested, additional material may be required as set forth in section 34-203.

(6) Compliance with specific planning community requirements. If the subject property is located in a planning communities, the owner/applicant will be required to demonstrate compliance with the requirements applicable to the specific community as outlined in Chapter 33.

(7) On-premises consumption of alcoholic beverages. If the request is for a consumption on premises permit, the applicant must submit a sketch on an 8½ by 11 inch paper showing the location of the establishment requesting the consumption on premises in relationship to the perimeter boundary of the legal description.

(8) Filing fee. All fees, in accordance with the duly adopted fee schedule (see section 34-53), must be paid at the time the application is submitted.

DIVISION 7. PUBLIC HEARINGS AND REVIEW

Sec. 34-233.-Preliminary review and notice certification.

(a) Staff review.

(1) No application for an action required by this chapter or chapter 12 to proceed through the public hearing process may be placed on a schedule to be heard by the Hearing Examiner until:

a. If a planned development, after the Department has finalized a written staff report on the requested action OR 60 days after the Department finds the application sufficient, whichever comes first.

b. For other than a planned development, after the Department has finalized a written staff report OR 60 days after submittal of the complete application, whichever comes first.
The Department will produce a written (staff) report summarizing the County staff's position regarding the subject application. In the case of a conventional or planned development zoning, the staff report must be available at least 14 days prior to the public hearing. In the case of a special exception or a variance the staff report must be available at least seven days prior to the public hearing. Once submitted, the staff report may not be modified or amended except by the Department staff.

(2) and (3) remain unchanged.

Sec. 34-236. - Notices.

(a) remains unchanged.

(b) Method of providing notice. Notices of hearings before the Board of County Commissioners, the Hearing Examiner and the Local Planning Agency will be provided in accordance with applicable statutes and the County Administrative Code. The "surrounding property owners list and map" required by section 34-202(a) is for the purpose of mailing notice to property owners within 500* feet of the property described. The notice is a courtesy only and is not jurisdictional. Accordingly, the County's failure to mail or to timely mail the notice or failure of an affected property owner to receive mailed notice will not constitute a defect in notice or bar the public hearing as scheduled.

*NOTE: in those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet and 1,250 feet for wireless communication facilities.

Sec. 34-373.-Application

(a) (1) through (3) remain unchanged.

(4) Description of existing conditions. The application for a planned development must be accompanied by:

a. A boundary survey, prepared and sealed by a professional surveyor, that meets the minimum technical standards set forth in chapter 61G-17-6 5J-17, F.A.C. The boundary survey must identify and depict all easements effecting the subject property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection. On applications seeking to amend an approved planned development, the Director may waive certain requirements for
the survey on a case by case basis through the formal request process set forth in section 34-202(a).

34-376. - Prehearing stipulation.

(a) If the applicant wishes to enter a stipulation under this division he must file a stipulation setting out the issues on which he and the staff do not agree, with the Hearing Examiner no less than two working days prior to the date of the hearing. The stipulation must be signed by the applicant or his representative and, if there are any disputed issues, by the County Planner responsible for the preparation of the staff report. Neither the staff nor the applicant may alter their positions on issues that were not listed as disputed on the stipulation at the hearing without the consent of the other party or the Hearing Examiner.

(b) and (c) remain unchanged.

ARTICLE IV. PLANNED DEVELOPMENTS

Sec. 34-380. - Amendments to approved master concept plan.

(a) through (f) remain unchanged.

(g) Amendments to an approved master concept plan does not extend the duration of development rights conferred by an approved master concept plan, unless the extension is granted as part of the requested amendment.

Sec. 34-381. - Duration of rights conferred by adopted master concept plan.

(a) Duration of rights for all planned development with the exception of mining, excavations:

(1) Master concept plans approved prior to December 2, 1991, are subject to the following:

a. A master concept plan and its attendant documentation, approved prior to December 2, 1991, remains valid for no more than three years from the date that the Board of County Commissioners first approved the master concept plan. Final plan approval must be obtained within three years and six months following the original master concept plan approval, or the master concept plan is vacated. If the master concept plan receives final plan approval but no development order for a substantial portion of the project is approved on or before June 24, 2004, the master concept plan is vacated.

b. If the planned development is proposed in two or more phases, the approval of the first phase is regulated by subsection (a)(1)a. of this section, and subsequent phases are regulated by the adopted phasing program. If a phase is not commenced within one year of
its programmed date, the remainder of the master concept plan is vacated. Any phase permitted and ongoing or completed is governed by the original master concept plan, final plan approval, and attendant documentation. However, no vacation of a master concept plan will result from the nonfeasance of the county.

(2) Master concept plans approved after December 2, 1991, are subject to the following:

a. An Option 1 master concept plan approved after December 2, 1991 is vacated unless the property owner either obtains a development order for a substantial portion of the project or Final Plan Approval of a master concept plan, within five years of the date of the approval of the planned development. Master concept plans that obtained final plan approval within the required time must also obtain a development order for a substantial portion of the project within one year of the adoption of this amendment (June 24, 2003) or the master concept plan is vacated.

b. An Option 2 master concept plan approved after December 2, 1991, is vacated unless the property owner obtains a development order for a substantial portion of the project within five years of the date of the approval of the planned development.

(1) All development rights conferred by an adopted master concept plan are valid for five years from the date the planned development was approved by the Board of County Commissioners, unless a greater time is approved in accordance with the provisions below. Approved other than as an Option 1 or Option 2 type master concept plan after March 8, 2001.

(2) All development rights conferred by an adopted master concept plan for a large project are valid for seven years from the date the planned development was approved by the Board of County Commissioners. Large Projects, for the purpose of this provision, only include projects that contain either 200,000 square feet of office uses, 300 residential dwelling units, 200,000 square feet of retail uses, a total of 200,000 square feet of office or retail uses, 500,000 square feet of industrial uses, or projects with equivalent intensities.

(3) A master concept plan that is approved as part of a development of regional impact is valid from the date the planned development was approved by the Board of County Commissioners until the initial build out date provided in the development of regional impact development order.
An applicant must acquire a development order for a substantial portion of the project are not approved within five years (or seven years for Large Projects) of the date of the approval of the planned development, unless a greater time is approved in accordance with the provisions below. The development order must be issued before the master concept plan expires. **Substantial portion**: A substantial portion of the project consists of no less than 20 percent of the lots, dwelling units, square feet, or other applicable measurements of intensity as applicable unless a lesser percentage is approved by the Board of County Commissioners.

**(5)**  
Master concept plans for planned developments that do not require development orders are not subject to the timeframes for vacation in this section.

**(6)**  
For Master concept plans duration of rights or approvals issued for mining excavation existing as of before September 1, 2008, refer are subject to sections 12-109 and 12-121.

**(b)**  
**Zoning Status of vacated expired master concept plans.** When any portion of a master concept plan is vacated expires pursuant to section 34-381(a), the vacated property area of the master-concept-plan will remain zoned planned development, but no additional development can occur or be approved until a new master concept plan is approved in compliance with section 34-373 et. seq.; the original master concept plan is reinstated in accordance with subsection (e) below, or the property is rezoned by the Board of County Commissioners.

An extension or reinstatement may not add new uses or increase density or intensity of the master concept plan. The BOCC may, however, remove uses or decrease the density or intensity of the master concept plan. A master concept plan with new uses or increased density or intensity must be reviewed in accordance with section 34-373 et. seq.

**(c)** **Administrative Extensions of Master Concept Plans.**

**(1)** An approved master concept plan that has not expired may be extended through an Administrative Amendment without a public hearing, provided that:

- The applicant submits a completed application form for extension (on a form provided by the department of community development) and the appropriate fee prior to the date the current master concept plan expires, but not more than one year before the expiration date. If an extension is not granted before the expiration date, no further
development approvals can be issued after the expiration date and before an extension is granted. The application must include:

1. All submittal requirements for a public hearing pursuant to sections 34-201 and 34-202;
2. A copy of the approved master concept plan amended in accordance with subsections 34-377(b)(6) and (7) reflect the uses, deviations and other modifications set forth in the approving resolution;
3. A copy of the approved planned development zoning resolution and all approved amendments;
4. A written statement describing how the criteria listed in subsection (c)(1)b. below have been met;
5. A current Traffic Impact Statement (TIS) pursuant to subsection 34-373(a)(7); and
6. A detailed narrative explaining why a development order has not been issued and the basis for the extension requested.
7. The director may require additional information as described in Section 34-373 if necessary to review the request.

b. Prior to issuance of an extension of the master concept plan, the Director of Community Development must find that:

1. The master concept plan is consistent with the current Lee Plan, including allocation tables;
2. The master concept plan is compatible with existing and approved development in the planning community;
3. There will be sufficient capacity for potable water, sanitary sewer, surface water management, solid waste disposal, parks and recreation, roadway facilities and public schools to serve the development at the time the impacts of the development will occur without causing these facilities and services to function at a level of service below the minimum regulatory levels established in the Lee Plan; and
4. The reasons the required development order is not approved is reasonably beyond the control of the applicant and the applicant is diligently pursuing approval of the required development order.

(2) Regardless of ownership of the underlying property, a master concept plan may only be extended one time through the Administrative Amendment process. Extensions granted under an Administrative Amendment may not exceed five years from the original date of expiration.
Requests for extension in excess of five years must be granted through a public hearing in accordance with subsection (d) below.

(3) The Director may approve, deny, or limit the requested extension to a period less than five years. The decision of the Director is discretionary and is not subject to administrative appeal. If the request is not approved administratively, the applicant must file an application for public hearing in accordance with subsection (d) below.

(4) The duration of a master concept plan that is part of a Development of Regional Impact ("DRI") will be automatically extended if the DRI's phasing or build-out dates are extended. The MCP duration extension is limited to the length of extension of the build-out date granted in the DRI. Automatic extensions pursuant to this provision are not subject to the limitation of the number of extensions found under subsection (c)(2) above.

(d) Extensions of Master Concept Plans through Public Hearing process.

(1)a.1 through (1)a.3 remain unchanged.

4. A written statement describing how the criteria listed in subsection (d)(c)-(1)b. below have been met;

(1)a.5 through (1)a.6 remain unchanged.

b. The Board of County Commissioners, after reviewing the recommendation of the staff, determines that:
   1. The master concept plan is consistent with the current Lee Plan, including allocation tables;
   2. The master concept plan is compatible with existing and approved development in the planning community;
   3. The master concept plan will not, by itself or in conjunction with existing and approved development, place an unreasonable burden on essential public facilities; and There will be sufficient capacity for potable water, sanitary sewer, surface water management, solid waste disposal, parks and recreation, roadway facilities and public schools to serve the development at the time the impacts of the development will occur without causing these facilities and services to function at a level of service below the minimum regulatory levels established in the Lee Plan; and
   4. The reasons the required development order is not approved is reasonably beyond the control of the applicant and the applicant is diligently pursuing approval of the required development order.
(2) The Board of County Commissioners may approve, deny, or limit the requested extension to a period less than the applicant's request. The decision of the Board of County Commissioners to approve or deny the extension request is discretionary. The Board of County Commissioners may approve an extension for a period of time not greater than ten years from the date of original planned development approval.

Balance of section remains unchanged.

(e) Reinstatement of Master Concept Plans.

(1) An expired vacated master concept plan or a phase of a master concept plan may only be reinstated by the Board of County Commissioners at a public hearing provided the Board of County Commissioners find: that: the reinstatement period is for no more than ten years from the date of the original planned development approval and is based on the considerations listed in section 34-83(b)(2) and the following findings of fact:
   a. The applicant is proposing no changes to the original approved master concept plan; and
   b. The master concept plan is consistent with the current Lee Plan, including, but not limited to, density, intensity and concurrency requirements; and
   c. The development shown by the master concept plan is compatible with existing and approved uses in the surrounding area; and
   d. The development shown by the master concept plan will not, by itself or in conjunction with other development, place an unreasonable burden on essential public facilities:
      a. The request meets the considerations listed in section 34-83(b)(2);
      b. There are no changes to the original approved master concept plan, with the exception of changes that bring the development into compliance with current regulations; and
      c. The request meets the criteria listed in subsection (d)1)(b) above.

(2) Before preparing a recommendation to the Board of County Commissioners on a reinstatement, the hearing examiner must find that:
   a. The applicable criteria set forth in section 34-145(d)(2), which are applicable to the case, are satisfied; and
   b. The criteria listed in subsection (d)(1)(b) above are satisfied.
(3) An application for a reinstatement of a master concept plan may be filed at any time after it expires the vacation of the master concept plan and must consist of the following:

   a. through e. remain unchanged.

(4) A request for an extension or reinstatement may not include new uses or increase the density or intensity of the development proposed under the expired master concept plan. If an Applicant wants to include new uses or increased density or intensity, the request must be submitted and reviewed in accordance with section 34-373 et. seq.

(5) Prior to reinstatement, the BoCC may remove uses or decrease the density or intensity of the master concept plan.

(f) Vacated Master Concept plans that have not been extended or reinstated. No development is allowed within a planned development zoning district, if the master concept plan has been vacated, until a master concept plan has been approved in accordance with this Code.

Sec. 34-622. - Use activity groups.

(a) through (b) (3) remain unchanged.

(4) When a number precedes or follows a use activity, it is a reference to the Standard Industrial Classification Manual, 1972 1987 edition, and all uses listed within the SIC code are permitted unless specifically indicated to the contrary.

Balance of section remains unchanged.

(c) Use activity groups are as follows:

(3) Banks and financial establishments.

GROUP I

ATM's (automatic teller machines)
602 Commercial and stock savings banks
603 Mutual savings banks
605 609 Establishments performing functions closely related to banking
642 603 Savings and loan associations
643 615 Agricultural credit institutions
614 Personal credit institutions
615 Business credit institutions
616 Mortgage bankers and brokers
GROUP II

601 Federal reserve banks
604 Trust companies not engaged in deposit banking
611 Rediscount and financing institutions for credit agencies other than banks
621 Security brokers, dealers and flotation companies
622 Commodity contracts brokers and dealers
623 Security and commodity exchanges
628 Services allied with the exchange of securities or commodities
671 Holding offices
672 Investment offices
673 Trusts
674-679 Miscellaneous investing

(4) remains unchanged.

(5) Business services. This group includes establishments primarily engaged in providing business services to other businesses or individuals, which are not classified elsewhere in this section.

GROUP I. Business service establishments which customarily occupy standard office space and do not require outdoor storage of supplies or the use of vehicles other than cars or small vans. Establishments of this type include but are not limited to:

Advertising agencies (excluding sign construction)
Appraisers
Attorneys
Bail bonding
Blood banks
Blood donor stations
Blueprinting and photocopying services
Business agents and brokers
Caterers
Check exchanges
Clerical services
Collection agencies
Commercial photography, art and graphics
Computer or data processing services
Consulting services such as architects, attorneys, engineers, planners, etc.
Contractor's office
Credit reporting services
Detective agencies and protective services, but not including armored car or animal (guard dog) rental
Drafting services
Employment agencies
Film processing or developing, retail
Insurance agents
Interior decorators (not painters or paperhangers)
Management, consulting and public relations services
Map making
Medical photography and art
Message answering services
Microfilm recording and developing services
Notary publics
Oxygen tent services
Personal investigation services
Real estate agents and brokers
Sign painting and lettering (not construction)
Stenographic services
Tax return preparation services
Telephone solicitation services including call centers
Travel agencies
Visiting nurse associations
Welcome wagon services

GROUP II. Business services which, due to equipment and vehicle storage or to processes used, usually require facilities in addition to standard office space. Included in this group are services similar to:

Aircraft food services and catering
Armored car services
Automobile claims adjusters, excluding impound yards
Automobile repossessing services, excluding impound yards
Automobile towing services, excluding impound yards or junkyards
Horticultural services
Lawn and garden services
Messenger services
Packaging services
Parcel and express services
Pest control (exterminators)
Swimming pool cleaning and maintenance services
Water softening services

(6) through (14) remain unchanged.

(15) Food and kindred products, manufacturing.
2011 Meat packing plants (slaughtering)
2015 Poultry dressing plants (slaughtering)
2017 Poultry and egg processing
2026 Fluid milk (pasteurizing, homogenizing and bottling)
2041 Flour and other grain mill products
2044 Rice milling
2046 Wet corn milling
2047 Dog, cat and other pet food (slaughtering)
2048 Prepared foods and feed ingredients for animals and fowl
2061 Cane sugar, except refining only
2062 Cane sugar, refining
2063 Beet sugar

(16) through (19) remain unchanged.

(20) Health care facilities. The group includes establishments primarily engaged in furnishing medical, surgical or nursing care to persons, as well as certain related activities.

GROUP IV. Hospitals (section 34-1413). Establishments primarily engaged in providing diagnostic services, extensive medical treatment, including surgical services, and other hospital services, as well as continuous nursing services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care.

(21) through (25) remain unchanged.

(26) Lumber and wood products, manufacturing.

GROUP III

2435 Hardwood veneer and plywood
2436 Softwood veneer and plywood
2492 Particleboard

(27) remains unchanged.

(28) Measuring, analyzing and controlling instruments, manufacturing.

381 Engineering, laboratory, scientific and research instruments and associated equipment
382 Measuring and controlling instruments
383 Optical instruments and lenses
384 Surgical, medical and dental instruments and supplies
385 Ophthalmic goods
Photographic equipment and supplies
Watches, clocks and clockwork operated devices, and parts

(29) **Novelties, jewelry, toys and signs, manufacturing.**

GROUP III

395 Pens, pencils and other office and artists materials
3962 3999 Feathers, plumes and artificial trees and flowers
3963 3965 Buttons
3964-3965 Needles, pins, hooks and eyes, and similar notions
3991 Brooms and brushes

(30) **Nonstore retailers.**

GROUP II. Automatic merchandising machine operators. Office or storage facilities for establishments primarily engaged in the retail sale of products by means of automatic merchandising units, also referred to as vending machines.

Coin-operated machines selling or renting merchandise
Merchandising, automatic (sale or rental of products through vending machines)

(31) **Paper and allied products, manufacturing.**

GROUP II

2642 2677 Envelopes
2643 2674 Bags, except textile bags
2647 2676 Sanitary paper products
2648 2678 Stationery, tablets and related products

GROUP III

2644 2671 Paper coating and glazing
2645 2675 Die-cut paper and paperboard and cardboard
2646 2679 Pressed and molded pulp goods
2649 2679 Converted paper and paperboard products, not elsewhere classified
265 Paperboard containers and boxes

(32) **Parks.** A tract of land (including customarily associated buildings and structures), designated and used for recreational purposes by the public, and which is owned or operated by the County, state or federal government.
GROUP I
Beach access
Beaches
Community Gardens
Fishing piers
Highway rest stops
Nature or wildlife preserves
Neighborhood parks
Passive and active recreational and educational activities including but not limited to, hiking, nature trails and similar activities which require few or no on-site facilities or capital investment and which utilize the natural environment with little or no alteration of the natural landscape.

GROUP II
Arenas
Boat ramps
Civic center
Community Gardens
Community parks
Fairgrounds
Nature centers
Regional parks
Stadiums
State or federal parks

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

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

GROUP IV. Personal service agencies. Establishments primarily engaged in providing a personal service not classified elsewhere, including but not limited to:

- Babysitting bureaus
- Dating services
- Debt counseling or adjustment service to individuals
- Escort services
Palm readers, fortunetellers or card readers
Portrait copying
Shopping services
Tattoo parlors
Tax return preparation services

(34) through (43) remain unchanged.

(44) Rubber and plastics products, manufacturing.

GROUP I

301 Tires and inner tubes
302 Rubber and plastics footwear
303  3059 Reclaimed rubber
304  3052 Rubber and plastics hose and belting
306 Fabricated rubber products, not elsewhere classified

(45) through (46) remain unchanged.

(47) Specialty retail shops.

GROUP I

Antique or curio shops
Bookstores (article VII, division 3)
Cellular phone sales or rentals
Christian Science reading rooms
Cigar stores
Clock or watch shops
Fishing equipment, excluding boats, motors and trailers
Florists
Gift, novelty and souvenir shops
Gift shops
Golfing equipment
Jewelry stores
Music stores
Newsstands
Novelty shops
Souvenir shops
Tennis equipment
Tobacco stores

(48) through (49) remain unchanged.

(50) Textile mill products, manufacturing.
GROUP I

221  Broad woven fabric mills, cotton
222  Broad woven fabric mills, manmade fiber and silk
224  Narrow fabrics and other small wares mills, cotton, wool, silk and manmade fiber
225  Knitting mills
228  Yarn and thread mills
2292 2258  Lace goods

GROUP II

223  Broad woven fabric mills, wool (including dyeing and finishing)
226  Dyeing and finishing textiles, except wool fabric and knit goods

GROUP III

227  Floor covering mills
2294 2299  Felt goods, except woven felts and hats
2293-2299  Paddings and upholstery filling
2294 2299  Processed waste and recovered fibers and flock

Remainder of section remains unchanged.

Sec. 34-626. - Requests for Zoning Verification

(a) Request. Zoning verification letters ("ZVL") may be requested from the Director by an individual who is seeking verification of the zoning status of a specific parcel of land. The request must provide sufficient information to identify the property and the information the requestor seeks to verify. The request must be submitted in writing and be accompanied by the required administrative fee. If the request covers multiple parcels, the Director may treat each parcel as a separate request and may result in additional fees. The requestor is solely responsible for the accuracy of the information provided to the County within the request.

(b) Duration. There is no specific expiration date for a ZVL. However, county zoning regulations are continually under review and may change at any time. ZVL determinations are subject to changes in County regulations adopted after the issuance of the Letter. Determinations provided in a ZVL may be superseded if not in conformance with the current regulations at the time of permit application. Before relying on a ZVL, an individual must ensure that all applicable rules, regulations, and circumstances have not changed subsequent to the issuance of the ZVL.

(c) Content. A ZVL provided by the County may contain the following information:
(1) The future land use designation of the property.
(2) The zoning district of the property.
(3) Verification that a particular use is permitted within the property’s zoning district.
(4) A list of permitted uses in the zoning district.
(5) Identification of current zoning resolutions, special exceptions, variances, and deviations that apply to the property.
(6) The development regulations applicable to the property.
(7) Zoning action needed to permit a particular use.

(d) Limitations. The ZVL is limited in the following manner:

(1) The determinations set forth in § 34-626(c) are the only information that a ZVL may address.
(2) In preparing a ZVL, the Director must review the request based upon current regulations and the current state of the property. The ZVL may not be based on conjecture, supposition, or speculation.
(3) ZVLs must apply the plain meaning of the applicable regulations.
(4) A ZVL may not address whether existing development on the property conforms to current code requirements.
(5) ZVLs may not provide legal opinions or advice.
(6) The submission of sample letters with desired format or content is not permitted.

(e) Errors, misleading information or noncompliance. If the county determines that a ZVL was based on inaccurate or misleading information or if the ZVL does not comply with this Code, then, at any time, the Director may issue a modified ZVL that complies with the Code or revoke the ZVL. No refunds will be provided.

(f) Effect of a Zoning Verification Letter. A ZVL does not authorize development activity.

(g) Review. The determinations made within a ZVL are not subject to appeal.

DIVISION 2. AGRICULTURAL DISTRICTS
ARTICLE VI. DISTRICT REGULATIONS

Sec. 34-653. - Use regulations table.

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS
DIVISION 3. RESIDENTIAL DISTRICTS

SUBDIVISION II. ONE- AND TWO-FAMILY RESIDENTIAL 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

<table>
<thead>
<tr>
<th>Special Notes or Regulations</th>
<th>RSC-1</th>
<th>RSC-2</th>
<th>RS-1</th>
<th>RS-2</th>
<th>RS-3</th>
<th>RS-4</th>
<th>RS-5</th>
<th>TFC-1</th>
<th>TFC-2</th>
<th>TF-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling Unit: Mobile Home</td>
<td>Note (42) (11)</td>
<td>EO</td>
<td>EO</td>
<td>EO</td>
<td>EO</td>
<td>EO</td>
<td>EO</td>
<td>EO</td>
<td>EO</td>
<td>EO</td>
</tr>
</tbody>
</table>

Notes:
(1) through (15) remain unchanged.
(16) Not permitted in Airport Noise Zone 3B.
(17) Not permitted in Airport Noise Zone 3B. See section 34-1004 6(b)(2) for exceptions.
(18) Not permitted in Airport Noise Zones 2 or 3. See section 34-1006(b)(2) & (3) for exceptions.
Reserved.
(19) Not permitted in Airport Noise Zone 2 or 3 B unless accessory to a lawful mobile home or single-family residence. See section 34-1004 6(b)(2) & (3).
(20) Not permitted in Airport Noise Zone 3 B. Housing units consisting of mobile homes or park trailers are also not permitted in Airport Noise Zone 2 B.
(21) Not permitted in Airport Noise Zone 3 B unless preempted by state law.
(22) Not permitted in Airport Noise Zones 2 or 3 B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 6(b)(2) & (3) as applicable.
(23) to (28) remain unchanged.
(29) See Section 34-3152.
(30) Minimum property size for a picnic pavilion is 10 acres. Structure is limited to 1,000 square feet with less than 100 square feet for an enclosed bathroom.
SUBDIVISION III. MULTIPLE-FAMILY DISTRICTS

Sec. 34-714. - Use regulations table.

Use regulations for multiple-family districts are as follows:

<table>
<thead>
<tr>
<th>Dwelling unit:</th>
<th>Special Notes or Regulations</th>
<th>RM-2 (Note 5)</th>
<th>RM-3, RM-6, RM-8, RM-10 (Note)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobile home</td>
<td>Note (42) (11)</td>
<td>EO</td>
<td>EO</td>
</tr>
</tbody>
</table>

Notes:
(1) through (9) remain unchanged.
(10) Not permitted in Airport Noise Zone 3B.
(11) Not permitted in Airport Noise Zone 3B. See section 34-1004 6(b)(2) for exceptions.
(12) Not permitted in Airport Noise Zones 2 or 3. See section 34-1004 6(b)(2) & (3) for exceptions.
Reserved.
(13) Not permitted in Airport Noise Zone 2 or 3B unless accessory to a lawful mobile home or single-family residence. See section 34-1004 6(b)(2) & (3).
(14) Not permitted in Airport Noise Zone 3B unless pre-empted by state law.
(15) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone 3B.
(16) through (17) remain unchanged.

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 RESIDENTIAL DISTRICTS
DIVISION 4. RECREATIONAL VEHICLE PARK DISTRICTS

SUBDIVISION II. CONVENTIONAL RECREATIONAL VEHICLE DISTRICTS

Sec. 34-791. Use regulations table.

Use regulations for recreational vehicle districts are as follows:

<table>
<thead>
<tr>
<th>TABLE 34-791. USE REGULATIONS FOR RECREATIONAL VEHICLE DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Special Notes or Regulations</strong></td>
</tr>
<tr>
<td>Camping cabins, transient parks only</td>
</tr>
<tr>
<td>Recreational vehicle, transient</td>
</tr>
<tr>
<td>Recreational vehicle, permanent</td>
</tr>
</tbody>
</table>

Notes:
(1) through (7) remain unchanged.
(7) Not permitted in Airport Noise Zone 2 or 3B. See section 34-1004 6(b)(2) & (3) for exceptions.
(8) In Airport Noise Zone 3B, an administrative residence is not permitted
(9) Not permitted in Airport Noise Zone 3B.
(10) Not permitted in Airport Noise Zone 2. Reserved.

DIVISION 5. COMMUNITY FACILITIES DISTRICTS

Sec. 34-813. - Use regulation table.
Use regulations for the community facilities districts are as follows:

**TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS**

<table>
<thead>
<tr>
<th>Temporary Uses</th>
<th>Special Notes or Regulations</th>
<th>CF-1</th>
<th>CF-2</th>
<th>CF-3</th>
<th>CF-4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Note (14)</td>
<td></td>
<td>TP</td>
<td>TP</td>
<td>TP</td>
<td>TP</td>
</tr>
</tbody>
</table>

Notes:

1. through 6 remain unchanged.
2. Not permitted in Airport Noise Zone 3B.
3. Limited to active recreation only (ball fields and tennis courts, for example) in Airport Noise Zone 3B.
4. Not permitted in Airport Noise Zones 2 and 3B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1006(b)(2) & (3) as applicable.
5. Not permitted in Airport Noise Zone 3B. See section 34-1004 6(b)(2) for exceptions.
6. Not permitted in Airport Noise Zone 3B unless pre-empted by state law.
7. through 13 remain unchanged.
8. Temporary use permits are not required when the temporary use is accessory to the principal use of the structure or premises. See Use, accessory definition (section 34-2).
Sec. 34-843. Use regulations table.

Use regulations for conventional commercial districts are as follows:

**TABLE 34-843. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS**

<table>
<thead>
<tr>
<th>Special Notes or Regulations</th>
<th>C-1A</th>
<th>C-1</th>
<th>C-2</th>
<th>C-2A</th>
<th>C-1</th>
<th>C-2A</th>
<th>C-1</th>
<th>C-2</th>
<th>C-3 (21, 23)</th>
<th>CC</th>
<th>CG</th>
<th>CS-1</th>
<th>CS-2</th>
<th>CH</th>
<th>CT</th>
<th>CR</th>
<th>CI</th>
<th>CP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bait and tackle shop</td>
<td>Note 33</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<td>SE (5)</td>
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<td>P</td>
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</tr>
</tbody>
</table>

**Business services (34-622(c)(5))**:

| Group I                      | P   | P   | P   | P   | P   | P   | P   | P   | P (8)        | -- | P | P | P |
| Group II                     | --  | P   | P   | P   | P   | --  | SE  | --  | P            | -- | -- | -- | -- |

**Consumption on premises**

34-1261 et seq. (Note 33)

<table>
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<tr>
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</thead>
<tbody>
<tr>
<td>P</td>
<td>P</td>
<td>P</td>
<td>-</td>
<td>P (12)</td>
<td>P (12)</td>
<td>P</td>
<td>P</td>
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<td>-</td>
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<td>P</td>
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<td>-</td>
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<td></td>
</tr>
</tbody>
</table>

**EMS, fire or sheriff's station**

34-1713

Note 33

| P   | P   | P   | P   | -   | -   | -   | -   | P   | P   | -   |

**Produce stand**

34-1714

Note 33

| P   | P   | P   | P   | -   | P   | P   | P   | -   | P   | P   | -   |

**Rental or leasing establishments (34-622(c)(39))**:

| Group I                      | P   | P   | P   | P   | -   | P   | P   | P   | -   | P   | P   | -   |
| Group II                     | 34-1352, 34-3001 et seq. (Note 33) | P   | P   | P   | P   | -   | P   | P   | P   | -   |

**Restaurants (34-622(c)(43))**:

| Group I                      | Note 33 | P   | P   | P   | P   | P   | P   | P   | -   | P   | P   | P   | P   | P   | P   | P   | P   |
| Group II                     | Note 33 | P   | P   | P   | P   | P   | P   | P   | -   | P   | P   | P   | P   | P   | P   | P   |
| Group III                    | Note 33 | P   | P   | P   | P   | P   | P   | P   | -   | P   | P   | P   | P   | P   | P   | P   |

**Roadside stand**

34-1714

| TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  |

**Temporary uses**

34-3041 et seq.

| TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  | TP  |

Notes:

(1) through (24) remain unchanged.
(25) Not permitted in Airport Noise Zone 3B.
(26) Not permitted in Airport Noise Zone 3B. See section 34-1004 6(b)(2) for exceptions.
(27) Not permitted in Airport Noise Zone 2 or 3B unless accessory to a lawful mobile home or single-family residence. See section 34-1004 6(b)(2) & (3).
(28) Limited to active recreation only (ball fields and tennis courts, for example) in Airport Noise Zone 3B.
(29) Not permitted in Airport Noise Zone 3B unless pre-empted by state law.
(30) Not permitted in Airport Noise Zones 2 and 3B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 6(b)(2) & (3) as applicable.
(31) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone 3B.
(32) remains unchanged.
(33) See Section 34-3152.
(34) and (35) remain unchanged.
DIVISION 7. MARINE-ORIENTED DISTRICTS

Sec. 34-873. - Use regulations table.

Use regulations for marine-oriented districts are as follows:

<table>
<thead>
<tr>
<th>Use regulations for marine-oriented districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>TABLE 34-873. USE REGULATIONS FOR MARINE-ORIENTED DISTRICTS</td>
</tr>
<tr>
<td>Special Notes or Regulations</td>
</tr>
<tr>
<td>Bait and tackle shop</td>
</tr>
<tr>
<td>Consumption on premises</td>
</tr>
<tr>
<td>Cultural Facilities</td>
</tr>
<tr>
<td>Fire station</td>
</tr>
<tr>
<td>Fish Market, enclosed</td>
</tr>
<tr>
<td>Gift and souvenir shop</td>
</tr>
<tr>
<td>Rental establishments, group I (34-622(c)(39))</td>
</tr>
<tr>
<td>Restaurant (34-622(c)(43)):</td>
</tr>
<tr>
<td>Group I</td>
</tr>
<tr>
<td>Group II</td>
</tr>
<tr>
<td>Group III</td>
</tr>
</tbody>
</table>

Notes:
1. through 7. remain unchanged.
8. Not permitted in Airport Noise Zone 3B.
9. Not permitted in Airport Noise Zone 3B. See section 34-1004 6(b)(2) for exceptions.
10. Permitted in Airport Noise Zone 3B only when ancillary to lawful mobile home or single-family residence. See section 34-1004 6(b)(2) & (3).
11. Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone 3B.
12. Remains unchanged.
13. See Section 34-3152.

DIVISION 8. INDUSTRIAL DISTRICTS

Sec. 34-903. - Use regulations table.

Use regulations for industrial districts are as follows:

<table>
<thead>
<tr>
<th>Use regulations for industrial districts</th>
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</thead>
<tbody>
<tr>
<td>TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS</td>
</tr>
<tr>
<td>Special Notes or Regulations</td>
</tr>
<tr>
<td>Consumption on premises</td>
</tr>
<tr>
<td>Day care center, child</td>
</tr>
<tr>
<td>Day care center, adult</td>
</tr>
<tr>
<td>EMS, fire or sheriff's station</td>
</tr>
<tr>
<td>Heliport or helistop</td>
</tr>
<tr>
<td>Rental or leasing establishments (34-622(c)(39))</td>
</tr>
<tr>
<td>Group II</td>
</tr>
<tr>
<td>Restaurant (34-622(c)(43))</td>
</tr>
<tr>
<td>Group I</td>
</tr>
<tr>
<td>Group II</td>
</tr>
<tr>
<td>Roadside stand (defined in section 34-1742)</td>
</tr>
</tbody>
</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

<table>
<thead>
<tr>
<th>Section Code</th>
<th>Use</th>
<th>Special Regulations</th>
<th>Notes or Regulations</th>
<th>RPD</th>
<th>MHPD</th>
<th>RVPD</th>
<th>Compact PD</th>
<th>CFPD</th>
<th>CPD</th>
<th>IPD Note (37)</th>
<th>AOPD</th>
<th>MPD</th>
<th>MEPD</th>
</tr>
</thead>
<tbody>
<tr>
<td>34-934</td>
<td>Bait and tackle shop</td>
<td>Note 49</td>
<td>P (4)</td>
<td>P (4)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>P</td>
<td>P</td>
<td>P (46)</td>
<td>P</td>
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<tr>
<td>34-934</td>
<td>Boats:</td>
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<td></td>
<td>Boat parts store</td>
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<td>P (4)</td>
<td>P (4)</td>
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<td>P</td>
<td>P</td>
<td>P (46)</td>
<td>P</td>
<td>-</td>
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</tr>
<tr>
<td>34-934</td>
<td>Boat ramps and dockage (not marinas)</td>
<td></td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>-</td>
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<tr>
<td>34-934</td>
<td>Boat rental</td>
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<td>P (4)</td>
<td>P (4)</td>
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</tr>
<tr>
<td>34-934</td>
<td>Boat repair and service</td>
<td>34-1352, 34-3001 et seq.</td>
<td>-</td>
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<td>-</td>
<td>P</td>
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<tr>
<td>34-934</td>
<td>Boat sales</td>
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<td>P</td>
<td>P</td>
<td>P (46)</td>
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<tr>
<td>34-934</td>
<td>Boat storage, dry</td>
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<td>Boathouse</td>
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<td>34-934</td>
<td>Broadcast studio, commercial radio and television</td>
<td>34-1441 et seq.</td>
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<td>Building material sales (34-622(c)(4))</td>
<td>34-3001 et seq.</td>
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<td>34-934</td>
<td>Caretakers Residence</td>
<td>Note 34</td>
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<td>34-934</td>
<td>Community gardens</td>
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<td>P (46)</td>
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</tr>
</tbody>
</table>

Notes:

(1) through (15) No change.
(16) Not permitted in Airport Noise Zones 2B and 3B.
(17) Not permitted in Airport Noise Zones 2 and 3B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004.6(b)(2) & (3) as applicable.
(18) See Section 34-3152.
<table>
<thead>
<tr>
<th>Fraternal, membership organization</th>
<th>34-2111</th>
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<th>P (46)</th>
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<td>34-1261 et seq. Note 49</td>
<td>P (4)</td>
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<td>P</td>
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<td>Single-family</td>
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<td>Townhouse, multiple-family building</td>
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<td>Mobile home</td>
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<td>Zero lot line</td>
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<td>(point of manufacture only)</td>
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<td>Food Stores: (34-622(c)(16))</td>
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<td>-</td>
<td>P</td>
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<td>P(9)</td>
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<td>P</td>
<td>P</td>
<td>P(9)</td>
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<tr>
<td>Gift and souvenir shop</td>
<td>Note 49</td>
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<td>-</td>
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<td>-</td>
<td>P</td>
<td>-</td>
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<td>Health care facilities (34-622(c)(20))</td>
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<td>Note (28) &amp; (47)</td>
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<tr>
<td>Group II</td>
<td>Note (28) &amp; (47)</td>
<td>P</td>
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<td>Group III</td>
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<td>(34-622(c)(25))</td>
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<td>Group I</td>
<td>Note (5)</td>
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<td>Note (5)</td>
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<td>Stone, clay, glass and concrete products (34-622(c)(48))</td>
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</tbody>
</table>

68
| Group I   | Note (5) | - | - | - | - | - | - | - | - | P | P | P | - |
| Group II  | Note (5) | - | - | - | - | - | - | - | - | P | - | - | - |
| Group III | Note (5) | - | - | - | - | - | - | - | - | P | - | - | - |
| Group IV  | Note (5) | - | - | - | - | - | - | - | - | P | - | - | - |
| Transportation equipment (34-622(c)(52)): | | | | | | | | | | | | | |
| Group I   | Note (5) | - | - | - | - | - | - | - | - | P | P | P | - |
| Group II, III and IV | | | | | | | | | | | | | |
| Mobile home dealers | 34-1352 | - | - | - | - | P | P | - | P | P | - | - | - |
| Processing or packaging of agricultural or fish products | Note (5) | - | - | - | - | - | - | - | - | P | - | P | - |
| Recreation facilities: | | | | | | | | | | | | | |
| Commercial (34-622(c)(38)) | | | | | | | | | | | | | |
| Groups I, III | | | | | | | | | | | | | |
| Group IV | | | | | | | | | | | | | |
| Group V | | | | | | | | | | | | | |
| 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., Note 49 | P (4) | P (4) | P (8) | - | - | P | - | P (46) | P | - | - | - |
| Recycling facility | | | | | | | | | | | | | |
| Religious facilities | | | | | | | | | | | | | |
| Note (28), 34-2051 et seq. | P (3) | P (3) | - | - | P | P | P | - | P | - | P | - | - |
| Research and development laboratories (34-622(c)(41)): | | | | | | | | | | | | | |
| Group I | | | | | | | | | | | | | |
| Group II | | | | | | | | | | | | | |
| Group III | | | | | | | | | | | | | |
| Group IV | | | | | | | | | | | | | |
| Restaurants (34-622(c)(43)): | | | | | | | | | | | | | |
| Groups I and III | | | | | | | | | | | | | |
| Note 49 | P (4) | P (4) | - | - | - | - | - | - | - | - | - | - | - |
| Vehicle and equipment dealers (34-622(c)(55)): | | | | | | | | | | | | | |
| Group I, II & III | 34-1352 | - | - | - | - | P | P | P (46) | P | - | - | - | - |
| Group IV | 34-1352 | - | - | P (17) | - | - | P | P | - | P | - | - | - |
| Group V | 34-1352 | - | - | - | - | P | P | P (25) | P | - | - | - | - |

69
Sec. 34-941. - Private recreational facilities planned developments.

(a) through (d) (2) c.i. remain unchanged.

ii. No maintenance, delivery, irrigation pump, or outdoor storage or delivery area may be located closer than 1000 feet from any residential use under separate ownership, as measured from the edge of the above-listed area to the property line of the residential use.

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 f. remain unchanged.
g. Recreation activities, outdoor only, to include passive recreation such as tent camping and that active recreation requiring little or no facilities, capital investment or alteration of the natural landscape.

h. through m. remain unchanged.

n. Temporary uses (see Article VII, Division 37, of this chapter).

o. County parks (including Neighborhood and Regional parks).

p. State parks with uses approved within the park's management plans in accordance with F.S. Chapters 253 and 259.

g. Federal parks with uses approved within the park's management plans.

(2) through (3) remain unchanged.

SUBDIVISION III. AIRPORT HAZARD COMPATIBILITY DISTRICT

Sec. 34-1001. - Applicability.

Through the development and implementation of this subdivision, it is hereby determined that County airports consist of the Southwest Florida International Airport, Page Field and all existing and proposed state licensed airports and heliports, public and private, in the County. The provisions set forth in this subdivision are applicable to lands encompassing and surrounding the Southwest Florida International Airport (SWFIA), Page Field General Aviation Airport, comprising the related height and land use protection necessary to the viability of the airports. These provisions are applicable only in the unincorporated portions of Lee County unless an interlocal agreement providing otherwise is in effect.

Sec. 34-1002. - Findings, Purpose, and intent.

(a) Findings. The Lee County Board of County Commissioners find as follows:

(1) The SWFIA and Page Field are an integral part of the County transportation network;

(2) The Airport Master Plans for both SWFIA and Page Field have been adopted into the traffic element of the Lee Plan in recognition of their importance as part of the County transportation system;

(3) The continued viable operation of the airports is critical to the continued health, safety and welfare of the citizens of Lee County as well as the many visitors that pass through these airports;

(4) Airport hazards endanger the lives and property of airport uses as well as the owners and occupants of property surrounding the airports;

(5) Airports may produce noise levels that are not compatible with residential uses and certain commercial and industrial uses;

(6) Hazards reduce the size of the area available for the landing, take off and maneuvering of aircraft, which impairs the viability of the airport;

(7) The creation of an airport hazard injures the community served by the airport and constitutes a nuisance; and

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(8) In the interest of the public health, safety and welfare it is appropriate to establish regulations to prevent or minimize the creation of hazards and the placement of inappropriate uses in the vicinity of airports.

(b) **Purpose and intent.** The purpose of this subdivision is to establish protection around SWFIA and Page Field in accord with the provisions of FS Chs. 330 and 333 (as amended), as well as Federal regulations (as amended) including 14 CFR Parts 77, 150 and 151 and FAA Advisory Circulars 150/5300-13 and 150/5200-33, which address height obstructions, airport hazards, wildlife attractants, noise, runway protection zones, light emissions, reflectivity and power interference, aircraft overflights, and the public investment in air transportation facilities. These provisions are intended to supplement the state and federal regulations regarding airport protection and specifically to:

(a) The purpose and intent of this subdivision shall be as follows:

1. To promote the maximum safety of aircraft arriving at and departing from County public airports;
2. To promote the maximum safety of residents and property within areas surrounding County public airports;
3. To promote the full utility of County public airports, so as to ensure the maximum prosperity, welfare and convenience to the Lee, Charlotte, Collier, Hendry and Glades County areas and their residents;
4. To provide building height standards for use within the approach, transitional, horizontal and conical surfaces so as to encourage and promote proper and sound development beneath these areas;
5. To provide development standards for land uses within prescribed noise zones associated with the normal operation of County public airports; and
6. To provide administrative procedures for the efficient and uniform regulation of all development proposals within such designated airport noise zones, runway approach zones and airport height zones; and
7. Prevent the creation of hazards and incompatible land uses.

(b) The regulations set out in this subdivision are adopted pursuant to the authority conferred by F.S. § 333.03. It is hereby found that an airport obstruction has the potential for being hazardous to aircraft operations as well as to persons and property on the ground in the vicinity of the obstruction. An obstruction may affect land use in its vicinity and may reduce the size of areas available for the taking-off, maneuvering and landing of aircraft, thus tending to impair or destroy the utility of county airports and the public investment therein. It is hereby found that aircraft noise may be an annoyance or may be objectionable to residents in the county. Accordingly, it is declared that:

1. The creation or establishment of an airport obstruction which may be hazardous to aircraft operations, or which reduces the size of the area available for such operations, or which inhibits the safe and efficient use of airspace surrounding a county airport, is a public nuisance and an injury to the county;
It is necessary in the interest of the public health, safety and general welfare that the creation of airport obstructions and the incompatible use of land within the designated airport noise zones be prevented; and

The prevention of these obstructions and incompatible land uses should be accomplished, to the extent legally possible, by the exercise of police power without compensation.

It is further declared that the prevention of the creation of airport obstructions and incompatible land uses and the elimination, removal, alteration, mitigation or marking and lighting of existing airport obstructions are public purposes for which the political subdivision may raise and expend public funds and acquire land or interests in land.

Sec. 34-1003. - Definitions.

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

Aircraft means any vehicle which is used or designed for navigation of or flight in the air.

Airport means the Southwest Florida International Airport, Page Field and any state-licensed area of land or water the county intended to be designed and set aside for used for the taking-off, maneuvering and landing of aircraft, including any state-licensed seaplane base, helistop or emergency landing area.

Airport, private means an airport that is registered with the state, but not State licensed. For purposes of this Article, Lee County Mosquito Control helistops and airport facilities (e.g. Buckingham Airport) are private airport facilities. Private airports are not open for use by the general public except by specific invitation of the airport owner.

Airport, public means any airport licensed by the state, including state-licensed seaplane bases, helistops and emergency landing areas. Public airports as used in this code specifically refer to SWFIA and Page Field. Public airports are open to the general public with or without a prior request to use the airport.

Airport Hazard means any structure or tree or use of land that would exceed the federal obstruction standards and obstructs the airspace required for flight of aircraft in taking off, maneuvering, or landing or is otherwise hazardous to such taking off, maneuvering, or landing of aircraft; and for which a permit or variance has not been issued.

Airport Obstruction means any existing or proposed manmade structure object or, object of natural growth or terrain, or use of land which would exceed the federal obstruction standards as contained in Federal Aviation Administration Handbook 8260.38, United States Standards for Terminal Instrument Procedures (TERPS), Federal Aviation Regulations part 77, as revised, and aircraft manufacturer's operating manuals for turbine-powered aircraft capable of landing or taking off at a county airport, or which obstructs the airspace or may otherwise be hazardous to aircraft taking off, maneuvering or landing at an airport that violates the standards set forth in 14 CFR §77.13, 77.17, 77.19, 77.21 and 77.23.
**Airport Noise Zone** means the areas representative of specific airport DNL noise contours or designated over flight areas in which land use is limited. Notification to property owners is provided through notice recorded in the Lee County Public records, and notification through recording of the areas occur.

**Airport Obstruction Notification Zone** means an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level.

**Airport Reference Point** means the approximate geographic center of all usable airport runways as identified on the approved Airport Layout Plan (existing and ultimate).

**Airport Residential Protection Zone** means an area identified in Chapter 333, F.S., that is contiguous to the airport and is defined by an outer noise contour that is considered incompatible with the types of construction identified in 14 CFR Part 150, Appendix A or an equivalent noise level as established by other types of noise studies. For SWFIA, this Zone is the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.

**Airport Runway Approach Surface** is an imaginary surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Airport Runway Primary Surface as defined by FAR Part 77. An Airport Runway Approach Surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

**Airport Runway Clear Zone** as defined in FS and 14 CFR Part 151.9(b) is an area at ground level which begins at the end of each Airport Runway Primary Surface and extends with the width of each Airport Runway Approach Surface to terminate directly below each Airport Runway Approach Surface slope at the point, or points, where the slope reaches a height of 50 feet above the elevation of the runway or 50 feet above the terrain at the outer extremity of the Airport Runway Clear Zone, whichever distance is shorter.

**Airport Runway Primary Surface** is an imaginary surface longitudinally centered on an existing or planned runway as defined by FAR Part 77.

**Airport School Protection Zone** means an area identified in Chapter 333, F.S., that extends 5 miles in a direct line along the centerline of a SWFIA or Page Field runway, and has a width measuring half the length of the runway which prohibits the placement of schools and educational facilities. This Zone also encompasses an area defined by an outer noise contour that is considered incompatible with that type of construction identified by 14 CFR Part 150, Appendix A or an equivalent noise level as established by others types of noise studies. For Page Field, this Zone also encompasses the area within the 65 DNL Noise Contour as approved in the 2002 Master Plan Update. For SWFIA, this Zone also encompasses the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.

**Airport Wildlife Hazard Protection Zone** means an area encompassing 10,000 feet from the nearest point of any SWFIA or Page Field runway shown on the most recent Airport Layout Plan approved by the FAA to be used or planned to be used by turbojet or turboprop aircraft.
Airspace height means the height limits as established and set forth in this subdivision. Above mean sea level (AMSL) elevation shall be the datum unless otherwise specified.

Aviation easement means the transference by grant of a property owner's legal property rights pertaining to airspace above his property, and the waiving of all possible claims for damages resulting from the operation of aircraft above the surface of the grantor's property, to include but not be limited to noise, vibrations, fumes, dust, fuel particles and all other effects that may be caused due to present and future aircraft flights over the grantor's property.

A-weighted decibels means a logarithmic quantification designed to compress the full range of sound pressures and incorporating a filter that deemphasizes sound pressure levels of very high-pitched or low-pitched components to better correlate with subjective judgments of loudness.

Civil airport means any county airport not operated strictly for military use.

Climb gradient means an aircraft instrument departure procedure requiring adherence to a minimum climb slope or grade expressed in feet per nautical mile.

Decision height means the height at which a pilot must decide, during an instrument landing system (ILS) approach, to either continue the approach or to execute a missed approach.

FAA means the Federal Aviation Administration.

Instrument flight rules (IFR) means rules governing the procedures for conducting instrument flight according to Federal Aviation Regulations part 91. These rules usually go into effect during bad weather conditions with low-visibility minimums.

Instrument landing system (ILS) means a landing approach system that establishes a course and a descent path to align aircraft with a runway for final approach.

Minimum descent altitude (MDA) means the lowest altitude above mean sea level to which descent is authorized on final approach or during circling to land maneuvering in execution of a standard instrument approach procedure (SIAP) where electronic glide slope is not provided.

Minimum en route altitude (MEA) means the lowest published altitude between radio fixes that ensures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

Minimum obstruction clearance altitude (MOCA) means the lowest published altitude between radio fixes on federal VOR airways, off-airway routes or route segments that meets obstruction clearance requirements for the entire route segment and ensures acceptable navigational signal coverage only within 22 miles of a VOR.

Minimum vectoring altitude (MVA) means the lowest altitude above mean sea level at which aircraft operating under instrument flight rule (IFR) conditions will be vectored by a radar controller, except when otherwise authorized for radar approaches, departures or missed approaches.

Noise zones means areas representative of specific airport DNL noise contours in which land use is limited due to the level of noise associated with these areas surrounding an airport.

Nonprecision instrument runway means a runway having a nonprecision instrument approach procedure utilizing air navigation facilities with only
horizontal guidance, or area type of navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved, or planned, and for which no precision instrument approach facilities are planned or indicated on an appropriate civil or military airport planning document.

Nonstandard take-off minimums means conditions of existing weather required for takeoff at an airport for which standards prescribed in Federal Aviation Regulations part 91.

Page Field means and refers to Page Field General Aviation Airport.

Precision-instrument runway means a runway having an instrument approach procedure utilizing horizontal and vertical guidance through an instrument landing system (ILS), microwave landing system (MLS) or a precision approach radar (PAR), including a runway for which such a system is planned and is so indicated on an approved civil or military airport layout plan, other Federal Aviation Administration planning documents, or comparable military service planning documents.

Radar obstruction means any structure or object of natural growth or use of land which would shield or otherwise interfere with the full coverage of the airport surveillance radar (ASR) for the Southwest Florida Regional Airport, Page Field or any other county airport.

SWFIA means and refers to Southwest Florida International Airport.

Utility runway means a runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight or less.

Visual flight rules (VFR) means rules governing the procedures for conducting flight under visual conditions according to Federal Aviation Regulations part 91. These rules are usually in effect during good weather conditions with high visibility minimums.

Visual runway means a runway intended solely for the operation of aircraft using visual approach procedures with no instrument approach procedure and no instrument designation planned or indicated on a Federal Aviation Administration approved civil or military airport layout plan, or by any other planning document submitted to the Federal Aviation Administration by competent authority.

VOR means a very high frequency omnidirectional range air navigation aid which provides bearing information to aircraft.

Sec. 34-1004. Flight obstruction surfaces.

In order to carry out the provisions of this subdivision, there are hereby created and established certain surfaces which include all of the land lying beneath the primary, horizontal, conical, approach and transitional surfaces as they apply to a particular airport. Such surfaces are shown on the airport layout plans and the approach and clear zone plans for the Southwest Florida International Airport and Page Field, as well as those surfaces described in the Federal Aviation Administration Terminal Approach Procedures Manual (TERPS) and under Federal Aviation Regulations part 77, on file at Southwest Florida International Airport. These surfaces apply to existing and proposed runway configurations. An area located in more than one of the described surfaces is considered to be only in the surface with the more restrictive height limitations. All height restrictions refer to height above mean sea level (AMSL).
(1) **Publicly owned, public-use county airports.** The various surfaces established and defined for any publicly owned and operated, public-use county airport are as follows:

   a. **Primary surface.** The primary surface is an area longitudinally aligned along the runway centerline for each runway, extending 200 feet beyond each end of that runway, with the width so specified for each runway for the most precise approach existing or planned for either end of that runway.

      1. **Primary surface widths.** The width of each primary surface is as follows:

         i. Precision-instrument runways and nonprecision instrument runways other than utility with visibility minimums lower than three-fourths of a statute mile: 1,000 feet in width.

         ii. Nonprecision instrument runways having visibility minimums greater than three-fourths of a statute mile: 500 feet in width.

         iii. Visual runways other than utility: 500 feet in width.

         iv. Utility runways having only visual approaches: 250 feet in width.

   b. **Horizontal surface.** The horizontal surface is an area around each civil airport with an outer boundary, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each airport’s runways and connecting the adjacent arcs by lines tangent to those arcs. The radius of the arc is specified for each end of the runway will have the same arithmetical value, being the higher determined for either end of that runway. When a smaller arc is encompassed by a tangent connecting two adjacent larger arcs, the smaller arc shall be disregarded in the construction of the perimeter of the horizontal surface.

      1. **Horizontal surface arc radius.** The radius of each runway arc is as follows:

         i. All runways other than utility having precision and nonprecision instrument approaches: 10,000-foot radius.

         ii. Utility runways having visual or nonprecision approaches and other than utility runways having visual approaches: 5,000-foot radius.

   2. **Horizontal surface height.** No structure or obstruction will be permitted in the horizontal surface that has a height greater than 150 feet above the airport elevation.
e. **Conical surface.** The conical surface is an area extending outward from the periphery of the airport's horizontal surface for a distance of 4,000 feet. No structure or obstruction will be permitted in the conical surface that has a height greater than 150 feet above the airport elevation at the inner boundary (connecting to the horizontal surface) with permitted height increasing at a slope of 20 to 1 (one foot vertically for every 20 feet of horizontal distance) measured outward from the inner boundary to a height 350 feet above the airport elevation at the outer boundary.

d. **Approach surface.** The approach surface is an area longitudinally centered on the extended runway centerline and extending outward from the end of the primary surface. The approach surface is designated for each runway based upon the type of approach available or planned for that runway end.

1. **Approach surface widths.** The inner edge of the approach surface is the same width as the primary surface. The outer width of the approach surface is prescribed for the most precise approach existing or planned for that runway end.

   i. Precision-instrument runways: 16,000 feet in width.

   ii. Nonprecision-instrument runways: 4,000 feet in width for that end of a nonprecision-instrument runway other than utility, having visibility minimums lower than three fourths of a statute mile; 3,500 feet in width for that end of a nonprecision-instrument runway other than utility, having visibility minimums greater than three fourths of a statute mile; and 2,000 feet in width for that end of a nonprecision-instrument utility runway.

   iii. Visual runways: 1,500 feet in width for that end of an other than utility runway with only visual approaches, and 1,250 feet in width for that end of a utility runway with only visual approaches.

2. **Approach surface lengths.** The approach surface extends for a horizontal distance of:

   i. Precision-instrument runways: 50,000 feet in length.

   ii. Nonprecision-instrument runways: 10,000 feet in length for other than utility runways having nonprecision-instrument approaches.

   iii. Visual and utility runways: 5,000 feet in length for utility runways having visual and nonprecision approaches and other than utility runways having visual approaches.

3. **Approach surface heights.** No structure or obstruction will be permitted within approach surfaces having a height greater...
than the runway end at its inner edge, increasing with horizontal distance outward from the inner edge as follows:

i. Precision-instrument runways: A slope of 50 to 1 (one foot vertically for every 50 feet horizontally) for the first 10,000 feet, increasing to 40 to 1 (one foot vertically for every 40 feet horizontally) for an additional 40,000 feet.

ii. Nonprecision-instrument runways: A slope of 34 to 1 (one foot vertically for every 34 feet horizontally) for the designated length for runways having nonprecision-instrument approaches.

iii. Visual and utility runways: A slope of 20 to 1 (one foot vertically for every 20 feet horizontally) for the designated length for utility runways having visual and nonprecision approaches and other than utility runways having visual approaches.

e. Transitional surface: The transitional surface is an area extending outward and upward from the sides of each primary surface and approach surface at a slope of 7 to 1 (one foot vertically for every seven feet horizontally) until the height matches the height of the horizontal surface or for a horizontal distance of 5,000 feet for a precision-instrument runway approach surface extending beyond the conical surface.

f. Terminal instrument procedures (TERPS) departure surfaces: Terminal instrument procedures departure surfaces are areas designated for the instrument departure of aircraft as outlined in Federal Aviation Administration Handbook 8260.3B. The application of the terminal instrument procedures (TERPS) departure surfaces shall be made after application of the surfaces described in subsections (1) through e of this section, to determine which of the surface's elevations are more constraining. The surface that is most constraining with regard to permitted heights will apply. The terminal instrument procedures (TERPS) departure surface is an area longitudinally centered on the extended runway centerline and extending outward from the departure end of each runway for two nautical miles. The width of the surface is 1,000 feet at the runway end, diverging 15 degrees outward from either side of the runway centerline out to the end of the surface (width at this point is approximately 7,512 feet). The beginning elevation of these surfaces is 35 feet above the runway end with this elevation increasing at a slope of 40 to 1 (one foot vertically for every 40 feet horizontally) to the end of the surface.

g. Airport surveillance radar (ASR) surface.

1. The airport surveillance radar (ASR) surface extends radially from the airport surveillance radar (ASR) facility located adjacent to the northwestern perimeter of the Southwest Florida International
Airport. The beginning elevation of the airport surveillance radar (ASR) conical surface is designated as the ground elevation at the center of the airport surveillance radar (ASR) facility. The airport surveillance radar (ASR) surface extends upward and outward from this reference point in all directions at a 125 to 1 slope (one foot vertically for every 125 feet horizontally) until an elevation of 125 feet above mean sea level is reached.

2. Due to the fact that the operation of the airport surveillance radar (ASR) facility is electromagnetic in nature, objects not penetrating the 125 to 1 airport surveillance radar (ASR) surface may still have an adverse affect on the safe and efficient operation of the airport surveillance radar (ASR) facility. Therefore, the airport surveillance radar (ASR) obstruction zone is hereby created and is designated as an area that extends from the airport surveillance radar (ASR) facility reference point in all directions to a radius of 5,000 feet. No construction or alteration shall be permitted within this airport surveillance radar (ASR) obstruction zone without prior review and approval by the county port authority.

h. **Heliport primary surface.** The area of the heliport primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

i. **Heliport approach surface.** The heliport approach surface begins at each end of the heliport primary surface with the same width as the heliport primary surface, and extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet at a slope of 8 to 1 (one foot vertically for every eight feet horizontally).

j. **Heliport transitional surface.** This surface extends outward and upward from the lateral boundaries of the heliport primary surface and from the heliport approach surface at a slope of 2 to 1 (one foot vertically for every two feet horizontally) for a distance of 250 feet measured horizontally from the centerline of the heliport primary and approach surfaces.

k. **Other areas.** In addition to the height limitations imposed in subsections (1) a through j of this section, no structure or obstruction will be permitted within the county that would cause a minimum descent altitude (MDA), minimum obstacle clearance altitude (MOCA), minimum vectoring altitude (MVA) or decision height to be raised, or which would impose either the establishment of restrictive minimum climb gradients or nonstandard takeoff minimums. The following limitations apply to height restrictions within the county, in addition to those presented in subsections (1) a through j of this section. Where any two restrictions are in conflict, the more stringent applies.

1. Except as otherwise provided in this subdivision, no structure or object of natural growth shall be erected, altered or allowed to grow, or be maintained, to a height which penetrates any flight obstruction surfaces created in this subdivision.
2. Except as otherwise provided in this subdivision, no structure or object of natural growth shall be erected, altered or allowed to grow, or be maintained, without prior approval by the county port authority, which is or would be an obstruction to air navigation within the county or of a height greater than any of the following:
   i. A height of 500 feet above ground level at the site of the object.
   ii. A height of 200 feet above ground level or above the established airport elevation, whichever is higher, within three nautical miles of the established reference point of an airport, and which height increases at a slope of 100 to 1 (one foot vertically for every 100 feet horizontally) up to a maximum of 500 feet.
   iii. Any object within the approach segment, the departure area or any missed approach or circling approach area which is determined by the administrative director to be a hazard to the safe and efficient use of airspace around an airport.

3. Except as otherwise provided in this subdivision, no structure or object or natural growth shall be erected, altered or allowed to grow, or be maintained, which penetrates any of the imaginary surfaces outlined under Federal Aviation Regulations part 77, Notice of Construction or Alteration, as revised, without prior notification to the Federal Aviation Administration as outlined under the same regulations.

(2) Other county airports. No structure or obstruction will be permitted within zones specified in the rules of the state department of transportation, chapter 14-60, Airport Licensing and Zoning, that is not part of the landing, maneuvering and taking-off facilities at any county airport, as determined by the county port authority.

34-1004. - Airport Noise Zones (moved up from 34-1006)

(a) Purpose. The purpose of this section is to establish standards for land use and for noise compatibility requirements with respect to noise and overflights associated with the normal operation of County airports. This section establishes noise zones of differing intensities and land uses in the vicinity of County airports. This section establishes permitted land uses within the noise zones, and establishes requirements for providing notification and easement procedures to current and prospective purchasers or developers of real estate within the noise zones.

(b) Noise zones defined; permitted uses. There are hereby created and established four airport noise zones pertaining to land uses surrounding the Southwest Florida International Airport. The noise zones are based upon the most recent composite DNL contours for airport noise developed in accordance with the Federal Aviation Regulations, Part 150, Noise Compatibility Study for the Southwest Florida International Airport, in combination with an area subject to repetitive, low
altitude aircraft over flights associated with flight training activity on the planned parallel runway, as approved by the Board of Port Commissioners and the FAA. The four proposed zones were as adopted by the Board of County Commissioners and are on file at the Lee County Port Authority. The purpose and intent of these noise zones is to define and set forth specific regulations for all properties within the described areas. These noise zones are set forth as overlay zoning districts in that they provide regulations and restrictions in addition to those set forth in the planned development or conventional zoning districts in which the property is located, as defined in this chapter. Except as otherwise provided in this section, no land, body of water or structure may be used or permitted to be used and no structure may be hereafter erected, constructed, moved, reconstructed or structurally altered or maintained in any of these airport noise zones which that is designed, arranged or intended to be used or occupied for any purpose other than as defined in the following:

1. **Airport Lands Noise Zone A.**
   a. **Location.** Airport Lands Noise Zone A is the land within the airport SWFIA boundary as identified in Appendix C.
   b. **Restrictions.** The Airport Lands Noise Zone A is restricted to airport-related uses only that are compatible with airports and air commerce, including but not limited to those necessary to provide services and convenience goods principally to airline passengers, and those uses generally associated with the airport operations, including aircraft and aircraft parts manufacturers, air freight terminals, aviation and airline schools, aircraft repair shops, aerial survey offices, aircraft sales, equipment and parts storage, aviation research and testing laboratories, airline catering services, and governmental facilities and, other compatible non-aviation uses such as light industrial/warehouses, offices, hotels, and gas stations.

2. **Noise-sensitive zone Airport Noise Zone B.**
   a. **Location.** The noise-sensitive zone Airport Noise Zone B consists of that area of land located between the Airport Lands boundary Noise Zone A and the 2020 Composite 80 DNL contour line as determined in the adopted 2005-FAR Part 150 Study for Southwest Florida International Airport SWFIA (2006) and identified in Appendix C.
   b. **Restrictions.** This zone allows any use permitted by this chapter, provided that no residential living units, places of worship, libraries, schools, hospitals, correctional institutions or nursing homes are permitted. However, residential units, including mobile homes that are lawfully existing as of June 27, 2000 will be treated as legally permitted uses and not as nonconforming uses. Lawfully existing mobile or manufactured homes may be replaced with new mobile or manufactured homes or conventional single-family construction and existing conventional single-family homes
may be replaced with new conventional homes so long as such replacement would be otherwise allowed by this Code. However, an existing conventional home may not be replaced with a new mobile or manufactured home. One conventional single-family home is permitted on each lot in a plat properly recorded before June 27, 2000 if such use would have been permitted on the lot prior to June 27, 2000. This zone requires formal notification in accord with section 34-1004.

(3) Airport Noise Zone C.
   a. *Location.* Airport Noise Zone C consists of that area of land located between the Airport Noise Zone B and the 2020 Composite 55 DNL contour line as determined in the adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.
   b. *Restrictions.* This zone allows any use permitted by this chapter. This zone requires formal notification in accord with section 34-1004.

(4) Airport Noise Zone D.
   a. *Location.* Airport Noise Zone D consists of that area of land located southeast of Airport Noise Zone C and represented the area designated for Flight Training associated with the planned south parallel runway. This zone comprises the area within a half mile of the expected centerline of the training pattern depicted in the adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.
   b. *Restrictions.* This zone allows any use permitted by this chapter. This zone requires formal notification in accord with section 34-1004.

(c) *Noise zone notification.* Noise Zones B, C and D require formal notification that the property is within a particular Airport Noise Zone and may be subject to aircraft noise and overflights. Formal notification is provided by recording a Notice in the official county records that sets forth the legal description of the 2020 Composite DNL noise contours and the flight training overflight area as defined in the Federal Regulations, Part 150 Noise Compatibility Study for the SWFIA (2006).

Sec. 34-1005. - Airport Protection Zones.

(a) Lee County hereby establishes Airport Protection Zones for Lee County Public Airports as follows:
   1. Airport Runway Clear Zones
   2. Airport School Protection Zones
   3. Airport Residential Protection Zones
   4. Airport Obstruction Notification Zones

(b) These zones are established to regulate land development in relation to the SWFIA and Page Field as licensed for public use. The zones are intended to
protect air transportation and facilities serving Lee County and surrounding cities and counties as well as the investment in these facilities.

(c) The approximate location and boundary of each protection zone is depicted on the maps in Appendix C.

(d) Development within the areas encompassed by these zones must be in accord with the provisions set forth in this subdivision.

Sec. 34-1006. - Airport Runway Clear Zones.

(a) Purpose of zone. Pursuant to FS Chapter 333 and 14 CFR 151 the purpose of the Runway Clear Zone is to protect people and property on the ground, prevent the future erection or creation of hazards within the vicinity of a public airport that have the potential to diminish the runway capacity; and, to provide an opportunity to ameliorate obstructions created/existing prior to adoption of this section.

(b) Location and map of zone. The Airport Runway Clear Zones for SWFIA and Page Field are established in accord with the approved Airport Layout Plans, FS Chapter 333, FAR Part 77, 14 CFR Part 77 and 14 CFR 151 and depicted in Appendix C.

(c) Prohibited uses. Uses that are incompatible with airport operations or endangers the public health, safety and welfare by resulting in congregations of people, emission of light or smoke, or attraction of birds are prohibited within the established Airport Runway Clear Zones for each airport.

(d) Development compliance. Development within the Airport Runway Clear Zone must comply with the provisions of this article. All development within any Airport Runway Clear Zone must be reviewed by the Lee County Port Authority prior to any development or permit approval. No development approval may be issued unless it is specifically approved in writing by the Lee County Port Authority. No development within an Airport Runway Clear Zone will be approved that would degrade or have a negative impact on the use of any runway at SWFIA or Page Field. Review by the Port Authority must be consistent with the provisions of FS Chapter 333, 14 CFR 151, and FAR Part 77.

Sec. 34-1007. - Airport School Protection Zones.

(a) Purpose of zone. Pursuant to Chapter 333 F.S., the purpose of the Airport School Protection Zones are to prohibit the construction of an educational facility or a public or private school at either end of a publicly owned, public-use airport within an area which extends five (5) miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. For Page Field Airport this zone also encompasses the 65DNL Noise Contour as shown on the Noise Contour map adopted by the FAA as part of the 2002 Master Plan Update. For SWFIA, this Zone also encompasses the 65 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA. Aviation related educational facilities are exempt from this requirement. A Variance approving construction of an education facility within any Airport School Restriction Zone will only be granted based on specific findings detailing how the public policy reasons for
allowing the construction outweigh health and safety concerns prohibiting such a location.

(b) **Location and map of zone.** The Airport School Protection Zones for SWFIA and Page Field are established in accordance with Chapter 333, F.S. and depicted in Appendix C.

(c) **Prohibited uses.** Uses that are incompatible with airport operations or endangers the public health, safety and welfare by constructing public or private educational facilities are prohibited within the established Airport School Protection Zones for SWFIA and Page Field.

(d) **Development compliance.** Development within the Airport School Protection Zones must comply with the provisions of this article.

**Sec. 34-1008. - Airport Residential Protection Zones**

(a) **Purpose of zone.** Pursuant to Chapter 333 F.S., the purpose of the Airport Residential Protection Zone is to prohibit the construction of any residential development within that area. For Page Field Airport this zone is the 65 DNL Noise Contour as shown on the Noise Contour Map adopted by the FAA as part of the 2002 Master Plan Update. For SWFIA, this Zone is the 60 DNL Noise Contour shown on the most recent Composite DNL Noise Contours map for SWFIA approved by the FAA.

(b) **Location and map of zone.** The Airport Residential Protection Zones for SWFIA and Page Field are established in accord with Chapter 333, F.S. and depicted in Appendix C.

(c) **Prohibited uses.** Uses that are incompatible with airport operations or endanger the public health, safety and welfare by constructing residential or educational facilities are prohibited within the established Airport Residential Protection Zones for SWFIA and Page Field.

(d) **Development compliance.** Development within the Airport Residential Protection Zones must comply with the provisions of this article.

**Sec. 34-1009. - Airport Obstruction Notification Zone.**

(a) **Purpose of zone.** The purpose of the Airport Obstruction Notification Zone is to regulate the height of structures, equipment and objects of natural growth in proximity to SWFIA and Page Field.

(b) **Location and map of zone.** An Airport Obstruction Notification Zone is established around SWFIA and Page Field and consists of an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level. The Airport Obstruction Zone also includes the area within a one-half mile radius from the Airport Surface Radar. The approximate locations of the Airport Obstruction Notification Zones applicable to SWFIA and Page Field are depicted in Appendix C. The Airport Obstruction Notification Zone map will be reviewed annually by Port Authority staff and the Port Authority Attorney's
Office and updated/amended by the Port Authority Executive Director as needed to ensure currency.

(c) **Prohibited uses.** Any object or structure within an Airport Obstruction Notification Zone or proposed at a height greater than an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level and anything above 125 feet above mean sea level will require a Tall Structures Permit approved by the LCPA. In addition, any object or structure within on-half mile for the SWFIA Airport Surveillance Radar will require a Tall Structures Permit approved by the LCPA.

(d) **Development compliance.** No object or structure will be allowed within an Airport Obstruction Notification Zone or at a height greater than an imaginary surface extending outward and upward from any point of any SWFIA and Page Field runway at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level without a prior written approved Tall Structures Permit issued by the LCPA. In addition, any object or structure within on-half mile for the SWFIA Airport Surveillance Radar will require a written approved Tall Structures Permit by the LCPA.

Sec. 34-101008. Permit for Tall Structures LCPA Tall Structures Permit

(a) It shall be the duty of the director to administer and enforce the requirements prescribed in this subdivision within the territorial limits over which the county has jurisdiction through the permitting process. The director shall implement airspace notification procedures through the use of the county airspace notification map, as developed by the county port authority, to assist the department in determining when a proposed structure or object would require a tall structures permit. This airspace notification map shall be reviewed annually with the county port authority’s attorney and executive director, or their designees, to ensure currency. The various surfaces displayed on the county airspace notification map are defined as follows. The penetration of the imaginary surfaces outlined in this section shall require review by the county port authority under the provisions provided in this section.

(1) **Publicly owned, public-use county airports.** Any construction or alteration of a greater height than an imaginary surface extending outward and upward from any point of any publicly owned, public-use county airport at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level.

(2) **Other county airports.** Any construction or alteration of a greater height than an imaginary surface extending outward and upward from any point of any privately owned or private-use county airport at a slope of 50 to 1 (one foot vertically for every 50 feet horizontally) for a distance up to a height of 125 feet above mean sea level.

(3) **Heliports.** Any construction or alteration of a greater height than an imaginary surface extending outward and upward from any point of any public or private state licensed county heliport at a slope of 25 to 1 (one
foot vertically for every 25 feet horizontally) for a distance up to a height of 125 feet above mean sea level.

(4) **Airport surveillance radar notification areas.** Any construction or alteration within 5,000 feet of any airport surveillance radar facility, and any construction or alteration of a greater height than an imaginary surface extending outward and upward from the reference point of any airport surveillance radar facility at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level.

(5) **Other areas.** Any construction or alteration of a greater height than 125 feet above mean sea level.

(a) The Department of Community Development (DCD) will make the initial determination with respect to whether proposed development exceeds an Airport Obstruction Notification Zone surface based upon on the maps in Appendix C as an element of the zoning, development order and building permit application process. If DCD determines the proposed development, including associated use of temporary construction equipment, exceeds an Airport Obstruction Notification Zone surface, the applicant will be required to obtain a written determination from the Lee County Port Authority regarding the potential airport obstruction or hazard created by the development proposed. This provision applies to all development or improvements to land, including new development, redevelopment, building or use modifications etc. proposed after **August 9, 2011**.

(b) If the director DCD determines, for any proposed construction, including adding height to any existing structures, and for all alterations, repairs or additions that will change the use of the structure, or for erecting, altering or repairing any object of natural growth, that the height of the proposed structure or object exceeds the height limitations outlined on the Airport Obstruction Notification Zone map County airspace notification map as determined by the Director, then the applicant is required to obtain a **tTall sStructures pPermit** from the Port Authority prior to the issuance of any further development orders or permits.

(c) Applications for a **tTall sStructures pPermit** shall include the height and location of derricks, draglines, cranes and other boom-equipped machinery, if such machinery is to be used during construction.

(d) Applicants intending to use derricks, draglines, cranes and other boom-equipped machinery for such construction, reconstruction or alteration as is consistent with the provisions of this subdivision shall, when the machine operating height exceeds the height limitations imposed by this subdivision, require a **tTall sStructures pPermit**. Upon obtaining this permit through the procedures outlined in this section, the applicant shall mark, or mark and light, the machine to reflect conformity with the Federal Aviation Administration's or the County Port Authority's standards for marking and lighting obstructions, whichever is more restrictive, and shall be required in such cases to inform the County Port Authority, through this tall structures permit process, of the location, height and time of operation for such construction equipment use prior to the issuance of any construction permit to the applicant.

(e) The permitting procedures for a **tTall sStructures pPermit** are outlined as follows. If a tall structures permit application is deemed necessary by **DCD** the Director,
as determined through the use of the Airport Obstruction Notification Zone map, County airspace notification map, the following procedures shall apply:

(1) DCD The department shall give a written notice to the applicant that a Tall Structures Permit is required and that no further permits or development orders can be issued until a Tall Structures Permit is obtained.

(2) The applicant must then submit a completed Tall Structures Permit application to the Planning and Environmental Compliance Department, Lee County Port Authority, 11000 Terminal Access Road 16000 Chamberlin Parkway, Ft. Myers, Florida 33913. The County Port Authority shall review the application, and the following procedures will apply:

a. If the County—Port Authority determines that the proposed construction or alteration represented in the application does not violate the provisions of Federal Aviation Regulations, part 77, or the provisions of this subdivision or any other application of federal or state rules and regulations or does not adversely affect the airspace surrounding any County airport, the Port Authority will issue a Tall Structures Permit approval to the applicant with or without stipulations and conditions. indicate—such determination on the Tall Structures Permit application. The signed Tall Structures Permit application will then be returned to the applicant. The applicant must present the Tall Structures Permit application to DCD, the Administrative Director in order that a Tall Structures Permit may be issued. If the signed Tall Structures Permit application is accompanied with stipulations of compliance as determined by the County Port Authority, it is the responsibility of the Administrative Director to ensure that these stipulations are adequately addressed prior to the issuance of a Tall Structures Permit.

b. If the County—Port Authority determines that the proposed construction or alteration violates the notification criteria of Federal Aviation Regulations, Part 77, or otherwise violates any provisions of this subdivision or any other applicable federal or state rules or regulations, the County—Port Authority will notify the applicant in writing that the proposed construction or alteration may adversely affect the airspace surrounding County airports and require that a notice of proposed construction or alteration be filed with the Federal Aviation Administration for review through the submittal of Federal Aviation Administration Form 7460-1 as required by Federal Aviation Regulations, Part 77. The County—Port Authority shall suspend the Tall Structures Permit application process until Federal Aviation Administration findings of aeronautical effect are received and reviewed.

c. It is the responsibility of the applicant to forward the Federal Aviation Administration's findings of aeronautical effect, along with a copy of the completed original Federal Aviation Administration
Form 7460-1, to the County-Port Authority in order to continue the Tall Structures Permit process.

d. The tall-structures permit application shall not be approved-issued if the proposed construction or alteration is found to violate the provisions of this subdivision or any other applicable federal or state rules or regulations. No tall structures permit will be issued if all Federal Aviation Administration and County Port Authority comments are not addressed to the satisfaction of the County Port Authority. The applicant shall be forwarded a written notice if the tall-structures permit is denied, from the County Port Authority. This written notice shall specify the reason for objections and suggestions for compliance under this subdivision and all other applicable federal or state rules and regulations. FAA determinations constitute a statement regarding a proposed development's compliance with federal regulations governing airspace obstructions. The FAA does not have authority to grant local development approval. Consequently, Lee County may deny development approvals for a structure even if the FAA has determined that the structure does not constitute a hazard and does not exceed the standards set forth in 14 CFR Part 77.

e. After reviewing the Federal Aviation Administration’s comments pertaining to the Federal Aviation Administration Form 7460-1, if the County—Port Authority determines that the proposed construction or alteration does not adversely affect any other requirements pertaining to County airports, the Port Authority shall issue a Tall Structures Permit approval to the applicant with or without stipulations and conditions, return to the applicant the signed Tall Structures permit application. The applicant shall present a copy of the Tall Structures Permit application, along with all Port Authority comments and stipulations, to DCD. the Director in order that a tall-structures permit may be issued. If the signed Tall Structures Permit application is accompanied with stipulations of compliance, it is the responsibility of DCD the Director to ensure that these stipulations are adequately addressed prior to the issuance of any tall-structures permit. zoning, development order or building permit approvals.

f. If the Director determines that all procedures and application approvals are in compliance with the provisions outlined in this section, then a tall-structures permit will be issued to the applicant. After reviewing the Federal Aviation Administration’s comments pertaining to the Federal Aviation Administration Form 7460-1, if the Port Authority determines that the proposed construction or alteration does adversely affect any requirements pertaining to County airports, the Port Authority will issue a written denial of the Tall Structures Permit. A denied Tall Structures Permit must state specifically the reasons for denial. A denial must also state
whether it is possible to obtain a variance from the provisions of this subsection and the criteria under which a variance may be sought.

g. No tall structures permit shall be issued prior to obtaining a determination of acceptability and compliance from the County Port Authority. A Tall Structures Permit will not be issued by the Port Authority if:

a. the FAA has determined that the proposed structure or object to be a hazard to air navigation.
b. the FAA has determined that the proposed structure or object is an obstruction to air navigation and penetrates one of the airport surfaces identified in Florida Statutes Chapters 330 and 333.
c. the proposed structure or object will impact the available landing area, approach minimums, federal or state licensing or compliance requirements, or otherwise degrade the operation of a County airport and the public investment therein.

d. Temporary or conditional tall structures permits pending completion of the Federal Aviation Administration's or the County—Port Authority's review shall not be issued.

(3) FDOT Determinations. If the proposed construction or alteration (1) exceeds the federal obstruction standards as contained in 14 CFR ss. 77.13, 77.17, 77.19, 77.21 or 77.23; and, (2) is within 10 nautical miles of the geographic center of a County airport; and, (3) is located within an incorporated municipality that has not entered into an interlocal agreement with the County and Port Authority regarding compliance with the provisions of this subdivision, then the applicant must obtain an Airspace Obstruction Permit from the Florida Department of Transportation. This permit request must be submitted to the FDOT Aviation Office in Tallahassee in compliance with the provisions of FS Ch 333. Lee County does not have jurisdiction to issue a permit approval absent an interlocal agreement within the incorporated municipality.

(4) Review timing. Port Authority has 60 days to issue a written response to a complete Tall Structures Permit application or determination request unless an applicant agrees to an alternative review period or an FAA determination is required. If an FAA airspace determination is required, the Port Authority will notify the applicant of this fact in writing within 30 days after a complete application is submitted. Once the applicant obtains the necessary FAA determination, the Port Authority will have an additional 30 days to review the application in conjunction with the FAA determination and issue a written report.

(5) Permit validity. An airport obstruction permit is valid for a period of 1 year after issuance, unless a local development permit is issued based upon the Airport Obstruction permit approval or determination.

(6) Development approval. Lee County may not issue a development approval for a parcel subject to compliance with this subdivision until the required Tall Structures Permit or determination is issued by the Port Authority.
Sec. 34-1011. – Variance.

(a) An applicant may seek a variance from the provisions of this District.

(b) The variance application must include:

(1) A copy of the written request submitted in support of the development to the Port Authority.

(2) A copy of the application for a written determination submitted to the FAA in accord with 14 CFR Part 77 if the variance is related to a Tall Structures Permit.

(3) A copy of any previous determinations from the Port Authority and FAA.

(4) Documentation supporting the proposed development’s position that:

a. The enforcement of these regulations will result in a practical difficulty or unnecessary hardship;

b. Granting the variance can be accommodated in the navigable airspace without an adverse impact to the aviation operation of SWFIA or Page Field; and

c. The relief requested is not contrary to the public interest, safety and welfare.

(c) Pursuant to FS Chapter 333.07, any applicant may seek a variance to any determination under this section. Variance requests must be made in writing to Lee County in accordance with the provisions set forth in section 34-145 and this section. At the time of filing the variance application, the applicant must forward a copy of the application to the FDOT Aviation Office and the Lee County Port Authority Planning and Environmental Compliance Department by certified mail, return receipt requested. FDOT and the Lee County Port Authority will have 45 days from the receipt of the variance application to provide comments to the applicant and the County. Noncompliance with the variance procedures outlined in FS Chapter 333.07 will be grounds for appeal pursuant to FS Chapter 333.08 and to apply for judicial relief pursuant to FS Chapter 333.11.

Sec. 34-10051012. Land use restrictions and obstruction identification.

(a) Land use restrictions. Notwithstanding any other provisions of this subdivision, no use may be made of land or water within the County in such a manner as to interfere with the safe operation of an airborne aircraft. The following special requirements shall apply to each permitted use:

(1) All-lights of illumination used in conjunction with streets, parking, signs, or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from a County public airport or in the vicinity thereof.

(2) All-floodlights, searchlights, and spotlights and any type of pulsating, flashing, rotating or oscillating lights intended as an attention-gathering devices are prohibited if the Lee County Port Authority determines they will create a
determined to be a possible hazard to air navigation by the County Port Authority.

(3) Operations of any type that produce smoke, dust, visible fumes or vapors, glare or other visual hazards within three statute miles of any usable runway of an airport public airport runway are prohibited.

(4) Operations of any type that may produce electronic interference with navigational signals or radio communication between aircraft, an airport or other types of air traffic controlling facilities are prohibited.

(5) Sanitary landfills shall be considered as an incompatible use if located within areas established for the airport through the application of the following criteria must be located in accordance with the following:

a. Landfills may not be located within 10,000 feet of a runway used or planned to be used by turbojet or turboprop aircraft.

b. Landfills may not be located within 5,000 feet of a runway used only by piston type aircraft.

Landfills outside the perimeters described in this subsection, but still within the lateral limits of the surfaces described in this subdivision, will be reviewed on a case-by-case basis.

(6) c. Any landfill may not be located so that it in a manner that places the runways or approach and departure patterns of an airport between bird feeding, water or roosting areas is not permitted.

(6) No use of land that will be a wildlife attractant hazard (pursuant to FAA AC 150/5200-33B), greater than the existing conditions, to the operation of aircraft in and out of a Lee County airport. If such attractant is determined to exist by the Port Authority and the FAA, the land owner will have the full and sole responsibility to eliminate the hazardous situation.

(7) Any type of dirigible, balloon or other type of tethered, hovering or floating object the height of which exceeds the airspace notification limitations outlined in section 34-1008 shall be reviewed by the County Port Authority as outlined in the procedures specified in section 34-1008 is subject to review under section 34-1011.

(8) No structure of any height, type or material shall be constructed or altered which could possibly if it will cause interference to any airport surveillance radar system as determined by the Federal Aviation Administration or the County Port Authority. Due to the fact that the operation of the airport surveillance radar (ASR) facility is electromagnetic in nature, objects may have an adverse affect on the safe and efficient operation of the ASR facility and the safe operation of aircraft overflying southwest Florida. Therefore, no facility will be permitted that the Port Authority determines will degrade, cause false shadows or targets, or in any way hinder or obstruct the existing or future planned use of an ASR facility in Lee County. The Port Authority, as part of their review of a proposed structure or land use may request, at its expense, an FAA study to be performed to determine the potential of electromagnetic interference.

(9) Pursuant to Chapter 333 F.S. and FAA AC 150/5200-33B any developments that attract birds and other wildlife that are hazardous to
aircraft or airport operations, greater than the existing conditions, are prohibited. Developments with uses including, but not limited to; sanitary landfills, waste disposal operations, underwater waste discharge, wastewater treatment facilities, agricultural activities, artificial marshes, wetland mitigation and creation, will be reviewed on a case by case basis to determine the likelihood of creating a wildlife attractant hazardous to air navigation.

10. Pursuant to FAA AC 150/5200-33, all water management ponds, lakes, canals, conveyances, and other features within 10,000 feet of any public airport are encouraged to be designed and built in accordance with FAA recommendations.

(b) Obstruction marking and lighting.

(1) Any variance or permit granted which is determined to be a possible obstruction to air navigation as outlined in the provisions of this subdivision shall, as a specific condition, as a condition of approval, the Port Authority may require the owner to mark and light the structure to indicate to aircraft pilots the presence of the obstruction facilitate navigation safety. Such marking and lighting shall must conform to the specific standards established by set forth in F.S. § 333.07 and Federal Aviation Administration Advisory Circular 70/7460-1K, as amended.

(2) Notwithstanding any other provisions within this subdivision, the owner of any existing nonconforming structure or tree is hereby required to install, operate and maintain thereon such markers and lights as shall be deemed necessary by the administrative director to indicate to the operators of aircraft in the vicinity of the airport the presence of such flight obstructions. Such markers and lights shall be installed, operated and maintained at the expense of the owner.

Sec. 34-10071013. - Nonconforming uses.

Except as prescribed in section 34-1005(b), pertaining to obstruction marking and lighting, the requirements prescribed by of this subdivision shall will not be construed to necessitate the removal, lowering or alteration of any existing a structure existing on September 1, 1991 that does not conforming to the requirements set forth in this subdivision; nor shall may it be construed to require the sound conditioning or other changes or alterations of any existing structure not conforming to the requirements as of September 1, 1989, or otherwise interfere with the continuance of any existing nonconforming use. Nothing contained in this subdivision shall requires any change in construction or alteration which was begun prior to September 1, 1989, and is diligently pursued and completed within two years thereof completed by September 1, 1991. The cost of removing or lowering any tree or object of natural growth not conforming to the requirements of this section shall will be borne by the owner of the nonconforming tree or object.
ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS
DIVISION 2. ACCESSORY USES, BUILDINGS AND STRUCTURES

Sec. 34-1177. Accessory apartments.

(a) Purpose Occupancy. The principal structure must be owner occupied and is not limited to family members. Occupancy of the accessory apartment is not limited to family members of the principal structure. The purpose of this section is to facilitate the provision of affordable housing, strengthen the family unit, and or provide increased opportunities for housing the elderly and persons with special needs.

Sec. 34-1180. Additional dwelling unit on lot in agricultural districts.

(a) Applicability. This section provides the minimum regulations to permit development of an additional conventional single-family residence on the same parcel if the parcel has been zoned in an AG district and the parcel is developed in accordance with the density requirements of the applicable land use classification.

(b) Standards.

Subsections (1) through (6) remain unchanged.

(7) Approval of a Type 4 Limited Review Development Order (LDO) under the provisions of LDC, Section 10-174(4) will be required in order to obtain a lot split only if the land is subdivided. The property owners will be required to participate in a joint application to obtain the lot split approval subject to the provisions of Section 10-174(4)g. This requirement runs with the land regardless of ownership change.

ARTICLE VI. DISTRICT REGULATIONS
DIVISION 5. ALCOHOLIC BEVERAGES

Sec. 34-1264. - Sale or service for on-premises consumption.

(a) Approval required. The sale or service of alcoholic beverages for consumption on the premises is not permitted until the location has been approved by the County as follows:

(1) Administrative approval. The Director of the Department of Community Development may administratively approve the sale or service of alcoholic beverages for consumption on the premises when in conjunction with the following uses, if the proposed use satisfies the requirements set forth in this division. When circumstances so warrant the Director may determine administrative approval is not the appropriate action and that the applicant must instead apply for approval as a special exception. Such
circumstances may include the previous denial by the Director or by a hearing board of a similar use at that location, the record of public opposition to a similar use at that location, and similar circumstances. When the Director has approved a request for consumption on the premises at a location where the actual building has not been constructed, the Director may not approve another request for consumption on the premises within one year's time, which could potentially violate the distance requirements. If the first building is completed within less than one year, and it can be shown the second use would not violate the prescribed distance requirements, the Director may approve the second location subject to all other requirements contained in this division.

a. County-owned airports, arenas and stadiums, including liquor, beer, malt liquor and wine in restaurants, bars, lounges, concessions, concession stands and package stores at County-owned airports;

b. through i. remain unchanged.

(2) and (3) remain unchanged.

(b) and (c) remain unchanged.

(d) Temporary one-day permit.

(1) Intent; applicability. It is the intent of this subsection to require nonprofit and for-profit organizations and establishments in the unincorporated area of the County obtain a one-day temporary alcoholic beverage permit for the sale of alcoholic beverages at the specific location where an event is held. This subsection pertains to but is not necessarily limited to the following uses:

a. Grand openings or open houses at residential, commercial or industrial developments;

b. Special outdoor holiday or celebration events at bars and restaurants;

c. Weddings and other special occasions at clubhouses;

d. Political rallies or events;

e. Block parties; and

f. Carnivals.

Only 12 temporary alcoholic beverage permits may be issued per year to a specific location. If more than 12 permits are sought per year for a specific location, then the location must obtain a permanent alcoholic beverage special exception. If the event for which the temporary alcoholic beverage permit is sought continues for longer than one day, the applicant may petition the Director for an extended permit. A temporary alcoholic beverage permit may not be issued for more than three days.
(2) Procedure for approval.

a. Any owner, lessee or tenant seeking approval for consumption on the premises for a temporary alcoholic beverage permit, must submit a written request to the Department of Community Development. The written request must include:

1. The name and address of the applicant;
2. A general description of the exact site where alcoholic beverages are to be sold and consumed;
3. The type of alcoholic beverages to be sold and consumed; and
4. A fee in accordance with the adopted fee schedule; and
5. A temporary use permit, if applicable.

b. The Director will render a final decision within ten working days. The decision will be in the form of approval, approval with conditions or denial. The Director may forward the request to other appropriate agencies for comment.

c. The Board of County Commissioners will review all requests for temporary alcoholic beverage permits where an event will run longer than three days. Under no circumstances will a temporary alcoholic beverage permit be issued for more than ten days.

(3) Time limit.

a. Only 12 temporary alcoholic beverage permits may be issued per year to a specific location, including those in conjunction with a temporary use permit. If more than 12 permits are sought per year for a specific location, then the location must obtain a permanent alcoholic beverage special exception. If the event for which the temporary alcoholic beverage permit is sought continues for longer than one day, the applicant may petition the Director for an extended permit. A temporary alcoholic beverage permit will not be issued by the Director for more than three days.

b. The Board of County Commissioners will review all requests for temporary alcoholic beverage permits where an event will run longer than three days. Under no circumstances will a temporary alcoholic beverage permit be issued for more than ten days.

c. If the temporary alcoholic beverage permit is obtained in conjunction with a temporary use permit, issuance of the permit must comply with the time limits established in 34-3041(e)(2).

(e) through (g) remain unchanged.
ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS
DIVISION 8. AUTOMOTIVE BUSINESSES; CONVENIENCE FOOD AND BEVERAGE STORES; FAST FOOD RESTAURANTS

Sec. 34-1353. - Convenience food and beverage stores, automotive service stations, fast food restaurants, and car washes.

(a) through (f) remains unchanged.

(g) Canopies.
   (1) Flat-roof canopies are prohibited. Canopies must be consistent with the architectural design and features of the principal structure.
   (2) Canopy lighting must comply with section 34-625(d)(4)c.
   (3) Canopies must be of one color, consistent with the predominant color of the principal structure.

(h) and (i) remains unchanged.

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.

Sec. 34-1354. - Variances or deviations. The provisions of this section apply to all new development, including redevelopment.

(1) A deviation or variance from the requirements stated in sections 34-1352 and 34-1353 must be obtained through the public hearing process unless the project qualifies for administrative relief under section 34-1354(2).

(2) The applicant must demonstrate that the granting of the deviation or variance will not have an adverse impact on adjacent land uses in addition to the requirements set forth in section 34-145.

(3) Project rendered nonconforming by the adoption of section 34-1352 and 34-1353 may obtain administrative relief to facilitate development or redevelopment of the site.
Development of these nonconforming projects sites will be limited to development that will bring the site more into compliance with sections 34-1352 and 34-1353 given the existing site constraints.

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 34-1442. - Definitions.

Ancillary appurtenances means equipment associated with a wireless communications facility including, but not limited to: Antennas, antenna concealment screening, attaching devices, transmission lines, and other equipment associated with a wireless communications facility. Ancillary appurtenances do not include equipment enclosures.

Antenna concealment screening means panels, covers, or other methods that screen the visibility of antennas.

Antenna-supporting structure means a vertically projecting structure, including any foundation, designed and primarily used to support one or more antennas or which constitutes an antenna itself. Antenna-supporting structures do not include stealth wireless communications facilities, but do include roof-mounted antennas that extend above a roofline by more than 20 feet. For purposes of this division, a utility pole not exceeding 40 feet in height will not be construed to be an antenna-supporting structure.

Antenna-supporting structure, monopole means a style of stand-alone antenna-supporting structure that is composed of a single shaft attached to a foundation with external antennas. This type of antenna-supporting structure is designed to support itself without the use of guy wires or other stabilization devices.

Collocated or collocation means the addition or replacement of an antenna on an existing structure that has been previously approved existing antenna-supporting structure for the placement of antenna. The term collocated includes combined antennas, but does not include roof-mounted or surface-mounted antennas the ground, platform or roof installation of equipment enclosures and ancillary accessories associated with the location and operation of the antenna.

Geographic search area means the area in which an antenna is proposed to be located in order to provide the provider's designed service, coverage or capacity. The geographic search area must be based on radio frequency engineering considerations, including grids, frequency coordination, propagation analyses, and levels of service consistent with accepted engineering standards and practices.

Radio-frequency (RF) emissions means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, an antenna-supporting structure, building, or other vertical projection.
Stealth wireless communications facility means a wireless communications facility, ancillary appurtenance, or equipment enclosure that is not readily identifiable as such, and that is aesthetically compatible with nearby uses. A stealth facility must have, or appear to have, a separate function including, but not limited to, the following: church steeple, bell tower, spire, clock tower, cupola, light standard, flagpole with a flag, etc., and a stealth facility may be an approved secondary use of other structures concealing the stealth facility.

Wireless communications facility means any facility used for the transmission and reception of wireless communications, usually consisting of an antenna or group of antennas, base station, transmission lines, ancillary appurtenances, equipment enclosures, or repeaters, and may include an antenna-supporting structure. Any of the following will be considered a wireless communications facility: Antennas, antenna-supporting structures (including replacement and broadcast), base stations, equipment enclosure, roof-mounted antennas, surface-mounted antennas, repeaters, stealth wireless communications facilities, and amateur radio facilities.

Balance of section remains unchanged.

Sec. 34-1443. - Applicability and exemptions.

(a) remains unchanged.

(b) The following items are exempt from the provisions of this division:

(1) and (2) remain unchanged.

(3) Maintenance of existing wireless communications facilities that does not include the placement or replacement of a wireless communications facility, except emergency repair or replacement of antennas, ancillary appurtenances or equipment enclosures with timely written notification thereafter to the Director of such repair or replacement, and replacement antennas must be facilities of the same design, or narrower profile, and the same size, or smaller, or otherwise not discernibly different in appearance, when viewed from ground level from surrounding properties, as the antennas facilities being replaced;

(4) Wireless communications facilities erected as a temporary use, that receives a temporary use permit pursuant to the provisions of section 34-3041;

(5) Wireless communications facilities erected upon the declaration of a state of emergency by a federal, state, or local government. However, no wireless communications facility will be exempt pursuant to this paragraph unless the Director of Public Safety makes a determination of public necessity for the facility. The written determination must be submitted to the Director. No wireless communications facility will be exempt from the provisions of this division beyond the duration of the state of emergency, and such facility must be removed within 90 days of the termination of the state of emergency.
Collocation of antennas on existing antenna-supporting structures that:

a. Do not increase the height of the existing structure, as measured to the highest point of any part of the structure or any existing antenna attached to the structure;

b. Do not increase the approved ground wireless communication facility site; and

c. Are of a design and configuration consistent with all of the applicable design and aesthetic regulations, restrictions or conditions, if any, applied to the first antenna placed on the structure or applied to the structure itself.

Sec. 34-1444. - Permissible wireless facility locations.

(a) Except as provided below, a wireless communications facility may be permitted only in accordance with Section 34-1447 and the provisions of this chapter. Regardless of the process required, the applicant must comply with all submittal, procedural and substantive provisions of this chapter. Variances or deviations from the requirements of this division may be granted only in accordance with the requirements of section 34-1453 for a variance.

(b) Exceptions:

1. Broadcast antenna-supporting structures in excess of 250 feet will only be allowed within an agricultural zoning district by variance in accordance with the requirements of section 34-1453. Broadcast studios are not allowed in the agricultural zoning district and must comply with all other applicable zoning and development regulations.

2. All the first antennas proposed to be mounted on existing buildings or structures must apply for administrative review as set forth in section 34-1445(b). Collocations, other than those under section 34-1443(b)(7), shall follow the procedures indicated in section 34-1445.

3. On the barrier islands, Greater Pine Island (see section 33-1084), and within the outer island future land use areas, the overall height of wireless communications facilities must not exceed 35 feet or the height limitation set forth in section 34-2175. The provisions set forth in section 34-2174 are applicable only to stealth wireless communication facilities.

4. Wireless communications facilities are prohibited in the Density Reduction - Groundwater Resource (DR/GR) Future Land Use areas, wetlands, environmentally critical zoning districts and areas readily visible from the University Window Overlay, except for:

   a. Stealth wireless communication facilities Antenna Supporting Structures;
   b. Surface-mounted and flush-mounted antennas; and
   c. Collocations.

The design of any facility proposed in these areas must be reviewed in accordance with the provisions of section 34-1445 and section 34-1447.
Sec. 34-1445. - Development review process.

(a) remains unchanged.
(b) (1) and (2) remain unchanged.
(b)(3) Final decision:
   a. Approval. For administrative approvals and in addition to the findings required by section 34-145 for special exceptions and variances, for new antenna supporting structures the County must make all of the following findings (or conclude that a finding is not applicable) before granting approval of an application:
      1. The applicant is not already providing adequate coverage to or adequate capacity in the geographic search area; and
      2-1. The applicant is not able to use existing wireless communications facility sites, either with or without repeaters, to provide adequate coverage or adequate capacity in the geographic search area; and
      3-2. The applicant has agreed to rent or lease available space on the antenna-supporting structure, under the terms of a fair-market lease, without discrimination to other wireless communications service providers; and
      4-3. The proposed wireless communications facility antenna-supporting structure will not be injurious to historical resources, obstruct scenic views, diminish residential property values, or reduce the quality and function of natural or man-made resources; and
      5-4. The applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the structures and facilities; and
      6. The proposal will comply with FCC Reg 96-326 regarding emissions of electromagnetic radiation.
   b. Denial. Decisions by the County to deny an application for a proposed wireless communications facilities must be in writing and supported by substantial competent evidence contained in a written record.
(c) remains unchanged.
(d) Review time frames.
  1. Applications for all wireless facilities subject to this division must be granted or denied within the normal time frame for the applicable type of review, but in no case later than 90 business days after the date the application is determined to be sufficient for review. If the sufficient application is not approved or denied within 90 business days, the application will be deemed automatically approved.
  2. Sufficiency Review.
     a. Upon initial submission or resubmission of application information for a wireless facility, the County shall have up to 20 business days to review the application to determine if all the required materials, in the required form, have been included in the application.
b. If all of the required materials have been properly submitted, the application shall be found sufficient for review.

c. If all of the required materials have not been properly submitted or resubmitted, the County must provide the applicant a letter with a brief explanation as to why the application is not complete for review and request the necessary additional information.

d. If the County does not provide the applicant written notice of the insufficiencies within 20 business days of the date of the application is initially submitted or additional information resubmitted, the application will be deemed sufficient and ready for review.

3. **Time Frame Waiver.** To be effective, a waiver of the time frames must be voluntarily agreed to by the applicant and the County. The County may request, but not require, a waiver of the time frames by an applicant, except that, with respect to a specific application, a one-time waiver may be required in the case of a declared local, state or federal emergency that directly affects the administration of all permitting activities of the County.

**Sec. 34-1446. - Application submittal requirements.**

(a)(1) through (3) remain unchanged.

(4) A signed statement from the emitting facility's owner or owner's agent stating that the radio frequency emissions will comply with FCC standards.

(54) New antenna-supporting structures must demonstrate there are no existing suitable structures available or higher priority zoning districts in the geographic search area. As part of that demonstration, the application must include a graphical representation and an accompanying statement of the site coverage area, design radius planned for the cell, and the geographical search area.

(6) A radio-frequency plot indicating the coverage of the provider's existing wireless communications sites in and adjacent to Lee County.

(7) A statement of the power levels of the facility.

(8§) A statement confirming the overall height of the facility and all other facilities on the subject property, in terms of grade and sea-level.

(96) A letter or letters:

Subsections a. through b. remain unchanged.

C. Indicating that the antenna-supporting structure and appurtenances are in compliance with all applicable federal rules and regulations; if required by the United States Fish and Wildlife Service Evidence of compliance with applicable Federal Aviation Administration requirements under 14 C.F.R. s. 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use; and.

D. Confirming FAA compliance with Subpart C of the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace.

These letters are not required for collocated and surface-mounted antennas.
A survey of the subject property completed by a registered land surveyor which shows all existing conditions. This requirement does not apply to roof-mounted and surface-mounted antennas.

Photo-simulated post-construction renderings of the proposed wireless communications facility, equipment enclosures, and ancillary appurtenances as they would look after construction from areas where the proposed wireless communication facility will be visible according to the balloon test and sight lines. This requirement does not apply to collocations.

Shared use plan or copy of an executed shared use plan for the existing facility. (This is not required for a broadcast facility until such time as a request is made to collocate personal wireless service equipment.)

For new antenna support structures, to allow a determination that there are no existing structures on which the provider’s proposed antennas could be located, a list and map identifying all existing wireless communications facilities to which the proposed facility will be a handoff candidate, including latitude, longitude, and power levels of each.

Floor plans, elevations, and cross sections at a scale no smaller than \( \frac{1}{4}'' = 1' \) (1:48) of any proposed accessory structure.

To scale elevation drawings, indicating the roof, facades, doors, and other exterior appearance and materials of the proposed wireless communication facility (signed and sealed by a professional engineer).

Additional required information for wireless communication facilities requiring a public hearing. In addition to the submittals required by sections 34-202 and 34-203, and the requirements of subsection (a) above, the following information must be provided:

1. Lease required. If the property owner is not a provider, the application must include a copy of an executed lease agreement or memorandum of lease between the applicant or property owner and a provider. Where no lease agreement has been executed, the applicant must include an affidavit signed by a provider attesting to the provider's intent to make application for development order approval to place antennas on the wireless communications facility if the zoning application is approved.

2. For antenna supporting structures, the graphic results of the balloon test conducted by the applicant pursuant to the requirements set forth in subSection 34-1446(d).

(c) (1) through (4) remain unchanged.

5. A landscape plan prepared by and bearing the seal of a landscape architect, including a narrative and calculations to ensure that the proposed landscaping will be in compliance with this Land Development Code. This requirement does not apply to roof-mounted or surface-mounted, or stealth antennas.

Balance of section remains unchanged.
Sec. 34-1447. - Development regulations.

The development regulations set forth herein apply to all wireless communications facilities as indicated.

(a) Collocations.

(1) Collocations on an antenna-supporting structure will be reviewed as follows:
   a. The expansion of the wireless communications facility site area must comply with the applicable zoning height and setback requirements for principal structures and be subject to ADD and LDO review.
   b. The portion of the collocation that does meet the requirements for exemption set forth in Section 34-1443(b)(7) is exempt and subject to no more than a building permit review.

(2) Collocations on structures other than antenna-supporting structures that are not historic or in a historic district and that meet all of the following design restrictions shall be reviewed through an administrative review. The following design restrictions must be met:
   a. The collocation will not increase the height of the existing structure, as measured to the highest point of any part of the structure, or any existing antenna attached to the structure;
   b. The collocation will not increase the approved ground wireless communication compound area, if any; and
   c. All aspects of the collocation are of a design and configuration consistent with the requirements of subsection 34-1447(d) and the applicable design and aesthetic regulations, restrictions of conditions, if any, applied to the first antenna placement on the structure that do not conflict with the requirements of subsection 34-1447(d). Regulations, restrictions, conditions, or permits applied to the first antenna placement or the structure that limit the number of collocations or require review processes inconsistent with this division will not apply.

(3) Collocations on structures other than antenna-supporting structures that are not historic or in a historic district, but that will not meet all of the design restrictions of (2) will be reviewed as follows:
   a. The portion of the collocation that meets the design restrictions of (2 above) will be reviewed through an administrative review.
   b. If the collocation involves only the expansion of the wireless communications facility site area, the expansion must comply with the applicable zoning height and setback requirements for principal structures and the requirements of section 34-1447(e) and be subject to Administrative Action review and Limited Development Order review.

(4) Collocation of an antenna on a Historic Structures or in a Historic District must be reviewed in accordance with the requirements for construction and placement of a new antenna and must comply with applicable Historic Preservation requirements under the Code.
Where permissible—Antenna-supporting structures.

TABLE 34-1447. PERMISSIBLE ANTENNA-SUPPORTING STRUCTURE HEIGHTS, LOCATIONS AND APPLICABLE REVIEW PROCESS.

<table>
<thead>
<tr>
<th>Zoning Classification</th>
<th>Maximum Overall Height Allowed by the Administrative Approval Process</th>
<th>Overall Height Requiring Approval by Special Exception</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural(^1)</td>
<td>75 Feet (^1)</td>
<td>75.1--149 feet</td>
</tr>
<tr>
<td>Residential (^2,3)</td>
<td>35 feet</td>
<td>35.1--75 feet</td>
</tr>
<tr>
<td>PRFPD (^3)</td>
<td>35 feet</td>
<td>Not Allowed</td>
</tr>
<tr>
<td>All other zoning district(^2)</td>
<td>90 feet</td>
<td>90.1--149 feet</td>
</tr>
</tbody>
</table>

Notes:

1. An antenna-supporting structure over 35 feet in height, but not over 75 feet in height, may be approved administratively only if it is not located within 1,000 feet of a property line of a parcel zoned residential or being used for a residential use.
2. Includes single-family, two-family, multiple-family, and mobile home residential zoning districts, recreational vehicle park districts, and residential, mobile home, recreational vehicle, residential planned developments, airport operations planned development (AOPD), and mixed use planned developments.
3. Private recreational facilities planned developments.
4. A variance is required, in addition to the special exception, for an antenna supporting structure which exceeds 75 foot height limit.
5. A variance is required, in addition to the special exception, for an antenna supporting structure which exceeds the 149 foot height limit.

(b) (c) District impacts minimized.

(1) remains unchanged.

(2) Siting priorities. In order to justify the construction of an antenna-supporting structure, the applicant must demonstrate that higher ranking alternatives in the following hierarchy, beginning with a., do not constitute reasonable, compatible or feasible alternatives. Such demonstration must include a statement of position, qualifications, and experience by a qualified radio frequency engineer.
   a. stealth wireless communication facility, or antennas collocated or combined with a stealth facility collocated or combined antennas.
   b. Surface-mounted antennas.
   c. Roof-mounted antennas.
   d. Collocated or combined antennas. Antenna supporting structures.

(3) Proliferation minimized.
   a. Generally. No antenna-supporting structure will be permitted unless the applicant demonstrates that the proposed antenna cannot be accommodated on an existing building, or structure or antenna supporting structure by construction of a stealth facility.
   b. 1. and 2. Remain unchanged.
   3. That there are other radio frequency engineering factors that render stealth, surface-mounted, roof-mounted or collocated wireless communication facilities unfeasible.
(4) remains unchanged.

(e)-(d) Visual impacts minimized.

(1) Generally. Antennas must be configured in a manner that is consistent with the character of the surrounding community and must be of a color that blends with the structure to which it is attached, so that adverse visual impacts on adjacent properties are minimized. Antenna concealment screening should also be used when possible.

(2) Monopole design required. Unless approved as either a roof-mounted or surface-mounted facility, all antenna support structures must be a monopole, with all transmission cable/wiring concealed inside.

(2)(3) Antenna type priorities. In order to justify the use of an antenna-type lower in the hierarchy below, the applicant must adequately demonstrate that higher ranked alternatives in the following hierarchy, beginning with a., are not reasonable or feasible. This demonstration must include the submission of a statement of position, qualifications, and experience by a qualified radio frequency engineer.

a. Flush-mounted;
b. Panel;
c. Whip;
d. Dish.

(3) Stealth facilities.

a. No stealth facility may have antennas or ancillary equipment that are readily identifiable as wireless communications equipment.

b. Stealth facilities must be designed so they are reasonably consistent with the surrounding built or natural environment. In order to determine compliance with this requirement, the County will consider the following criteria:

1. Overall height;
2. The compatibility of the proposed facility with surrounding built and natural features;
3. Scale;
4. Color;
5. Extent to which the proposed facility blends with the surrounding environment;
6. Extent to which the proposed facility has been designed to reasonably replicate a non-wireless facility (e.g., a silo, flagpole, or tree); and
7. Extent to which the proposed facility is not readily identifiable as a wireless communications facility.

(4) Camouflage, screening, taping, and placement.

a. and b. remain unchanged.

b. Landscaping.

1. remains unchanged.

2. A buffer required by this section must contain sabal palms planted ten feet on center, and a double hedge row of native shrubs. Section 10-420 planting standards must be met. The hedge
must be maintained at a minimum height equivalent to the fence height. Except where the proposed antenna-supporting structure will be located adjacent to a residential lot, public recreational use, or right of way, the landscaped buffer must include six feet in height native canopy trees planted ten feet on center, instead of the sabal palms required above.

3. remains unchanged.

d. remains unchanged.

e. Taping. The developer of a wireless communication facility must install taping around the antenna-supporting structure in conformance with the following:

1. The tape must be six-inch 3m Diamond Grade tm VIP Reflective Sheeting, series 3990.
2. The taping must start at 20 feet above surface.
3. The taping must be at ten-foot intervals.
4. The tape must be wrapped around the support pole and overlap by one inch for a good seal.

(d)(e) General property development regulations.

(1) Setbacks

a. New facilities. All new antenna-supporting structures must meet the setback requirements for the zoning district in which they are proposed or a distance equal to their overall height from all lot lines of the fee property on which they are proposed, whichever is greater; unless a greater distance is required as a condition of the approval. A monopole with internal antennas must be setback a distance equal to one half of its overall height from all lot lines of the fee property on which it is proposed, unless a greater distance is required as a condition of the approval or a variance is granted.

b. Replacement facilities. In accordance with the development review process set forth in section 34-1445, setback requirements for replacement wireless communication facilities may be reduced by up to 50 percent. No replacement facility within the approved compound area may be placed closer to a lot line than the wireless communication facility it is replacing.

c. Stealth wireless communications facilities, Ancillary appurtenances, and equipment enclosures must meet the minimum setback requirements for the zoning district in which they are proposed, as well as those set forth in section 34-2191, et seq.

In accordance with the development review process set forth in section 34-1445, setback requirements for stealth facilities may be reduced if it is necessary to reduce the visual impact or enhance the compatibility of the proposed facility on adjacent properties and the surrounding community.

(2) Height.

a. through d. remain unchanged.
e. In all other cases, the overall height of an antenna-supporting structure approved in accordance with section 34-1445 may not exceed 149 feet, except as provided below:

1. and 2. remain unchanged.

3. Stealth facilities must be consistent with the scale and aesthetic qualities of the proposed facility, and consistent with the character of the surrounding community.

f. In no event may the provisions set forth in section 34-2174 apply to wireless communication facilities, except for stealth.

g. and h. remain unchanged.

Sec. 34-1451. - Discontinued use.

(a) remains unchanged.

(b) Declaration of discontinued use. If the property owner fails to respond to the notice of discontinued use or to adequately demonstrate that the use of the antenna or antenna-supporting structure is not discontinued within 90 days, such failure will be evidence of discontinued use. Based on the foregoing, or on any other relevant evidence before provided to the Director, the Director may make a final determination of discontinued use, whereupon a declaration of discontinued use will be issued to the property owner by certified mail.

(c) remains unchanged.

DIVISION 16. FARM PRODUCE STANDS, U-PICK OPERATIONS, ROADSIDE STANDS, AND COMMUNITY GARDENS

Sec. 34-1711. - Applicability of division.

The requirements of this division shall apply to all produce stands, U-pick operations and community gardens, other roadside stands.

Sec. 34-1712. - Definitions. Reserved.

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:

*Produce stand* means any structure, vehicle, trailer or other contrivance which is erected, emplaced or parked and which is used or intended to be used for the display or sale of agricultural products grown or produced on the same premises, or agricultural...
products grown or produced on other farms if the farms are located within the County and are under the control of the operator of the produce stand. Nonagricultural products shall not be displayed or sold from produce stands.

Roadside stand means any structure, vehicle, trailer or other contrivance which is erected, emplaced or parked and which is used or intended to be used for the display or sale of products, whether grown or produced on or off of the same premises, or other commodities produced elsewhere.

Sec. 34-1714. - Roadside stands. Reserved.

Roadside stands may be permitted upon issuance of a temporary use permit in any commercial or industrial district subject to the following regulations:

1. Applicants for a permit for a roadside stand shall submit a letter from the property owner authorizing the temporary use of the premises;
2. Roadside stands may be permitted for periods of up to two weeks by the Director;
3. Off-street parking with a surface type specified in section 34-2017(b) shall be provided. If the temporary use will be on premises with existing parking facilities, no additional parking facilities shall be required; and
4. All roadside stands shall be removed upon termination of the temporary use permit.

Sec. 34-1716. - Standards for community gardens.

Community gardens may be permitted by right in certain zoning districts subject to the following regulations. Community gardens are not subject to review under Chapter 10.

1. remains unchanged.
2. Noise. The use or operation of power tools or portable mechanical equipment used outdoors in residential areas zoned RS, TFC, RM, MHC, MH, RV, CFPD, CPD, RPD, MHPD, RVPD, and MPD is prohibited before 8:00 a.m. and after 7:00 p.m. so as to avoid noise disturbance in the community. The use of hand tools and domestic gardening tools is encouraged.
3. Remain unchanged.
4. Sale of produce and plants. The sale of flowers, vegetables or other crops grown on the property may be sold only as approved by a temporary use permit issued prior to the sale within residential zoning districts RS, TFC, RM, MHC, MH, RV, CFPD, CPD, RPD, MHPD, RVPD, and MPD.

Balance of section remains unchanged.

DIVISION 17. FENCES, WALLS, GATES AND GATEHOUSES
Sec. 34-1742. - Construction of fences.

(a) through (e) remain unchanged.

(f) Except as provided below, no barbed wire, spire tips, sharp objects, hog wire, game fence, horse wire or other similar materials or electrically charged fences may be erected within 100 feet of any residential area or residential zoning district under separate ownership:

(1) Fence material such as, hog wire, game fence, horse wire or other similar materials may be erected but cannot be the primary material when the property is within 100 feet of any residential area or residential zoning district under separate ownership.

(2) Bona fide agricultural uses may use barbed wire or electrically charged fences to control livestock when located in districts permitting the raising, keeping or breeding of livestock.

(3) (4) The use of barbed wire for temporary security fences around construction materials or equipment in conjunction with an active construction project may be permitted when approved by the Director.

(5) (3) The use of chain-link fence with three strands of barbed wire on top of the fence with six-inch spacing between the strands of barbed wire may be required or approved by the Director around structures or equipment of potential hazard to residents or passersby not otherwise protected.

(g) remains unchanged.

Sec. 34-1744. - Location and height of fences and walls other than residential project fences.

(a) remains unchanged.

(b)(1) remains unchanged.

(b)(2) a. through (2) d. remains unchanged.

(2) Community garden fences. Fences for community gardens located in Residential zoning districts RS, TFC, RM, MHC, MH, RV, CFPD, CPD, RPD, MHPD, RVDP, and MPD may be a maximum height of six feet high along any property line provided the fence does not interfere with vehicle visibility requirements at traffic access points (see section 34-3131). The design of the fence must be in compliance with section 34-1742. Barbed wire, spire tips, sharp objects or electrically charged fences are prohibited.
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. through c. remain unchanged.
   d. The gate or gatehouse is located:
      1. A minimum of 100 feet back from the existing or planned intersecting street right-of-way or easement; or
      2. The gate or gatehouse is designed in such a manner that a minimum of five vehicles or one vehicle per dwelling unit, whichever is less, can pull safely off the intersecting public or private street while waiting to enter; or
      3. The development provides right turn and left turn auxiliary lanes on the intersecting street at the project entrance. The design of the auxiliary lanes must be approved by the Development Services Director.

* Where, in the opinion of the Director of Development Services, traffic volumes on the intersecting street are so low that interference with through traffic will be practically non-existent, the Director may waive or modify the locational requirements set forth in (1)c. above. If the intersecting street is County-maintained, then the Director of Lee County Department of Transportation must concur. The decision to waive or to modify the locational requirements is discretionary and may not be appealed.

4. In a manner that does not impede or interfere with the normal operation and use of individual driveways or access points.

5. Where, in the opinion of the Director of Development Services, traffic volumes on the intersecting street are so low that interference with through traffic will be practically non-existent, the Director may waive or modify the locational requirements set forth in (1)d. above. If the intersecting street is County-maintained, then the Director of Lee County Department of Transportation must concur. The decision to waive or to modify the locational requirements is discretionary and may not be appealed.
DIVISION 26. PARKING

Sec. 34-2013. - Access.

(a) remains unchanged.

(b) Each parking lot must have a distinct parking lot entrance. The entrance must meet the requirements of chapter 10, as well as the following:

1. Minimum width at property line for one-way entrances is 15 feet.
2. Minimum width at property line for two-way entrances is 24 feet.
3. Maximum width at property line is 35 feet.

The Director of Zoning and Development Services may determine that high traffic volumes or other special circumstances warrant other requirements.

(c) Parking lot entrances may not exceed a six percent grade for 20 feet into any lot or parcel, nor may a parking lot entrance enter a street right-of-way or easement at an angle of less than 90 degrees unless a lesser angle is approved by the Director of Zoning and Development Services.

Sec. 34-2017. - Parking lot surface.

(a) High turnover parking lots.

1. remains unchanged.

2. Parking spaces. All parking spaces, except those seaward of the coastal construction control line, must have a paved, dustfree, all-weather surface from the aisle to the parking block or curb. All disabled parking spaces, including disabled parking spaces seaward of the coastal construction control must be paved with asphalt or concrete to provide a smooth surface without gaps or holes that create a danger to the user. For all other parking spaces, the term "paved" will be interpreted to mean and include asphalt, concrete, paving block and other similar types of treatment. Parking spaces, excluding disabled parking spaces, located seaward of the coastal construction control line must be stabilized with treatments approved by the Director of Zoning and Development Services or his designee.

(b) and (c) remain unchanged.

(d) Reservation of spaces for future use. When a use or activity is required by this chapter to provide more than ten high turnover parking spaces, the Director of Zoning and Development Services may approve leaving up to 25 percent of the required spaces as landscaped areas reserved for future use, provided:

1. through (3) remain unchanged.

4. The reserved parking areas may not be used for any purpose other than landscaped open space or temporary overflow parking during special holiday seasons or sales.
If the property owner decides to pave the reserved area for parking, he must submit the original site plan or development order approval to the Director of Zoning and Development Services, who is authorized to approve the paving provided paving does not include new entrances onto a public street. If the parking areas does involve new entrances, then a limited review development order is required.

(e) **Director discretion.**

(1) The Director of Zoning and Development Services is authorized to permit high turnover parking lots (including parking lot aisles), to meet the surfacing standards for low turnover parking lots (section 34-2017(b), above) under the following circumstances:

*Balance of section remains unchanged.*

**Sec. 34-2020. - Required spaces.**

All uses permitted under this chapter are subject to the following minimum requirements:

(1) **Dwelling, housing and living units.** For all common parking lots, in addition to the spaces required in this subsection, additional parking spaces equal to ten percent of the total required must be provided to accommodate guest parking.

a. through c. remain unchanged.

d. Assisted living facilities (section 34-1411), continuing care facilities (section 34-1414), health care facilities - groups I & II (section 34-622(c)(20), social services - groups III and IV (section 34-622(c)(46) and other similar uses.

1. Any living unit designed as a dwelling unit and intended primarily as a self-care facility will be treated as a dwelling unit and will be required to provide parking spaces as set forth in section 34-2020(1)a.--c. for similar type dwelling units. For purposes of this section, a microwave oven or other cooking facilities such as a toaster or a hot plate using 115-120 volt electrical service do not constitute customary cooking facilities.

Where the living units are maintained under single management and the residents are not capable or permitted to bring or operate private vehicles on the same premises, the Director of Zoning and Development Services may authorize up to a 75 percent reduction in required parking spaces provided sufficient parking is provided for employees and visitors.
2. Living units which do not contain customary cooking facilities within the individual units but instead have a central kitchen for food preparation and where meals are served in a central dining area or individual rooms must calculate parking requirements as follows: one parking space per four residents or four beds (whichever is greater), plus ten percent.

Where the living units are maintained under single management and the residents are not capable or permitted to own or operate private vehicles on the same premises, the Director of Zoning and Development Services may authorize up to a 75 percent reduction in required parking spaces provide sufficient parking is provided for employees and visitors.

e. through g. remain unchanged.

(2) Commercial uses.

a. through k. remains unchanged.

l. Restaurants/bakeries.

1. and 2. remain unchanged.

3. Restaurants, fast food. The minimum requirement is 16 spaces per 1,000 square feet of total floor area plus one space per four outdoor seats, except as provided for in section 34-2021. See also subsection (2)h. of this section pertaining to drive-up facilities.

m. and n. remain unchanged.

(3) Commercial/industrial uses.

a. through h. remain unchanged.

i. High-cube warehousing:

1. Passenger car parking requirements must be provided at 1 space per 1,000 sq. ft. of total floor area for the 1st 20,000 sq. ft., plus 1 space per 2,000 sq. ft. for the second 20,000 sq. ft. to 99,999 sq. ft., plus 1 space per 5,000 sq. ft. for that portion over 100,000 sq. ft. Passenger car parking for office area comprising less than 10% of the total sq. ft. of the building will be included in this calculation. Office area over 10% will be calculated at the office (excluding medical) rate.

2. Truck and trailer parking must be provided at 1 space for every 5,000 sq. ft. of total floor area. Each truck dock/loading bay space may be used to satisfy the truck and trailer parking requirement. Truck dock/loading spaces do not have to be striped.

3. Parking space dimensions of 15 feet wide by 60 feet long are required to accommodate truck and trailer parking. However, truck and trailer
parking spaces located in truck dock/loading bays do not have to meet the parking space dimension requirements.

Balance of section remains unchanged.

DIVISION 30. PROPERTY DEVELOPMENT REGULATIONS
SUBDIVISION III. SETBACKS

Sec. 34-2191. - Measurement; permitted encroachments.

All setbacks shall be measured to the nearest point of a building or structure. Encroachment into the setback shall be permitted as follows:

(1) remains unchanged.

(2) Overhangs. An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch or living space located above the overhang to extend into the setback.

Balance of section remains unchanged.

DIVISION 32. SCHOOLS

Sec. 34-2381. - Noncommercial schools.

(a) Permitted districts. All noncommercial schools constructed by the district school board on land owned by the district school board are permitted by right in any zoning district. Also permitted by right in any zoning district is Florida Gulf Coast University, located in the Lee Plan University Campus category, including all facilities normally associated with a public university. Development of Florida Gulf Coast University will be in accord with a campus master plan adopted pursuant to F.S. § 240.155. All other noncommercial schools are permitted by right or are required to obtain special exception approval prior to any new construction or expansion of an existing facility, in accordance with the applicable zoning district use regulations for the property.

(b) through (c) remain unchanged.

DIVISION 37. SUBORDINATE AND TEMPORARY USES
SUBDIVISION II. TEMPORARY USES

Sec. 34-3041. - Generally.

(a) Purpose. The purpose of this subdivision is to specify regulations applicable to certain temporary uses which, because of their impact on surrounding land uses, require a temporary use permit.
(b) *Permit required.* No temporary use may be established until a temporary use permit has been obtained from the Department (see section 34-210).

(c) *Location.* Temporary uses are allowed as permitted in agricultural, commercial and industrial zoning districts subject to the following regulations:

1. Temporary uses are permitted on vacant lots or in the parking lots or grassed areas of developed properties when the temporary use is ancillary to the principal use. Temporary uses are not permitted in open space or preserve areas as designated on an approved local development order.

2. The area of the lot where the temporary use will be located must be clearly defined and must not obstruct pedestrian and vehicular movements or interfere with any preserve or water management areas.

3. Off-street parking with a surface type specified in section 34-2017(b) shall be provided. If the temporary use will be on premises with existing parking facilities, no additional parking facilities shall be required.

4. No part of a parking lot used to satisfy required parking for any existing use on the same premises may be used for a temporary use unless it is demonstrated that the hours of operation of the temporary use and parking demands of any permitted existing use occur at different times or as otherwise approved by the Director.

(d)(e) *Lighting.* No permanent or temporary lighting may be installed without approval from the building department, an electrical permit and inspection.

(e)(d) *Time limit.*

1. All uses must be confined to the dates specified by the Director on the temporary use permit; provided, however, that:
   a. Except as provided in sections 34-3043 through 34-3047, the Director may not authorize a temporary use will not be permitted for more than 30 contiguous days; and
   b. If no time period is specified on the temporary use permit, then the temporary use permit will expire and the use must be abated within 30 days from the date of issuance.

2. A temporary use permit may not be renewed or reissued to the same applicant or on the same premises for a similar use for a period of six months more than four times in a calendar year or within 45 days from the date of expiration of the previous temporary use permit, except for community gardens as described in section 34-1716.

3. Events that have a duration less than six hours, not occurring more than once a month, and not in conjunction with an alcoholic beverage permit, such as ribbon cuttings, company events or other similar uses, are not required to obtain a temporary use permit.

(f)(e) *Hours of operation.* Hours of operation must be confined to those specified in the permit.
(g)(f) Cleanup. The site must be cleared of all debris at the end of the temporary use and all temporary structures must be removed within 48 hours after termination of the use. A cash bond of a minimum of $25.00 and not to exceed $5,000.00 or a signed contract with a disposal firm may be required as a part of the application for a temporary use permit to ensure that the premises will be cleared of all debris during and after the event.

(h)(g) Traffic control. Traffic control as may be required by the County Sheriff's Department and the County Department of transportation must be arranged and paid for by the applicant.

(i)(h) Damage to public right-of-way. A cash bond of a minimum of $25.00 and not to exceed $5,000.00 may be required by the County to ensure the repair of any damage resulting to any public right-of-way as a result of the event.

Sec. 34-3047. - Temporary telephone distribution equipment.

Telephone distribution equipment may be granted a temporary permit during planning and construction of permanent facilities, provided that:

(1) The equipment is less than six feet in height and 300 cubic feet in volume; and

(2) The maximum length of the use shall be six months, but the Director may extend the permit once for a period not to exceed six additional months in the event of circumstances beyond the control of the telephone company. Application for an extension shall be made at least 15 days prior to expiration of the original permit. Additional extensions may only be allowed by the Hearing Examiner Board of Zoning Adjustments.

Sec. 34-3048. - Ancillary temporary uses in parking lots. Reserved.

(a) The following ancillary temporary uses may be permitted in parking lots upon application and issuance of a temporary use permit (see section 34-210):

(1) Seasonal promotions;

(2) Sidewalk or parking lot sales*;

(3) Fairs and carnivals (see section 34-3042);

(4) Tent sales*;

(5) Flea markets by nonprofit organizations;

(6) Temporary car sales may not be permitted in any district that does not allow Vehicle and Equipment Dealers—Group I.

* parking lot sales and tent sales must be limited to merchandise normally sold by the principal use of the property.

(c) In approving a temporary permit, the Director may require that the area of the lot to be used is clearly defined and the use will not obstruct pedestrian and vehicular movements to portions of the lot not so used.
Sec. 34-3049. - Temporary parking lots. Reserved.
Temporary parking lots may be permitted in commercial and industrial zoning districts, excluding commercial and industrial zoning districts on Captiva Island and within the Gasparilla Island conservation district, provided that they are in compliance with section 34-2022.

DIVISION 41. WATER-ORIENTED ACTIVITIES

Sec. 34-3151. - Water-oriented rental establishments; outdoors.

(a) Applicability. This section is to provide specific standards for those outdoor rental activities that are permitted to occur on commercially-zoned property adjacent to the Gulf of Mexico and are not located in a building.

Balance of section remains unchanged.

Sec. 34-3152. - Non Water-Dependent Uses.

(a) Applicability. This section is to provide standards for properties depicted on the Water-Dependent Overlay Zones, Maps 12 in the Lee County Comprehensive Plan.

(b) Permitted districts. Non-water dependent uses may be permitted at existing commercial fishing, ports and docking sites and commercial marinas by Special Exception or through the Planned Development process.

(c) Permitted Uses. A non-water dependent use is a use that can exist without water access. The following uses may be permitted by Special Exception or through the Planned Development process:

- Bait and tackle shops
- Consumption on Premises in conjunction with a Restaurant - Group I, II or III
- EMS, fire or sheriff's station
- Fish Market, enclosed
- Food store - Group I limited to 500 square feet
- Gift and souvenir shop in conjunction with the existing commercial marina
- Offices, marine-oriented government
- Processing or packaging of agricultural or fish products
- Rental Establishment - Group I in conjunction with the existing commercial marina
- Restaurants - Groups I, II and III that are ancillary and subordinate to the primary water dependent use.

(d) Procedures for Approval. Applications for special exceptions or planned developments must be submitted on forms supplied by the County and must contain the required information outlined in Section 34-201.
Sec. 34-3272. - Lot of record defined; general development standards.

For the purposes of this division only, a lot of record is a lot which conformed to the minimum lot size for the use permitted for that lot in its zoning district at such time that the lot was created, but which lot fails to conform to the minimum lot size requirements which are established by this chapter.

(1) a. through c. remain unchanged.

d. In the case of mobile home or recreational vehicle parks, the date when the park was approved by resolution for rezoning or a special permit for such use; provided, however, that the park subsequently obtained, on or before June 3, 1987, approval by the Board of County Commissioners of a site plan which identifies individual sites within the park and the sites meet the minimum lot size and setbacks consistent with the zoning regulations as set forth in section 34-3274 and its applicable subsection based on the date of the resolution. Any park which was lawfully established prior to the effective date of the County's 1962 zoning regulations shall be governed by the requirements of section 34-3274(1) as long as the park satisfies the remaining minimum documentary requirements and Board of County Commissioners approval set forth in this provision. Any park approved by the Board of Commissioners under Ordinance 86-36 may request to amend the approved site plan by the combination of lots creating larger lots provided the approved density is not increased. The park must obtain an administrative approval by the requirements set forth in Section 34-145. For purposes of this subsection, the term "site plan" means any one or more of the following, whichever is applicable:

Balance of section remains unchanged.

(2) remains unchanged.

(3) Lots of record may be developed subject to the following provisions:

a. All other regulations of this chapter must be met.

b. No division of any parcel may be permitted which creates a lot with width, depth or area below the minimum requirements stated in this chapter, provided that abutting lots of record may be combined and redivided to create larger dimension lots as long as such recombination includes all parts of all lots, existing allowable density is not increased, and all setback requirements are met.

c. For mobile home or recreational vehicle lots of record, the following will also apply:

1. All mobile homes, or recreational vehicles, or conventional single-family residences, including any attachments, must be placed at least five feet from any body of water or waterway.

2. All mobile homes, or recreational vehicles, or conventional single-family residences, must have a minimum separation of ten feet between units (body to body) and appurtenances thereto. Each
unit will be permitted to have eaves which encroach not more than
one foot into the ten-foot separation.

3. Sites or lots located within a park may not be reconfigured or
reduced in dimension so as to increase the density for which the
park was originally created.

(4) remains unchanged.

SECTION NINE: AMENDMENT TO LDC APPENDIX C
Lee County Land Development Code Appendix C is amended as follows with strike
through identifying deleted text and underline identifying new text.

APPENDIX C AIRPORT NOISE ZONES*

*Editor's note: Ord. No. 05-15, § 2, adopted Aug. 23, 2005, added provisions
designated as a new App. C to read as herein set out.

Lee County Land Development Code Appendix C is hereby amended to repeal
Ord. No. 05-15 and replace with Ord. 11-08.

SECTION TEN: AMENDMENT TO LDC APPENDIX J
Lee County Land Development Code Appendix J is amended as follows with strike
through identifying deleted text and underline identifying new text.

APPENDIX J - DESCRIPTION OF HARLEM HEIGHTS, CHARLESTON PARK, AND
THE FORT MYERS/LEE COUNTY ENTERPRISE ZONE

HARLEM HEIGHTS
Beginning at the northeast corner of Section 32, Township 45, Range 24; thence
west along the north section line of said section to the northeast corner of
Section 31, Township 45, Range 24; thence west along the north section line of
said section approximately 50 feet to the western right-of-way boundary of Pine
Ridge Road; thence south along the western right-of-way boundary of Pine Ridge
Road approximately 3,320 feet; thence west 660 feet; thence south 1,980 feet to
the south section line of said section; thence east 560 feet to the southeast
corner of said section; thence east 4,850 feet along south section line of Section
32, Township 45, Range 24 to the eastern boundary of a slough generally known
as Cow Slough; thence in a northwesterly direction along the eastern boundary
of Cow Slough approximately 3,340 feet to the southern right-of-way boundary of
Gladiolus Drive; thence in a northeasterly direction along the southern boundary
of Gladiolus Drive approximately 1,350 feet to the east section line of said
section; thence north along the east section line of said section approximately
1,440 feet to the northeast corner of said section, the Point of Beginning.

CHARLESTON PARK
The portion of Census Tract 303, Section 25, Township 43 South, Range 25 East
(illustrated on page two attached) and generally bound as follows: beginning at
the intersection of State Road 80 and First Street proceed southward on First Street past the intersection of First Street and Avenue D to where First Street deadends. Proceed from this point directly eastward to where Third Street deadends. From this aforementioned location proceed northward to the intersection of Railroad Avenue and Third Street. From this point proceed directly northward to State Road 80. From this point proceed eastward to the intersection of State Road 80 and First Street, the point of beginning. The streets to be included in the Charleston Park Target area in their entirety are as follows: First Street, Second Street, Third Street, Solomon Avenue, Avenue A, Avenue B, Avenue C, Avenue D, Charleston Park Drive and the Section of State Road 80 mentioned above.

**FORT MYERS/LEE COUNTY ENTERPRISE ZONE (formerly the Dunbar Enterprise Zone)**

The Fort Myers/Lee County Enterprise Zone Program Area includes the entire geographic area of Census Block Groups Numbered: 001001, 0003013, 003014, 0003022, 0003023, 0003024, 004011, 004012, 0004013, 0006024, 0005022, 0005023, 0005024, 005025, 005026, 005041, 0005042, 0005043, 0006001, 006002, 006003, 006004, 007002, 007003, 0011001, 0011002, 0011003, 0011004, 0011005, 007004, 005021, 005024, 003022, 005023, 005042, 005041, and the non-residential portion of Census Block Group 012011.

The Area includes that portion of Census Block Group Numbered 0003014 from Palm Beach Boulevard to the southern bank of the Caloosahatchee River. The Area includes that portion of Census Block Group Numbered 0004011 from Palm Beach Boulevard to the southern bank of the Caloosahatchee River.

**SECTION ELEVEN: AMENDMENT TO LDC APPENDIX L**

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

**APPENDIX L - COMMUNITY PARK IMPACT FEE BENEFIT DISTRICT DESCRIPTIONS**

District 41 and District 42 remain unchanged.

District 43. Bounded by Hendry County line in the East. North boundary is the northern boundary of Township Line 44 to northeast corner of Section 03 Township 44 Range 26 then proceeds south along east boundary of Section 03 Township 44 Range 26 follows south boundary of Section 03 Township 44 Range 26. The west boundary then follows the east boundary of Section 10 Township 44 Range 26 to southeast corner to Section 22 Township 44 Range 26. Boundary follows along Section 27 Township 44 Range 26 west to the Cape-Coral Fort Myers City Limits then follows Cape-Coral Fort Myers City Limits south to the Gateway District #49. East from Gateway District #49 at northern boundary of Section 17 Township 45 Range 26, then south along east boundary of Section 17 Township 45 Range 26 to Township 45 south boundary line traveling east on
south boundary line of Township 45 to northeast corner of Section 01 Township 46 Range 26, then south along east boundary of Section 01 Township 46 Range 26 to Northwest corner to Section 19 Township 46 Range 27 and follows north boundary Section 19 Township 46 Range 27 to Collier County Line which bounds district on the east.

Remainder of section remains unchanged.

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. Sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section", "article," or 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. The increased durations for development orders and master concept plans for large projects as provided in amendments to section 10-115 and 34-381 will not apply to approved master concept plans and development orders for projects meeting the requirements of a large project that were issued before the effective date of this Ordinance. Furthermore, the definitional requirements provided in section 34-2 for "Warehouse, High Cube" does not apply to developments that have been approved for the Warehouse, High Cube use before the effective date of this Ordinance, specifically Premier Airport Park approved under Z-09-12 and amendments thereto. However, all other newly created Warehouse, High Cube regulations will apply.
Commissioner Judah made a motion to adopt the foregoing ordinance, seconded by Commissioner Bigelow. The vote was as follows:

John E. Manning  Aye
Brian Bigelow    Aye
Ray Judah       Aye
Tammara Hall    Nay
Frank Mann      Aye

DONE AND ADOPTED this 9th day of August 2011.

ATTEST:  LEE COUNTY
CHARLIE GREEN, CLERK BOARD OF COUNTY COMMISSIONERS

BY: Marcia Wilson, Deputy Clerk

BY: Frank Mann, Chair

Approved as to form by:

Michael D. Jacob
County Attorney's Office
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section X00000, to assist the Department of Community Development in determining land use compatibility surrounding Page Field General Aviation Airport. Use of this map is limited to notification and review procedures detailed in LDC, Section X00000, and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence, or approval of Lee County Port Authority.
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section XXXXXX, to assist the Department of Community Development in determining land use compatibility surrounding Southwest Florida International Airport.

Use of this map is limited to notification and review procedures detailed in LDC, Section XXXXXX and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.
MAP 3B - Page Field Clear Zone

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section XXXXXX, to assist the Department of Community Development in determining land use compatibility surrounding Page Field General Aviation Airport. Use of this map is limited to notification and review procedures detailed in LDC, Section XXXXXX and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section XXXXXX, to assist the Department of Community Development in determining land use compatibility surrounding Southwest Florida International Airport.

Use of this map is limited to notification and review procedures detailed in LDC, Section XXXXXX, and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

Lee County Port Authority
Southwest Florida International Airport

Drawing Date: August 2010
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section 34-1007, to assist the Department of Community Development in determining land use compatibility surrounding Page Field General Aviation Airport. Use of this map is limited to notification and review procedures detailed in LDC, Section 34-1007, and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.
This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section 34-1008, to assist the Department of Community Development in determining land use compatibility surrounding Page Field General Aviation Airport. Use of this map is limited to notification and review procedures detailed in LDC, Section 34-1008, and is in no way intended to authorize or suggest allowable heights or land uses. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.
Use of this map is limited to notification and review procedures detailed in LDC, Section 1000C and is not intended to authorize or suggest allowable heights or setbacks. Any other use of this map is done without the knowledge, concurrence or approval of Lee County Port Authority.

**Instructions for Use**

**Step 1** Determine location of proposed object on the map.

**Step 2** If the proposed object is located within the Ground/Designated or Airport Field Airport Applicable Danger Areas, go to Step 3. Otherwise, go to Step 4.

**Step 3** Determine the proposed object's maximum permitted height. Refer to the object's height to ground level and go to Step 4 if the maximum permitted height is less than 125 feet. Otherwise, go to Step 5.

**Step 4** Consideration for the proposed object or any necessary construction equipment shall be made in accordance with the FAA and LDC rules and regulations. Go to Step 5 if the maximum permitted height is less than 125 feet. Otherwise, go to Step 6.

**Step 5** If the proposed object or any necessary construction equipment exceeds the maximum permitted height, go to Step 6.

**Step 6** Submit a written notification to the Lee County Port Authority.
Instructions for Use

Step 1: Determine location of proposed object in the map.

Step 2: If the proposed object is located within the Goodyear Aerial Waterfront Improvement Map, go to Step 3.

Step 3: Determine the proposed project and all related construction equipment, minimum height above mean sea level (MSL), and object height above ground. If the proposed object or temporary equipment exceeds 200 feet, go to Step 4.

Step 4: Determine if the proposed object or temporary equipment intersects with the proposed notification boundary. If it does, go to Step 5.

Step 5: Determine if the notification boundary for the aircraft area overlaps the proposed object or temporary equipment. If it does, go to Step 6.

Step 6: Submit a “Notifiable Work Request” to the Lee County Port Authority. Use of this map is limited to notification and is subject to procedures established in the Lee County Land Development Code, Section XXXXX, and is to be used for notification of probable heights and locations. Any other use of this map is confined without the knowledge, concurrence, or approval of the Lee County Port Authority.
Step 1: Determine location of proposed object on the map surface.

Step 2: If the proposed object is located in the Page Field Aligned Multi-Objective Zoning, go to Step 3 to determine whether to submit a Tall Structure Review Application.

Step 3: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 4 to submit a Tall Structure Review Application.

Step 4: Submit a Tall Structure Review Application to the Lee County Port Authority.

Step 5: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 6 to submit an airspace review application.

Step 6a: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 7 to submit an airspace review application.

Step 6b: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 8 to submit an airspace review application.

Step 7: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 9 to submit an airspace review application.

Step 8: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 10 to submit an airspace review application.

Step 9: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 11 to submit an airspace review application.

Step 10: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 12 to submit an airspace review application.

Step 11: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 13 to submit an airspace review application.

Step 12: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 14 to submit an airspace review application.

Step 13: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 15 to submit an airspace review application.

Step 14: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 16 to submit an airspace review application.

Step 15: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 17 to submit an airspace review application.

Step 16: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 18 to submit an airspace review application.

Step 17: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 19 to submit an airspace review application.

Step 18: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 20 to submit an airspace review application.

Step 19: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 21 to submit an airspace review application.

Step 20: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 22 to submit an airspace review application.

Step 21: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 23 to submit an airspace review application.

Step 22: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 24 to submit an airspace review application.

Step 23: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 25 to submit an airspace review application.

Step 24: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 26 to submit an airspace review application.

Step 25: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 27 to submit an airspace review application.

Step 26: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 28 to submit an airspace review application.

Step 27: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 29 to submit an airspace review application.

Step 28: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 30 to submit an airspace review application.

Step 29: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 31 to submit an airspace review application.

Step 30: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 32 to submit an airspace review application.

Step 31: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 33 to submit an airspace review application.

Step 32: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 34 to submit an airspace review application.

Step 33: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 35 to submit an airspace review application.

Step 34: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 36 to submit an airspace review application.

Step 35: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 37 to submit an airspace review application.

Step 36: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 38 to submit an airspace review application.

Step 37: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 39 to submit an airspace review application.

Step 38: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 40 to submit an airspace review application.

Step 39: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 41 to submit an airspace review application.

Step 40: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 42 to submit an airspace review application.

Step 41: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 43 to submit an airspace review application.

Step 42: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 44 to submit an airspace review application.

Step 43: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 45 to submit an airspace review application.

Step 44: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 46 to submit an airspace review application.

Step 45: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 47 to submit an airspace review application.

Step 46: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 48 to submit an airspace review application.

Step 47: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 49 to submit an airspace review application.

Step 48: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 50 to submit an airspace review application.

Step 49: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 51 to submit an airspace review application.

Step 50: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 52 to submit an airspace review application.

Step 51: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 53 to submit an airspace review application.

Step 52: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 54 to submit an airspace review application.

Step 53: If the proposed object is located in the Page Field Aligned Single-Objective Zoning, go to Step 55 to submit an airspace review application.
MAJ-10 - SWFIA Airport Surveillance Radar Review Zones

This map was developed by the Lee County Port Authority pursuant to Lee County Land Development Code, Section 30000X, to assist the Department of Community Development in determining land use compatibility surrounding Southwest Florida International Airport.

Use of this map is limited to notification and review procedures detailed in LCC, Section 30000, and is in no way intended to authorize or suggest alternative heights or land uses. Any other use of this map is done without the knowledge, consent or approval of the Lee County Port Authority.

Instructions for Use

Step 1: Determine location of proposed object on the map.

Step 2: If the proposed project is located within the Southwest Florida International Airport Surveillance Radar Notification Boundary, regardless of the proposed height, submit a Tall Structure Review Application to the Lee County Port Authority.

Step 3: If the proposed project is not located within the Southwest Florida International Airport Surveillance Radar Notification Boundary, no notification is required unless otherwise dictated by the Southwest Florida International Airport Airspace Notification Map.
August 12, 2011

Honorable Charlie Green
Clerk of Court
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attention: Marcia Wilson, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated August 11, 2011 and certified copies of Lee County Ordinance Nos. 11-07 and 11-08, which were filed in this office on August 12, 2011.

Sincerely,

Liz Cloud
Program Administrator

KURT S. BROWNING
Secretary of State