

ORDINANCE NO. 96-17

AN ORDINANCE AMENDING LEE COUNTY LAND DEVELOPMENT CODE CHAPTERS 2, 10, 14, 26 AND 34, PROVIDING DEFINITIONS FOR "INSTITUTIONAL-TYPE USE" (§2-143), CLASS 1, 2, 3 ROADS AND "TRAFFIC CIRCULATION PLAN MAP" (§2-264); PROVIDING FOR FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES IMPACT FEE CREDITS (§2-392),

PROVIDING FOR ADMINISTRATIVE DEVIATIONS FOR EXCAVATION SETBACKS (§10-104); DEVELOPMENT ORDER SUBMITTALS (§10-154), LIMITED TREE CLEARING PERMITS (§10-171), TYPES OF DEVELOPMENT ENTITLED TO LIMITED REVIEW (§10-174), PROVISION OF ACCESS STREETS (§10-283); STREET DESIGN AND CONSTRUCTION STANDARDS (§10-296); STANDARDS APPLICABLE TO SETBACKS FOR WATER RETENTION OR DETENTION EXCAVATIONS (§10-329);

PROVIDING FOR REPEAL OF CHAPTER 14 ARTICLE IV AND APPENDICES C, D AND G, PROVIDING COMPENSATION INCENTIVES FOR PROTECTION OF CRITICAL EAGLE NESTING HABITAT (§14-120), PROVIDING FOR ENACTMENT OF WETLANDS PROTECTION REGULATIONS, INCLUDING APPLICABILITY (§14-291); DEFINITIONS (§14-292), PERMITS REQUIRED (§14-293), SITE PLAN REVIEW (§14-294), AND COMPLIANCE ENFORCEMENT (§14-295); PROVIDING FOR AMENDMENT TO CHAPTER 14, ARTICLE V, TREE PROTECTION, INCLUDING DEFINITIONS (§14-374), EXEMPTIONS (§14-377),

PROVIDING FOR AMENDMENT TO LDC CHAPTER 26, ARTICLE II, DOCK AND SHORELINE STRUCTURES, INCLUDING DEFINITIONS (§26-41), PROVIDING FOR VIOLATIONS AND PENALTIES (§26-42), APPLICABILITY (§26-43); COMPLIANCE WITH APPLICABLE REGULATIONS (§26-44); PERMITS REQUIRED (§26-45), VARIANCES (§26-46); EXEMPTION FROM SETBACK REQUIREMENT (§26-47), NONCONFORMING STRUCTURES (§26-48), PROVIDING LOCATION AND DESIGN STANDARDS FOR DOCKING FACILITIES AND BOAT RAMPS (§26-71), DOCK BOXES (§26-72); FISHING PIERS OR OBSERVATION DECKS (§26-73), BOATHOUSES (§26-74), SEAWALLS, ~~RETAINING WALLS AND RIPRAP REVETMENT~~ (§26-75), DREDGING (NEW AND MAINTENANCE) (§26-76), TURBIDITY AND PROTECTION OF VEGETATION (§26-77), MARINA DESIGN AND LOCATION (§26-78), PROVIDING FOR REPEAL OF LOCAL REGULATIONS PERTAINING TO MANGROVE ALTERATION (§§ 26-88 THROUGH 26-95),

PROVIDING FOR AMENDMENT LDC CHAPTER 34, ARTICLE I, TO DEFINITIONS FOR "ASSISTED LIVING FACILITIES," "ENVIRONMENTALLY SENSITIVE LAND," "NIGHTCULTURE," "SETBACK" AND "VARIANCE" (§34-2); PROVIDING FOR FUNCTIONS AND AUTHORITY OF HEARING EXAMINER (§34-145), PROVIDING FOR PLANNED DEVELOPMENT APPLICATION PROCEDURE (§34-373), OPEN SPACE DESIGN STANDARDS (§34-414); PROVIDING AMENDMENT TO DISTRICT REGULATIONS INCLUDING DISTRICT CONVERSIONS (§34-619), AGRICULTURAL DISTRICTS USE REGULATION TABLE (§34-653); PROPERTY DEVELOPMENT REGULATIONS TABLE (§34-654); ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS PURPOSE AND INTENT (§34-691), USE REGULATIONS TABLE (§34-694), MULTIPLE-FAMILY DISTRICTS USE REGULATIONS TABLE (§34-714), MOBILE HOME RESIDENTIAL DISTRICTS PURPOSE AND INTENT (§34-731), USE REGULATIONS TABLE (§34-735); RECREATIONAL VEHICLE PARK DISTRICTS, TOTAL LOT COVERAGE (§34-785), ACCESSORY STRUCTURES AND ADDITIONS (§34-786); UTILITY ROOMS AND ENCLOSURES (§34-787); ADDITIONS TO RECREATIONAL VEHICLES (§34-788); USE REGULATIONS TABLE (§34-791); COMMUNITY FACILITIES DISTRICT USE REGULATIONS TABLE (§34-813); COMMERCIAL DISTRICTS PURPOSE AND INTENT (§34-841), USE REGULATIONS TABLE (§34-843); PROPERTY DEVELOPMENT REGULATIONS (§34-844), INDUSTRIAL DISTRICTS USE REGULATIONS TABLE (§34-903), PLANNED DEVELOPMENT DISTRICTS PURPOSE AND INTENT (§34-931), USE REGULATIONS TABLE (§34-934); PROVIDING PURPOSE AND INTENT OF ENVIRONMENTALLY CRITICAL DISTRICT (§34-981); PROVIDING STANDARDS FOR APPLICATION (§34-982); USE REGULATIONS (§34-983); PROPERTY DEVELOPMENT REGULATIONS (§34-984), PROVIDING FOR AREA, DENSITY AND SETBACK REQUIREMENTS AND PERMITTED USES IN PLANNED UNIT DEVELOPMENT DISTRICT (§34-1040), PROVIDING MODIFIED DEVELOPMENT REGULATIONS FOR THE BONITA TOWN CENTER OVERLAY DISTRICT (§34-1137), PROVIDING FOR SUPPLEMENTARY DISTRICT REGULATIONS PERTAINING TO ALCOHOLIC BEVERAGES SALE OR SERVICE FOR ON-PREMISES CONSUMPTION (§34-1264), PROVIDING FOR DISPLAY, SALE, RENTAL OR STORAGE FACILITIES FOR MOTOR VEHICLES, BOATS, RECREATIONAL VEHICLES, TRAILERS, MOBILE HOMES OR EQUIPMENT (§34-1352), PROVIDING FOR ASSISTED LIVING FACILITIES (§34-1411), CONTINUING CARE FACILITIES (§34-1414), PROVIDING FOR COMMUNICATION TOWERS, INCLUDING REQUIRED APPROVALS (§34-1441); LOCATION GENERALLY AND COMPLIANCE WITH AIRPORT HAZARD REGULATIONS (§34-1442), PROTECTION OF ADJACENT PROPERTY

(§34-1443); SETBACKS FOR ACCESSORY BUILDINGS (§34-1444), FENCING (§34-1445), WARNING SIGNS FOR HIGH VOLTAGE FACILITIES (§34-1446);, PROVIDING FOR RESIDENTIAL - DEVELOPMENT DENSITY CALCULATION OF TOTAL PERMISSIBLE HOUSING UNITS (§34-1493), PROVIDING PURPOSE AND AREAS OF CONCERN FOR ENVIRONMENTALLY SENSITIVE AREAS (§34-1571), PROVIDING FOR REPEAL OF REGULATIONS PERTAINING TO PORTABLE KIOSKS (§34-1716); PROVIDING FOR REGULATIONS PERTAINING TO HOTELS AND MOTELS INCLUDING DEFINITIONS (§34-1801), PROPERTY DEVELOPMENT REGULATIONS (§34-1802), CONVERSIONS (§34-1803); SUBORDINATE USES (§34-1804), DENSITY LIMITATION FOR CAPTIVA ISLAND (§34-1805), PROVIDING FOR REGULATIONS PERTAINING TO MODEL HOMES, UNITS AND DISPLAY CENTERS INCLUDING APPLICABILITY OF DIVISION (§34-1951), DEFINITIONS (§34-1952); SPECULATIVE HOMES (§34-1953), MODEL HOMES AND MODEL UNITS (§34-1954), MODEL DISPLAY CENTERS (§34-1955); PROVIDING FOR PARKING AND APPLICABILITY OF DIVISION (§34-2011), DEFINITIONS (§34-2012), ACCESS (§34-2013); PARKING PLAN (§34-2014), LOCATION AND DESIGN GENERALLY (§34-2015); DIMENSIONAL REQUIREMENTS AND DELINEATION OF PARKING SPACES (§34-2016), PARKING LOT SURFACE (§34-2017); JOINT USE OF OFF-STREET PARKING LOTS (§34-2018); OTHER USE OF OFF-STREET PARKING LOTS (§34-2019); REQUIRED SPACES (§34-2020); EXCEPTION FOR FAST ORDER FOOD ESTABLISHMENTS LOCATED IN MULTIPLE-USE COMPLEX (§34-2021); PROVIDING FOR SUBORDINATE AND TEMPORARY USES OF A MOBILE HOME (§34-3046), PROVIDING FOR REPEAL OF REGULATIONS PERTAINING TO UNITS OF HIGH IMPACT (§34-3071, §34-3072, §34-3073, §34-3074), PROVIDING FOR NONCONFORMITIES PERTAINING TO CONSTRUCTION OF SINGLE-FAMILY RESIDENCE (§34-3273), PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, SCRIVENERS ERRORS AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Chapter 373 provides for a unified statewide methodology for the delineation of wetlands and surface waters, and

WHEREAS, F S Ch 373 provides for the issuance of permits for development impacting wetland areas; and

WHEREAS, F S. §163.3184(6)(c) provides that local government does not need to duplicate a state or federal permitting program already in place to effectuate the intent of a duly adopted local comprehensive land use plan; and

WHEREAS, Goal 25 of the Lee County Comprehensive Land Use Plan mandates that the County maintain clear, concise, and enforceable development regulations which fully address on-site and off-site development impacts, yet function in a streamlined manner, and

WHEREAS, Policy 10.6.2 of the Lee Plan requires county staff and private citizen committees to recommend revisions that will streamline development regulations, and

WHEREAS, Board of County Commissioners has created the Land Development Code Advisory Committee to explore the amendment to the Land Development Code, and

WHEREAS, the Land Development Code Advisory Committee has endorsed amendments to Chapters 2, 10, 14, 26 and 34 of the Land Development Code to implement Goal 25 of the Lee County Comprehensive Land Use Plan; and

WHEREAS, the Executive Regulatory Oversight Committee has reviewed and endorsed the proposed amendments to the code; and

WHEREAS, the Local Planning Agency reviewed the amendments proposed herein on September 3, 1996 and found them consistent with the Lee Plan, and

WHEREAS the Board of County Commissioners of Lee County desire to amend the Land Development Code as set forth herein below.

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

SECTION ONE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 2

Lee County Land Development Code Chapter 2, Articles IV and VI are amended to read as follows with strike through identifying deleted language and underline identifying additional language

CHAPTER 2

ARTICLE IV. TRANSFER OF DEVELOPMENT RIGHTS

~~Sec. 2-143. Definitions~~

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

Institutional-type use means those land uses which include ~~AGLF's~~ health care facilities, groups I and II, and social services, group IV, as those terms are defined by or listed in chapter 34

ARTICLE VI. IMPACT FEES

Division 2. Roads impact Fee

Sec. 2-264. Definitions and rules of construction.

Class 1 road means an approved road ~~which is~~ shown on the ~~interim~~ traffic circulation plan map, the construction of or Improvement to ~~which~~ road also ~~is included~~ as a county-funded project on ~~the five-year~~ schedule of Improvements ~~within the Lee Plan's capital improvements element that is~~ adopted and amended from time to time in accordance with F.S. Sec. 163.3177(3)(b) and 163.3187. Class 1 road also means any arterial or collector road included in the road network established in the traffic circulation element of the comprehensive plan of any participating municipality, all access roads shown on the required access road map; any road construction or Improvement project included in the annual capital improvement program of any participating municipality which is to be funded through the use of roads impact fees, and any road located in the City of Cape Coral urban reserve area which abuts platted lots which were zoned for commercial or professional use by the City of Cape Coral prior to February 13, 1989, adjoin city-owned property, have been redesignated for residential use only by the Cape Coral comprehensive plan, and contain less than the minimum lot area required for a residential land use.

Class 2 road means an approved road ~~which is~~ shown on the ~~interim~~ traffic circulation plan map and also is scheduled for construction as a county-funded project in any ten-year capital improvement plan which may be adopted by the county, but which is not included on the five-year schedule of Improvements within the capital improvements element of the Lee Plan.

Class 3 road means an approved road ~~which is~~ shown on the ~~interim~~ traffic circulation plan map, but construction of or improvement to ~~which is~~ nor included within the capital improvements element of the Lee Plan or any ten-year capital improvement plan of the county. Class 3 roads also include all arterial and collector roads on Gasparilla Island, Pine Island, and Captiva, Sanibel and Estero Island. Class 3 road also means an approved road ~~which is~~ not on the five-year schedule of Improvements within the Lee Plan's capital improvement element, not in any ten-year capital improvement plan of the county, and not on the ~~interim~~ traffic circulation plan map, but which provides a reasonable alternative route for traffic which otherwise would travel a specific road shown on the ~~interim~~ traffic circulation plan map.

~~Interim traffic circulation plan map means that document so identified in the Lee Plan amendments, adopted January 31, 1989, pursuant to Ordinance No. 89-02, as amended from time to time.~~

Traffic circulation plan map means that document so identified in the current Lee Plan as may be amended from time to time.

DIVISION 5. FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES IMPACT FEE

Sec. 2-392. Exemptions, credits and deferrals.

(b) Credits ~~shall be~~ are subject to the following:

(1) ~~No credit shall be given for improvements required to implement special conditions of developments in the so-called "fringe areas" of the Lee Plan, as they existed prior to its amendment by Ordinance No. 89-02.~~

Renumber (b)(Z) thru (b)(9) to (b)(I) thru (b)(8)

SECTION TWO: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 10

Land Development Code Chapter 10, ~~Articles II and III~~ are amended as follows ~~with strike through~~ identifying deleted language and underline identifying additional language

CHAPTER 10

ARTICLE II. ADMINISTRATION

DIVISION 2 DEVELOPMENT ORDERS

Subdivision II. Procedures

Sec. 10-104. Deviation and variances.

(a) ~~Provisions where deviations are authorized~~ The development ~~review~~ director ~~is~~ hereby ~~authorized~~ to grant ~~deviations~~ from the ~~technical~~ standards in the ~~following sections in~~ this chapter:

- (1) ~~Section~~ 10-283 (access streets);
- (2) Section 10-265 (Intersection ~~separations~~);
- (3) ~~Section~~ 10-296, Table 2 (right-of-way widths for ~~county-maintained~~ streets);
- (4) ~~Section~~ 10-296, Table 3 (right-of-ways widths for ~~privately maintained~~ streets),
- (5) ~~Section~~ 10-296, Table 4, items ~~(2)–(7)~~ and (13) (road specifications),
- (6) ~~Section 10-296(g)~~ (horizontal curves);
- (7) ~~Section~~ 10-296(j) (intersection designs),
- (8) ~~Section~~ 10-296(k) (cul-de-sacs),
- (9) ~~Section~~ 10-322 (swale sections),
- (10) Section 10-329(e)(1)a.3 (Setbacks for water retention/detention excavations from private property) subject to Section 10-329(e)(5)
- ~~(11) (10)~~ Section 10-352 (public water),
- ~~(12) (11)~~ Section 10-353 (public sewer);
- ~~(13) (12)~~ Section 10-385(c) (water mains),
- ~~(14) (13)~~ Section 10-441 (mass transit facilities).

Sec. 10-154. Additional required submittals.

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

- (8) **Existing conditions and improvements drawing:** An ~~existing~~ conditions and ~~improvements~~ drawing showing at minimum the following:
- e. ~~identification of resource protection areas and transition zones wetlands~~ as defined in the Lee Plan sec 14-292. The applicant may be required to flag these areas for site inspection by the staff of the department of community development
- (22) **Emergency preparedness plan.** Prior to final approval of a development order for a hospital, nursing home, ~~adult congregate assisted living facility (AGLF)~~ or developmentally disabled housing project, an emergency preparedness plan approved by the director of the division of emergency management ~~shall be submitted.~~
- (23) **State permits.** Prior to final approval of a development order, copies of permits issued by the South Florida Water Management District or the Florida Department of Environmental Protection ~~shall be submitted~~. Copies of all other necessary state ~~land development permits (FDOT, DER, HRS, etc.)~~ shall must be submitted prior to the commencement of any construction work on the site.

DIVISION 3. LIMITED REVIEW PROCESS

Sec. 10-171. Generally.

~~Developments meeting the criteria in section 10-172 and 10-174 shall be~~ are entitled to receive a development order in accordance with the procedures in this section. For developments ~~meeting the criteria in this section, no site improvement, tree clearing* or issuance of building permits shall may~~ occur prior to approval of the development order by the division of zoning and development-review services.

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

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

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

- (5) Any subdivision of land for a use other than single-family detached dwelling units, two-family detached dwelling units or agricultural; **provided**, however, that
 - e No significant alteration of existing utility installations is involved,

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS

DIVISION 2 TRANSPORTATION, ROADWAYS, STREET AND BRIDGES

Sec. 10383. Provision of access streets.

(a) ~~The developer shall must dedicate and construct an access street if the subject property is traversed by or abuts a street shown on the required access road map, described in section 10-8(5), as requiring an access road. Upon acceptance of the access road by the county, the applicant shall will be entitled to road impact fee credits in accordance with chapter 2, article VI, division 2.~~

- (1) No access streets ~~shall will~~ be required except for new developments. For purposes of applying this subsection, new developments shall include any expansion of an existing development which results

in either

- a. A 25 percent or greater Increase in building size;
 - b. A 25 percent or greater Increase in residential density, or
 - c. A 25 percent or greater Increase in traffic generated
- (2) The land required for the construction of the access street shall ~~must~~ be conveyed to the county by warranty deed or by way of dedicated easement, as the developer may choose
- (3) This chapter shall ~~will~~ be applied by the county so as to preserve lawfully existing points of access from private property to a public road unless the property owner is allowed an alternative means of access of equal value or is compensated for any diminution in value between the original access and the alternative means of access, as the county may elect and in such amount as the county and the property owner may agree on, or, if they cannot agree, then as shall be determined by a court of competent jurisdiction, pursuant to state condemnation law
- (4) The director of zoning and development services is authorized to waive the requirement for installing an access street in accordance with §10-104(a) if he determines the waiver would not be inconsistent with the Lee Plan

(b) Where parcels required to utilize an access street are ready to build or develop before the county desires to provide the access street or the parcels have insufficient width to allow minimum spacing between intersections, the ~~county engineer shall~~ director of zoning and development services will allow a temporary access to the arterial or collector, provided that

- (1) There is not an adjacent access or local street to the property;
- (2) The applicant constructs a local street or access street across the full width of his property,
- (3) The applicant installs the temporary access and agrees in writing and in recordable form to have it removed when so directed by the ~~county engineer;~~ director of zoning and development services
- (4) The applicant further agrees in writing to utilize the access street system when such system is provided by the county; and
- (5) The applicant records such agreement in the official records of the county.

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

(n) ~~Streets and driveways in resource protection areas and transition zones wetland areas~~
Notwithstanding other provisions of this chapter, if a new road or driveway is permitted in a resource protection area or transition zone wetland area in accordance with policy 25.1.7 of the Lee Plan, it shall ~~must~~ be culverted or bridged so that to maintain the pre-development volume, direction, distribution and surface water hydroperiod will be maintained

DIVISION 3. SURFACE WATER MANAGEMENT

Sec. 10-329. Excavations for Water Retention and Detention.

(e) *Standards* All new excavations for water retention and detention regulated by this section will be subject to the following standards:

(1) *Setbacks for water retention or detention excavations*

a No excavations will be allowed within.

1 Twenty-five feet of an existing street right-of-way line or easement for a local street:

2 Fifty feet of any existing or property-owner proposed right-of-way line or easement for a collector or arterial street. The 50-foot setback may be reduced if the developer provides elements for the protection of wayward vehicles. The elements for the protection of wayward vehicles may include guardrails, berms, swales, vegetation or others as determined by the director. In no event may the setback for an excavation from a collector or arterial street may not be less than 25 feet;

3 Fifty feet of any private property line under separate ownership unless granted an administrative deviation in accordance with section 10-104. The setback for an excavation from a private property line may not be less than 25 feet. This setback does not apply to lots developed concurrently with the excavation for water retention when part of a development order.

b In all cases, the most restrictive setback will apply.

c All excavation setbacks must be measured from the mean high water (MHW) or the wet season water table (WSWT) line, waterbody control elevation line.

SECTION THREE: REPEAL AND REPLACEMENT OF LAND DEVELOPMENT
CODE CHAPTER 14, **ARTICLE IV**

Lee County Land Development Code Chapter 14, Article IV, is hereby repealed in its entirety, including appendices C, D and G, and replaced as follows: Land Development Code Chapter 14, Articles II and Ware amended as follows with strike through representing deleted language and underline representing additional language

CHAPTER 14

ARTICLE II. WILDLIFE AND HABITAT PROTECTION

DIVISION 2. SOUTHERN BALD EAGLE

Sec. 14-120. Compensation incentives for protection of critical eagle nesting habitat.

Incentives for the preservation of critical eagle nesting habitat pursuant to approved management plans will be granted in accordance with the standards in section 10-474(e) provided, however, that nothing in this section shall may be construed to impair the value of incentives that were previously approved by the Board of County Commissioners pursuant to Ordinance No. 86-15

~~In addition to the incentives already provided herein, in the event that~~ If the Board of County Commissioners elects not to acquire a critical eagle nesting habitat, then the board may permit all or some of the following special compensation benefits as incentives to the developer or property owner for the purpose of protecting critical eagle nesting habitat

- (1) For a buffer area of 350 feet in radius or an approximate equivalent acreage, minimum, the following benefits ~~shall~~ will be granted.

- a. The property owner ~~shall will~~ be allowed to transfer ~~density~~ from ~~within~~ the buffer area to designated upland areas ~~within~~ the subject ~~property at the same density permitted~~ for the ~~subject~~ property as determined through the ~~residential~~ planned development process For a buffer ~~area~~ ~~0' portion thereof, composed of a resource protection area or transition zone wetlands, or portion thereof, the following an internal transfer of one development right per five acres will density shall~~ apply.,
- ~~1. Resource protection area One development right per ten acres;~~
 - ~~2. Transition zone One development right per five acres; and~~
- b. The property owner ~~shall will~~ be allowed ~~priority review~~ and ~~processing~~ of ~~zoning~~ and development applications for the subject property, and, if applicable, one other parcel under unified control

ARTICLE IV. WETLANDS PROTECTION

Sec. 14-291. Applicability.

The provisions of this article apply to the unincorporated areas of Lee County.

Sec. 14-292. Definitions.

ERP means Environmental Resource Permit

FDEP means Florida Department of Environmental Protection

SFWMD means South Florida Water Management District

Wetlands, consistent with F.S. §373.019(17), means those areas inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

Sec. 14-293. Permits required.

(a) An Environmental Resource Permit (ERP) is required prior to any development that will impact wetlands. The ERP will be issued by either the Florida Department of Environmental Protection (FDEP) or South Florida Water Management District (SFWMD) in accordance with F.S. Ch. 373 and F.A.C. Ch. 62

(b) The County will not independently review Impacts to wetlands resulting from development.

(c) Prior to receipt of a copy of the appropriate state authorization relating to wetlands, the County may not issue building permits or development orders where development will cause impacts to existing wetlands on the subject property

Sec. ~~14-294.~~ -site plan review.

Lee County will incorporate the terms and conditions of all state authorizations relating to wetlands, including ERP's into any development order, building or other local development permit

Sec. 14-295. Compliance enforcement.

(a) Lee County will enforce the provisions of any state authorization relating to wetlands, including ERP's, issued and incorporated into a local development order or building permit.

(b) The County will prosecute violations of state wetland regulations and ERP applicable conditions or requirements incorporated into local permits through the code enforcement process set forth in Chapter 2

ARTICLE V. TREE PROTECTION

DIVISION 1. GENERALLY

Sec. 14374. Definitions.

~~Resource protection area means a land use category as defined by the Lee Plan which is characterized by lands that exhibit the soil types set forth in appendix D, and hydrology which are characteristic of freshwater and saltwater wetlands.~~

~~Transition zone means a land use category as defined by the Lee Plan which is characterized by lands that may be seasonally inundated for a period from one to three months as indicated by water marks, do not have depressional soils, and are characterized by a mixture of plant species typical of uplands and wetlands.~~

~~Upland means land other than resource protection areas or transition zones.~~ wetlands.

Sec. 14577. Exemptions from article.

(a) This ~~article shall~~ does not apply to the following

(1) Removal of trees on the following lands as specified in this subsection

b. ~~Removal of trees on Land which is used for bonafide agricultural purposes and which is exempt from the provisions of this article and which that meets the criteria of or has been designated as wetlands a resource protection area or transition zone shall be subject to the provisions of article IV of this chapter~~

SECTION FOUR: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 26

Lee County Land Development Code Chapter 26, ~~Article II~~ is amended to read as follows ~~with strike though identifying deleted language and underline identifying additional language~~

CHAPTER 26

**ARTICLE II. ~~SEAWALLS, BULKHEADS, DOCKS AND SIMILAR STRUCTURES~~
DOCK AND SHORELINE STRUCTURES**

DIVISION 1 GENERALLY

Sec. 2641. Definitions.

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

Access walkway means ~~that the portion of a water-oriented structure which~~ & allows access to a docking facility or terminal platform ~~or provides a way along the structure from the shore.~~

~~Administrator~~ *Director* means the director of the department of community development, or his successor or designee, ~~as the party designated by the Board of County Commissioners to administer the provisions of this article.~~

Boathouse means a roofed structure ~~built~~ constructed over or adjacent to water to provide a covered mooring or storage place for watercraft ~~For purposes of this definition, a structure shall be considered adjacent to water if the nearest landward point of the structure is less than 25 feet from the mean high water line.~~

Boat ramp means an inclined and paved stabilized surface that extends into the water from the shore and upon which trailered watercraft can be launched and retrieved

~~Commercial boats shall be defined as such term is defined in the Florida Statutes~~

~~Director~~ means the director of the division of codes and building services, or his successor or designee, as the party designated by the Board of County Commissioners to issue building permits, to conduct inspections and to enforce the provisions of this article:

~~Dock box~~ means a storage container devoted to the storage of items related directly to the use and maintenance of watercraft or to water-oriented activities. The maximum size of a dock box shall be 100 cubic feet. The maximum height of a dock box shall be three feet. Dock boxes may not contain living or fueling facilities.

Docking facility means a water-oriented structure designed primarily for the launching, retrieval, storage or mooring of watercraft

Exterior property line means the side lot line or riparian property line separating two or more lots or parcels under common ownership from the adjoining lots or parcels under separate ownership.

Finger pier means a ~~narrow pier dock landing that branching branches~~ from an access walkway or terminal platform to form a watercraft slip ~~thereby providing and provide direct access to watercraft moored in the slip.~~

Hazard to navigation means a watercraft or structure erected, ~~or~~ under construction or moored ~~which that~~ obstructs the navigation of watercraft proceeding along a navigable channel or obstructs reasonable riparian access to adjacent properties.

Invasive exotic vegetation means Australian pine (*Casuarina spp*), Brazilian pepper (*Schinus terebinthifolius*), paper or punk tree (*Melaleuca quinquenervia*), and earleaf acacia (*Acacia auriculiformis*); ~~and primrose willow (*Ludwigia peruviana*)~~

Littoral zone means the shallow-water region of a waterbody where sunlight penetrates to the bottom.

~~Mangrove shall have the same meaning as provided by the Florida Administrative Code~~ means any specimen of the species black mangrove (*Avicennia germinans*), white mangrove (*Laguncularia racemosa*), or red mangrove (*Rhizophora mangle*).

~~Mangrove alteration shall have the same meaning as provided by the Florida Administrative Code~~

Marginal dock means a dock that runs parallel and adjacent to the shoreline. This term includes docks with a maximum access walkway length of twenty-five (25) feet to a dock running parallel to the shoreline and adjacent to wetland vegetation.

Marina has the meaning provided in sec 34-2

~~Water-oriented structure refers to any water-oriented facility and includes, without limitation, any dock, boardwalk, floating dock, fishing pier, pier, wharf, observation deck, walkway, deck, platform, boathouse, mooring pile, riprap, revetment, seawall, bulkhead, retaining wall, jetty, platform, boat lift, davit or boatramp, or any other obstacle, obstruction or protrusion used primarily for the landing, launching or storage of watercraft, erosion control and shoreline stabilization, or for water-oriented activities. For brevity, the term "structure," when used in this article, means "water-oriented structure."~~

~~Mean high water has the same meaning as provided by the Florida Statutes~~ means the average height of the high waters over a nineteen year period. For shorter periods of observation, "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean nineteen-year value.

~~Mean high-water line has the same meaning as provided by the Florida Statutes~~ means the intersection of the tidal plane of mean high water with the shore.

~~Mean low water has the same meaning as provided by the Florida Statutes~~ means the average height of the low waters over a nineteen year period. For shorter periods of observation, "mean low water" means the average height of the low waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean nineteen-year value.

~~Mean low-water line has the same meaning as provided by the Florida Statutes~~ means the intersection of the tidal plane of mean low water with the shore.

Multi-slip docking facility has the meaning provided in sec 34-2

Navigable channel means the area within a natural or artificial waterbody which that will allow passage of a watercraft drawing three feet of water; at mean high water.

~~Permit required means any local, state or federal permits required in accordance with this article, or as required by any other local rules, regulations, ordinances or codes, for work applicable to structures or work related to structures in, on, over or adjacent to waterways within the unincorporated area of the county~~

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

~~Recreational boats applies to boats not considered commercial vessels~~

Retaining wall means a vertical bulkhead constructed landward of the mean high water line and wetland vegetation.

~~Seaward means moving away from the land and farther into or toward the water~~

~~Terminal platform~~ means ~~that the~~ part of a docking facility ~~that is~~ connected to and generally wider than the access walkway ~~and that is~~ used both for securing and loading a vessel

TERMINAL PLATFORMS, CONFIGURATION EXAMPLES
ADD FIGURE

~~Tie-up Mooring area~~ means ~~that the~~ portion of a docking facility ~~to which~~ used for the mooring of watercraft may be moored in the absence of a terminal platform or watercraft slip:

~~Waferbody~~ means ~~an artificial or natural body of water and associated wetlands having access to navigable waters of the United States and located in the unincorporated areas of the county. For purposes of this article, the term "waterway" shall have the same meaning as the term "waterbody" means all artificial and natural bodies of water as those terms are defined in sec 34-2. and all adjacent wetlands, as defined in Section 14-292~~

~~Watercraft~~ includes, without limitation, means any vehicle designed for transporting persons or property on, in or through water.

~~Watercraft slip~~ means ~~a watercraft mooring area formed by an L-shaped or U-shaped configuration of piers or mooring piles, or a combination of both, to allow mooring and access to watercraft the area of a structure designated for watercraft mooring~~

~~Work~~ includes, but is not limited to, all dredging or disposal of dredge, material, excavation, filling, construction, erection or installation, or any addition to or modification of a structure on a waterway. ~~within the unincorporated area of the county. The term "work" shall not include minor repairs or maintenance as exempted under section 26-71, 26-72 or 26-73~~

Sec. 26-42. Violations ~~of article; and~~ penalty&.

~~(a) If a dock or seawall is constructed without a county building permit, and does not meet the requirements of this article, then it will either have to be removed totally or modified in such a way to meet the requirements of this article~~

~~(b) Any person violating any provision of this article, or conditions of a hardship variance issued under this article, shall be subject to a penalty of twice the building permit fee, up to \$250.00~~

~~(a) Any person doing work in violation of this article or any approval or permit issued in accordance with this article is subject to prosecution through the county code enforcement process described in chapter 2, article VII. Any affected party, including the County, may seek a civil injunction to enjoin work on a structure conducted in violation of this article. In addition to or in lieu of initiating or pursuing code enforcement action~~

~~(eb) Each day of work, or work continues on a structure as defined in this article, without first having secured applicable the appropriate permits shall be constitutes deemed to be a separate offense in addition to or in lieu of the penalties provided by general law for violation of ordinances, the Board of County Commissioners, the director, the administrator or an affected party may bring injunctive action to enjoin the continuance of work, or work on any structure as defined in this article, in violation of this article.~~

Sec. 26-43. Applicability of article.

The terms and provisions of this article shall apply to all structures as defined under this article lying within the unincorporated area of the Lee County, except that the maintenance of or minor repairs to any currently usable structure defined under this article in a manner consistent with the intent of this article and to the extent reasonably necessary in order to maintain or repair the structure for purposes of keeping in good condition the existing structure shall be excepted. This exemption shall not be construed to mean construction of a new

~~structure where one did not exist or new construction of additions to any structure which would increase the area of the existing structure~~

Sec. 2644. Compliance with applicable regulations.

~~All work in connection with any structure located in, on, over or adjacent to any waterway located within the unincorporated area of the county shall be in accordance with applicable local rules, regulations, ordinances or codes. Local county approval shall~~ Permits issued in accordance with this Chapter or development orders for work in the unincorporated area of the county do not eliminate the need for obtaining associated to obtain all applicable state and federal agency permits where applicable. County approval does not constitute a property right

Sec. 26-45. ~~Permit; inspections;~~ Permits required.

~~(a) All work shall be evaluated and approved by the administrator or his designee prior to the issuance of a permit by the director or his designee, to ensure that such activities are compatible with the intent of this article. Any authorization of work on structures by the county does not convey a property right or authorize any injury to property or invasion of other rights.~~

(a) A Permit is required prior to starting any work addressed by this article

~~(b) All requests for a permit relative to work in accordance with the provisions of this article shall be submitted in writing to the administrator or his designee, and shall include an overall site plan of the area, including dimensions. The written application shall include but not be limited to the following:~~

~~(1) Whether or not the applicant has secured all state and federal agency permits, and copies of the permits, where applicable. In the case of need for a submerged lands lease from the state department of environmental protection, approval from the county is required first.~~

~~(2) A statement of the relative extent of the public and private need for the proposed structure or work. A development order is required for private residential multi-slip commercial docking facilities, however, exemptions are possible under the provisions of this Land Development Code.~~

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

(1) The names, addresses, and telephone numbers of the property owners;

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

(3) Written authorization from the property owner to the agent, if applicable;

(4) The proposed street address;

(5) The property STRAP number;

(6) A site plan showing the following:

- a. The proposed location of the work relative to riparian property lines, and
- b. Dimensions and side setbacks of all proposed structures or work.

(7) Copies of all necessary state and federal agency permits unless a submerged lands lease is required from the state department of environmental protection, in which case county approval is required first, and

(8) A fee, as established in the applicable county administrative code.

(c) Work relating to industrial, commercial or multi-family projects may require a development order in accordance with Chapter 10 and construction drawings sealed by a professional engineer (P E) or registered architect. All development order applications will be reviewed for compliance with this article.

(d) The director has the discretion to require construction drawings sealed by a P E or registered architect and a boundary or record survey sealed by a Professional Surveyor and Mapper (PSM) identifying the property boundary or riparian extensions into the waterbody in relation to construction or work.

(ee) The director or his designee may conduct on-site inspections as needed to determine if the proposed work or structure meets the required minimum standards - t

(f) A permit is required to repair or replace an existing structure. The director has the discretionary authority to exempt minor repairs.

(g) The Director can authorize minor design alteration necessary to comply with the Americans with Disabilities Act.

Sec. 26-46. Variances.

~~Requests for variances from the terms of this article shall be administered and decided in conformance with the requirements for variances which are set forth in chapter 34.~~

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

(a) The granting of a variance will not threaten or create an undue burden upon the health, safety and welfare of abutting property owners or the general public.

(b) The requested variance is necessary to relieve an unreasonable burden placed upon the applicant by applying the regulations in question to his property.

(c) The variance requested is consistent with the Lee Plan.

(2) Requests for variances involving historic resources, as defined in Ch. 22, may be obtained in accordance with secs 22-173 and 174.

Sec. 26-47. Exemption from setback requirement.

Any structure permitted under this article shall ~~will~~ not be subject to the 25-foot setback requirements from a bay, canal or other waterbody ~~as contained set out~~ in chapter 34

Sec. 26-48. Nonconforming structures.

A nonconforming structure may be repaired, replaced or altered if the size, dimensions, and location of the structure is and will remain otherwise in compliance with existing regulations. Nonconforming structures can be altered, if in the opinion of the director, the proposed work will not cause an increase in the nonconformity.

Secs. 26-489--26-70. Reserved.

DIVISION 2. LOCATION AND DESIGN

**Sec. 26-71. Structures associated with single-family residential land uses:
Docking facilities and boat ramps.**

(a) *Generally.* The following regulations shall apply to all structures designed for use on or adjacent to water bodies in association with private single-family residential uses, except where these regulations are specifically superseded by other provisions of this article. No structure shall be permitted or constructed which creates a hazard to navigation:

- (1) *Length.* No structure shall be permitted or constructed in a natural or artificial waterbody which exceeds any of the following maximum lengths, measured from the mean high water line seaward:
 - a. Except for boat lifts and davits, a length such that the combined length of the structure plus ten feet extends into or over 25 percent of the width or length of a navigable channel. If the structure is not connected to the shoreline, intrusion into the navigable channel shall be calculated by adding ten feet to the distance between the mean high water line and the most seaward point of the structure.
 - b. The width of the property (measured at the water line), or 100 feet, into or over a waterbody, whichever is less, unless:
 1. The structure is to be used as a docking facility;
 2. Mean low water, as measured in the center of the proposed watercraft slip or boathouse or immediately adjacent to the terminal platform or tie-up area, is less than three feet; and
 3. The width of the property, or the aggregate width of two or more adjacent properties if the proposed structure is the subject of a combined permit application and is to be used by adjoining property owners, is 150 feet or more.

In such cases as described in subsections (a)(1)b 1 through 3 of this section, the watercraft slips, boathouse, tie-up area or terminal platform portions of the structure may be extended seaward to the first point at which the minimum water depth, measured at mean low water, in the docking areas described in subsection (a)(1)b 2 of this section, is three feet. The docking areas shall be located at the most seaward end of the structure. The maximum length to which a structure may be extended in such circumstances is 150 feet. Adjacent property owners who submit a combined permit application in order to meet the property width requirement set forth in subsection (a)(1)b 3 of this section shall also submit an original joint use agreement between all applicants which shall run with the land, which shall be in recordable form and which has been approved by the county attorney's office.

- (2) *Protection of vegetation, control of turbidity.* All structures shall be placed so as to provide the least possible impact to aquatic or wetland vegetation. Turbidity screens shall be used during any work which generates turbidity.

(b) *Boathouses.* The following regulations shall apply to all boathouses associated with private single-family residential uses, except where these regulations are specifically superseded by other provisions of this article:

- (1) *Location.*
 - a. Every boathouse shall be constructed in such a way that the nearest landward point of the structure is located no farther than 25 feet from the mean high water line.
 - b. A boathouse to be located over water shall be permitted in biologically unproductive areas only.
 - c. Every boathouse located adjacent to or over a natural waterbody shall be setback at least 25 feet from each side lot line or riparian property line. When a boathouse is to be constructed on or adjacent to two or more adjoining lots under common ownership and control, side lot line and riparian property line setbacks shall be measured from the exterior property lines only. Every boathouse located adjacent to or over an artificial waterbody shall be setback at least ten feet from those same lines.

- (2) *Design criteria:*

- a. *Maximum area.* A boathouse shall encompass no more than 500 square feet of roofed area.
- b. *Roof.* A boathouse shall have a pitched roof with at least a two to 12 pitch which shall consist of a minimum slope of two vertical to 12 horizontal. The maximum roof overhang shall be three feet. Sundecks shall not be permitted on the roof of any boathouse.
- c. *Height.* The maximum height of a boathouse shall be 20 feet above mean high water as measured from mean high water to the highest point of the boathouse.

~~d. Permitted uses-~~

~~1. There shall be no living or fueling facilities in a boathouse located over water-~~

~~2. Boathouses located adjacent to a waterbody shall not have living or fueling facilities. Storage is permitted in boathouses located adjacent to a waterbody but is limited to items directly related to the use or maintenance of the watercraft. No more than 25 percent of the total roofed area of a boathouse located adjacent to water may be devoted to such limited storage-~~

~~e. Decking- The area under the roof of a boathouse located over water shall contain three-foot-wide access walkways only. Decking in the area under the roof is strictly prohibited-~~

~~f. Enclosure:~~

~~1. All boathouses located over a waterbody, whether natural or artificial, and any boathouse located adjacent to a natural waterbody, shall be open-sided. Safety rails 42 inches high or less are permissible-~~

~~2. Boathouses located adjacent to an artificial waterbody shall meet the following requirements:
 1. The boathouse must be open-sided if the proposed side setback is between ten and 25 feet-~~

~~2. The boathouse may be open-sided or enclosed with wood lattice, chainlink fencing or other fencing materials if the proposed side setback is 25 feet or more-~~

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

(a) Number Of slips.

(1) No more than one private single-family watercraft mooring dock with two slips is permitted in natural waterbodies.

(2) A shared property line dock can be permitted for up to four slips.

(3) Handrails may be required to prohibit the mooring of watercraft in any area not designated as a watercraft slip. Handrails must be permanently maintained.

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

(1) 200 feet.

(2) 25 percent of the navigable channel width. Watercraft mooring areas that are waterward of the dock will be deemed 10 feet in width; or

(3) up to 300 feet, if the director, in his sole discretion, finds that

a. The proposed dock has been approved by all applicable state and federal agencies;

b. The increased length will not result in a hazard to navigation;

c. The proposed dock is compatible with docks or other structures and uses on adjoining lots; and

d. The increase in length will lessen the dock's impacts on seagrass beds or other marine resources.

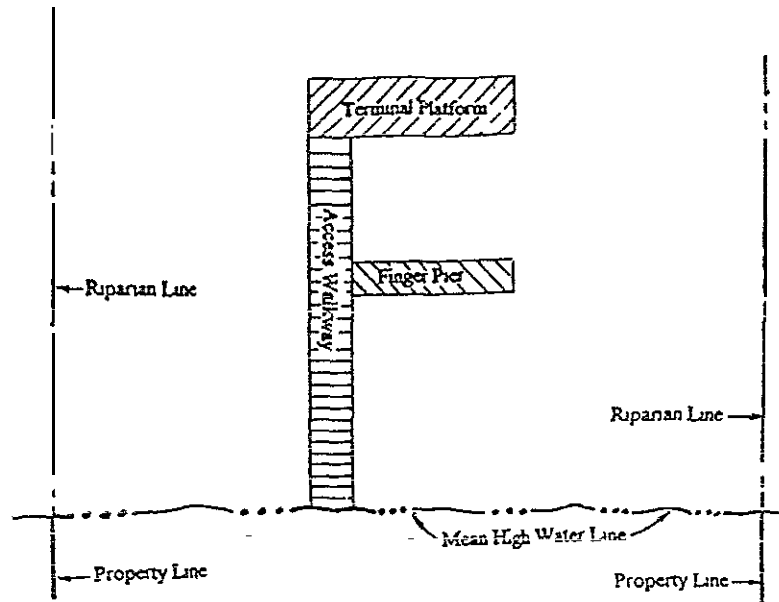
(c) Maximum dimensions

(1) Docking facilities in natural water bodies must comply with the following maximum dimensional requirements.

<u>Private Single-Family Structure</u>	
<u>Access walkway</u>	<u>4 feet wide</u>
<u>Terminal platform</u>	<u>160 square feet</u>
<u>Finger piers</u>	<u>3 feet wide</u>

The application of these regulations is illustrated in Figures 26-1

Figure 26-1
Private Single-Family Structure
Plan-view



(2) ~~The Director has the discretion to permit a dock of greater dimensions than allowed by this subsection if:~~

a. the primary access to the property is by watercraft;

b. no reasonable alternative access exists; and

c. the increase in the dock dimensions is the minimum necessary to meet the needs of the property owner.

(3) Single-family residential boat ramps can not exceed 15 feet in width.

(d) Setbacks.

(1) All multi-slip and marina docking facilities, except boat davits, in or adjacent to natural waterbodies, must be set back a minimum of 25 feet from all adjoining side lot lines.

(2) All private single-family docking facilities in natural waterbodies must be set back from all adjoining

side lot and side riparian lines as follows

- a. Marginal docks -- no less than 10 feet
- b. All other docks -- no less than 25 feet

(3) Side setback requirements can be reduced if

- a. Adjoining property owners execute a written agreement in recordable form, agreeing to a setback less than that required or to a zero setback, and
- b. placement of the dock in accordance with the setback agreement will not result in greater environmental impacts than compliance with the regulations set forth in this subsection

(4) The director, in his discretion, may permit administrative deviations from these required setbacks required by this subsection under the following circumstances if the facility is located as close to the required setback as possible and

- a. The width of the subject parcel is not wide enough to permit construction of a single-family docking facility, perpendicular to the shoreline at the midpoint of the shoreline property line, without a deviation, or
- b. Construction of the structure outside the setback area will not cause or will minimize damage to wetland vegetation or other environmental resources or will not cause greater damage than will occur if the deviation is not granted

The director's decision under this subsection can be appealed through the procedure set forth in sec 34-145(a) or the applicant may seek a variance in accordance with sec 24-46

(4) All boat ramps must setback 10 feet from all adjoining side lot and side riparian lines

(e) Location

- (1) Docking structures in natural or artificial waterbodies that create a hazard to navigation are prohibited
- (2) Boat ramp located in a manner that will result in a chancre in the mean high water line are prohibited

(f) Minimum water depths

- (1) There must be a minimum depth of three feet mean low water for all watercraft slips on private single-family docking facilities in natural waterbodies
- (2) Water depths adjacent to and within a multi-slip docking facility or a marina must ensure that a minimum one foot clearance is provided between the deepest draft of a vessel and the bottom at mean low water or the top of marine resources (e.g. seagrasses)

Sec. 26-72. Docking facilities in natural water bodies. Dock Boxes.

The following are the maximum dimensions allowable for any structure in natural water bodies. Dock boxes on private single family docking facilities may not exceed three feet in height and 100 cubic feet in size. Dock boxes do not require building or marine facility permits

(1) Private single family docking facilities

- a. Length limitations for private single family docking facilities are set forth in section 26-71(a)(1)
- b. A four-foot walkway width is permitted.
- c. A 160-square-foot terminal platform with an eight-foot-wide walkway is permitted.
- d. There shall be a minimum depth of three feet mean low water for location of slips
- e. No more than one dock and two slips for each lot are permitted, except in shared property line docks, where four slips are allowed
- f. Mooring pilings will be required when they can be used in lieu of additional structure size.

- ~~g. Setback from the riparian property line shall be ten feet for marginal docks (those that parallel the shoreline) and 25 feet from the closest edge of the terminal platform of a dock perpendicular to the shoreline.~~
- ~~h. No building permit is required to construct a dock box which meets the size limitations contained in the definition in section 26-41 on a private single-family docking facility.~~
- ~~(2) Private residential multi-slip docking facilities:~~
 - ~~a. A six-foot width of the main access walkway is permitted.~~
 - ~~b. A six-foot width of crosswalks is permitted.~~
 - ~~c. An eight-foot width of terminal platform is permitted.~~
 - ~~d. A three-foot width of finger piers is permitted, with a 25-foot length.~~
 - ~~e. Water depths adjacent to and within the facility shall ensure that a minimum of one foot of clearance is provided between the deepest draft of a vessel and the bottom at mean low water.~~
 - ~~f. Mooring pilings will be required when they can be used in lieu of additional structure size.~~
 - ~~g. There shall be a 25-foot setback from the riparian property line.~~
- ~~(3) Commercial docking facilities:~~
 - ~~a. Docking facilities shall only be located in or near areas with good circulation, flushing and adequate water depths.~~
 - ~~b. The site location shall also take into account the access of the boat traffic to avoid marine grass beds or other aquatic resources in the surrounding areas.~~
 - ~~c. The location of new facilities and expansion of existing facilities shall consider the use of upland dry storage as an alternative to multiple wet-slip docking.~~
 - ~~d. Marinas shall be specifically sited outside of state-designated manatee sanctuaries.~~
 - ~~e. In any areas with known manatee concentrations, manatee warnings or notices and speed limit signs shall be erected at the marina and ingress and egress channels according to state marine patrol specifications.~~
 - ~~f. Water depths adjacent to and within the facility shall ensure that a minimum of one foot of clearance is provided between the deepest draft of a vessel and the bottom at mean low water.~~
 - ~~g. There shall be a 25-foot setback from the riparian property line.~~
- ~~(4) Boatramps. Bulkheads shall extend no further than one to two feet waterward of the mean high-water line and in no case exceed five feet waterward of the mean high-water line. Tie-up piers shall not exceed the length of the boatramp, or a width of six feet, and may have a single catwalk or "L" not to exceed 20 feet in length and four feet in width.~~

Sec. 26-73. Fishing piers or observation decks.

Fishing piers or observation decks may be permitted in areas where water depth is insufficient for watercraft mooring. Fishing piers and observation decks must

- (a) be designed to prohibit watercraft mooring,
- (b) be constructed to provide access walkways and terminal platforms at five (5) feet above mean high water;
- (c) have fixed handrails, including intermediate rails, installed around the perimeter of the structure, and
- (d) have a "no boat mooring" sign placed facing the water on the terminal platform of the structure.

Sec. 26-74. Boathouses.

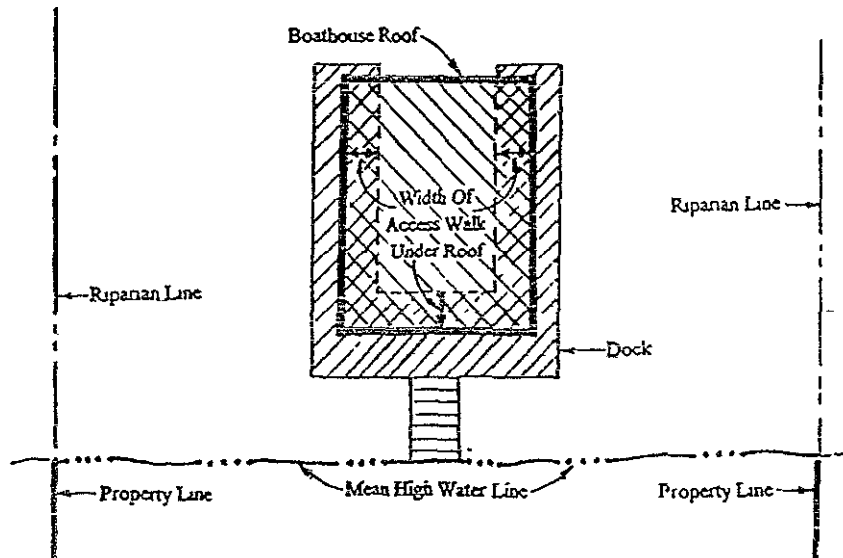
The following regulations apply to all boathouses associated with private single-family residential uses, except where specifically superseded by other provisions of this article.

- (a) Location

- (1) Boathouses must be constructed adjacent to or over a waterway. Any boathouse constructed over land must be located, in its entirety, within 25 feet of the mean high water line.
- (2) Boathouses over submerged bottoms containing areas of dense seagrasses or shellfish beds are prohibited.
- (3) Boathouses, boat lifts and davits designed with mooring inside the structure may not extend beyond twenty-five (25) percent of the width of a navigable channel.
- (b) Setbacks The minimum setbacks for boathouses from side lot lines and riparian lot lines are as follows:
Natural water bodies – 25 feet
Artificial water bodies – 10 feet
When a boathouse is constructed on or adjacent to two or more adjoining lots under common ownership and control, the setbacks will be measured from the exterior property lines.
- (c) Design criteria
 - (1) Maximum area A boathouse may not encompass more than 500 square feet of roofed area.
 - (2) Height The maximum height of a boathouse is 20 feet above mean high water, as measured from mean high water to the highest point of the boathouse.
- (3) Permitted uses
 - a Use of a boathouse for living or fueling facilities is prohibited.
 - b Up to 25% of the total roofed area of a boathouse can be used for storage of items that relate directly to the use and maintenance of watercraft. Items that do not relate directly to the use and maintenance of watercraft may not be stored in a boathouse.
- (4) Decking Access walkways not exceeding four feet in width are permitted in the area under the roof of a boathouse located over water. Additional decking in the area under the roof of a boathouse is prohibited.
- (5) Enclosure
 - a Boathouses located over a waterbody or adjacent to a natural waterbody must be open-sided. Safety rails 42 inches high or less are permitted.
 - b Boathouses located adjacent to an artificial waterbody must meet the following requirements:
 - 1 The boathouse must be open-sided if the proposed side setback is between ten and 25 feet.
 - 2 The boathouse may be open-sided or enclosed with wood lattice chainlink fencing or other fencing materials if the side setback is 25 feet or more.
- (6) Wind load standards All boathouses must comply with the building code wind load standards as adopted in Ch. 6.

The application of the regulations is illustrated in Figure 26-2 below.

Figure 26-2
Boathouse
Plan Review



Sec. 26-735. Seawalls, retaining walls 2nd riprap revetment.

~~(1) Control of turbidity Turbidity screens must be used during installation of a structure~~

(a) Seawall and retaining walls

~~(21) Artificial upland canals An adequate littoral zone must be present, and an adequate setback from the landward extent of aquatic vegetation, including mangrove prop roots and pneumatophores, is required for construction of a seawall. Except where the director determines there is no reasonable alternative, seawalls and retaining walls must be placed landward of the mean high water line and all wetland vegetation, including mangrove prop roots and pneumatophores. If, as a result of the seawall or retaining wall installation wetlands vegetation dies within one year as a result of the seawall installation, it shall the dead vegetation must be replaced with the same species and numbers at the property owner's expense. These guidelines requirements do not apply in an individual artificial upland canal with a minimum of 50 percent of the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls~~

~~(32) Natural water bodies water bodies, including canals created from sovereign lands, seawalls are not allowed except where no reasonable alternative exists. Retaining walls built landward of mean high water and in agreement with the setbacks as detailed in subsection (2) of this section will be allowed. Riprap rock or other similar approved material must be placed waterward along 50 percent of the linear length of a new or replacement seawall. The rock must be placed a minimum of 3 feet in height above the bottom, waterward of the seawall, or up to the mean high water~~

line The rock must be a minimum average size of 12 inches in diameter.

(4b) Riprap revegetment

- (a) The toe of the riprap shall must be located and placed so as not to damage or interfere with the growth of aquatic wetland vegetation.
- (b2) Material used for riprap should be sized properly for intended use and should be installed on top of filter-fabric or equivalent material to prevent erosion of subgrade
- (3) Mangroves or other approved wetland vegetation must be planted 3 feet on center in compliance with Sec 26-77(b)(3) for added shoreline stabilization and ecological benefit within the riprap. Other wetland mitigation techniques may be considered in lieu of vegetation planting. No vegetation planting is required for riprap revetments constructed in artificial upland canals with a minimum of 50 percent of the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls.

Sec. 26-76. Dredging: New and maintenance.

All dredging limits must be clearly defined. Methods to control turbidity and dispose of dredging spoil must be indicated. Beach renourishment projects will not require a Lee County dredging permit.

Sec. 26-77. Turbidity: Protection of vegetation

(a) Turbidity. All structures must be placed so as to provide the least possible impact to aquatic or wetland vegetation. During work that will generate turbidity, turbidity screens must be installed and properly maintained until turbidity levels are reduced to normal (ambient) levels.

(b) Protection of Vegetation

- (1) Permit conditions. Conditions for the protection of vegetation shall be placed on permits issued in accordance with this article. The conditions can include the method of designating and protecting mangroves to remain after construction; and replacement planting for mangroves removed due to construction.
- (2) Mangrove replacement and plantings.
 - a For each mangrove removed due to construction, three mangroves must be replanted at an alternate location on the subject property. If planting on the subject property is not appropriate, alternative forms of mitigation, such as placement into a mitigation bank, may be allowed.
 - b Mangrove plantings must be container grown, no less than one year old, eight inches in height and have a guaranteed 80% survivability rate for at least a 5 year period. Mangrove plantings must be planted 3 feet on center. Mangrove replanting is required if the 80% survivability rate is not attained.
- (3) Mangrove removal.
 - a Mangrove removal in conjunction with construction of riprap revetment, seawalls, or retaining walls along natural water bodies is prohibited.
 - b Mangrove removal necessary for access walkway construction is limited to the minimum extent necessary to gain access to the dock facility. To the greatest extent possible, the access must be located to
 - 1 use existing natural openings;
 - 2 Use areas infested with invasive exotic vegetation;
 - 3 avoid larger mangroves; and
 - 4 provide a maximum width of four feet and a maximum height of eight feet above the level of

the walkway base

Sec. 26-78. Marina desian and location

Marina locations must be consistent with Lee Plan Objective 98.5 and all of its implementing policies. Mannas must be designed and constructed in a manner consistent with Lee Plan Objective 98.6 and all of its implementing policies.

Sees. 26-79--26-110. Reserved.

~~DIVISION 3 MANGROVE ALTERATION AND DESIGN*~~

~~Sec. 26-88. Purpose of division:~~

~~The purpose of this division is to establish mangrove alteration standards for certain dock and shoreline activities which are exempt from state mangrove permitting regulations set forth in the Florida Administrative Code.~~

~~Sec. 26-89. Review procedure:~~

~~No dock and shoreline structure permit shall be issued without authorization by the administrator that it is in compliance with the provisions of this division.~~

- ~~(1) Inspections. The administrator may conduct an on-site inspection:~~
 - ~~a. Prior to the granting of a dock and shoreline structure permit to ensure that the mangrove alteration requirements of this division are complied with. The administrator may require that the proposed structure alignment be staked or flagged.~~
 - ~~b. After the granting of a dock and shoreline structure permit to verify the success of any mitigation efforts and the accuracy of the monitoring reports.~~
- ~~(2) Conditions of issuance. The administrator may attach special conditions to the dock and shoreline structure permit. These conditions may include the method of designating and protecting mangroves which are not to be removed and mitigative planting to replace any mangroves permitted to be removed. All areas subject to special conditions shall be designated on a plan as approved by the administrator.~~

THIS SUBSECTION WAS AMENDED AND MOVED TO SEC 26-77

~~Sec. 26-90. Alteration standards:~~

~~When mangrove alteration is necessary for the construction of any of the applicable activities, such alteration shall be conducted according to the following procedures:~~

- ~~(1) General requirements:~~
 - ~~a. Alteration of mangroves shall be performed in a manner which prevents damage to mangroves outside the specific area authorized by the dock and shoreline permit. The administrator may require the installation of turbidity controls and/or protective barriers around adjacent mangroves.~~
 - ~~b. The process of alteration shall not result in damage to the bark on any remaining trunk, limbs, or other branches.~~
 - ~~c. Pruning paint shall not be used.~~
 - ~~d. No alteration of mangroves by means of chemical defoliants shall occur.~~
 - ~~e. Plant material removed by the mangrove alteration activity shall be properly disposed of in upland locations.~~

- ~~f. State water quality standards shall not be violated by, or as a result of, the proposed mangrove alteration.~~
- ~~g. No alteration of mangroves shall occur in any portion of a parcel of land which is encumbered by any long term preservation mechanism such as conservation easements, preservation areas, deed restrictions, or covenants, unless the mangrove alteration is specifically provided for by that mechanism.~~
- ~~(2) Private docks and private, single family piers and boat shelters as described by the Florida Administrative Code:~~
- ~~a. Dock and pier construction. Mangrove alteration necessary for dock and pier construction shall be limited to the minimum amount necessary and shall not exceed six inches horizontally beyond the sides of the structure or eight feet vertically above the level of the base of the structure. Exceptions may be made for a terminal platform when necessary to avoid navigational obstruction.~~
- ~~b. Boat shelter construction. Mangrove alteration necessary for boat shelter construction associated with a pier shall be limited to a maximum margin of one foot adjacent to the sides and roof.~~
- ~~(3) Boat ramps as described by the Florida Administrative Code:~~
- ~~a. Mangrove alteration necessary for boat ramp construction shall be limited to a maximum width of 12 feet.~~
- ~~b. Mangrove planting shall be required for the replacement of mangroves permitted to be removed for boat ramp construction. Three mangroves shall be planted elsewhere on the property for each mangrove removed. Planting shall be conducted in accordance with section 26-91.~~
- ~~SUBSECTION (3)B WAS AMENDED AND MOVED TO SEC. 26-77~~
- ~~(4) Riprap and Retaining Walls as described by Florida Administrative Code:~~
- ~~a. Mangrove alteration is prohibited for any riprap or retaining wall construction on natural waterways and in artificially created waterways with less than 50 percent seawalls.~~
- ~~b. For riprap installation, riprap shall be located behind the landward extent of aquatic vegetation and may be hand placed around mangroves.~~
- ~~c. Planting of mangroves in accordance with section 26-91 is required within the toe of the riprap for added shoreline stabilization and for ecological, aesthetic, and economic benefit. Such planting shall not be considered to be mitigation or restoration as referenced in the Florida Administrative Code. Such planting shall not be required for riprap installation on artificially created waterways with more than 50 percent seawalls or for a linear distance less than 300 feet where both adjoining properties have seawalls.~~
- ~~THIS SUBSECTION WAS AMENDED AND MOVED TO SECS 26-75 AND 26-77~~
- ~~(5) Access walkways. Mangrove alteration necessary for access walkway construction shall be limited to a single meandering access which is located to cause the least amount of environmental impact. Such mangrove alteration shall be limited to the minimum extent necessary to gain access to the dock or pier up to a maximum width of four feet and a maximum height of eight feet above the level of the base of the walkway. To the greatest extent possible, access shall be located to:~~
- ~~a. Use existing natural openings.~~
- ~~b. Use areas infested with invasive exotic vegetation.~~
- ~~c. Avoid larger mangroves.~~
- ~~THIS SECTION WAS AMENDED AND MOVED TO SEC 26-78~~
- ~~(6) Maintenance trimming. Trimming of overhanging mangrove branches for authorized dock and shoreline structures or existing access walkways may be maintained flush with the structure. Such trimming shall not exceed six inches beyond the sides of the structure or walkway or eight feet above the level of the base of the structure or walkway. This provision is intended to provide for minor trimming and not mangrove removal.~~

~~Sec. 26-91. Planting standards:~~

~~All mangrove plantings shall be container grown mangroves no less than one year old and eight inches in height planted at three feet on center. Mangrove plantings shall have a guaranteed 80 percent survivability for a period of no less than five years. Replanting of mangroves shall be required if 80 percent survivability is not obtained.~~

~~Sec. 26-92. Exceptions:~~

~~The terms and provisions of this division shall apply to all structures as defined under this division lying within the unincorporated area of the county, except that: The maintenance or minor repairs to any currently usable structure defined under this division in a manner consistent with the intent of this division and to the extent reasonably necessary in order to maintain or repair such structure for purposes of keeping in good condition the existing structure shall be excepted. This exemption shall not be construed to mean construction of a new structure where one did not exist or new construction of additions to any structure which would increase the area of the existing structure.~~

~~Sec. 26-93. Waiver of setback requirements:~~

~~Any structure permitted under this division shall not be subject to the 25-foot setback requirements from a bay, canal, or other waterbody, as contained in chapter 34.~~

~~Sec. 26-94. Variances:~~

~~Requests for variances from the terms of this division shall be administered and decided in conformance with the requirements for variances which are set forth in section 34-201 et seq., as may be amended or replaced.~~

~~Sec. 26-95. Penalty for violation of division:~~

~~(a) If a dock or seawall is constructed without a county building permit, and does not meet the requirements of this division, then it will either have to be removed totally or modified in such a way to meet the requirements of this division.~~

~~(b) Any person violating any provision of this division, or conditions of a hardship variance issued hereunder, shall be subject to a penalty of twice the building permit fee, up to \$250.00.~~

~~(c) Each day of work, or work on any structure without first having secured applicable permits shall be deemed to be a separate offense. In addition to or in lieu of the penalties provided by general law for violation of ordinances, the Board of County Commissioners, the director, the administrator, or any affected party may bring injunctive action to enjoin the continuance of work, or work on any structure, in violation of this division.~~

~~Secs. 26-96--26-110. Reserved:~~**SECTION FIVE: AMENDMENT TO LAND DEVELOPMENT CODE CHAPTER 34**

Lee County Land Development Code Chapter 34 is amended as follows ~~with strike through identifying~~
~~deleted language and underline identifying additional language.~~

CHAPTER 34**ARTICLE I. IN GENERAL**

Sec. 34-2. Definitions.

~~Adult congregate living facilities (ACLF) or~~ Assisted Living Facilities (ALF) means a residential land use, licensed under chapter 58A-5, Florida Administrative Code, which may be a building, a section of a building, a section of a development, a private home, a special boarding home, a home for the aged or similar place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a period exceeding 24 hours, housing and food service plus one or more personal services for four or more adults not related to the owner or administrator by blood or marriage. A facility offering such services for fewer than four adults may be construed as being within the context of this definition if it formally, or formally advertises to or solicits the public for residents or referrals and holds itself out to the public to be as an establishment which provides such services. These facilities are not synonymous with the term "nursing home." For purposes of this definition only, the term "personal services" means assistance with bathing, dressing, ambulation, housekeeping, supervision, emotional security, eating, supervision of self-administered medications, restoration therapy and assistance with securing health care from appropriate sources.

Environmentally sensitive land means any lands or waters, the development or alteration of which creates or has the potential to create a harm to the public interest due to their value as sources of biological productivity, as indispensable components or various hydrologic regimes, as irreplaceable and critical habitat for native species of flora and fauna, or as objects of scenic splendor and natural beauty. Among these types of land are those designated ~~resource protection areas and transition areas~~ wetlands.

Nightclub means ~~a restaurant, dining room, bar or cocktail lounge or other similar establishment primarily engaged in serving or selling alcoholic beverages to customers, providing food or refreshments wherein paid floor shows or other forms of paid entertainment are provided for customers as a part of the commercial enterprise.~~

~~Resource protection area means lands that exhibit soil types and hydrologic and vegetative characteristics of freshwater and saltwater wetlands.~~

Setback means the minimum horizontal distance required between a specified line and the nearest point of a building or structure.

- (4) *Waterbody setback* means the setback measured from the mean high tide water line (MHWL), or the control elevation line, if applicable, of a water body. See section 34-2194 for requirements.

~~Transition zone means lands that may be seasonally inundated for periods of from one to three months as indicated by water marks, do not have depressional soils, and are characterized by a mixture of plant species typical of uplands and wetlands.~~

Unit of high impact means any dwelling unit or rooming unit:

- (1) Located in a hotel or motel and rented or leased to guests for terms of less than 30 consecutive days.
- (2) That is being developed or converted to a timeshare unit as defined by the Florida Real Estate Time-Share Act, F.S. ch. 721, and being created and divided into ten or more periods.

Variance means a departure from the provisions of this chapter or from any county ordinance (excluding building codes) relating to building and other structural setbacks, lot dimensions such as width, depth or area, structure or building height, open space, buffers, off-street parking or loading requirements, lot coverage, impervious areas, landscaping and similar type regulations. A variance may not involve the actual use of the property, building or structures, procedural requirements, or definitions. This definition specifically excludes modifications for solar or wind energy or other provisions specifically indicated as requiring a special exception, and variances from impact fees. However, in the case of planning commission districts, the term "variance" means all of those requests to deviate from the provisions of this chapter, chapter 10 or

~~other applicable regulations. A variance may be granted in accordance with the procedures set forth in Section 34-145(b) when the enforcement of the ordinance, as it applies to a specific lot, would work an undue hardship. A finding must be made that the variance can be granted without any adverse impact on the public good. See Variance, use and Variance. procedural.~~

Wetlands, consistent with F.S. §373.019(17), means an area that is subject to a permanent or prolonged period of inundation or saturation (i.e., water is at the soil surface for at least two to seven months, seven out of ten years) and does or would support a presence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction— those areas inundated or saturated by surface water or around water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands are generally classified as hydric or alluvial, or possess characteristics associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological, or reproductive adaptations, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida Wetlands generally include swamps, and marshes, bayheads, oaks, cypress domes and strands, may include similar areas such as sloughs, wet meadows and natural ponds, prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

ARTICLE II. ADMINISTRATION

DIVISION 4 HEARING EXAMINER

Sec. 34-145. Functions and Authority.

(a) Appeals from administrative decision.

(1) Function

- e. ~~No. The hearing examiner will not consider appeals will be considered by the hearing examiner for any challenges to a development order which is controlled by F.S. § 163.3215. In cases of challenges to development orders controlled by F.S. § 163.3215, no suit may be brought and no verified complaint, as explained in F.S. § 163.3215(4), may be filed or accepted for filing until the development order giving rise to the complaint has become final by virtue of its having been issued by the director, or by virtue of its having been ordered by the county hearing examiner on an appeal reversing the director's denial of the development permit or denial of a development order extension, or by the Board of County Commissioners in cases where the Board of County Commissioners has granted planned development zoning. Once a development order has been granted, the provisions of F.S. § 163.3215 will be the sole means of challenging the approval of a development order, as that term is defined in F.S. § 163.3164(6), when the approval of the development order is alleged to be inconsistent with the Lee Plan, in which case an action brought pursuant to F.S. § 163.3215 will be limited exclusively to the issue of comprehensive plan consistency.~~

ARTICLE IV. PLANNED DEVELOPMENTS

DIVISION 2. APPLICATION AND PROCEDURE FOR APPROVAL

Sec. 34-373. Application.

(a) *Minimum Required Information for All Planned Development Zoning Applications* All applications for

rezoning for a planned development must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

- (6) *Description of proposed development.* The application must be accompanied by a description of the proposed development. The applicant has the option of using one of two options as follows. The option chosen must be clearly indicated on the application form. All applications, regardless of the option chosen, must also comply with subsection 7.
- a. Option 1 The subject parcel may be divided into development areas. The applicant must include a clearly legible master concept plan, no less than 24 inches by 36 inches in size and drawn at a scale sufficient to adequately show and identify the following information for each development area. For each development area, the following must be shown, either within the areas or on schedules keyed to the areas. When appropriate, notes and legends may be used on the master concept plan to provide the required information.
- (7) *Additional Submittal Requirements for all applications:*
- a. The master concept plan must also include a summary schedule of uses for the entire property with the following information:
- i. a- The types of uses proposed for the entire site. For projects with residential uses the master concept plan must include the types of proposed dwelling units,
 - ii. b- The units (gross square feet for commercial/industrial uses, number of units for residential or motel/hotel uses, beds for institutional types of uses, etc.) of each kind of use.
 - iii. c- The proposed percentage of open space for the entire site.
- db- The master concept plan must also include a schedule of deviations, including sample detail drawings, unless such the drawings would merely duplicate the information shown pursuant to Section 34-373 (a)(5)a.10 and b 9, and a written justification for each requested deviation.
- (8) ii the development is located within a flood plain or flow way, it is the applicant's responsibility to compensate for impacts to flood storage capacity or flow ways due to filling of the site at the time of local development order or district permitting.

DIVISION 3. DESIGN STANDARDS

Sec. 34414. Open space.

- (d) Unimproved open space, e.g., reserved conservation or preservation areas such as resource protection areas, transition zones, wetlands (see the county comprehensive plan adopted by Ordinance No 89-02, as amended, or as further amended, renumbered or replaced) shall must be committed at the completion of the first phase.

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 34-619. District conversions.

(a) The 1986 zoning ordinance which became effective on August 1, 1986, contained a chart (section 400.04) which provided existing zoning districts and some select areas to be incorporated into the revised ordinance. For historical purposes only, this conversion chart has been is retained as subsection (e) (d) of this section

(b) Upon the effective date of Ordinance No. 93-24 (September 27, 1993), all land currently zoned RM-14 shall be was converted to RM-2

(c) Upon the effective date of Ordinance No 96- (effective date). the following described land will be converted from MH-1 to MHC-2

<u>Area</u>	<u>Recorded In</u>
<u>Block B</u>	<u>0 R Book 497. Paae 4</u>
<u>Block C</u>	<u>0 R Book 576. Paae 462</u>
<u>Block D</u>	<u>0 R Book 687 Page 853</u>
<u>Islands I, II and III</u>	<u>Plat Book 29. Paae 57</u>
<u>Islands IV, V and VI</u>	<u>Plat Book 29. Page 58</u>
<u>Islands VII and VIII</u>	<u>Plat Book 29. Paae 59</u>

~~(d) (e) 1986 zoning district conversions Upon the effective date of the zoning ordinance adopted in 1986, existing zoning districts were converted to new designations as follows-~~

Conversion table here

Notes

(ij) The following developments, legally descnoed in the indicated zoning resolution, and which are currently zoned RPD, shall will be converted to MHPD:

- Del Tura, Phase II, Zoning Resolution No ZAB 86-17
- Southern Pines, Phase II, Zoning Resolution No. ZAB 86-64.
- Port Carlos Cove, Zoning Resolution No ZAB 86-15
- Forest Creek, Zoning Resolution No. ZAB 86-63

(2) Certain areas currently zoned RS-2 on Captiva Island See division 3, subdivision 2, ofrhis article.

(3) Those lands, presently zoned C-2, which are located on Gasparilla Island between Fifth Street to the north, and Third Street to the south, and the west side of Palm Avenue to the east, and the east side of a platted alley in the center of the blocks between Gilchrist Boulevard and Park Avenue to the west

DIVISION 2. AGRICULTURAL DISTRICTS

Sec. 34-653. Use regulations table.

Use regulations for agricultural districts are as follows.

TABLE 34-653 USE REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Adult congregate Assisted living facility	Note (1), 34-1411	EO	EO	EO
Models	34-1951 et seq			
Display Center		SE	SE	SE
Model Home		AA/SE	AA/SE	AA/SE

Notes:

- (7) Any new facilities exceeding facility of ten or more acres or any expansion of an existing facility to ten or more acres requires PD zoning -see section 34341 and Table 34-934

Sec. 34-654. Property development regulations table

Notes

- (1) Certain projects in agricultural districts may fall within the density reduction/groundwater resource areas of the Lee Plan. In such areas, additional density and use restrictions are applicable. Permitted land uses in density reduction/groundwater resource areas include agriculture, mineral or limestone extraction, conservabon uses, and residenbal uses at a maximum density of one dwelling unit per ten acres. Individual residenbal parcels may contain up to two acres off transition zones wetlands without losing the right to have a dwelling unit, provided that no alterations are made to those wetlands

DIVISION 3 RESIDENTIAL DISTRICTS

Subdivision II. One- and Two-family Residential Districts

Sec. 34-691. Purpose and Intent.

(a) RSC-1 residenbal single-family conservabon district. The purpose and intent of the RSC-1 residenbal single-family conservabon district is to recognize and protect existing single-family residenbal developments, lots, structures and uses, previously permitted but not conformable to the regulations for other single-family residenbal districts asset forth in this chapter, and to accommodate residenbal use of lawfully existing lots which were nonconforming under previous zoning regulations This district may be applied to any land use category allowing residenbal uses set forth under the Lee Plan This district is nor available for new developments to landowners through normal procedures, but shall may be used only by property owners in existing developments that comply with the property development regulations or by the Board of County Commissioners upon its own initiative or upon petition of landowners in existing developments to achieve the purpose mentioned in this section

(b) RSC-2 residenbal single-family estate district.

- (1) The purpose of the RSC-2 residenbal single-family estate district is to provide for a continuabon of the uses created by Resolution No z-70-78, adopted June 2, 1970 This resolution created an estate category (EU-1) with minimum lot size of one acre, but also allowed a guest house and servants quarters. All property on Capbva Island formerly zoned RS-2 and subject to Resolubon No Z-70-78 has been converted to RSC-2 Other existing developments land in the unincorporated area of the

county may **also** request to be rezoned to RSC-2, ~~provided that it is~~ appropriate

- (d) **TFC residential two-family conservation district** The purpose and intent of the TFC residential two-family conservation district is to recognize and protect existing two-family residential developments, lots, structures and uses, previously permitted but not conformable to the regulations for the other two-family residential district as set forth in this chapter, and to accommodate; residential use of lawfully existing lots which ~~that~~ were nonconforming under previous zoning regulations. This district is not available for new developments to landowners through normal procedures, but ~~shall~~ may be used only by property owners in existing developments that comply with the property development regulations, or by the Board of County Commissioners upon its own initiative or upon petition of landowners in existing developments to achieve the purpose mentioned in this section.

Sec. 34-694. Use regulations table.

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

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

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC-1	TFC-2	TF-1
Adult-congregate Assisted living facility	Note (2), 34-1411	--	--	--	--	--	--	--	--	--	--	P
Models:												
Display Center	34-1951 et seq	--	--	SE	SE	SE	SE	SE	SE	SE	SE	SE
Model Home	34-1951 et seq	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE
Model Unit	34-1951 et seq	--	--	--	--	--	--	--	--	--	--	--

Subdivision III Multiple-Family Districts

Sec. 34-714. Use regulations table.

Use regulations for multiple-family districts are as follows:

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

	Special Notes or Regulations	RM-2	RM-3, RM-6, RM-8, RM-10
Adult-congregate Assisted living facility	Note (2), 34-1493, 34-1411	P	P
Hotels/motels	34-1801 et seq	EO	--
Business	34-1801 et seq	EO	--
Efficiency	34-1801 et seq	EO	--
Models			

	Special Notes or Regulations	RM-2	RM-3, RM-6, RM-8, RM-10
Display Center	34-1951 et seq	AA/SE	AA/SE
Model Home	34-1951 et seq	AA/SE	AA/SE
Model Unit	34-1951 et seq	P	p

Subdivision IV. Mobile Home Residential Districts*

Sec. 34-731. Purpose and intent.

(a) ***MHC mobile home conservation residential district.***

- (1) The purpose and intent of the MHC mobile home conservation residential district is to recognize and protect existing mobile home developments which were lawfully developed under either the 1962 zoning regulations (MHC-1) or the 1968 zoning regulations (MHC-2) and which do not conform to the regulations set forth in this chapter for modern mobile home residential districts. It is intended through these mobile home conservation residential districts to accommodate lots, structures and residential uses which were legal under the previous zoning regulations and which have become but are nonconforming under the present regulations. This district is not available for new developments to landowners through normal procedures, but shall be used only by property owners in existing developments that comply with the property development regulations or by the Board of County Commissioners upon its own initiative or upon petition of landowners in existing developments to achieve the purpose mentioned in this section.
- (2) Mobile home developments which were constructed prior to the 1962 zoning regulations shall be required to apply for and be approved as a mobile home planned development (MHPD) district designation if owners do not want to be designated as nonconforming uses. Procedures for the MHPD designation for existing developments are set forth in section 34-373(b)(3).

Sec. 34-735. Use regulations table.

Use regulations for mobile home districts are as follows:

TABLE 34-735 USE REGULATIONS FOR MOBILE HOME DISTRICTS

	Special Notes or Regulations	MHC-1, MHC-2	MH-1	MH-2	MH-3	MH-4
Community Residential Home		P	P	P	P	P
Models						
Display center	34-1951 et seq	SE	SE	SE	SE	SE
Model home	34-1951 et seq	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE

DIVISION 4 RECREATIONAL VEHICLE PARK DISTRICTS

Subdivision II. Conventional Recreational Vehicle Districts

Sec. **34-785**. Total lot coverage.

Maximum lot coverage for a recreation vehicle and appurtenances thereto, including any carport and/or and any storage shed- shall may not exceed the maximum coverage permitted in the district in which the site is located (see section 34-792)

Sec. **34-786**. Accessory structures and additions.

(a) Storage sheds and carports on individual recreational vehicle sites ~~shall not be permitted~~ are prohibited in type A (transient) parks.

(b) One freestanding storage shed, not exceeding 120 feet in floor area and ten feet in height, may be permitted in any type B (nontransient) park ~~provided that~~

(1) No storage shed ~~shall may~~ be located closer than five feet to any the side or rear lot line or closer than ten feet to ~~any a~~ recreational vehicle under separate ownership, and

(2) The shed ~~is properly tied down and~~ complies with all building code requirements.

(c) Carports may be permitted in any type B (nontransient) park located within a conventional RV District provided that

(1) is located on a lot a minimum of 2,000 square feet in size, and

(2) does not exceed 10 feet in width, 20 feet in length, and 10 feet in height, and

(3) is not located closer than five feet to any side or rear lot line or closer than ten feet (measured overhang to overhang) to any recreational vehicle or carport under separate ownership, and

(4) remains open from grade up to the eave except the back end of the carport may be attached to a permitted storage shed, and

(5) is in compliance with all building code requirements.

(d) Carports, to cover both the RV and one vehicle, may be permitted in any type B (non-transient) park located within an RVPD with an overall gross density of less than six units per acre provided the carport:

(1) is located on a lot a minimum of 3,000 square feet in size, and

(2) does not exceed 25 feet in width, 42 feet in length, and 15 feet in height with a clear span of 13 feet 6 inches, and

(3) is not located closer than five feet to the side or rear lot line or closer than ten feet (measured overhang to overhang) to a recreational vehicle or carport under separate ownership, and

(4) remains open from grade up to the eave except that the back end of the carport may be attached to a permitted storage shed and a screened porch may be located along one side providing the length does not exceed 50 % of the length of the carport, and

(5) is in compliance with all building code requirements.

Sec. 34-787. Utility rooms and enclosures.

Utility rooms and additions ~~shall will~~ be permitted only in type B (non-transient) parks, ~~provided that they are in compliance with the regulations set forth in sections 34-785 and 34-786 and that no utility room or~~ closer than ten feet to another recreational vehicle. ~~or~~ utility room or enclosure.

Sec. 34-788. Additions to recreational vehicles.

Additions to recreational vehicles may be permitted in non-transient parks on permanent recreational vehicles provided that:

- (1) The Individual recreational vehicle site meets or exceeds the minimum required lot size set forth in this division,
- (2) The total floor area of any additions, ~~excluding~~ open decks and stair landings, ~~shall does~~ not exceed the total floor area of the recreational vehicle; and
- (3) The maximum height of additions ~~shall do~~ not exceed one story or the height of the recreational vehicle, whichever is less.
- (4) Open decks, up to 120 square feet in area, may be permitted provided all setback requirements are met Stair landings that are incorporated into a deck ~~shall must~~ be ~~calculated included in~~ the square footage of the deck.
- (5) ~~Stairs or stair landings, which are attached to an addition, and which are not incorporated into an open deck, may be permitted to encroach three feet into the side and rear setbacks No stair landing shall may exceed~~ 12 square feet in area

Sec. 34-791. Use regulations table.

Use regulations for recreational vehicle districts are as follows

TABLE 34-791 USE REGULATIONS FOR RECREATIONAL VEHICLE DISTRICTS

	Special Notes or Regulations	RV-1	RV-2	RV-3	RV-4
Accessory uses, buildings, and structures	34-1171 et seq , 34-2441 et seq	P	P	P	P
<u>Carports</u>	34-784 et seq	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Docks, seawalls	34-1863	P	P	P	P
Enclosures, utility rooms	34-787	P	P	P	P
Fences, walls	34-1741 et seq	P	P	P	P
Garehouses, entrance gates	34-1741 et seq	P	P	P	P
Nonroofed accessory structures	34-2194(c)	P	P	P	P
Storage facility for unoccupied RV's	34-789	P	P	P	P
Storage sheds. unattached	34-786	P	P	P	P

	Special Notes or Regulations	RV-1	RV-2	RV-3	RV-4
Models					
Display center	34-1951 et seq	SE	SE	SE	SE
Model home	34-1951 et seq	AA/SE	AA/SE	AA/SE	AA/SE

DIVISION 5 COMMUNITY FACILITIES DISTRICTS

Sec. 34-813. Use regulations table.

Use regulations for the community facilities districts are as follows

TABLE 34-813 USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

	Special Notes or Regulations	CF-1	CF-2	CF-3	CF-4
Adult congregate Assisted living facility	Note (I), 34-1411	--	P	—	—

DIVISION 6 COMMERCIAL DISTRICTS

Sec. 34-841. Purpose and intent.

~~(m) CA commercial amusement and recreation district. The purpose and intent of the CA district is to permit the designation of locations for and to facilitate the proper development and use of commercial and private recreation facilities. Such facilities are intended to include drive-in theaters, tennis clubs or centers, water slides, miniature golf courses and other like uses. Such uses are generally characterized by high traffic flows, volumes of noise, and high levels of nighttime illumination, as well as large parking demands and similar spillovers, all generating substantial impacts on adjoining property that require extensive buffering of residential and other lower intensity land uses. Such uses also tend to require ready access, and, frequently, high visibility, from an arterial road or high-capacity collector.~~

Renumber(n) and (o) to (m) and (n).

34-843. Use regulations table.

The use regulations for CA districts are hereby repealed in their entirety

Use regulations for conventional commercial districts are as follows

TABLE 34-843 USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CA	CP
Adult congregate Assisted living facility		--	--	--	--	--	--	--	--	--	--	--	P	--	--	--	--

Caretaker's residence		-	<u>SE</u>	<u>SE</u>	<u>SE</u>		<u>SE</u>	<u>SE</u>	<u>S E</u>				-	-						
Hotel/motel	34-1801 et seq.	=	P	P	P	=	"	"	"	"	<u>SE</u>		<u>P</u>	<u>P</u>	=	"	"	"	"	"
Business	34-1801 et seq.	-	P	P	P		"	"	"	"	"		<u>P</u>	<u>P</u>		"	"	"	"	"
Efficiency	34-1801 et seq.	-	P	P	P		"	"	"	"	<u>SE</u>		-	P		"	"	"	"	"
Night Clubs	34-1201 et seq. 34-1261 et seq.	=	<u>VSI</u>	<u>A/SE</u>	<u>VSI</u>	=	"	"	<u>VSI</u>	<u>A/SE</u>	"	"	<u>A/SE (6)</u>	<u>AA/SE</u>	<u>AA/SE</u>	"	"	"	"	"
Rental or leasing establishments (34-822(c)(39))																				
Group I	34-1201 et seq., 34-1352, 34-3001 et seq.	P	P	P	P		P	P	P				P	P				P		
Group II	34-1201 et seq., 34-1352, 34-3001 et seq.	P	P	P	P		P	P	P				P	P	P					
Group III	34-1201 et seq., 34-1352, 34-3001 et seq.	-	P	P	P				P	P			P	<u>P(17)</u>						
Group IV	34-1201 et seq., 34-1352 34-3001 et seq.	-			-								-	-						
Unit of high impact, includes timeshare units	34-3071 et seq.	EO	<u>SE</u>	<u>SE</u>	<u>SE</u>								-	P						
Warehouse																				
Mini-warehouse		-		P	-		<u>E</u>	<u>SE</u>	S E				-	-						
Private		-		P	-								-	-			P			
Public		-		P	-								-	-			P			

Notes.

(17) Limited to rental of passenger cars, vans, and pick-up trucks less than three-quarter ton capacity. Maintenance activities limited to washing, waxing, vacuuming and minor repairs but excluding activities classified as Automotive Repair and Service - Groups I and II [See Sec 34-622(c)(2)]

Sec. ~~34-844~~. Property Development Regulations.

The property development regulabons for CA districts are hereby repealed in their entirety

DIVISION 8 INDUSTRIAL DISTRICTS

Sec. 34-903. Use regulations table.

Use regulations for **industrial districts** are as follows

TABLE 34-903 USE REGULATIONS FOR INDUSTRIAL DISTRICTS

	Special Notes or Regulations	IL	IG	IR
<u>Bar or cocktail lounge</u>	<u>34-1 261 et seq.</u>	<u>SE</u>	<u>SE</u>	<u>---</u>
<u>Night club</u>	<u>34-1201 et seq., 34-1261 et seq.</u>	<u>SE</u>	<u>SE</u>	

Rental or leasing establishments (34-622(c)(39))				
Group II	34-1352, 34-3001 et seq, 34-1201 et seq	P	P	--
Group III	34-1352, 34-3001 et seq, 34-1201 et seq	P	P	--
Group IV	34-1352, 34-3001 et seq, 34-1201 et seq Note (9)		P	--

DIVISION 9 PLANNED DEVELOPMENT DISTRICTS

Sec. 34-931. Purpose and intent.

(e) *CPD commercial* planned development *district*

- (3) **Ancillary** uses which may be **permitted** in the **commercial** planned **development district** include permanent human habitation in multiple-family buildings and townhouses, transient housing in hotel or motel rooms ~~or housekeeping units (units of high impact), resorts and~~ health care facilities, and other **limited institutional** uses and selected **light** industrial uses.

Sec. 34-934. Use regulations table.

Use regulations for planned development districts are as follows.

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

	Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD	AOPD	MPD
Adult congregate <u>Assisted living facility</u>	34-1491 et seq, 34-1411	P(3)	--	--	P	P	--	--	P
Hotel/motel	34-1801 et seq	--	--	--	--	P	P (13)	--	P
Business	34-1801 et seq	--	--	--	--	P	P (13)	--	P
Efficiency	34-1801 et seq	--	--	--	--	P	--	P	P
Model home, unit, display center		P	P	P	--	P	--	--	P
Models									
Display Center	34-1951 et seq	P	p	P	--	p	--	--	P
Model Home	34-1951 et seq	AA	AA	AA	--	AA	--	--	AA
Model Unit	34-1951 et seq	AA	AA	AA	--	AA	--	--	AA
Portable kiosk	34-1716	--	--	--	--	P	--	--	P
<u>Timeshare units</u>	34-3071 et seq	p	--	--	--	P	--	--	P
Unit of high impact, including timeshare units	34-3071 et seq	P	--	--	--	P	--	--	P

Notes:

- ~~— (3) If not shown on the master concept plan, but included in the approved list of enumerated uses, this use may be approved by special exception administratively, at the director's discretion, or as a planned development amendment after approval of the master concept plan~~

DIVISION 10. SPECIAL PURPOSE DISTRICTS

Subdivision II. Environmentally Critical District

Sec. 34-981. Purpose and intent.

(c) Lands or waters to which this ~~district shall~~ may be applied include those areas that would fit the ~~criteria of or that have been designated on the Lee Plan land use map as a resource protection area or transition zone wetlands~~ criteria.

Sec. 34-982. Standards for application of EC district.

~~Land or water to~~ Any land classified as wetland area or any other environmentally sensitive land category ~~may be considered for inclusion in the EC district, shall meet the following minimum standards:~~

- ~~(1) Resource protection areas composed of freshwater wetlands and riparian systems which are characterized by any combination of plant species enumerated in the county wetlands vegetation list (see chapter 14, article IV Appendix D), and which are associated with any of the following soil types: Gator muck, Terra Ceia muck, Pompano fine sand-depressional, Isles fine sand-depressional, Anclote sand-depressional, Valkana fine sand-depressional, Malabar fine sand-depressional, Copeland sandy loam-depressional, Felida fine sand-depressional, Floridana sand-depressional, Myakka fine sand-depressional, Winder sand-depressional, Pineda fine sand-depressional and Chohee muck, and which are subject to permanent or prolonged periods of inundation or saturation (i.e., water is at the soil surface at least two to seven months, seven out of ten years);~~
- ~~(2) Resource protection areas composed of saltwater wetlands which are characterized by any combination of plant species enumerated in the county wetlands vegetation list and which are associated with any of the following soil types: Hallandale fine sand-tidal, Estero muck, Peckish mucky fine sand, Wulfert muck, Kesson fine sand, Isles muck and Boca fine sand, tidal, and which are subject to flooding by moving water from stream overflow, runoff or high tides; and~~
- ~~(3) Transitional zones which are characterized by a mixture of plant species typical of uplands and wetlands, and which do not have depressional soils, and which may be seasonally inundated from one to three months, as indicated by water marks. The wetland plant species which may characterize a transition zone are those listed in the county wetlands vegetation list. Whenever these plant species are found in nondepressional soils, which are soils not listed in appendix C, as amended, the areas in question shall be considered a transition zone if water marks are identified by the discoloration of bark or the presence of a moss or lichen line at the base of woody vegetation in the area, or by the presence of algae mats on the substrate.~~

Sec. 34-983. Use regulations.

No land, body of water or structure ~~shall~~ may be used or ~~permitted~~ to be used and no structure ~~shall~~ 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 ~~shall be~~ is permitted by right except for those

uses and developments permitted by the Lee Plan in ~~RPA and TZ zones wetlands and as set forth in section 14-298~~, including

- a Boating and canoeing, ~~with~~ no motors ~~permitted~~ except ~~electric trolling motors~~.
- b Entrance gates and gstehouses (~~see article VII, division 17, of this chapter~~)
- c. **Fishing, limited** to sport or recreational ~~fishing~~ only
- d. Forest managemeni ~~activities, limited to~~ removal of ~~intrusive~~ exotic species or diseased or dead trees, and pest control
- e. **Hiking and nature study**, ~~where the activity does not require new access or clearing including pedestrian boardwalks~~
- f Outdoor education, ~~in keeping with the intent of the district~~
- g. **Recreation activities, outdoor only**, to include ~~passive recreation~~ and thar **active recreation** requiring little or no ~~facilities, capital investment or aheranon of the natural landscape~~
- h **Single-family dwellings** and their customary accessory uses, when in compliance ~~with the requirements of chapter 14, article IV, an applicable Environmental Resource Permit pertaining to wetlands protection~~
- I **Wildlife** management, as wildlife or game preserves

Sec. 34-984. Property development regulations.

(a) **Residential density.** Residential ~~density~~ in the EC ~~district shall be is~~ subject to the land use category wherein located, as well as chapter 14, article IV, pertaining to ~~wetland protection~~ **Wetlands have a maximum density of one dwelling unit per twenty acres (1du/20 acres)**

Subdivision IV. Planned Unit Development District

Sec. 34-1040. Area, density and setback requirements; permitted uses.

- (a) **Minimum area.** A PUD ~~shall must~~ be at least ten acres in area
- (b) **Permitted uses** The **following** uses may be ~~permitted in~~ PUD zoning **districts** when they are approved on the **preliminary** and final PUD development plans:
 - (1) **Dwellings** of any **variety** or combination of types, ~~including units of high impact time share units~~ and residential accessory uses (~~see article VII, division 28, of this chapter~~).

DIVISION 11 OVERLAY DISTRICTS

Subdivision V. The Bonita Town Center Overlay District

Sec. 34-1137. Modified development regulations.

(c) **Permitted uses.** The permitted uses of land are normally determined by **its zoning** classification At present, ~~six blocks within this district~~ are zoned C-I; two blocks are zoned MH-2, and two blocks are zoned TFC-2. Regardless of these underlying zoning classifications, the **permitted** uses of land in this redevelopment overlay district ~~shall must~~ be in accordance with Table 1 The land uses ~~that are permitted in~~ the C-I zone

throughout Lee County as of August 16, 1995, as amended are shown on Table 1 for informational purposes only. The table then shows those specific uses that are permitted in the Bonita Springs Town Center on the ground floor (and/or outdoors) and facing the primary walking zone (facing the rights-of-way of Old 41, Raymond St, and U.S. Highway 90 and extending 50 feet back from each right-of-way). In the last column, the table shows the specific uses that are permitted in all other portions of the Bonita Springs Town Center.

- (6) In addition to the land uses shown in Table 1, certain temporary uses such as farmers' markets and portable carts selling food or crafts may be permitted in public parks or on public rights-of-way. Such These uses of public property are regulated by Ordinance No. 88-11 (as amended by No. 90-42), which regulates commercial activities on road rights-of-way, Ordinance No. 90-56, which regulates activities in public parks and certain adjoining rights-of-way, and Administrative Code AC-8-1 (formerly known as D-0015), which regulates certain functions held on county property or within the county road system.

TABLE 1

Land Uses	Special Notes or Regulations	Existing C-I Zoning District	Bonita Springs Town Center	
			Primary Walking Zone	All Other
Hotel/motel	34-1801 et seq	P	P (m)	P
Efficiency (defined term)		P	-	-
Business (defined term)		P	P (m)	P
Unit of high impact, includes time-share units (defined term)	34-3071 et seq	S E	-	SE

ARTICLE VII. SUPPLEMENTARY 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 such 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 otherwise set forth in this division. When circumstances so warrant the director may determine that 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, within one year's time, 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 the one year time frame, and it is physically demonstrable that it can be shown the second use would not violate the prescribed distance requirements, then the director may approve the second location subject to all other requirements contained in this division.

- a. County-owned ~~airports~~, including liquor, beer, malt liquor and wine in restaurants, bars, lounges, concessions, concession stands and package stores at county-owned ~~airports~~,
- b. ~~Bars, or cocktail lounges, or night clubs~~ located in commercial and industrial zoning districts which that permit bars, or cocktail lounges or night clubs, provided the standards set forth in subsections (o)(l) and (3) of this section are met;
- ~~c. Bottle clubs in commercial and industrial zoning districts which permit bars or cocktail lounges; provided the standards set forth in subsections (b)(1) and (3) of this section are met~~
- ~~cd~~ **Bowling** alleys, provided the standards set forth in subsections (b)(2)a and (b)(3) of this section are met,
- ~~de~~ Clubs and fraternal or membership organizations located in commercial and industrial zoning districts, where permitted, provided the standards set forth in subsections (b)(2)f and (b)(3) of this section are met;
- ~~ef~~ **Cocktail** lounges in golf course, tennis clubs or indoor racquetball clubs, provided the standards set forth in subsections (b)(2)d and e and (b)(3) of this section are met;
- ~~fg~~ Hotels/motels, provided the standards set forth in subsections (b)(2)c and (b)(3) of this section are met; and
- ~~gh~~ Restaurants groups II, III and IV, and restaurants with brew pub license requirements, provided the standards set forth in subsections (b)(2)b and (b)(3) of this section are met
- h Charter party fishing boat or cruise ship, provided the standards of section (b)(3) are met The COP approval is specific to the charter party fishing boat or cruise ship operating from a specific location and does not run with the lot nor is it transferrable

(2) *Special exception.*

- a. A special exception for consumption on the premises is required for
 - 1. Any establishment not covered by subsection (a)(l) of this section, or
 - 2 Any establishment which provides outdoor seating areas for its patrons consuming alcoholic beverages; except that a group II, III or IV restaurant may have outdoor searing approved administratively provided the outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership.
- b. The burden of proof that the granting of the special exception will nor nave any an adverse affect on surrounding properties shall lies with the applicant
- c. A single special exception for consumption on the premises for a shopping center in a conventional zoning district is sufficient to permit consumption on the premises in every restaurant which that exists or may be established within the shopping center.

(3) *Planned developments and planned unit developments.*

- a. No administrative approval is necessary where an individual establishment or other facility proposing consumption on the premises is explicitly designated on the master concept plan and is included on the schedule of uses.

b. If consumption on the premises is shown as a **permitted** use on the approved schedule of uses for a shopping center, no **administrative** approval for **consumption** on the premises is required for restaurants **within the shopping** center

c. Consumption on the premises for other uses **within** planned developments and planned unit **developments without an** require **administrative** approval or a **special exception**

(b) *Location, parking.*

(1) *Prohibited locations.*

a. Except as may be exempted in **subsections (a)(i) of this section or as exempted in subsection (b)(2) of this section**, no **establishment** for the sale or **service** of alcoholic beverages for **consumption** on the premises may be located **within five hundred feet of**

1. ~~Five hundred feet of a~~ **A religious facility**, school (noncommercial), day care center (child) or park,
2. ~~Five hundred feet of a~~ **A dwelling unit** under separate **ownership**, except when approved as part of a planned development, or
3. ~~Five hundred feet of any other~~ **Another establishment** primarily engaged in the sale of **alcoholic** beverages for consumption on the premises, **excluding** those uses listed under subsection (b)(2) of this **section**.

Distance must be measured from any public entrance or **exit** of the establishment in a **straight line** to the nearest **property line** of the **religious facility**, school (noncommercial), day care center (child), **dwelling unit** or park, or to the closest **public entrance** or exit of any other **establishment primarily engaged in the sale of alcoholic** beverages.

b. ~~Where an establishment for the sale of alcoholic beverages is located in conformity with the provisions of this subsection, and a religious facility, school (noncommercial), day care center (child), park or dwelling unit is subsequently established in the proximity of such the existing establishment, then the separation requirements will not apply~~

(2) *Exceptions to location standards* Exceptions to **location** standards are as follows

a. Bowling alleys ~~(4-COP-SBX license only)~~ provided that:

1. There are no signs, or other **indication that can be seen visible from the outside** of the structure concerned, **that** beer or **wine** or other malt and **vinous** beverages are served;
2. **The bowling** alleys are **is** in a **fully air conditioned building having with** at least 10,000 square feet of floor space under one roof and where both uses are owned by the same **entity**,
3. The **building contains** at least 12 alleys **usable available** for bowling The **facilities** for the service of food and **beverages must be in an area** separate from the alleys The **facility** for the service of food and beverages must contain at least 2,000 square feet of usable floor space and must accommodate at least 60 patrons at tables, and
4. The **building** is ~~not less than at least~~ 500 feet, measured as **provided in this** subsection, from the uses in **described in subsections (b)(1)a 4 and 2 of this section**

b. Restaurants groups II, III and IV, provided ~~that~~

- 1 The **restaurant** is in full **compliance with** state requirements;
 - 2 The restaurant serves cooked, full-course meals, prepared **daily** on the premises; and
 - 3 Only a service bar is used and the sale or service of alcoholic beverages is only to patrons ordering meals, or, **if the** restaurant contains a **cocktail** lounge for patrons waiting to be seated at **dining** tables, the lounge must be located **so** that there is no **indication** from the **outside** of the structure that the cocktail lounge **is within** the building
- c. Hotels/motels ~~(4-COP-S license only)~~, **provided** that
1. The hotel/motel contains at least 100 guest rooms under the same **roof-and** that nightclubs, ~~cabarets~~, cocktail lounges or bars are located within the hotel or motel and under the same roof, and
 2. The exterior of the building must not have storefronts or **give** the appearance of **commercial** or mercantile ~~activity as viewed~~ **visible** from the highways.
- If the use contains **windows visible** from the highway, the windows must be of **fixed**, obscure glass ~~Access to The nightclub, or cabaret, cocktail lounge, or bar may be entered only must be~~ through the lobby. ~~No Additional entrance2 will be permitted except if are not permitted unless the additional entrance or door opens into an enclosed courtyard or patio (away from the street side) and which is The additional entrance may not be visible from the street A fire door or exit is permitted so long as the door or exit is equipped with panic type hardware and is maintained in a locked position except in an emergency.~~
- d Golf course clubhouses ~~(11-C (golf club) license only)~~, **provided** that:
1. The golf **course** consists of **at least** nine **holes**, a clubhouse, locker **rooms** and attendant golf **facilities**, and **comprises** in all **at least** 35 acres of **land**.
 2. **Failure of such the club** to maintain the **golf** course, **clubhouse** and **golf facilities** will **automatically terminate** the privilege of the cocktail lounge and sale of beer from the refreshment stands
- e. **Tennis** clubs and indoor racquetball clubs ~~(11-C (tennis and racquetball club) license only)~~, **provided** that the club is chartered or incorporated or owns or leases and **maintains** a bona fide tennis club or four-wall **indoor** racquetball club consisting of not less than
1. ten regulabon-size tennis courts: or
 2. ten regulabon-size four-wall indoor racquetball courts, or
 - 3 a **combination** of tennis courts and four-wall **indoor** racquetball courts numbering ten,
 - 4 clubhouse **facilities**, pro shop, locker rooms and attendant **tennis** or racquetball **facilities**, all **located** on an **abutting tract** of land **owned or leased** by **such the** club.
- There may be no signs or other **indications** visible from the exterior of the clubhouse, **building** or structure that **alcoholic** beverages are served
- f. Clubs and fraternal or membership **organizations** ~~(11-C license only)~~, **so long as provided**:
- 1 the club or omannation conforms to all the **requirements** of ~~a private club as stated in~~ F.S. ch

561 and other **applicable** state laws; and

- 2 there are no signs or other **indications visible** from the exterior of the clubhouse, building or structure ~~that alcoholic beverages are served~~ -- --

~~Before a certificate of use and occupancy to serve alcoholic beverages will be issued, the applicant must submit necessary data to prove that the club is eligible for the use and complies with F.S. ch. 561 or other applicable state laws.~~

~~These requirements apply even if the club intends to serve only beer or wine.~~

- (3) **Parking** Restaurants providing alcoholic beverages for consumption on the premises must comply with the parking requirements set forth in section 34-202(2). Any bar or cocktail lounge must provide parking in accordance with section 34-202(2). All other uses must meet the parking requirements of the principal use.

(c) Procedure ~~for~~ approval.

(1) **Administrative** approval.

- a. **Application.** An applicant for a **consumption** on the premises ~~permit, on a form provided by the county,~~ must submit the **following** information on the form provided by the county.

- 1 The name, address and telephone number of the **applicant**
- 2 The name, address and telephone number of the owner of the premises, if not the applicant
- 3 A notarized **authorization** from the **property** owner to apply for the **permit**
- 4 **Location** by STRAP and street **address**
5. Type of state **liquor license** being requested.
- 6 A **site** plan, drawn to scale, showing
 - i The property **in question**, including all **buildings** on the property and adjacent property,
 - ii Entrances to and **exits** from the **building** to be used by the **public**,
 - iii. A **parking** plan, including entrances and **exits**;
 - iv. The floor area **of the building** and proposed **seating capacity**. If a restaurant is proposing a bar or **lounge** for patrons waiting to **be** seated in the restaurant, the floor area and seating area of the lounge must be shown **in addition** to the restaurant **seating** area
- 7 A county map marked to **indicate** all ~~of the~~ property **within** 500 feet of the **building** to be used **f o r c o n s u m p t i o n o n t h e p r e m i s e s .** --
- 8 An **affidavit** executed by the applicant **indicating** that no **religious facilities**, day care centers (child), **noncommercial** schools, **dwelling units** or parks are located **within** 500 feet of the building ~~to be used~~

- ~~b. **Additional requirements for bottle clubs.** Any owner, lessee or tenant seeking approval for consumption on the premises for a bottle club must include the information listed in this subsection~~

~~in addition to the information listed in subsection (c)(1)a of this section. If the applicant is a corporation, partnership or association, all officers, partners or principals shall supply such information.~~

~~1 Characterization of the type of ownership of the business, i.e., whether individual, partnership, corporation or otherwise, and the names and addresses of any and all co-owners.~~

~~2 An affidavit stating the full history of any criminal convictions of the applicant.~~

~~be~~ *Findings by director* Prior to ~~approving a~~ permit approval, the director must ~~ascertain that~~ conclude all applicable standards have been met. In addition, the director must make the following findings of fact:

- 1 There will be no apparent deleterious effect ~~of such use~~ upon surrounding properties and the immediate neighborhood ~~2s~~ represented by property owners within 500 feet of the premises.
2. The premises are suitable in regard to their location, site characteristics ~~2nd intended purpose~~. Lighting on the permitted premises must be shuttered and shielded from surrounding properties.

(2) *Special exception*

- a. Applications for special exception must be submitted on forms supplied by the county and must contain the same information as required for administrative approval.
- b. Advertisements and public hearings must be conducted in accordance with the requirements set forth in article II of this chapter.

(a) *Temporary one-day permit*

- (1) *Intent, applicability* It is the Intent of this subsection to require ~~that nonprofit and for-profit organizations~~ and establishments in the unincorporated area² 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 will pertain to but is not necessarily be limited to the following uses:

- 2 Grand openings or open houses at residential, commercial or industrial developments,
- b. Special outdoor holiday or celebration events at bars and restaurants which are or are not already special permitted
- c. Weddings and other special occasions at clubhouses,
- d. Political rallies or events;
- e. Block parties; and
- f. Carnivals

Only twelve temporary alcoholic beverage permits may be issued per year to a specific location. If more than twelve permits are sought per year for a specific location, then the location must obtain a permanent alcoholic beverage special permit. 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 permrt, 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 **alcohokc** beverages to be sold and consumed, and

4 **The payment of a A** fee in accordance with the adopted fee schedule.

- b.- The director **will make 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 permrt be **issued** for more than ten days

(e) **Expiration of approval** After the following time periods. ~~If the administrative or special exception approval of a location for the sale and consumption of alcohokc beverages for consumption on the premises granted pursuant to in accordance wnh this section will expire after the following periods of time, and will thereafter become null and void.~~

- (1j) in the case of an **existing structure**, the approval **will expire six months from the date of approval unless, within that period of time, operabon of the alcoholic beverage establishment has commenced** For purposes of **this subsection**, the term "operation" **is** defined as the sale of alcoholic beverages **in** the normal course of business

- (2) In the case of a new **structure**, the approval **will expire** one year from the date of approval unless, within that period of **time, operation** of the **alcohokc** beverage establishment has commenced. **However, if substantial construction is completed, the The director may grant one extension of up to six months, if construction is substantialiv complete.**

(f) **Transfer of permit** **Alcoholic** beverage permits, excluding **permits** for bottle clubs **and as noted in section 34-1264(a)(1)i**, issued by virtue of this **section will be deemed to be is** a **privilege running with the land** **The Ssale** of the real **property which has been granted an alcoholic beverage permit will automatically** vest the purchaser **thereof with** all rights and **obligations originally** granted to or **Imposed on the applicant Such The** privilege may not be separated from the fee **simple** interest rn the realty

(g) **Expansion of area designated for permit** The area **designated for** an alcoholic beverage **permit** cannot be expanded **without filing** a new application for an alcoholic beverage permrt **in accordance with the requirements contained in this chapter**

(h) *Nonconforming establishments.*

- (1) **Expansion.** A legally **existing** establishment engaged **in** the sale or **service** of alcoholic beverages **which is** made nonconforming by reason of the regulabons **contained in this seccion** may not be

expanded ~~without~~ a special exception. The term "expansion," as used in this subsection, includes the enlargement of space for ~~such the~~ use and uses incidental thereto, the expansion of a beer and wine bar to include intoxicating liquor, as that term is defined by the Florida Statutes, and the expansion of a bar use to a nightclub use. Nothing in this subsection; may be construed as an attempt to modify any prohibition or make less restrictive diminish any requirement of the laws of the state law.

- (2) **Abandonment** Any uses, created and ~~established in~~ a legal manner, ~~which may~~ thereafter become nonconforming, may continue ~~until~~ mere ~~is~~ an abandonment of the ~~permits to location for a continuous six-month period~~. For purposes of this subsection, the term "abandonment" means failure to use the location for consumption on the premises purposes as authorized by the special exception, or administrative approval, or other approval. Once a nonconforming use is abandon&d, it cannot be reestablished unless ~~it can~~ conforms to the requirements of this chapter, and ~~such use may be reestablished only after issuance of new permits are issued.~~
- (1) **Revocation of permit or approval.**
- (1) The hearing examiner has the authority to revoke an alcoholic beverage special ~~exception, or administrative approval, or other approval~~ upon any of the following grounds
- A determination that an application for special exception or administrative approval contains knowingly false or misleading information.
 - Violation** by the permit holder of any provision of this chapter, or violation of any state statute which results in the revocation of the permit holder's state alcoholic beverage license by the state alcoholic beverage license board or any successor regulatory authority
 - C** Repeated violation of any county ordinance at the location within the 12-month period preceding the revocation hearing.
 - Failure to renew a state liquor license, or written declaration of abandonment by the tenant and owner of the premises if under lease, or by the owner himself if not under lease
 - Abandonment of the premises. An establishment which continually maintains (renews) its state liquor license, even though it has suspended active business with the public, will nor be deemed to have been abandoned for purposes of this subsection
 - Violation** by the permit holder of any condition imposed upon the issuance of the special exception or administrative approval.
 - Violation of any of the minimum standards of the special exception.
- (2) ~~Prior to revoking an administrative approval, or special exception, or other approval for alcoholic beverages, the hearing examiner must conduct a public hearing at which the permit holder may appear and present evidence and testimony concerning the proposed revocation. At the hearing, the hearing examiner may revoke the permit if a violation described in this subsection is established by a preponderance of the evidence. The permit holder must be notified of the grounds upon which revocation is sought prior to any hearing, and must be given notice of the time and place of the hearing in the same manner as set forth in article II of this chapter.~~
- (3) When an alcoholic beverage permit is revoked ~~pursuant to~~ in accordance with the terms of this subsection, ~~no the county may not consider a petition~~ requesting an alcoholic beverage permit ~~may be considered by the county for on the property for a period of 12 months from the date of final action on the revocation~~

- (4) Upon written demand ~~of the~~ hearing examiner, any owner or operator of an establishment with a COP license ~~must make under oath a statement itemizing what the percentage of his gross receipts are~~ from the sale of alcoholic beverages. Failure to comply with ~~such the~~ demand within 60 days of the ~~date of demand will be date is~~ grounds for revocation of the special exception, administrative approval, or other approval.
- (j) *Appeals.* All appeals ~~of decisions by the~~ director must be in accordance with the procedures set forth in article II or article IV of this chapter for appeals of ~~administrative decisions~~
- (k) Bottle clubs
- (1) All bottle clubs operating under a valid special permit are deemed non-conforming on the effective date of this ordinance
- (2) All non-conforming bottle clubs must discontinue their use no later than twelve months from the effective date of this ordinance
- (3) No new bottle clubs will be allowed in any zoning district. This subsection supersedes and repeals any existing county regulations in conflict herewith

DIVISION 6. AUTOMOTIVE BUSINESSES; DISPLAY, RENTAL, REPAIR OR STORAGE OF VEHICLES OR EQUIPMENT

Sec. 34-1352. Display, sale, rental, or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment.

- (d) Display and parking areas
- (i) ~~No parking space or loading zone required by the parking regulations set forth in this chapter shall~~ may be used for the display of merchandise or parking of rental vehicles.

DIVISION 10. CARE FACILITIES AND CENTERS

Sec. 34-1411. ~~Adult congregate~~ Assisted living facilities ~~(assisted living facilities).~~

(a) *Location.* ~~Adult congregate~~ Assisted living facilities (ALF's) (ALF's), having 49 beds or less, may be located in zoning districts by right or by special exception, as specified in the district use regulations, but they are subject to the density ranges for the land use category applicable to the subject property. Density must be calculated in accordance with sections 34-1491 through 34-1495. Facilities with 50 or more beds are permissible in RPD, CFPD, CPD, and MPD districts when approved as part of the master concept plan.

(b) *Design* .

- (1) ~~An adult congregate assisted living facility permitted in a zoning district which permits only single-family residences shall must be designed so as to appear as, and be compatible with, a single-family residence adjacent residential buildings.~~
- (2) ~~An adult congregate living facility permitted in a zoning district which permits only single-family, two-family attached or duplex dwelling units shall be designed so as to be compatible with such dwelling units.~~
- (3) ~~An adult congregate living facility permitted in a multiple-family zoning district shall be designed so~~

~~as to be compatible with surrounding multiple-family buildings.~~

~~(4) An adult congregate living facility permitted in a CF district shall be designed so as to be compatible with the type of dwelling units which are adjacent thereto.~~

(c) *Lot dimensions and setbacks.* Adult congregate ~~Assisted~~ living facilities shall be are subject to the property development regulations applicable to the zoning district within which they are located

(d) *Parking.* Refer to ~~Division 26 of this article~~ Sec 34-2011 et seq

~~(1) Any adult congregate living facility living unit which is designed or intended primarily as a self-care facility and which contains customary cooking facilities in which the residents of the living unit can prepare their own meals shall be treated as a dwelling unit and shall be required to provide parking spaces as set forth in division 26 of this article 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.~~

~~(2) Adult congregate living facility 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 shall calculate parking requirements as follows: one parking space per four residents, plus ten percent.~~

Sec. 34-1414. Continuing care facilities.

(a) Generaly. **Continuing care facilities (CCF's)** may only be located in a RPD, CFPD, and MPD districts, as enumerated on the master concept plan, provided that.

(1) **Continuing care facilities** ~~shall be~~ are subject to the density ranges for the land use category applicable to the subject property ~~Density shall~~ will be calculated in accordance with subsection (c) of this section.

(2) A continuing care facility must contain one or more health care facilities group i or ii, for on-site patient care.

(b) *Design, required facilities.*

(1) A continuing care facility ~~shall~~ must provide housing for older persons pursuant to title VII USC.

(2) A continuing care facility must provide full common dining facilities on the site. Individual units may be equipped with kitchens, but an average of at least one meal a day must be provided by the continuing care facility for all residents

(3) A continuing care facility must incorporate one or more resident services on the site, such as banking facilities, barbershops or beauty shops, pharmacies, and laundry or dry cleaning.

(4) A continuing care facility must provide a shuttle bus service or similar transportation service for residents

(c) *Density* Density equivalents for a continuing care facility ~~shall~~ will be calculated for ~~any adult congregate assisted living facility~~ units and nursing beds pursuant to division 12, subdivision II, of this article, and for independent living units on the basis of two Independent living units equal to one residential dwelling unit

(d) *Lot dimensions and setbacks.* Continuing care facilities ~~shall be~~ are subject to the property

development regulations applicable in the CFPD district

(e) *P a r k i n g . ; R e f e r t o S e c 3 4 - 2 0 1 1 e t s e q*

DIVISION 1 1 COMMUNICATION TOWERS

Sec. 34-1441. Required approvals.

(a) Communication towers may be ~~permitted~~ by right or by ~~special exception~~, as ~~designated in~~ the zoning district use regulations, subject to the requirements of this division

(b) No tower, including towers ~~existing~~ on August 1, 1986, may ~~be increased in height above~~ exceed 100 feet unless the increase is approved as a special exception in conventional zoning districts or as part of a planned development or amendment to a planned development.

~~(c) No new tower erected after August 1, 1986, may exceed 100 feet unless first approved as a special exception in conventional zoning districts or as part of a planned development or amendment to a planned development.~~

Sec. 34-1442. Location generally; compliance with airport hazard regulations;

(a) All communication tower supports and ~~peripheral~~ anchors must be located entirely ~~within~~ the boundaries of the property and in no case may they be located less than ~~five~~ feet from the property line.

(b) All towers must ~~comply with regulations for height restrictions in airport approach zones of the Federal Aviation Administration and the state department of transportation, division of aeronautics, or a municipal or other airport authority qualified by law to establish airport hazard zoning regulations.~~

Sec. 34-1443. Protection of adjacent property.

Except for monopoles less than 100 feet tall; engineered to withstand category 5 hurricane force winds, all new ~~communication~~ towers must be ~~engineered~~ so that, in the event of collapse, all parts of the structure will fall ~~within~~ the property lines.

Sec. 34-1444. Setbacks for accessory buildings.

All accessory ~~buildings~~ and structures for a ~~communication~~ tower must conform to the setback requirements for the ~~district in which it is located~~

Sec. 34-1445. Fencing.

A fence or wall not less than ~~eight~~ feet in ~~height~~ from finished grade must be ~~provided~~ around each communication tower. Access to the tower must ~~be through~~ a locked gate _ _ _ _ _

Sec. 34-1446. Warning signs for high-voltage facilities.

If ~~high~~ voltage is necessary for the ~~operation~~ of a ~~communication~~ tower ~~facility~~ and is present in a ground and or in the tower, ~~signs~~ located every 20 feet and attached to the ~~required~~ fence or wall must display "HIGH VOLTAGE-DANGER." in large bold letters.

DIVISION 12. DENSITY

*Subdivision II. Residential Development***Sec. 34-1493. Calculation of total permissible housing units.**

The Lee Plan establishes a standard and maximum residential density range permissible for each residential land use category. The procedure set forth in this section shall must be used to determine the standard residential density as well as the total number of housing units which may be permitted within a development.

(1) Proposed developments.

2. **Determination** of land area. The applicant shall must provide the calculations used in determining the following

- 1 Total land area of the proposed development
2. Total gross residential acres
3. Gross residential acres less any area classified as a resource protection area or transition zone area by the Lee Plan wetlands
- 4 Acres of any area classified as freshwater wetlands
- 5 Acres of any other classified as wetlands (if applicable for density calculations).

- b. **Estimation of total permissible housing units** The number of permissible housing units is calculated as follows

1. Intensive development, central urban and urban community land use districts

- i Multiply the total gross residential acres less resource protection areas and transition zone areas (see subsection (1)a 3 of this section) wetland area by the standard density range permitted for the land use category in which the property is located.
- ii Additional units may be transferred from contiguous resource protection areas and transition zones abutting wetland areas at the same underlying density as is permitted for the uplands, so long as the uplands density does not exceed the maximum standard density plus one-half of the difference between the maximum total density and the maximum standard density as set forth in Table 1 "Summary of Residential Densities" in the Lee Plan up to one-half of the additional bonus density available on the upland property unless further restricted by the Lee Plan

2 Suburban, outlying suburban, rural, outer islands and rural community preserve and use districts.

- i Multiply the total gross residential acres less resource protection areas and transition zone areas (see subsection (1)a 3 of this section) wetland area by the standard density range permitted for the land use category in which the property is located.
- ii Add one dwelling unit for every 40 acres of resource protection area. Additional units may

be transferred from abutting fresh water wetland areas at the same underlying density as is permitted for the uplands, so long as the maximum uplands density does not exceed the maximum standard density of six (6) units per acre plus two (2) for a total of eight (8) units per acre

~~iii. Add one dwelling unit for every 20 acres of transition zone area~~

- ~~3. The figure derived by adding the numbers derived in accordance with subsections (1)b 1 and 2 of this section represents the number of housing units which may be permitted within the development, unless a higher density is permitted under subdivision III of this division or any ordinance adopted which allows transfer of development rights~~

3. Outlying Suburban land use district

- i. Multiply the total gross residential acres less wetland area by the standard density range permitted for the land use category in which the property is located

- ii. Additional units may be transferred from abutting fresh water wetland areas at the same underlying density as is permitted for the uplands, so long as the maximum uplands density does not exceed the maximum standard density of three (3) units per acre plus one (1) for a total of four (4) units per acre. Outlying suburban land located north of the Caloosahatchee River and east of Interstate-75, north of Pondella Road and south of Pine Island Road (SR 78), and in the Buckingham area (see Goal 19 of the Lee Plan), the maximum upland density shall be two (2) units per acre plus one (1) for a total of three (3) units per acre

- (2) *Existing developments and lots.* Due to the obvious problems of computing gross density in the same manner as set forth for new developments, the following procedures must be followed:
- a. *Single-family structures.* Any lawfully existing lot of record zoned for residential use will be permitted one single-family residence so long as the lot complies with either the property development regulations for the zoning district in which located, or the owner receives a favorable single-family residence determination in accordance with Section 34-3273. A lot or parcel that qualifies under the single-family residence provision of the Lee Plan will be exempt from the minimum lot area and minimum lot dimension requirements of this chapter, and it will not be necessary to obtain a variance from those requirements. Other property development regulations, such as setbacks, height, lot coverage, etc., applicable to a lot or parcel that qualifies under the single-family residence provisions are those specified in this chapter for the RS or AG category whose minimum lot size is the closest to the size of the subject parcel. A lot or parcel which conforms to the density provisions of the Lee Plan will not be eligible for this exemption.

DIVISION 13 ENVIRONMENTALLY SENSITIVE AREAS

Sec. **34-1571.** Purpose of division; areas of concern.

Several of the goals, objectives and policies set forth in the Lee Plan address development as it relates to the preservation, protection, enhancement and restoration of the coastal and inland natural resources of the county

- (2) Other areas of concern which may require special regulations are:

- a. Resource protection areas, as defined chapter 14, article IV, pertaining to natural protection. Wetlands as defined in section 14-292

~~d Transition zones, which are lands that may be seasonally inundated for periods of from one to three months as indicated by water marks, and do not have depressional soils and are characterized by a mixture of plant species typical of uplands and wetlands~~

eg Significant areas of rare and unique upland habitats (RU) as indicated in the county coastal study, including but not limited to the following.

1. Sand scrub (320)
2. Coastal scrub (322)
3. ~~Those~~ Pine flatwoods (41 1) ~~which can be~~ categorized as mature due to the absence of severe impacts caused by logging, drainage and exotic infestation.
4. Slash pine/midstory oak (412).
5. Tropical hardwood (426).
6. Live oak hammock (427).
7. Cabbage palm hammock (428)

The numbered references are to the **Florida** Land Use Cover and Forms **Classification** System (FLUCCS), level III (FDOT, 1985)

DIVISION 16. FARM PRODUCE STANDS, U-PICK OPERATIONS, ROADSIDE STANDS AND PORTABLE KIOSKS

~~Sec. 34-1716. Portable kiosks.~~

~~(a) Portable kiosks maintained completely inside a commercial building and engaged in the sale or display of products permitted by the district use regulations are not subject to these regulations~~

~~(b) Portable kiosks located outdoors are permitted only within a commercial planned development and are subject to the following regulations:~~

- ~~(1) Portable kiosks carts may not be located within 25 feet of any public right-of-way~~
- ~~(2) Portable kiosks may not be located within any required parking space, loading space, fire lane, or in such a manner as to impede the flow of pedestrian or vehicular traffic~~
- ~~(3) Portable kiosks must be operated under the auspices of and with the permission of the owner or manager of the retail center~~
- ~~(4) Portable kiosks may be permitted for periods of up to one year and may be renewed annually, by the division of codes and building services. Applicants for a permit for a portable kiosk outside of a commercial building must submit a letter from the property owner or manager, authorizing the use of the portable kiosk on the premises.~~
- ~~(5) Portable kiosks may only be permitted in conjunction with developed CPD's and are prohibited prior to occupancy of the principal building(s)~~

- (6) ~~The number of portable kiosks which may be permitted within a CPD will be based on 20,000 square feet of total floor area for the first portable kiosk and 10,000 square feet for each additional portable kiosk. No more than three portable kiosks may be permitted within any commercial planned development.~~
- (7) ~~Only goods and products consistent with permitted uses may be displayed or sold from the portable kiosks.~~
- (8) ~~All items displayed or stored must be located on the portable kiosks and may not be placed in any manner off the kiosk.~~
- (9) ~~Signs used in conjunction with the kiosk must be located on the kiosk and may not be higher than two feet above the kiosk.~~
- (10) ~~Portable kiosks may not utilize speakers or similar electronic devices to advertise or publicize their products.~~
- (11) ~~All vendors must have an occupation license.~~
- (12) ~~This provision shall sunset one year from June 1, 1995.~~

Section ~~34-1717~~ 34-1716 - 34-1740, Reserved.

DIVISION 19 HOTELS AND MOTELS

Sec. 34-1801. Definitions.

For the purposes of ~~this division~~, a hotel/motel is defined as a building, ~~or~~ group of buildings on the same premises and under ~~single~~ control, ~~consisting~~ of ten or more ~~sleeping~~ rooms ~~which are~~ kept, used, maintained or advertised as, or held out to the public to be, a ~~place~~ where ~~sleeping~~ accommodations are ~~supplied~~ for pay ~~t o t r a n s i e n t q u e s t s o r t e m p o r a n t s~~; ~~hotels/motels~~ must be registered ~~with~~ the department of revenue as a bona ~~fide~~ hotel/motel. ~~operation and will be~~ ~~are~~ required to pay the levied ~~tourist~~ development tax ~~as~~ promulgated by the county. ~~Hotels/motels which that~~ ~~are not registered with~~ the department of revenue or ~~hotels/motels do not paying~~ the tourist tax ~~will be~~ subject to the density ~~limitations~~ and property development regulations for ~~multiple~~ family buildings.

- (1) ~~Efficiency hotel/motel means a hotel/motel which provides accommodations primarily for tourists and vacationing families staying several days or weeks. Individual rental units may consist of one or more sleeping rooms and a sitting room, as well as an area (but not a separate room) with kitchen facilities (df).~~
- (2) ~~Business hotels/motels means a hotel/motel which does not meet the definition of an efficiency hotel/motel as defined in this division.~~
- (3) ~~Kitchen facilities, when used in conjunction with a hotel/motel, will be interpreted to mean any sinks other than bathroom sinks or small bar sinks, and/or one or more of the following appliances: Stove, oven, electric hot plates, or range, microwave ovens or other cooking facilities, garbage disposal unit, dish washer and/or dryer, clothes washer and/or dryer, full-size refrigerator. Coffee makers, popcorn makers and other similar small portable appliances may not be considered as kitchen facilities.~~

Sec. 34-1802. Property development regulations.

Property development ~~regulations~~ for uses ~~subject~~ to this ~~division~~ are as follows:

(1) Minimum lot dimensions	Business	Efficiency
a. . . Area	2 acres	on 100 square feet
b. Lot width	150 feet	100 feet
c. Lot depth	200 feet	100 feet

(2) Setbacks.

- a. Street In accordance with section 34-2192
- b. Water body In accordance with section 34-2194
- c. Side and rear yards 20 feet for buildings up to 35 feet in height, plus one-half foot for every one foot in excess of 35 feet

(3) Parking:

- a. Spaces per rental unit 1.2 4.5
- b. Ancillary uses located in separate buildings and available to non-guests must meet the requirements of division 26 of this article.
- ~~c. Where lock-off accommodations (df) are provided, each "keyed room" will be calculated as a separate unit.~~
- ~~d. Where a development proposes to have both types of rental units, the number of parking spaces will be prorated.~~

(4) Rental units permitted

- a. Minimum floor area per unit is 120 square feet
- b. a- For developments within conventional zoning districts located within Lee Plan future land use map categories which have maximum standard density limits, rental unit density equivalents are:
- 30 units equal one dwelling unit
- 20 units equal one dwelling unit
- Three rental units with 425 square feet or less of total floor area per unit equal one dwelling unit
- Two rental units with a total floor area of 426 to 725 square feet per unit equal one dwelling unit.
- Each rental unit with a total floor area exceeding 725 square feet equals one dwelling unit
- Where lock-off accommodations (df) are provided, each "keyed room" will be calculated as a separate rental unit.
- c. ~~Any Proposed hotel/motel which will contain with more than 200 rental units or which will that exceed the equivalency factors in (4) a- above when divided by the Lee Plan maximum standard density for the properly in question will be permitted only as a planned development.~~

~~b-c~~ ~~Except as provided below,~~ In categories without density limits, the number of permitted hotel/motel rental units will be determined by design and compliance with all applicable property development regulations including open space, setbacks, and height restrictions except as provided below.

d. ~~A hotel/motel development submitted for approval as a planned development may exceed the~~ equivalency factors in (4)a., without the need for a deviation, provided all other aspects of the development (height, traffic, intensity of use etc.) are found to be compatible with the surrounding area;

Hotels/motels approved as Planned developments are not subject to rental unit size or density requirements set forth above provided all other aspects of the development (height, traffic, intensity of use, etc.) are found to be compatible with the surrounding area and otherwise consistent with the Lee Plan. However, any increase in the number or the floor size of the rental units approved in a planned development will require an amendment to the master concept plan.

~~e. Where a development proposes to have both types of rental units, the number of units will be prorated.~~

(5) Minimum floor area per unit	120 square feet	1-2-0 square feet
(6) Maximum floor area per unit	-	5-5-0 square- feet

Sec. 34-1803. Conversions: Existing Hotels/Motels.

~~Any hotel or motel proposing to convert to dwelling units, or any residential building proposing to convert to motel/hotel units will be required to comply with density limitations of the Lee Plan, all applicable parking regulations and all other regulations of this chapter affecting the proposed use.~~

- (1) A non-conforming hotel/motel destroyed by fire or natural forces may be rebuilt in accordance with the provisions set forth in section 34-3241 (b)(2)b.
- (2) A non-conforming hotel/motel destroyed other than by fire or natural forces may only be rebuilt in compliance with the density equivalents set forth in section 34-1802 and all applicable Property development regulations for the zoning district in which the property is located.
- (3) The following rules will apply to hotel/motels permitted as "existing only" or as a "permitted use" that are voluntarily demolished or destroyed other than by fire or natural forces.
 - a. No increase in the total number of rental units or expansion in the floor size of existing rental units will be permitted if the hotel/motel does not conform to the density equivalents set forth in Section 34-1802.
 - b. A hotel/motel that complies with the density equivalents set forth in section 34-1802 but does not comply with height, setbacks, area, or lot coverage requirements may increase rental units or expand floor size subject to section 34-3203.
 - c. A hotel/motel that complies with the density equivalents set forth in section 34-1802, but does not comply with parking requirements, may not increase the number of rental units unless the property is brought into compliance with all applicable regulations.

The rules set forth in a through c above do not apply in a planned development zoning district.

- (4) If the hotel/motel is in compliance with the density equivalents set forth in Section 34-1802 as well as with height, setbacks, parking, open space and buffering requirements, the number of rental units and floor size may be expanded provided all applicable regulations are met.
- (5) No hotel/motel approved by special exception may increase the number or floor size of rental units without approval of a new special exception.

Sec. 34-1804. Subordinate uses.

For regulations pertaining to subordinate uses, refer to section 34-3021

Sec. 34-1805. Density limitation for Captiva Island.

The permitted density for hotels and motels as set forth in this division will not apply to any hotel or motel units on Captiva Island. The maximum permitted density for hotels or motels on Captiva Island shall not exceed three units per gross acre. The redevelopment of non-conforming hotels and motels on Captiva Island will be governed by the provisions of section 34-1545. That section will be interpreted to prohibit an increase in the number of rental units and establish a maximum unit size of 550 square feet.

DIVISION 24. MODEL HOMES, UNITS AND DISPLAY CENTERS

Sec. 34-1951. Applicability of division.

The provisions of this division apply to ~~any~~ dwelling units, mobile homes or recreational vehicles which are erected or emplaced on a lot for purposes of promoting sales of such units.

Sec. 34-1952. Definitions.

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

Model display center means three or more single-family detached homes, mobile homes or recreational vehicles, or four or more duplex or two-family units (not buildings), erected on a single, undivided property for purposes of promoting sales of such units for construction or emplacement elsewhere

Model/home means a single-family, two-family or duplex building, or a mobile home or recreational vehicle, used solely for demonstration purposes or sales promotion, not occupied as a dwelling unit, and open to the public for inspection, but the model home itself as located on the lot is not available for sale for occupancy (see *Speculative home*)

Model unit means a dwelling unit within a multiple-family or townhouse building, used solely for demonstration purposes or sales promotion, not occupied as a dwelling unit, and open to the public for inspection.

Speculative home means a dwelling unit mobile home or recreational vehicle which is erected or emplaced on a lot for sales promotion and open to the public for inspection and which is available for sale and occupancy on the lot upon which it is located

Sec. 34-1953. Speculative homes.

Speculative homes shall ~~may~~ be permitted in any zoning district which permits construction, erection or emplacement of that type of unit, provided that the unit is constructed, erected or emplaced in compliance with

the **property** development regulations for the **zoning district in which** located. No **advertising signs** or "model," "open house" or "open for inspection" signs, as defined in chapter 30, shall will be permitted, ~~except a "or sale" sign.~~

Sec. 34-1954. Model homes and model units.

(a) **Generally.** Model homes and model units ~~may be~~ are permitted by ~~right, or~~ by special exception, ~~or by administrative approval as specified in zoning district use regulations; and as follows provided that there is compliance with the provisions of this division~~

- (1) **Administrative Approval:** The ~~director may administratively approve the location of individual model homes and model units in any new development provided the property remains under unified control and the provisions of this division are met~~
- (2) **Special Exception:** The ~~Hearina Examiner, after public hearing, may approve the location of individual model homes and model units in existing developments provided the provisions of this division are met~~

(b) **Location, connection of utilities and certificate of occupancy.**

- (1) Each model home ~~shall must be~~ located on a **single** lot and in accordance ~~with~~ the development order ~~if the development includes multiple structures on a single parcel Model units are permitted in any townhouse or multiple-family building~~
- (2) ~~All Model homes shall must be connected to water, sewer and electricity and shall must receive a certificate of occupancy as a model home only, prior to use as a model.~~
- (3) Model homes ~~shall may be approved only in areas where the additional traffic they will not adversely affect existing residents.~~

(c) **Prohibited uses.**

- (1) No model home or model unit ~~shall may be~~ used for **living** purposes ~~either~~ temporarily or permanently while ~~being~~ used as a model home or model unit
- (2) No real estate sales ~~except those incidental to the sale of model homes, model units or lots within the development are to may be conducted in a model home or model unit~~

(d) **Time limitations.**

- (1) ~~Model homes Approval of special exception for a model home shall will be valid for a period of time not exceeding three years from the date of issuance of a certificate of occupancy for a model home, unless the director or hearing examiner (as applicable) grants an additional specified time limit. Upon expiration of the special exception approval, for a model home the owner shall may, 1) apply for an extension of the approval, special exception or 2) apply for a change of use permit to convert the model to a living unit, or 3) shall remove the model from the property.~~
- (2) **Model units.** The use of a model unit within a townhouse or **multiple-family** building may not extend beyond the **initial** sale period for that phase.
- (e) **Change of use.** No model home or model unit ~~shall may be~~ converted to a living unit prior to application and approval of a change of use permit from the division of codes & building services enforcement.

- (f) ~~Parking~~ Parking for the model home or model unit ~~shall must~~ be on the same premises and ~~shall must be in compliance with parking requirements of this chapter for the type of dwelling unit or recreational vehicle being displayed~~

Sec. 34-1955. Model display centers.

(a) Model display centers may be approved ~~in commercially zoned districts zoned commercial which that permit model display centers, as indicated in the use regulations for commercial districts. Model display centers may be approved by administrative approval in new RPD, MHPD, RVPD or MPD developments, provided the property is zoned for the type of model home model unit or recreational vehicle displayed special exception but require a Planned development amendment in existing residential district RPD, MHPD, RVPD or MPD districts, provided the property is zoned for the type of model home, model unit or recreational vehicle being displayed~~

(b) Units within a model display center may be connected to electricity, but ~~shall may~~ not be connected to water or sewer

(c) Units ~~shall may~~ not be used for permanent occupancy, nor ~~shall may~~ they be used to provide office space. All sales ~~shall must~~ be conducted in a main sales office on or off the premises.

(d) Parking ~~shall must~~ be provided adjacent to the sales office in accordance with the ~~off-street~~ parking regulations for offices; and developed in accordance with chapter 10.

(e) ~~Nothing in this section shall be interpreted to apply to, or does not prohibit, designating the designation of various units within a multiple-family building or complex as model units during the sale of units within such the building or complex~~

DIVISION 26 ~~OFF-STREET PARKING~~

sec. 34-2011. Applicability of division.

(a) ~~New developments~~ All residential and nonresidential uses ~~shall be are~~ required to provide off-street parking spaces in accordance with the regulations specified in this division

(b) *Existing developments*

(1) Existing buildings and uses ~~which have with existing~~ off-street parking spaces may be modernized, altered or repaired without providing additional parking spaces, provided there is no increase in total floor area or capacity. Buildings ~~which have been~~ damaged in excess of 50 percent ~~shall be required to must~~ comply with all applicable regulations.

(2) Existing buildings or uses ~~which are~~ enlarged in terms of floor area ~~shall must~~ provide additional parking spaces; ~~for the total floor area~~ in accordance with this division; ~~for the total floor area~~

(3) When the use of a building is changed to a different use ~~which that~~ is required to have more parking than exists, the additional parking ~~shall must~~ be provided.

(c) On-street parking. The director may approve parking to back out into rights-of-way in residential developments subject to the following limitations:

(1) The street must be a privately owned and maintained, low-volume, local street.

(2) All parking spaces must be for amenities to the development such as Darks and recreational facilities and not for dwelling units or commercial uses.

(3) Parking spaces may be perpendicular or at a 30 or 45 degree angle to the roadway, and must comply with the parking space dimensions set forth in section 34-2016(1). The director may require surfacing to comply with Section 34-2017 (a) or (b) depending on the type of amenity being served.

(4) The director's decision is final and may not be appealed.

~~(d)(e)~~ Developments on Islands without direct vehicular access to mainland. Developments located on islands where direct vehicular access to the mainland by bridge, causeway or street system is not attainable shall are not be required to comply with this division.

Sec. 34-2012. Definitions.

For purpose of this division only, certain words or phrases are defined as follows

Drive-up The terms "drive-up" and "drive-through" are synonymous.

Employees means the regular working staff, whether paid, volunteer or otherwise, at maximum strength and in full-time equivalent numbers, necessary to operate, maintain or service any a given facility or use under normal levels of service.

High turnover applies to parking lots wherein vehicles are parked for relatively short periods of time ranging from a few minutes to several hours. Customer parking for retail establishments, offices, or similar establishments is considered to be high turnover.

Low turnover applies to parking wherein vehicles are parked for relatively long periods of time, such as employee parking during the day, or uses such as marina parking, cruise ship parking, sports arena parking, etc., wherein customers leave their cars for periods of four or more hours while attending special events, or overnight parking in residential developments.

~~Parking aisle means an accessway within a parking lot which provides direct access to individual parking spaces.~~

Parking lot means an area of land designed, used or intended for the parking of five or more vehicles.

Parking lot entrance means the accessway which that provides ingress or egress from a street right-of-way or easement to a parking lot

Parking space means an area of land designed or intended for the parking of one vehicle. Parking spaces are designated as handicapped spaces or standard spaces, depending on the purpose of the space.

Sec. 34-2013. Access

~~(a) All parking lots must be designed so as to permit vehicles exiting the parking lot to enter the street right-of-way or easement in a forward motion.~~

(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 street property line for one-way entrances is 15 feet.
- (2) Minimum width at street property line for two-way entrances is 25 feet

- (3) Maximum width at ~~street property line~~ is 35 feet

The ~~director~~ of zoning and development ~~services or the department of transportation~~ 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 or the director of transportation~~

Sec. 34-2014. Parking plan.

A parking plan ~~shall be~~ is required for all uses, except single-family residence, duplex, two-family attached and single-family mobile home dwelling units, and ~~shall must~~ be submitted for review and approval in accordance with chapter 10. Developments which are ~~exempt from~~ not required to be reviewed and approved in accordance with chapter 10 ~~shall must~~ submit plans to the ~~division of zoning~~ and development ~~review services division~~ prior to issuance of a building permit. The plan ~~shall must~~ accurately designate the required parking spaces, parking aisles and parking lot entrance, as well as the relation of the off-street parking facilities to the uses or structures such facilities are designed to serve

Sec. 34-2015. Location and design generally

The location and design of all parking lots ~~shall must~~ embody the following provisions

- (1) **Location** Except for parking lots specifically zoned CP or as provided for in section 34-2018, all required parking spaces ~~shall must~~ be provided on the same premises and within the same or similar type zoning district as the use which they serve
- (2) **Design.**
 - a. All parking lots ~~shall must~~ be designed in accordance with the setback, buffer, landscaping and drainage requirements set forth in chapter 10.
 - b. If the parking lot ~~is to will~~ be used at night, adequate lighting ~~shall must~~ be provided for the driveways, ingress and egress points, and parking areas of all commercial and industrial uses. Such lighting ~~shall must~~ be so arranged and directed as to eliminate glare on any other use
 - c. All individual parking spaces ~~shall must~~ be accessible at all times from a parking aisle intended to provide access to the space. Stacking of vehicles (one behind the other) ~~shall will~~ be permitted only for single-family, duplex, two-family, and townhouses where each dwelling unit has a specific garage or driveway appurtenant to it and in valet parking facilities wherein parking is performed only by employees of the facility
 - d. All parking lot spaces ~~shall must~~ be provided with sufficient maneuvering room so as to allow an exiting vehicle to leave the parking lot in a forward motion. Parking lots utilizing 90-degree parking with dead-end aisles ~~shall must~~ provide a turning bay for those spaces at the end of the aisle.
 - e. In any parking lot where more than one tier of parking spaces ~~is to will~~ be developed, a pedestrian system ~~shall must~~ be provided which accommodates safe and convenient pedestrian movement

Sec. 34-2016. Dimensional requirements; delineation of parking spaces.

In addition to satisfying all other provisions of this division, the arrangement and spacing of off-street parking

lots ~~shall must~~ conform to the following requirements

(1) **Parking space dimensions.** Individual parking space dimensions ~~shall be~~ are as follows.

a. ~~Handicapped Disabled~~ parking (ail) 12 feet by 18 feet ~~Parkrna access aisles~~ must be no less than 5 feet wide and must be ~~part of an accessible route to the building or facility entrance~~. ~~However, The individual parking space dimensions do not preclude compliance with the Americans with Disabilities Act (ADA) of 1990~~

b. High and low turnover parking lots

1. 90-degree parking: ~~Nine~~ feet by 18 feet.
2. 30-, 45- or 60-degree parking: 8 1/2 feet by 18 feet
3. Parallel parking. ~~Eight~~ feet by 22 feet.

(2) **Delineation of spaces**

a. **Paved parking lots.**

1. Parking spaces ~~shall must~~ be delineated by all-weather painted lines, not less than four inches in width, centered on the dividing line between spaces

Parking spaces for persons with disabilities must be prominently outlined with blue paint, and must be repainted when necessary to be clearly distinguishable as a parking space designated for persons who have disabilities. Signs erected after October 1, 1996 must indicate the penalty for illegal use of the space

2. Parking spaces ~~which~~ do not abut a curb, fence, wall or other structure ~~shall must~~ be provided with a parking block set two feet from the end of the parking space

b. **Unpaved parking lots.**

1. Parking spaces in unpaved parking lots ~~shall must~~ be delineated by placing a parking block two feet from the end of the parking space and centered between the sides of the space
2. Where if the space abuts a structure, the space may be indicated on the structure, in which case parking blocks ~~shall are~~ not be required.

c. **Temporary parking lots.** (See section 34-2022.) ~~Where temporary parking lots are permitted, the individual spaces in temporary parking lots do not need to be delineated provided the end of each space and all aisles are clearly delineated with temporary posts and ropes~~

(3) **Minimum aisle widths** Minimum aisle widths ~~shall be~~ are as follows:

Angle of parking	Aisle Width	Aisle Width
	One-Way(feet)	Two-Way(feet)
Parallel	12	20
30	12	22
45	12	22
60	18	24
90	22	24

Sec. 343017. **Parking** lot surface.

(a) *High turnover parking lots.*

- (1) **Parking aisles** Except as provided in subsection (a) of this section, all high turnover parking lot aisles shall must be provided with a paved, dustfree, all-weather surface

- (2) **Parking spaces** All parking spaces except those seaward of the coastal construction control line, shall must have a paved, dustfree, all-weather surface from the aisle to the parking block or curb. All handmapped parking spaces, including handicapped parking spaces seaward of the coastal construction control line, shall must be paved with asphalt or concrete to provide a smooth surface without gaps or holes which create a danger to the user. For all other parking spaces, the term "paved" shall will be interpreted to mean and include asphalt, concrete, paving block and other similar types of treatment. Parking spaces, excluding handicapped parking spaces, located seaward of the coastal construction control line shall must be stabilized with treatments approved by the county administrator or director of zoning and development services or his designee

(b) *Low turnover parking lots*

- (1) ~~Due to the low volume of vehicle turnover in this type lot, Alternative surfaces may be permitted provided that the areas are adequately drained and continuously maintained in a dustfree manner. Alternative surfaces may include gravel, crushed shell or other similar materials. Parking on grass or other unimproved surfaces such as sand or dirt shall be prohibited.~~

- (2) **Handicapped** spaces must be paved with asphalt or concrete to provide a smooth surface without gaps or holes which would create a danger to the user

(c) **Temporary parking lots.** Temporary parking lots do not need to be surfaced, and may be maintained as a grass area or in a dustfree manner.

(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 zoning 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 that:

- (1) The applicant clearly shows ~~on the site plan~~ the reserved parking spaces on the site plan;
- (2) The reserved parking areas ~~shall are not be counted~~ towards meeting the minimum open space or landscaping or buffering requirements of this chapter or chapter 10,
- (3) All drainage facilities shall must be calculated and built as though the reserved parking areas were impervious surfaces; and
- (4) The reserved parking areas shall may not be used for any purpose other than landscaped open space or temporary overflow parking during special holiday seasons or sales

~~Should if the property owner decides to pave the reserved area for parking, he shall must submit the original site plan or development order approval to the zoning director of zoning and development services, who is hereby authorized to approve the paving provided that such paving does not include any new entrances onto a public street. If the parking areas does involve new entrances, then a small project limited review development order is required~~

(e) *Director discretion*

- (1) The ~~zoning~~ 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
 - a. The property is not located in the ~~intensive~~ development or central urban land use categories;
 - b. The proposed parking lot will contain no more than 25 spaces,
 - c. The proposed ~~alternative~~ surface will be adequately ~~drained~~, and
 - d. The proposed ~~alternative~~ surface is consistent with the uses and the parking lot surfaces in the surrounding neighborhood
- (2) This subsection may not be construed inconsistently with the Americans with Disability Act (ADA) of 1990.
- (3) The director's decision is discretionary in nature and may not be appealed pursuant to section 45 34-145(a) of this chapter.

Sec. 34-2018. Joint use of ~~off-street~~ parking lots.

(a) Except where specifically approved as part of a planned development district, joint use of ~~off-street~~ parking lots will be permitted only after approval of a special exception for that purpose [see section 34-203(g)(5) 34-203(d)(7)]

(b) ~~Such~~ Shared parking lots must be within 300 feet of each use. Shared parking lots may not be separated from the use by a street right-of-way or easement which exceeds 25 feet in width.

(c) No part of a parking lot used, designed or intended to satisfy required off-street parking for any use may be used to offset the parking requirements for another use unless the peak parking demands of the different uses clearly occur at different times

Sec. 34-2019. Other use of ~~off-street~~ parking lots.

Except as provided in this section and in section 34-3048, required off-street parking areas ~~shall in no instance may not be utilized~~ for the sale, display or storage of merchandise, or for repair, dismantling or servicing of any vehicles or equipment.

- (1) This ~~shall must~~ not be interpreted to prohibit a residential property owner from the occasional servicing of his own noncommercial vehicle or conducting normal residential accessory uses
- (2) The following structures and uses may be approved by the director provided that a site plan is submitted showing that the structure will not reduce the parking spaces required for the principal use, or create a traffic or pedestrian hazard
 - a. Chantable or other similar dropoff collection stations
 - b. ~~Aluminum can or other similar receiving machines or facilities~~
 - c. Photo pickup stations
 - d. Telephone booths
 - e. Automatic teller machines (ATM's).

- f. ~~Other similar uses which do not interfere with the normal functioning, use of the parking lot~~

Sec. 34-2020. Required spaces.

All uses permitted under this chapter ~~shall be~~ are subject to the following minimum requirements

- (1) ~~Dwelling, housing and Irving 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 shall must be provided~~ to accommodate guest parking.

- a. ~~Single-family, duplex, two-family attached and mobile home units~~ The minimum requirement is 2.0 spaces for each dwelling unit. ~~Stacking of vehicles in the driveway is permitted~~

- b. ~~Townhouses.~~ Minimum requirements are as follows

1. ~~For townhouses with individual parking driveways on each lot, 2.0 spaces per dwelling unit. stacking of vehicles in the driveway is permitted.~~
2. For townhouses sharing a common parking lot, 2.0 spaces per dwelling unit. ~~Stacking of vehicles in the driveway is not permitted~~

- c. ~~Multiple-family buildings. Stacking of vehicles is not permitted~~ Minimum requirements are as follows

1. Studio or efficiency 1.25 spaces per unit.
2. One bedroom: 1.5 spaces per unit
3. Two bedrooms 1.75 spaces per unit
4. Three or more bedrooms 2.0 spaces per unit

- d. ~~Adult congregate living facility. See section 34-1411. Assisted Living Facilities (Sec 34-141.1), Continuing Care Facilities (Sec 34-1414), Health Care facilities - Groups I & II (Sec 34-622(c)(20), Social Services - Groups III and IV (Sec 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 unified control 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 unified control 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 ~~Group quarters, excluding adult-congregate living facilities- living units subject to section 34-2020~~ minimum requirement is one parking space per bedroom or one space per two beds, whichever is greater.
- f ~~Hotels and motels~~ See division 19 of this article
- g ~~Health care facilities groups I and II, social services groups III and IV~~ The minimum requirement is one space per four beds.
- h ~~Continuing care facilities~~ The minimum requirement is 0.75 space per one-bedroom living unit and 0.875 space per two-bedroom living unit. Requirements for adult-congregate living facility units and health care facilities shall be calculated as provided in subsections (1)d and g of this section.

(2) Commercial uses.

- a **Animal clinics.** The minimum requirement is five spaces per veterinarian plus one space per employee
- b **Animal kennels** The minimum requirement is five spaces
- c. **Automotive repair and service, automotive service stations.** The minimum requirement is four spaces per service stall plus one space per employee.
- d. **Banks and financial establishments.** The minimum requirement is one space per 300 square feet of total floor area See also subsection (2)h of this section pertaining to drive-up facilities
- e. **Bars and cocktail lounges, nightclubs** The minimum requirement is 21 spaces per 1,000 square feet of total floor area. See also subsection (2)i of this section, pertaining to restaurants, and subsection (5) of this section.
- f. **Barbershops, beauty shops, etc** The minimum requirement is three spaces per operator (chair) or one space per 100 square feet of gross floor area, whichever is greater, with a minimum of five spaces
- g **Carwashes.** The minimum requirement is two spaces per car wash stall or space, plus drive-up facilities (see subsection (2)h of this section). Each individual car wash stall or space may count as one of the required two parking spaces per stall.
- h. **Drive-up facilities** Any commercial establishment providing drive-up service windows or stalls must provide separate vehicle stacking for those uses For the purpose of this section, a stacking unit is defined as 18 feet in length and nine feet in width The total number of stacking units required will be based on the type of business, as follows
 1. **Banks and financial establishments:** Stacking lanes to accommodate five cars per window
 - 2 **Car wash.** Stacking to accommodate one car per service stall or five cars, whichever is greater
 3. **Restaurants.** Stacking lanes to accommodate ten cars per service lane, with a minimum of five spaces preceding the menu board

4 Other:

- i. ~~Photo dropoff, laundry dropoff~~ or other similar type dropoff facilities Stacking for three cars
 - ii. All other. Stacking to accommodate five cars per service lane
 - i. **Funeral homes.** There ~~shall must be provided~~ at least one parking space for each four seats, or four spaces per 25 square feet of chapel area, whichever is greater (See subsection (7) of this section)
 - j. **Offices, excluding medical** This category includes offices of all types not specifically listed elsewhere, including but not limited to business services group I, contractors and builders, Insurance companies, nonstore retailers, personal services group IV, social services group I, and other similar offices The minimum requirement is one space per 300 square feet of total floor area
 - k. **Offices, medical and health care facilities group III.** The minimum requirement is one space per 200 square feet of total floor area
 - l. **Restaurants/bakeries.** When a store such as a bakery provides seating for customers to eat the bakery products made on the premises, the store must provide a minimum of one parking space per table or ~~or 50 square feet of seating area one space per four seats, (whichever is greater),~~ in addition to the parking required for the bakery.
 - m. **Retail or business establishments, freestanding.** This subsection applies to individual retail or business establishments on separate parcels The minimum number of parking spaces required ~~shall will~~ be as specified in this subsection, but in no case ~~shall may~~ be less than five spaces. ~~Any R-retail establishments proposing drive-up facilities shall must~~ also meet the requirements of subsection (2)h of this section.
-
- 1. **Building materials and sales (retail).** The minimum requirement is one space per 300 square feet of indoor sales and office area, plus one space per employee.
 - 2. **Small products or commodities.** This category includes stores specializing primarily in small (hand held) products, and is intended to include convenience stores; clothing stores; department stores; drugstores; food stores; hardware stores; hobby, toy and game shops; package stores; personal services groups I and II (excluding barbershops and beauty shops and health clubs and spas which are listed separately), specialty retail shops groups I, II and III; used merchandise stores group I; variety stores, and other similar type stores The minimum parking requirement is one space for each 200 square feet of total floor area Required parking for areas within the principal building which are used only for dead storage and are not available to the public ~~shall will~~ be computed at the rate of one space per 600 square feet.
 - 3. **Large products or commodities** This category includes stores specializing in large products, ~~and is intended to include auto or boat parts, household/office furnishings groups I and II part, glass and wallpaper, specialty retail stores group IV, used merchandise stores groups II and III, vehicle and equipment dealers group II, and other similar type establishments.~~ The minimum parking requirement is one space for each 400 square feet of total floor area. Required parking for areas within the principal building which are used only for dead storage and are not available to the public ~~shall will~~ be computed at the rate of one space per 1,000 square feet of dead storage

- 4 **Very large products or commodities.** This category includes establishments specializing in very large products, and is intended to include household/office furnishings group III, mobile home dealers, used merchandise stores group IV, vehicle and equipment dealers groups I, III, IV and V; and other similar very large products. The minimum parking requirement is one space for each 500 square feet of total floor area, plus one space per 1,500 square feet of outdoor area used for sales or display.

n Schools and studios, commercial

1. **Schools, commercial** The minimum requirement is one space per employee plus two spaces per 100 square feet of classroom floor area.
2. **Studios** The minimum requirement is one space per 300 square feet of total floor area.

(3) Commercial/Industrial uses

- a. **Manufacturing** The minimum requirement is one space per employee, based upon the largest shift. If there is more than one shift, 1 1/2 spaces per employee shall must be provided based upon the largest shift. Five additional spaces shall must be provided for customers.
- b. **Processing and warehousing** The parking requirement is the same as required for manufacturing.
- c. **Services not listed elsewhere.** This category is intended for those service-oriented businesses which do not normally generate customer traffic but often maintain a fleet of company vehicles. Uses include business services group II; cleaning and maintenance services, contractors and builders, essential service facilities service centers, and repair shops groups I, III and IV. The minimum parking requirement is three spaces, plus parking for company vehicles and employee parking.
- d. **Terminal, freight.** The minimum requirement is one space for each 2,000 square feet of total floor area, with a minimum of five spaces.
- e. **Warehousing, private.** The minimum requirement is one space for each 2,000 square feet of total floor area, with a minimum of five spaces.
- f. **Warehousing, public.** The minimum requirement is one space per 1,000 square feet of total floor area, with a minimum of five spaces.
- g. **Warehousing, mini-warehouses.** The minimum requirement is one space per ten storage cubicles, with a minimum of five spaces.
- h. **Wholesale establishments** The minimum requirement is one space per company vehicle plus one space per 1,000 square feet of total floor area.

(4) Miscellaneous uses.

- a. **Airports, landing strips and heliports** The required minimum number of parking spaces for these facilities will be determined by the director.
- b. **Boat ramps** For each boat ramp facility, there must be a minimum of ten parking spaces with

dimensions of ten feet ~~wide~~ by 40 feet long to accommodate a vehicle and boat trailer.

- c. Bowling alleys The minimum requirement is six spaces for each lane, plus additional spaces for ancillary uses (see subsection (5) of this section).
- d. ~~Clubs; fraternal or membership organizations. The minimum requirement is one space per 300 square feet of total floor area, or one space for each four seats, whichever is greater. (See subsection (7) of this section.)~~ See Meeting Halls
- e. **Day care centers.** The minimum requirement is two spaces per employee in addition to adequate and safe provisions for loading and unloading of clients
- f. **Educational institutions, including public, private and parochial.**
 - 1. **Public schools** Parking must be provided in compliance with state law
 - 2. **Private or parochial schools**
 - i. **Elementary and middle schools** The minimum requirement is one space per employee plus one space for every 40 students.
 - ii. **High schools** The minimum requirement is one space per employee plus one space for every ten students.
 - iii. **Colleges, universities and trade and vocational institutions** The minimum requirement is one space per employee plus sufficient space for student parking as the director deems necessary

Where public use of an auditorium or other place of assembly within a school is likely, an additional one space for every six seats must be provided
- g. **Essential service facilities** The minimum requirement is one space per employee on the largest shift.
- h. **Golf courses** The minimum requirement is six spaces per hole (see subsection (5) of this section) However, where restaurants are made an integral part of the golf course facility, additional parking for the restaurant, in accordance with subsection (2) 2 of this section, will be required only to the extent that the parking requirement for the restaurant exceeds the parking requirement for the golf course.
- i. **Hospitals (health care facilities group IV)** The minimum requirement is one space per bed, excluding bassinets and gurneys, plus one space per employee on the largest shift
- j. **Marinas and other water-oriented uses** Minimum requirements are as follows:
 - 1. Boat slips Two spaces per three slips
 - 2. Boatramps See subsection (4)b of this section
 - 3. Dry storage One space per four unit stalls
 - 4. Charter or party fishing boat services One space per three people based on maximum passenger capacity of the boats using the dock or loading facility.

5. *Local Cruise ships* One space per two people based on the maximum passenger and crew capacity of the ship ~~Local cruise ships are ships which usually leave port and return in less than 24 hours and which usually provide at least one meal, gambling or other entertainment for customers.~~
6. *International Cruise ships*: One space per three people based on the maximum passenger and crew ~~capacity of the ship~~ Internabonal cruise shrps are ships which usually leave port for 24 hours or more and which provide meals, sleeping accommodations, gambling or other entertainment for customers
- 7 Other uses Refer to subsection (5) of this section

k *Meeting Halls and other places for group assembly not otherwise listed* The minimum requirement ~~is one space per 100 square feet of floor area (for facilities with fixed seats. refer to Recreation Facilities, Indoor)~~

k-l *Miniature golf* The minimum requirrement is ~~two~~ spaces per hole for the first ~~nine~~ holes, plus one space per ~~hole~~ for each hole in excess of ~~nine~~ holes

m *Museums, art galleries, libraries and other similar uses not covered elsewhere* The minimum requirement ~~is one parking space for each 300 square feet of total floor area~~

n *Places of worship and religious facilities*. Refer to division 27 of this article.

no *Recreation facilities, indoor, commercial*

1. *Gymnasiums, skabna nnks, health clubs and similar type recreational establishments wherein large floor areas are required for equipment for individual users or for team sports activities (basketball, hockey, etc)* The minimum reaurrement is one parking space for each 250 square feet of total floor area ~~plus one space per four seats if seatina is provided (see section 34-2020(7) for bench seatina)~~

2. *All other* ~~The minimum requirement is one parking space for each 100 square feet of total floor area~~

np *Recreation facilities, outdoor, commercial*. The parking requirement shall will be determined by the director if the use is not listed in this section

og *Tennis courts, commercial* The muumum requirement is five spaces per court plus one space per three spectator seats (See subsection (7) of this section.)

pr *Theaters, auditoriums, stadia, arenas and other similar places of group public assembly with fixed seats, museums, art galleries, libraries and other similar uses not covered elsewhere.* - uses, there shall be provided either one parking space for each 300 square feet of total floor area; - The minimum reauirement is one parking space for each four seats, ~~whichever of the two is greater.~~ (See subsection (7) of this section)

qs *Flea markets* ~~The minimum requirement is one space per 100 square feet of display area~~

ri *Carnivals, fairs and amusement attractions and devices*

1. ~~There shall be provided a~~ The minimum reaurrement is of ten parking spaces provided for each amusement device.

- 2 ~~If such the~~ uses are located in an existing parking lot, the parking lot must have enough spaces to comply With the minimum requirements for both the principal use and the carnival, fair or amusement attraction or device Prior to obtaining a temporary use permit (see division 37 of this article) for me temporary use of a parking lot for a carnival, fair or amusement attraction or device, the applicant ~~shall~~ must submit a site plan showing that there will be no net loss or reduction in the number of parking spaces required for any existing principal use ~~which that~~ relies on the parking lot
 - 3 ~~Such The~~ uses may not be located in an existing parking lot ~~which that~~ is already nonconforming as to the number of spaces needed for the existing uses.
- (5) *Combined uses* The number of parking spaces required for combined uses ~~shall be~~ is the total of the spaces required for each separate use established by this schedule, except as provided in section 34-2018 and as follows provided for in this section.
- a- *Multiple-occupancy complexes.* This subsection applies to shopping centers and other complexes where five or more individual office or retail establishments are located and which all share a common parking area. Specifically excluded from this subsection are: (i) theaters located outside of shopping centers or in shopping centers smaller than 100,000 square feet, (ii) bowling alleys, and (iii) bars and cock-m!! lounges and restaurants located outside of shopping centers or in shopping centers smaller than 50,000 square feet. Minimum requirements are as follows
- 1 Total floor area 25,000 square feet or less: Four spaces per 1,000 square feet (or major fraction thereof) of total floor area.
 - 2 Total floor area 25,000 square feet but less than 600,000 square feet. 4 ½ spaces per 1,000 square feet (or major fraction thereof) of total floor area.
 - 3 Total floor area of 600,000 square feet or more' Five spaces per 1,000 square feet (or major fraction thereof) of total floor area
- ~~b- *Planned developments* The Board of County Commissioners is hereby authorized to may permit deviations in parking requirements within planned developments when specifically requested, and when the applicant demonstrates to the satisfaction of the Board of County Commissioners that sufficient parking will be provided for the uses proposed. An example s of situations where reduced parking may be warranted includes but are is not limited to~~
- ~~1 Places of public assembly which will not normally be used to full capacity except for special events, if satisfactory arrangements have been made to accommodate patron parking elsewhere~~
 - ~~2. Developments which combine residential dwellings with golf courses or other private recreational facilities~~
 - ~~3. Hotels and motels which combine sleeping quarters with restaurant or convention (meeting) facilities.~~
- (6) Uses not specifically listed Requirements of off-street parking for uses not specifically mentioned in this chapter ~~shall must~~ be the same as for the uses most similar to the one sought, it being the intent to require all uses to provide off-street parking
- (7) *Bench and pew seating* In stadiums, sports arenas, churches and other places of public assembly in which where occupants utilize benches, pews or other similar seating arrangements, each 24 lineal inches of such seating facilities shall will be counted as one seat for the purpose of computing off-street

parking requirements

Sec. 34-2021. Exception for fast order food establishments located in multiple use complex.

A fast order food establishment which is part of the principal building, located within a multiple use complex which exceeds &g 600,000 square feet of total floor area; building, and with no drive-up facilities, shall will not be required to provide additional parking spaces.

DIVISION 37. SUBORDINATE AND TEMPORARY USES

Sec. 34-3046. Temporary use of mobile home.

(a) *Rehabilitation or construction of residence following disaster.*

(1) ~~When If fire or natural or human-caused disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home, travel trailer or park-trailer located on the single-family lot during rehabilitation of the original residence or construction of a new residence may be permitted subject to the regulations set out in this section.~~

(2) The maximum ~~length~~ duration of the use ~~shall be is eighteen months or 540 days after the date the President of the United States issues a disaster declaration. If no disaster declaration is issued, then the maximum duration of the use is six months, but the director may extend the permit once for a period not to exceed 60 days in the event of circumstances beyond the owner's control. Application for an extension shall must be made at least 15 days prior to expiration of the original permit. Additional extensions may only be allowed granted only by the board of zoning adjustments. Hearing Examiner approval.~~

(b) *Rehabilitation or construction of a damaged business. commercial or industrial uses following disaster*

(1) ~~Business, commercial or industrial uses, damaged by a major or catastrophic disaster necessary for the public health and safety or may will aid in restoring the community's economic base may be permitted to use a mobile home or similar type structure to carry out their activities until the damaged structure(s) is rebuilt or replaced according to applicable development or redevelopment regulations.~~

(2) ~~The maximum duration of the temporary use is nine months or 270 days after the date the President of the United States issues a disaster declaration. If no disaster declaration is issued, then the maximum duration of the use is six months. The director may extend the permit once for a period not to exceed 60 days in the event of circumstances beyond the owner's control. Application for an extension must be made prior to expiration of the original permit. Additional extensions may be granted only by Hearing Examiner approval.~~

(4 c) *Construction of residence in AG district*

(1) A temporary mobile home may be permitted to be emplaced on a lot during construction of a conventional single-family dwelling in the agricultural district.

(2) The mobile home shall must be removed from the property within ten days of the issuance of the certificate of occupancy, or expiration of the building permit for the conventional dwelling, whichever occurs first.

(e d) *Conditions for use.*

(1) Required water and sanitary facilities must be provided.

- (2) The mobile home, travel trailer or park trailer shall must be removed from the property within ten days of the issuance of after the certificate of occupancy is issued for the new or rehabilitated residence, business, commercial or industrial use or upon expiration of the temporary use permit, whichever occurs first
- (3) Placement or setting of the mobile home, travel trailer or park trailer shall must adhere to comply with chapter 6, article IV, pertaining to floodplain management

DIVISION 38 UNITS OF HIGH IMPACT RESERVED

Sec. 34-3071. Applicability of division:

~~— This division shall apply to all structures containing one or more units of high impact as defined in section 34-2.~~

Sec. 34-3072. Purpose of division:

~~— The purpose of this division is to regulate units of high impact and to provide reasonable regulations which are related to the impacts such units have on roads, commercial establishments, recreational facilities and sanitation facilities.~~

Sec. 34-3073. Conversions of dwelling or rooming units:

~~— (a) Conversions to constitute change in use. Any conversion of a dwelling unit or rooming unit to a units of high impact constitutes a change of use and shall conform to the requirements of this chapter, in addition to any other county ordinances and regulations governing such use.~~

~~— (b) Minimum requirements. No development involving the conversion of an existing dwelling unit or rooming unit to a of high impact shall be permitted unless:~~

~~— (1) The dwelling unit or rooming unit is located in a zoning district which permits units of high impact.~~

~~— (2) The conversion complies with the prescribed density range for the land use category the conversion is located in.~~

Sec. 34-3074. Sale of timeshare units:

~~— The sale of timeshare units may be conducted on the premises within a sales office or within model units subject to the following restrictions:~~

~~— (1) Model units shall be limited to one of each type of different unit that is being marketed by the development. Models shall display only those units available on the site. Division 24 of this article must be complied with.~~

~~— (2) Sales activities shall be limited to only those units contained within the project site.~~

~~— (3) Sales activities shall be conducted on the site and within the sales office or model units so as not to be noticeable from the outside, except for permitted graphics.~~

~~— (4) No other commercial activities shall be conducted on the site except as may be permitted by the district regulations.~~

ARTICLE VIII. NONCONFORMITIES

DIVISION 4 NONCONFORMING LOTS

Sec. 34-3273. Construction of single-family residence.

(a) A single-family residence may be constructed on a lot of record which does not comply with the density requirements of the Lee Plan, provided the owner receives a favorable single-family residence determination in accordance with the Lee Plan

~~A lot or parcel that qualifies under the single-family residence provision of the Lee Plan will be exempt from the minimum lot area and minimum lot dimension requirements of this chapter, and it will not be necessary to obtain a variance from those requirements. Other property development regulations, such as setbacks, height, lot coverage, etc., applicable to a lot or parcel that qualifies under the single-family residence provisions are those specified in this chapter for the RS or AG category whose minimum lot size is the closest to the size of the subject parcel. A lot or parcel which conforms to the density provisions of the Lee Plan will not be eligible for this exemption.~~

(b) A single-family residence may be constructed on a lot of record which does comply with the density requirements of the Lee Plan, as long as the lot was lawfully created prior to June 1962 and the following conditions are met:

- (1) Lots existing in the AG-2 or AG-3 zoning district require a minimum width of 7.5 feet, a minimum depth of 100 feet and a lot area not less than 7,500 square feet
- (2) Lots existing in any other zoning district which permits the construction of a single-family residence require a minimum of 40 feet in width and 75 feet in depth, and a lot area not less than 4,000 square feet.
- (3) The use of lot of record for residential use other than a single-family dwelling unit is prohibited except in compliance with the lot width, lot depth, lot area, and density requirements for the zoning district
- (4) Neither a guest house nor servants' quarters is permitted on a single lot of record less than 7,500 square feet in area, or which is occupied by a dwelling unit or units other than one single-family residence.

(c) A single-family residence may be constructed on a lot which complies with the density requirements of the Lee Plan, as long as the lot is part of a plat approved by the Board of County Commissioners and lawfully recorded in the public records of the county after June 1962.

~~(d) Minimum setbacks for structures are as follows~~

- 1 Street setbacks must be in accordance with the regulations for the applicable zoning district.
- 2 Side setbacks must be 10 percent of lot width, or 5 feet, whichever is greater.
3. Rear setbacks must be one-fourth of the lot depth but do not need to be greater than 20 feet

SECTION SIX: 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 SEVEN : SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such portion will be deemed a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioner further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION EIGHT : CODIFICATION AND SCRIVENER'S ERRORS

The Board of County Commissioners intend that this ordinance will be made part of the Lee County Land Development Code, and that sections of this ordinance can be renumbered or relettered and that the word "ordnance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

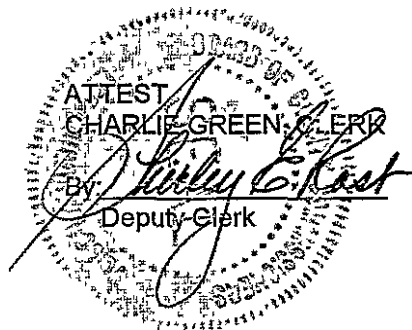
SECTION NINE : EFFECTIVE DATE

The ordinance, if adopted by the Board at this meeting, will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

THE FOREGOING ORDINANCE was offered by Commissioner John E. Manning, who moved its adoption. The motion was seconded by Commissioner Andrew W. Coy and, being put to a vote, the vote was as follows:

JOHN E. MANNING	AYE
DOUGLAS ST. CERNY	AYE
RAY JUDAH	ABSENT
ANDREW W. COY	AYE
JOHN E. ALBION	AYE

DULY PASSED AND ADOPTED THIS 18th day of September, 1996.



BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____

APPROVED AS TO FORM

By: _____

Office of County Attorney