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- Text that is proposed to be deleted is shown with ~~strike-through~~ formatting.
 - Text that is proposed to be added is shown with underline formatting.
 - Text that is proposed to be relocated is shown with strike-through formatting where it is being relocated from and double-underline formatting in the location where it is being relocated.
 - If portions of text being relocated are being deleted, it is shown with both ~~double underline and strike through formatting~~ to show context.
 - Staff notes are provided in **red**.
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Chapter 2 - ADMINISTRATION

ARTICLE IV. - BONUS DENSITY

DIVISION 1. GENERALLY

Sec. 2-143. Definitions.

Staff Note: Update terminology to reflect Lee Plan amendments.

Affordable Housing through Future Land Use Map remains unchanged.

Greater Pine Island TDU means a transfer of development unit generated from sending lands within the ~~Greater Pine Island Community Plan area~~ Planning District, and which may include wetlands, unimproved uplands, and/or improved uplands in accordance with these provisions.

Low Income through Sever remain unchanged.

Southeast Lee County TDU means a transfer of development unit generated from sending lands within the Southeast Lee County ~~Community Plan area~~ Planning District, and which may include preserved or restored wetlands, unimproved uplands, and/or improved uplands in accordance with these provisions.

Standard Density Range through Water Body, Natural remain unchanged.

Wetland TDU means a Transferable Development Unit generated from sending lands designated as wetlands, outside of the ~~Greater Pine Island or Southeast Lee County Community Plan areas~~ Planning Districts, which are preserved or restored in accordance with this article.

Wetlands through Work Force Income remain unchanged.

DIVISION 2. - BONUS DENSITY PROGRAM

Sec. 2-146. Minimum requirements.

Staff note: Update terminology to reflect Lee Plan amendments.

(a) through (c) remain unchanged

(d) The barrier and coastal islands, including, but not limited to, Gasparilla Island, Cayo Costa, North Captiva, Captiva Island, Buck Key, and Black Island are not eligible to receive bonus density, with the following exceptions:

- (1) Only the portion of ~~Greater Pine Island~~ defined in the Lee Plan as Pine Island Center is eligible to receive Greater Pine Island TDUs subject to this article and the Lee Plan. Suburban designated lands within the ~~Greater Pine Island Community Plan Area~~ are not eligible receiving lands for any TDUs.

- (2) *remains unchanged.*
- (e) TDUs may not be utilized on property located within the coastal high hazard area as defined in Section 2-483 or located within Bayshore, ~~Buckingham~~, Caloosahatchee Shores, or Northeast Lee County Planning Districts, or the Rural Community Preserve Future Land Use Category Community Plan Areas. Within the Southeast Lee County Planning District Community Plan Area, TDUs may only be used as described in Section 2-154.

DIVISION 3. CREATION OF TRANSFERABLE DEVELOPMENT UNITS

Sec. 2-148. Establishment of Transfer of Development Rights Program.

- (a) The Transfer of Development Rights Program provides that a TDU may be established from property that:
- (1) *through (2) remain unchanged.*
- (3) Is located within the ~~Greater Pine Island Community Plan Area~~ Planning District; or
- (4) Is designated as Density Reduction/Groundwater Resource (DR/GR) by the Lee Plan and is within the Southeast Lee County ~~Community Plan Area~~ Planning District.

Remainder of Section is unchanged.

Sec. 2-149. Computation of Wetland TDUs.

- (a) Units of measure of Wetland TDUs, which are generated from wetlands outside of the ~~Greater Pine Island or Southeast Lee County Community Plan areas~~ Planning Districts are hereby established at one TDU per five acres of wetlands. The County will not recognize TDUs smaller than one-tenth unit. The following table sets forth equivalent TDUs for various acreages or portions of an acre:

Remainder of Section is unchanged.

Sec. 2-152. Density and intensity equivalents of Greater Pine Island TDUs.

- (a) The residential ratios for Greater Pine Island TDUs are as follows:
- (1) One Greater Pine Island TDU will be equal to two dwelling units when transferred to receiving lands outside of the ~~Greater Pine Island Planning District Community Plan Area~~;
- (2) *remains unchanged.*
- (b) The nonresidential ratios for Greater Pine Island TDUs are as follows:
- (1) *remains unchanged.*
- (2) The use of Greater Pine Island TDUs to increase commercial intensity is permitted within the Intensive Development, Central Urban and Urban Community future land use categories that are not located within the ~~Greater Pine Island Planning District Community Plan Area~~.

ARTICLE VIII. CERTIFIED RECOVERY RESIDENCES RESERVED.

Sec. 2-440. - Reasonable accommodation requests.

Staff note: Add process for reasonable accommodation for recovery residences as required by Florida Statutes.

- (a) Purpose and Applicability. The purpose of this section is to establish procedures for review and approval of reasonable accommodation requests to County land use and zoning ordinances, rules, regulations, policies, and procedures that may prohibit establishment of certified recovery residences pursuant to Section 397.487, Florida Statutes.

(b) *Application Procedure.* A request for reasonable accommodation shall be made to the Department of Community Development by an Applicant. An application for reasonable accommodation must, at a minimum, provide the following:

- (1) Name and contact information of the Applicant or the Applicant's authorized representative;
- (2) Property address and parcel identification number of where the reasonable accommodation is being requested. If the Applicant is not the owner of the property, then the contact information for the owner and an owner's authorization form is also required;
- (3) A description of the accommodation needed, identifying the ordinances, rules, regulations or policies from which the Applicant is requesting a reasonable accommodation and why the requested accommodation is necessary;
- (4) Signature of the Applicant and date;
- (5) Any additional information or documents the Applicant feels is necessary to supplement the request for reasonable accommodation.

The Department of Community Development will date-stamp the application upon receipt and notify the applicant, in writing, within thirty (30) days if additional information is required. The Applicant must provide the additional information within thirty (30) days. Failure of the Applicant to provide a response within thirty (30) days will result in the application being withdrawn, unless the applicant requests an extension of time in writing.

(c) *Review and Determination.* Within sixty (60) days of receiving a completed application, the Director, or designee, shall review the request for reasonable accommodation and make a determination consistent with the FHA and/or ADA, and Florida Statutes. The Director, or designee, will make the determination, in writing, to:

- (1) Approve the reasonable accommodation request in whole or in part, with or without conditions; or
- (2) Deny the reasonable accommodation request, in accordance with state and federal law, and state the objective evidence-based reasons for denial and identify any deficiencies or actions necessary for reconsideration.

If the written determination is not issued within sixty (60) days after receipt of the completed application, the reasonable accommodation request is deemed approved unless the parties agree in writing to a reasonable extension of time.

(d) *No Fee.* There shall be no fee imposed by the County for the reasonable accommodation request process outlined in this section.

(e) *Revocation.* A reasonable accommodation approval may be revoked by the Director for cause, including, but not limited to, violation or lapse of the conditions of approval or failure to maintain state licensure as a certified recovery residence for more than one hundred eighty (180) days.

Secs. 2-~~441440~~—2-449. - Reserved.

Chapter 10 - DEVELOPMENT STANDARDS

ARTICLE I. IN GENERAL

Sec. 10-7. General requirements.

Staff note: Remove reference to Chapter 33.

(a) through (c) remain unchanged.

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

(e) through (h) re-lettered (d) through (g)

ARTICLE II. ADMINISTRATION
DIVISION 2. DEVELOPMENT ORDERS
Subdivision II. Procedures

Sec. 10-101. Applicability of requirements.

Staff note: Add exception for County facilities.

- (a) *Development orders.* All developments, as defined in this chapter, including subdivisions, are required to obtain a development order prior to commencing any land development activities or receiving any development permit, including a building permit, with the exception of the following, which are not subject to review pursuant to this chapter except as noted herein:
- (1) through (9) remain unchanged.*
- (10) Mine Excavation Planned Developments (or existing mines as defined in Section 12-121) issued in accordance with Chapter 12; ~~and~~:
- (11) County facilities (as defined in Section 34-2) approved by the Board of County Commissioners.

ARTICLE III. - DESIGN STANDARDS AND REQUIREMENTS
DIVISION 3. SURFACE WATER MANAGEMENT

Sec. 10-329. Excavations.

Staff note: Remove need for special exception. Excess spoil removal plans are reviewed and analyzed at time of Development Order.

- (a) *remains unchanged.*
- (b) *Excavation types and required approvals.* Excavation are generally constructed either for mining operations, for stormwater retention or as a development site amenity. Table 1 summarizes the various types of excavations and the permits and approvals required for each excavation type.

TABLE 1. TYPES OF EXCAVATIONS, REGARDLESS OF SIZE, AND THE PERMITS AND APPROVALS REQUIRED FOR EACH EXCAVATION TYPE

<i>Excavation Type</i>	<i>Excavated Materials Destination</i>	<i>Permits/Approvals Required¹</i>
Development project — stormwater retention, i.e., lakes and ponds, etc. where the material to be moved off-site qualifies as excess spoil "Surplus material" or "excess material"	Off-site—Material to be moved off-site is less than 20,000 cubic yards	1. Development Order; 2. SFWMD permit (if applicable); and 3. An approved "Excess Spoil Removal Plan"
	Off-site—Material to be moved off-site is 20,000 or more cubic yards in volume.	1. Development Order; 2. SFWMD permit; and 3. <u>Projects with a Planned Development zoning designation must have excess spoil removal as an approved use.</u> Planned Development Zoning with "excess spoil removal" as an approved use or, in conventional zoning districts

		that permit excavation for water retention, a special exception for excess spoil removal
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¹ General requirements for all excavation activities are specified in Chapter 34, Article VII, Division 15. Where the primary use of the site is related to mine activity, a MEPD approval must be obtained under Chapter 12 prior to removal of materials from the site.

(c) *Procedures.*

(1) through (3) remains unchanged.

(4) *Administrative approval of an Excess Spoil Removal Plan.*

a. remains unchanged.

b. *Excess Spoil Removal Plan.*

- i. Any applicant requesting administrative approval to remove excavated material to an off-site location must submit an Excess Spoil Removal Plan with the Development Order application, so as to provide the Director of Development Services sufficient information to determine whether off-site hauling may be approved administratively or if a public hearing will be required.
- ii. No changes.

Remainder of Section is unchanged.

DIVISION 4. UTILITIES

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

Staff note: Remove outdated references to Compact PD/Chapter 32.

(a) through (f) remain unchanged.

~~(g) *Compact PD.* In compact communities regulated by Chapter 32, the rights-of-way of local streets are the preferred location for wet utility lines such as water and wastewater. Alleys or lanes are the preferred location for dry utility lines such as electricity, telephone, and cable television. The proposed location of all utilities in compact communities must be shown on development order plans.~~

DIVISION 6. - OPEN SPACE, BUFFERING AND LANDSCAPING

Sec. 10-416. Landscape standards.

Staff note: Remove reference to Greater Pine Island Community Plan area and revise section for clarity. Add new subsection (12) to remove requirements between nonresidential uses within the same planned development.

Subsections (a) through (c) remain unchanged.

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

(1) through (8) remain unchanged.

- (9) *Development abutting natural waterway.* ~~Except where Chapter 33 provides a stricter standard for Greater Pine Island (as defined in Goal 24 of the Lee Plan and in Section 33-1002), there There must be~~

a 50-foot-wide vegetative buffer landward of non-seawalled natural waterways as measured from the mean high water line or top of bank, whichever is further landward.

a. through b. remain unchanged.

c. The natural waterway buffer must be designed to incorporate the natural resources maintenance easement required under Section 10-328(a). Vegetation removal within the buffer is limited to:

1. through 3. remain unchanged.

~~4. Prior to removal of native vegetation, approval must be obtained from ES staff.~~

(10) and (11) remain unchanged.

(12) Internal buffers between non-residential uses within the same Planned Development are not required to provide buffers between internal uses.

~~Sec. 10-424. Landscape requirements for specific uses.~~

Staff note: Delete section. No requirements are provided, only unnecessary cross-references.

~~(a) The following uses require landscaping or screening beyond the minimum standard requirements:~~

~~(1) Recreational vehicle planned developments, Section 34-939(a)(3).~~

~~(2) Private recreational facilities planned developments, Section 34-941.~~

~~(3) Display, sale, rental or storage facilities for motor vehicles, boats, recreational vehicles, trailers, mobile homes or equipment, Section 34-1352.~~

~~(4) Convenience food and beverage stores, automobile service stations, fast food restaurants, and car washes, Section 34-1353.~~

~~(5) Wireless communications facilities, Section 34-1447(c)(4)(c).~~

~~(6) Essential services and facilities, Section 34-1616(b).~~

~~(7) Mining, Chapter 12.~~

~~(8) Residential project walls, Section 34-1743(b)(3).~~

~~(9) Open storage, Section 34-3005(b)(1).~~

~~(10) San Carlos Island Redevelopment Overlay Districts, Chapter 33.~~

~~Sec. 10-424~~25. Open space and landscape requirements in the Mixed-Use Overlay.****

Staff note: Remove cross reference to deleted Chapter and Section and update language as necessary.

Properties located within the Mixed-Use Overlay as delineated on Map 1-C of the Lee Plan and described in Objective 11.2 must provide the following minimum open space and landscape requirements. Open space and landscape requirements specific to certain uses, as set forth in Chapter 34, must be provided. ~~The landscape requirements for specific uses identified in Section 10-424 must be provided.~~

(a) *Open space.* Large developments must provide a minimum of 20 percent open space and small developments must provide a minimum of ten percent open space ~~with the following exceptions:~~

~~(1) Planning communities governed by Chapter 33; and~~

~~(2) Open space requirements may be except if reduced through the use of Greater Pine Island Transfer of Development Units (TDUs) in accordance with Chapter 2.~~

(b) through (f) remain unchanged.

~~Secs. 10-425—10-440. Reserved.~~

DIVISION 10. - RESERVED.~~LAKES PARK REGIONAL WATERSHED~~

Staff note: Eliminate requirements for Lakes Park Regional Watershed, which is no longer consistent with the Florida stormwater rule. The Lakes Park watershed is no longer defined as a critical watershed by the Lee Plan.

~~Sec. 10-531. Findings of fact.~~

The Board of County Commissioners finds the following facts to be true:-

- (1) That the County has created for the benefit of the peoples of the County and Southwest Florida the Lakes Regional Park as a water-oriented recreational resource;-
- (2) That the lakes within the Lakes Regional Park are a series of manmade water bodies which are the result of previous rock mining operations, the only sources of water for these lakes being rainwater and surface runoff;-
- (3) That the watershed of the Lakes Regional Park, as described and delineated in Exhibits A and B to Ordinance No. 85-46, codified in this division, which are on file in the office of the County Department of Public Resources, is characterized by increased urbanization;-
- (4) That the County Health Department and the Division of Environmental Services have concluded that the urbanization and attendant land uses within the watershed of the Lakes Regional Park affect the quality of water in the Lakes Regional Park via surface water runoff and groundwater movement;-
- (5) That the Board agrees with the conclusions of the County Health Department and the Division of Environmental Services; and-
- (6) That the potential exists for the degradation of surface water and groundwater quality within the Lakes Regional Park Watershed as a result of pollutants contained in urban runoff.-

~~Sec. 10-532. Intent.~~

The intent and purpose of this division is to protect the public health, safety and welfare of the residents of the County by requiring all development within the Lakes Regional Park Watershed to meet the development criteria contained in this division, thereby protecting, preserving and enhancing the water quality of the Lakes Regional Park and its watershed.-

~~Sec. 10-534. Penalty for violation.~~

Any person who violates any provision of this division shall, upon conviction, be punished as provided in Section 1-5. Such person also shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.-

~~Sec. 10-535. Additional remedies.~~

In addition to any criminal penalties which may be imposed pursuant to Section 10-534, the Board of County Commissioners and any of its employees to whom the Board may have entrusted responsibility, either in whole or in part, for compliance with this division, or for the operation of the Lakes Regional Park, shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this division, including injunctive relief to enjoin and restrain any person from violating this division.-

~~Sec. 10-536. Conflicting provisions.~~

Whenever the requirements or provisions of this division are in conflict with the requirements or provisions of any other lawfully adopted ordinance, the most restrictive requirements shall apply.-

~~Sec. 10-537. Compliance; notice of violation.~~

- (a) It is a violation of this division to commence any development within the watershed without first obtaining all necessary development permits.-
- (b) Any violations, either during or after construction, of the requirements of this division, including the minimum standards for surface water runoff quality, shall require that construction of the development be halted or that the discharge of water from the site cease until the violation has been corrected.-
- (c) Whenever it is determined that there is a violation of this division, a notice of violation shall be issued and sent, by whatever reasonable method seems most likely to ensure that the notice is received, to the person committing the violation. The notice of violation issued shall:-
 - (1) Be in writing;-
 - (2) Be dated and signed by the authorized County agent issuing the notice;-
 - (3) Specify the violation;-
 - (4) State that the violation shall be corrected within ten days of date of notice of violation; and-
 - (5) State that, if the violation is not corrected by the specified date, civil and criminal proceedings may be commenced.-

~~Sec. 10-538. 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 Chapter 34.~~

~~Sec. 10-539. Delineation of watershed.~~

~~The lands which comprise the Lakes Regional Park Watershed and which shall be subject to the provisions of this division are described in Exhibit A and delineated in Exhibit B attached to Ordinance No. 85-46, codified in this division, which are made a part of this division by reference.~~

~~Sec. 10-540. Surface water management permit required; development standards.~~

- ~~(a) In order to protect and maintain the quality of water in the Lakes Regional Park as per standards established in and applicable State rules and to ensure that waters discharged in the watershed area do not exceed those levels, all development within the watershed must obtain a surface water management permit from the South Florida Water Management District pursuant to F.S. Ch. 373 and F.A.C. Ch. 40E-4.~~
- ~~(b) In those areas within the watershed where a public sewer system is in operation, all new development within one-quarter mile of the system must connect to it.~~
- ~~(c) Underground stormwater detention/retention systems are prohibited within the watershed.~~
- ~~(d) On-site drainage detention/retention areas must meet the following additional requirements:~~
 - ~~(1) Bulkheads are limited to 40 percent of the length of the shoreline with compensating littoral zone provided.~~
 - ~~(2) A minimum of 25 percent of the detention/retention pond must have a bottom elevation no deeper than two feet below the control elevation. This area must be immediately upstream from the control elevation and planted with appropriate aquatic vegetation which will aid in the polishing or settling of runoff.~~
 - ~~(3) Special treatment systems such as storage tanks, traps or other devices meeting best management standards must be installed to prohibit any grease, emulsifiers, lubricants, cleaners, oxidizing agents, solvents, flammable gas and other contaminants from entering the storm drainage system or otherwise leaving the project.~~
- ~~(e) Except for surface water runoff from individual single family residential lots upon which residential structures are built, surface water runoff from any development must be discharged from a single point. The peak discharge for the 25-year three day storm event may be no greater than 102 cf/s/sm. Surface water runoff from developed individual single family residential lots must be by sheet flow leading to an approved common drainage system. If such lots are part of a larger development, the development as a whole must have a single discharge point.~~
- ~~(f) Water quality must be monitored for a period of one year, beginning with the first discharge from the project site, in order to ensure that pollutants will be identified and treated in a timely manner. Such monitoring must meet the following minimum standards:~~
 - ~~(1) Testing of samples must be done by the County Environmental Laboratory, the Natural Resources Division or their designee.~~
 - ~~(2) The cost of testing will be charged to the developer of the property whose surface discharge is being tested, and testing will be required for a period of one year beginning with the first discharge from the project site. Additional phases requiring a development order will require testing for the same time period.~~
 - ~~(3) Monitoring required of developers is confined to points within the development boundaries. If additional sampling is needed in order to assess off-site impacts of a project, such sampling will be conducted by the County Environmental Laboratory, the Natural Resources Division or by their designee.~~
 - ~~(4) Test samples must be taken at least monthly, and monitoring results must be expressed as a monthly average. Monitoring must consist of preliminary sampling of indicator parameters, which may be revised as necessary based on results of the preliminary sampling.~~
 - ~~(5) The rate of discharge at the time of sample collection and the total monthly discharge each month for the period being monitored may be estimated.~~

~~Sec. 10-541. Compliance with water quality requirements; monitoring of water quality.~~

- ~~(a) All development proposals within the watershed shall include a determination during the site plan review process of whether the proposed development will satisfy the minimum water quality standards established by this division. Approval of such site plans shall be conditioned upon the development actually meeting water quality minimum requirements, as measured by subsequent monitoring and testing.~~
- ~~(b) Water quality of surface discharge from developments shall be monitored as detailed in Section 10-540(f):~~
 - ~~(1) To determine if the pollution abatement practices incorporated into the design for the drainage system are functioning properly; and~~
 - ~~(2) To determine whether water quality degradation is occurring despite proper operation of the approved drainage system.~~
- ~~(c) So as to comply with the monitoring requirements set forth in this division, on-site surveys, conducted under the supervision of the County Health Department, shall be started as soon as a development order is received for the water management system and the point source is in place.~~
- ~~(d) The surveys required pursuant to Subsection (c) of this section shall be in addition to the other surveys required by this division and shall include consideration of present and possible future pollution of the recreational areas from potential sources of contamination, including, but not limited to:~~
 - ~~(1) Outfalls;~~
 - ~~(2) Industrial drainage and waste outfall;~~
 - ~~(3) Drainage;~~
 - ~~(4) Sanitary landfills;~~
 - ~~(5) Open dumps;~~
 - ~~(6) Wildlife populations;~~
 - ~~(7) High erosion areas;~~
 - ~~(8) Bottom deposits;~~
 - ~~(9) Turbidity of water;~~
 - ~~(10) Decaying vegetation;~~
 - ~~(11) Surface runoff;~~
 - ~~(12) The anticipated user load of the facility; and~~
 - ~~(13) Any and all other generally recognized forms of pollution not specifically enumerated in this section.~~

Secs. ~~10-531~~10-542—10-599. Reserved.

Chapter 14 - ENVIRONMENT AND NATURAL RESOURCES

ARTICLE I. RESERVEDIN-GENERAL

~~Sec. 14-1. Community plan area regulations.~~

Staff note: Delete reference to Chapter 33.

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

- ~~(a) Greater Pine Island.~~
- ~~(b) Page Park.~~
- ~~(c) Caloosahatchee Shores.~~
- ~~(d) Lehigh Acres.~~
- ~~(e) North Fort Myers.~~
- ~~(f) Matlacha.~~
- ~~(g) Upper Captiva.~~
- ~~(h) North Olga.~~
- ~~(i) San Carlos Island Redevelopment Overlay District.~~

Secs. 14-12—14-40. Reserved.

ARTICLE V. - TREE PROTECTION

DIVISION 1. - GENERALLY

Sec. 14-374. Definitions.

Staff note: Definition relocated from Section 33-1002.

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

“Administrator” through “Removal” remain unchanged.

State-designated aquatic preserves and associated wetlands and natural tributaries means:

(a) The following aquatic preserves, as designated by the State:

(1) Gasparilla Sound-Charlotte Harbor Aquatic Preserve;

(2) Matlacha Pass Aquatic Preserve; and

(3) Pine Island Sound Aquatic Preserve.

(b) All wetlands, as defined in Chapter 14, Article IV, that adjoin any portion of these aquatic preserves.

(c) All natural tributaries, including bays, lagoons, and creeks that adjoin any portion of these aquatic preserves, but excluding manmade canals.

(d) For the purposes of this definition, any portion of a wetland or natural tributary lying farther than one-half mile from the nearest edge of an aquatic preserve will not be deemed to be an associated wetland or natural tributary.

Remainder of section unchanged.

Sec. 14-385 Agricultural notice of clearing on Greater Pine Island.

Staff note: Relocated LDC Section 33-1031 to new Section 14-385. Remove Lee Plan references based on companion CPA and remove nonregulatory provisions.

Notices of clearing for agricultural purposes in Greater Pine Island must comply with the following additional requirements:

(a) Agriculturally zoned land that is pursuing a new agricultural use through the Agricultural Notice of Clearing process that adjoins State-designated aquatic preserves and associated wetlands and natural tributaries (see Section 33-1002) must preserve or create a 50-foot-wide native vegetated conservation buffer area between all agricultural lands and the natural waterbody and associated wetlands.

(c) Existing native vegetation within the 50-foot buffer must be preserved. If existing native vegetation is removed, it must be replaced using the restoration standards in Section 14-384.

(d) Non-native vegetation must be removed from the 50-foot buffer utilizing hand removal methods. A specific mechanical removal method may also be approved in writing by the Department.

(e) Planting of native vegetation indigenous to Pine Island is allowed within the 50-foot buffer. If no native vegetation exists within the buffer, then bare root or containerized South Florida slash pine, longleaf pine or native oaks trees must be planted on 20-foot centers within three years of the recording of the Agricultural Notice of Clearing and with a guaranteed 80 percent survivability for a period of five years.

(f) No other grading, excavating, or filing is allowed within the 50-foot buffer.

(g) These conservation buffer regulations will not be construed in a manner that violates the Agricultural Lands and Practices Act, F.S. § 163.3162, or the Florida Right-to-Farm Act, F.S. § 823.14.

(h) The Agricultural Notice of Clearing recorded in the official records of the County must include a description of the 50-foot-wide buffer that is sufficient to allow a reasonable person to know the location, extent and boundary of the buffer area to be preserved.

Secs. 14-~~386385~~—14-410. - Reserved.

Chapter 30 - SIGNS

ARTICLE I. - IN GENERAL

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

Staff note: revise section to eliminate definition for Greater Pine Island.

- (a) In case of any difference of meaning or implication between the text of this chapter and any other law or regulation, this chapter controls.
- (b) The following words, terms and phrases, when used in this chapter, have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

“Abandoned sign” through “Government sign” remain unchanged.

~~*Greater Pine Island means the area that is affected by Lee Plan Goal 24 as depicted on Map 2-A and described in Chapter 33, Article III.*~~

Remainder of section unchanged.

Sec. 30-4. Applicability.

Staff note: Revise subsection (b)(2) to remove permitting requirements for copy changes on approved signs.

Subsection (a) remains unchanged.

- (b) *Exceptions.*

Subsection (1) remains unchanged.

- (2) *Signs not requiring a sign permit.* The following operations are not considered as creating a sign insofar as requiring the issuance of a sign permit, but such signs must be in conformance with all other building, sign, structural and electrical codes and regulations of the County:
 - a. *Change of copy.* Changing of the advertising copy of a message on an existing approved changeable copy sign, whether electrical, illuminated, electronic changing message center or nonilluminated message, which are specifically designed for the use of replaceable copy. ~~A change of copy for a billboard shall not require a permit.~~

Remainder of section unchanged.

Sec. 30-6. Permitted signs.

Staff note: Revise subsection to increase residential nameplate sign area to 6 square feet, which was previously permitted in Section 33-1645(a)(1).

Permitted signs are classified into three categories: signs not requiring a permit, signs requiring a sign location permit only, and signs requiring a sign construction permit.

- (1) *Signs not requiring permit.*

Subsections a. through k. remain unchanged.

- I. Residential nameplates not exceeding ~~2-25~~ 6 square feet in area.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Sec. ~~30-56.~~ Community plan area regulations.

Staff note: Delete section to reflect deletion of Chapter 33.

~~Applications and permit approvals for signs and sign structures associated with projects located in the following Community Plan Areas must also comply with the regulations set forth in Chapter 33 pertaining to the specific Community Plan Areas.~~

- ~~(a) Greater Pine Island.~~
- ~~(b) Page Park.~~
- ~~(c) Caloosahatchee Shores.~~
- ~~(d) Lehigh Acres.~~
- ~~(e) North Fort Myers.~~
- ~~(f) Matlacha.~~
- ~~(g) Upper Captiva.~~
- ~~(h) North Olga.~~
- ~~(i) San Carlos Island Redevelopment Overlay District.~~

Sec. ~~30-56~~57 - 30-90. Reserved.

ARTICLE IV. - RESTRICTIONS BASED ON LOCATION

DIVISION 2. - ON-SITE SIGNS

Sec. 30-153. Permanent signs in commercial and industrial areas.

Staff note: Revise subsection (5)a to delete community plan specific requirements to reflect deletion of Chapter 33. Conduct cleanup for consistency. Renumber subsequent sections.

In order to provide fair, equal and adequate exposure to the public, and to prevent a single property owner from visually dominating neighboring properties with signs, all nonresidential uses are limited to a total permissible sign area in accordance with the provisions of this section. Signs for buildings and developments subject to a unified sign plan must be designed and constructed in accordance with the approved unified sign plan.

Subsections (1) and (4) remain unchanged.

- (5) *Electronic changing message centers.* Electronic changing message centers are permitted along I-75 and arterial streets, subject to the following limitations:
 - a. *Location.*
 1. Electronic changing message centers are permitted in any zoning district, provided the area ~~to be used is shown on~~ is designated by the Lee Plan the County Comprehensive Plan as Intensive Development, Industrial Development, Interstate Highway Interchange Areas, or Tradeport, ~~or~~
 2. ~~In Lehigh Acres, in areas designated "Lehigh commercial" on the Lehigh Acres Lee Plan Overlay Zone Map adopted May 27, 1998, and that are also shown on the County Comprehensive Plan as central urban, provided that:~~
 - i. ~~Only one electronic changing message center sign may be permitted;~~

- ii. ~~The sign is constructed on a parcel of land having a minimum of 100 feet of frontage on both Homestead Road and Alabama Road;~~
- iii. ~~The sign must be located within 30 feet of the intersection of the two road rights-of-way;~~
- iv. ~~The sign serves the tenants of a multiple occupancy complex of ten or more businesses;~~
- v. ~~The sign provides public service messages at least 12 minutes of each hour;~~
- vi. ~~The sign is part of a ground-mounted monument style sign;~~
- vii. ~~The maximum sign area of the electronic changing message center portion of a sign does not exceed 40 percent of the total sign area allowed for ground-mounted signs, or 34 square feet, whichever is less;~~
- viii. ~~Incandescent bulbs may not exceed ten watts and the sign must be equipped with an automatic day/night dimmer switch set so that nighttime brightness does not exceed 75 percent of the daytime brightness; and~~
- ix. ~~Landscaping, in accordance with a County approved landscape plan is installed prior to energizing the sign. The landscaping must contain, at a minimum, 700 square feet of landscaping area around the sign comprised of at least:~~
 - ~~(1) 100 small shrubs or ground cover plants; and~~
 - ~~(2) Ten large shrubs; and~~
 - ~~(3) Six trees or large palms at least ten feet in height.~~

3. ~~In the North Fort Myers Community Plan Area on property located at the intersection of S.R. 45 (U.S. 41) and S.R. 45A (Business 41) having a minimum of 600 feet, more or less, of road frontage along S.R. 45 and 820 feet of road frontage along S.R. 45A, provided that:~~

- i. ~~The property is zoned commercial planned development;~~
- ii. ~~Only one electronic changing message center is permitted on the property;~~
- iii. ~~The message changing center sign face is integrated into the bottom of an existing sign located in the southern corner of the property and facing U.S. 41;~~
- iv. ~~The electronic changing message center face is not larger than 118.5 square feet (three feet wide by 39.5 feet long); and~~
- v. ~~Landscaping, as approved by the County, is placed around the base of the sign and continuously maintained.~~

2.4. Along U.S. 41 between the intersection of Gladiolus Drive/Ben C. Pratt Six Mile Cypress Parkway and the intersection of Alico Road.

5. ~~In the North Fort Myers Community Plan Area (Commercial Corridors), pursuant to Section 33-1602.~~

3.6. Along College Parkway between the intersection of McGregor Boulevard and the intersection of U.S. 41.

b. and c. remain unchanged.

d. *Street classifications.* Arterial streets are shown on Lee Plan Map 3-B ~~the existing functional classification map, adopted on March 20, 1991.~~

e. remains unchanged.

CHAPTER 33 — COMMUNITY PLAN AREA REGULATIONS

Staff note: Chapter 33 is deleted in full. Language relocated into other Chapters is shown in double underline format.

CHAPTER 34 – ZONING

ARTICLE I. IN GENERAL

Sec. 34-2. Definitions.

Staff note: Add definitions for certain undefined terms in LDC. Add new definitions and delete definitions as needed to correspond to revised regulations.

“Abutting property” through “Administrative office” remain unchanged.

Adjusted maximum density means a maximum density of one dwelling unit per acre (one du/acre) permitted in the Coastal Rural future land use category, where the standard maximum density is exceeded, and where a minimum of 70 percent of the development is maintained or restored as native habitat, or where 70 percent of the site is maintained in agricultural use on those parcels identified as existing farmland on Lee Plan Map 1-C.

“Agricultural uses” through “Automatic Teller Machine (ATM)” remain unchanged.”

~~Authorized representative means any person who appears with the written permission of, and on behalf of, another person.~~

“Auto parts store” through “Building height” remain unchanged.

~~Building official means the Director of the Division of Code Enforcement or his designee.~~

“Building, principal” through “Consultant” remain unchanged.

Continued agricultural use on existing farmland means existing farmland identified on Lee Plan Map 1-G that will be committed, through a binding Master Concept Plan and/or development order, to continued agricultural activity and use in exchange for County approval allowing the adjusted maximum density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands not committed for agricultural use within the boundary of the subject property. Amendments to the binding Master Concept Plan and/or development order may not modify the land area committed to continued agricultural use. Greater Pine Island TDUs may not be established or severed from existing farmland committed to continued agricultural activity in exchange for adjusted maximum density.

“Continuing care facility (CCF)” through “Conversion” remain unchanged.

Cooking facilities means a room or space used to store, prepare, and cook food containing a stove.

“Corner lot” through “County coastal construction control line or zones” remain unchanged.

County facilities means property owned or leased by Lee County and all uses and improvements thereon, including but not limited to public utilities and resource recovery facilities, public recreational uses, public safety facilities, communication towers, and other public facilities. The term does not include property owned, leased, or controlled exclusively by a constitutional officer, independent authority, dependent or independent special district, municipality, school board, state agency, federal agency, or other governmental entity. See Section 34-4.

“Cumulatively illuminated” through “Duplex” remain unchanged.

~~Deviation means a departure from a specific regulation of this chapter, as well as from any separate land development regulation or code, when requested as part of the application for a planned development in accordance with Section 34-373(a)(9) and approved by the Board of County Commissioners based on the findings~~

~~established in Section 34-377(a)(4). Deviations to approved Master Concept Plans may be reviewed pursuant to Section 34-380.~~

Dwelling unit means a room or rooms connected together, which could constitute a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units that may be in the same structure and containing sleeping and sanitary facilities and one kitchen. The term "dwelling unit" does not include rooms in hotels, motels or institutional facilities. ~~See *Housing unit* and *Living unit*.~~

Dwelling unit, types.

- (1) *Duplex through (4) Townhouse remain unchanged.*
- (5) *Mobile home* means a building intended for occupancy as a single-family residence, manufactured off the site in conformance with the Federal Mobile Home Construction and Safety Standards (24 CFR 3280 et seq.), subsequently transported to a site complete or in Sections where it is emplaced and tied down in accordance with F.A.C. Ch. 15C-1, with the distinct possibility of being relocated at a later date.
- (6) *Multiple-family building through (8) Live-work unit remain unchanged.*

"Easement" through "Fair" remain unchanged.

~~*Family* means one or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit, provided that a group of five or more adults who are not related by blood, marriage or adoption will not be deemed to constitute a family. The term "family" does not include a fraternity, sorority, club, monastery, convent or institutional group.~~

"Farm" through "Government agency" remain unchanged.

~~*Greater Pine Island* means the area that is affected by Lee Plan Goal 24 as depicted on Map 2-A and as described in Section 33-1002.~~

"Greenhouse" through "Hotel/motel" remain unchanged.

~~*Housing unit* means a house, apartment, mobile home or trailer, group of rooms or single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with any other person in the structure, and which have direct access from the outside of the building or through a common hall. See *Dwelling unit* and *Living unit*.~~

"Ice cream vehicle" through "Junkyard" remain unchanged.

~~*Kitchen.* See *cooking facilities*.~~

"Lamp" through "Living area" remain unchanged.

~~*Living unit* means any temporary or permanent unit used for human habitation. See *Dwelling unit* and *Housing unit*.~~

"Loading space, off-street" through "Lot, corner" remain unchanged.

~~*Lot, double multiple-frontage*, means any lot, not a corner lot, having two or more property lines abutting to a street right-of-way or easement. See Section 10-704.~~

"Lot, through" through "Lot line, front" remain unchanged.

~~*Lot line, rear*, means that lot line which is parallel to or concentric with and most distant from the front lot line of the lot. In the case of an irregular or triangular lot, a line 20 feet in length, entirely within the lot, parallel to or concentric with and at the maximum possible distance from the front lot line, shall be considered to be the rear lot line. In the case of a through lot, there shall be no rear lot line. In the case of a ~~double multiple-frontage~~ lot, the line directly opposite from the front line shall be designated as either a rear line or a side line depending upon the designation of the adjacent property. In the case of corner lots, the rear lot line shall be the line most nearly parallel to or concentric with and most distant from the front lot line most prevalent along the block.~~

"Lot line, side" through "Nightclub" remain unchanged.

~~Nonconforming building or structure, lot or use~~ means an existing building or structure, ~~lot or use~~, lawful when established, which fails to comply with any provisions of this chapter, or which fails to comply as the result of subsequent amendments. See Article VIII of this chapter.

~~Nonconforming use~~ means a use or activity, ~~which was lawful when established, which fails to comply with prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, but which fails, by reason of such adoption, revision or amendment, to conform to the use requirements of the zoning district in which located.~~

"Nonessential lighting" through "Partially shielded" remain unchanged.

~~Participant~~ means a nonparty appearing at a Hearing Examiner proceeding, ~~in person or through authorized representative~~, and providing legal argument or testimony.

~~Party~~ to proceedings before the Hearing Examiner or Board means the applicant/Appellant and the County (and their representatives). The term "party" does not include ~~p~~Participants or their representatives.

Permanent resident through "Permanent unit" remain unchanged.

Permanently preserved native habitat means native upland habitat that the landowner guarantees, through a binding Master Concept Plan and/or development order, to preserve or restore as permanent native habitat/open space in exchange for County approval allowing the adjusted maximum density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands within the boundary of the subject property. Amendments to the binding Master Concept Plan and/or development order may not modify the land area committed to permanent native habitat preservation. Greater Pine Island TDUs may not be established or severed from native habitat that is permanently preserved in exchange for adjusted maximum density.

"Pet services" through "Recreational vehicle park, expansion" remain unchanged.

~~Recreational vehicle park resident, permanent~~, means any person who currently owns and has resided at a specific address within a recreational vehicle park for a continuous period of over 12 months prior to September 16, 1985, and who filed an affidavit with the County by October 31, 1985.

"Recycling facility" through "Religious facilities" remain unchanged.

~~Residence~~. See Dwelling unit, Living unit, and Housing unit.

~~Residential exterior cladding~~ means customary residential siding which extends from the base of a building to the roof eave, such as wood, metal, and vinyl lap siding, brick and composite materials. The term "residential exterior cladding" excludes corrugated and ribbed galvanized steel or similar finishes, generally applied in nonresidential or agricultural applications.

"Resource recovery" through "Restaurant, standard" remain unchanged.

Restored native habitat means uplands that the landowner, through a binding Master Concept Plan and/or development order construction plans, commits to restoring and permanently preserving as open space in exchange for County approval allowing the adjusted maximum density. The approved density is based on the acreage attributable to the entire property under consideration and requires that all residential units must be placed on other uplands within the boundary of the subject property. Amendments to the binding Master Concept Plan and/or development order may not modify the land area committed to permanent native habitat restoration. Greater Pine Island TDUs may not be established or severed from native habitat that is permanently restored in exchange for adjusted maximum density.

"Retaining wall" through "Screen enclosure" remain unchanged.

Separate living quarters are those in which the occupants do not live and eat with any other person in the structure, and which have direct access from the outside of the building or through a common hall.

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

- (1) *“Street setback” remains unchanged.*
- (2) Side setback means the setback as measured from the side lot line, ~~extending from the required street setback to the required rear lot line, or opposing street setback in the case of a double frontage lot, measured from the side lot line.~~
- (3) *“Rear setback” and (4) “Waterbody setback” remain unchanged.*
“Shield” through “Street right-of-way or street easement line” remain unchanged.

~~Street right of way, proposed, is a general term denoting land or property, usually in a strip, identified on Lee Plan Map 3A, as land to be used in the future for transportation purposes.~~

Variance, use, means an attempt to allow a use in a district not allowed by this Code, except as provided in Sections 34-620 and ~~34-933~~ 34-932.

Remainder of section unchanged.

Sec. 34-4. Applicability; deed restrictions and vested rights.

Subsection (a) through (d) remain unchanged.

- (e) Applicability to County facilities. County facilities approved by the Board of County Commissioners are considered permitted uses in all zoning districts, and do not require further zoning action. County facilities are exempt from all requirements of this Chapter.

~~Sec. 34-6. Compliance with specific Community Plan Area requirements.~~

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

- ~~(1) Greater Pine Island.~~
- ~~(2) Page Park.~~
- ~~(3) Caloosahatchee Shores.~~
- ~~(4) Lehigh Acres.~~
- ~~(5) North Fort Myers.~~
- ~~(6) Matlacha.~~
- ~~(7) Upper Captiva.~~
- ~~(8) North Olga.~~
- ~~(9) San Carlos Island Overlay District.~~

Secs. 34-76—34-50. Reserved.

ARTICLE II. ADMINISTRATION

DIVISION 2. BOARD OF COUNTY COMMISSIONERS

Sec. 34-83. Functions and authority.

Staff Note: This amendment removes references to appeals of Hearing Examiner decisions for wireless communication facilities before the Board of County Commissioners. Conforming amendments eliminating this unique appeal procedure are included in Sections 34-145 and 34-1445. The substantive basis for eliminating this separate appellate process is discussed in the staff note accompanying Section 34-1445.

- (a) *Zoning actions.*

- (1) *Function.* Unless another approval process is authorized by County ordinance, the Board of County Commissioners must hold public hearings to consider the following applications: planned development rezoning, except as excluded by Section 34-145(d)(1)e, ~~appeals from decisions of the Hearing Examiner concerning wireless communications facilities~~, developments of regional impact, and any other action in conjunction with such applications.

Subsections (2) and (3) remain unchanged.

- (4) *Decisions and authority.*

- a. In exercising its authority, the Board:

Subsections 1. through 3. remain unchanged.

- ~~4. In the case of an appeal of a Hearing Examiner decision pertaining to wireless communication facilities, the Board must consider the decision as a recommendation.~~

Remainder of section unchanged.

DIVISION 4. HEARING EXAMINER

Sec. 34-145. Functions and authority.

Staff Note: It also removes the separate Board appeal process for wireless communication facility decisions so those decisions follow the same judicial review process as other Hearing Examiner special exception decisions. The amendment further expands the Hearing Examiner's final decision-making authority for limited categories of rezoning and planned development requests where the scope and potential impacts of the request are sufficiently defined to allow final action through the existing quasi-judicial hearing process.

The Hearing Examiner is limited to the authority that is conferred by the following:

Subsection (a) remains unchanged.

- (b) *Variances.*

(1) through (5) remain unchanged.

- (6) *Judicial review.* Judicial review of Hearing Examiner's final variance decisions are to the circuit court. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. The petition must be filed within 30 calendar days after the decision has been rendered. ~~Exception: review of the Hearing Examiner's wireless communication facilities decisions must follow the procedures outlined in Sections 34-1453(b) and 34-1445(b)(2)b.~~

(7) remains unchanged.

- (c) *Special exceptions.*

(1) and (2) remain unchanged.

- (3) *Findings/review criteria.*

a. remains unchanged.

- b. In the case of new commercial antenna-supporting structure wireless communication facilities, the Hearing Examiner must ~~also~~ find, or conclude a finding is not applicable, that:

1. and 2. remain unchanged.

3. The proposed antenna-supporting structure will not be injurious to historical resources, obstruct scenic views, ~~diminish residential property values~~, or reduce the quality and function of natural or manmade resources; and

4. remains unchanged.

c. through e. remain unchanged.

(4) remains unchanged.

(5) *Judicial review.* Judicial review of Hearing Examiner's final decisions on special exceptions are to circuit court. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. The petition must be filed within 30 calendar days after the decision has been rendered. ~~Exception: review of Hearing Examiner's wireless communication facilities decision must follow the procedure outlined in Section 34-1445(b)(2)b.~~

(6) remains unchanged.

(d) *Zoning matters.*

(1) *Authority.*

Subsections a. through d. remains unchanged.

e. The Hearing Examiner has the final decision-making authority on the following matters:

1. and 2. remain unchanged.

3. Applications for planned development rezoning when the request is limited to:

i. IPD rezoning requests in the Industrial Development or Tradeport Future Land Use Categories.

ii. CPD rezoning requests in the Commercial Future Land Use Category.

34. Applications for amendments to planned developments when the request is limited to:

i. Amendments to the master concept plan, schedule of uses, or property development regulations that do not increase the maximum density or non-residential floor area in the planned development, except as provided in Subsection vi below;

ii. Requests for consumption on premises;

iii. Requests for wireless telecommunication facilities;

iv. Requests for an increase in the maximum number of fuel pumps in conjunction with a convenience food and beverage store or automobile service station provided that the use is already approved in the planned development;

v. Changes to conditions and deviations; or

vi. Requests to establish or increase density within the Mixed Use Overlay.

4 5. Notwithstanding Section 34-1038(b), amendments to planned unit developments that are not subject to separate ordinance.

5 6. An applicant or agent applying for a conventional rezoning, planned development rezoning, or an amendment to a planned development in which the Hearing Examiner has the final decision-making authority may request a public hearing before the Board of County Commissioners in accordance with Section 34-83(a)(1). Such a request must be made prior to the issuance of a final decision by the Hearing Examiner.

- (2) *Functions.* The Hearing Examiner has the duty and responsibility to make recommendations to the Board on applications for the following requests:
- a. New planned development rezoning requests, or amendments to planned developments exceeding the decision-making authority scope of amendments permitted by Subsection (d)(1)e-~~3~~ of this section.
 - b. and c. remain unchanged.
 - d. Use of bonus density in conjunction with a rezoning to a planned development district except as permitted by Subsection (d)(1)e-~~3~~4 of this section.
 - e. remains unchanged.
- (3) through (8) remains unchanged.

DIVISION 5. DEPARTMENT OF COMMUNITY DEVELOPMENT

Sec. 34-174. - Authority to approve administrative actions.

Staff note: Revise section to remove references to Chapter 33, update reference to alcoholic beverage approvals

- (a) *Administrative variances.*
- (1) *Authority.* The Director is authorized to administratively approve variances of the following:
- a. Street, rear, side, or waterbody setbacks to allow:
 - 1. and 2. remain unchanged.
 - 3. Construction Replacement of stairs or decking that provide access into an existing dwelling unit.
 - 4. and 5. remain unchanged.
 - b. Requirements of Chapters 10, 30, ~~33~~, and 34 necessary for development of property subject to a ~~Lee County initiated an~~ eminent domain proceeding pursuant to Section 1-16 or 34-3206.
- Subsections c. through f. remains unchanged.*
- g. Requirements of this Code ~~Chapters 30, 33 and 34~~ found by the Director to be similar in nature, which are not contrary to the Lee Plan and do not diminish public health, safety, and welfare.
- (2) remains unchanged.
- (b) *Administrative approval of on-premises consumption of alcoholic beverages.*
- (1) *Authority.* The Director is authorized to administratively approve the sale or service of alcoholic beverages for consumption on-premises pursuant to the provisions of ~~when in conjunction with the uses provided in Section 34-1264(a)(1)(a)(2).~~
- (2) remains unchanged.
- (c) through (g) remain unchanged.
- ~~(h) Administrative approval of deviations from Chapters 10 and 33.~~
- ~~(1) Authority.~~ The Director is authorized to administratively approve deviations from technical standards in Chapter 10, limited to those listed Section 10-104, and from certain provisions, as specified, in Chapter ~~33.~~
- ~~(2) Findings/review criteria.~~ Before approving a deviation, the Director must find the following review criteria are satisfied:

a. ~~For Chapter 10 deviations:~~

- ~~1. The request is based on sound engineering practices (not applicable to Sections 10-352, 10-353 and Division 7, Article III, Chapter 10);~~
- ~~2. The request is no less consistent with the health, safety and welfare of abutting landowners and the general public than the standard from which the deviation is being requested;~~
- ~~3. The granting of the deviation is not inconsistent with any specific policy directive of the Board of County Commissioners, any other ordinance or any Lee Plan provision; and~~
- ~~4. For Division 7, Article III, Chapter 10, the required facility would unnecessarily duplicate existing facilities;~~
- ~~5. For Sections 10-352 and 10-353, the utility that would otherwise serve the development cannot provide the service at the adopted level of service standard due to an inadequate central facility.~~

b. ~~For Chapter 33 deviations, additional criteria, if specified within Chapter 33, must be met.~~

(h)(i) Administrative amendment to a planned development.

- (1) *Authority.* The Director is authorized to administratively approve an amendment to a planned development ~~pursuant to Section 34-380~~ when the request meets the criteria for approval provided in subsection (2) below.
- (2) *remains unchanged.*

(i)(i) Administrative amendment to a planned development located in the Mixed-Use Overlay.

- (1) and (2) *remains unchanged.*

(i) Administrative amendment to a Special Exception.

Staff note: Current land development regulations do not include an administrative process to amend an approved special exception. Special exception approvals function similarly to planned development approvals, and planned development approvals may be amended pursuant to certain criteria established in Section 34-174. The proposed amendments are intended to establish a process for amending approved special exceptions that is like that which exists for planned developments. The criteria for approval of an administrative amendment to a special exception require consideration of the original special exception approval, including approved uses and development parameters, as well as specific conditions of approval intended to maintain compatibility with existing and planned uses and mitigate potential off-site impacts to maintain consistency with Hearing Examiner findings at the time of the original special exception approval. If an applicant cannot demonstrate consistency with the required criteria for approval, then the applicant may file an application for a new special exception to modify the original approval.

(1) Authority. The Director is authorized to administratively approve amendments to a Special Exception.

(2) Findings/review criteria. Before approving any administrative amendment to a Special Exception, the Director must find the request:

- a. Does not propose uses not approved pursuant to the original Special Exception, unless such uses are permitted by right in the underlying zoning district;
- b. Does not increase height, density or maximum permitted floor area approved pursuant to the original special exception;
- c. Does not reduce landscaping, buffers, or other screening required pursuant to the original special exception approval;
- d. Maintains compatibility with existing and planned uses;
- e. Is not injurious to the neighborhood or detrimental to public welfare; and

- f. Will remain in compliance with zoning regulations pertaining to the use and other applicable regulations.

(k) and (l) remain unchanged.

DIVISION 6. APPLICATIONS

Sec. 34-200. Complete application required.

Staff note: Section 34-200 has been added to clarify what constitutes a complete application consistent with 125.022, F.S.

Applications will not be deemed complete pursuant to Section 125.022, Florida Statutes, until all required documents have been submitted. Incomplete applications will be rejected as deficient and will not be reviewed until deemed complete.

Sec. 34-201. Application requirements for all zoning public hearing and administrative actions.

Staff note: Revise section for clarity and consistency.

- (a) *Initiation of application.* An application for a conventional rezoning, planned development rezoning, planned development amendment, mine excavation planned development under chapter 12, special exception, or variance, or administrative zoning action may be initiated by:

- (1) A landowner, or ~~his~~ authorized agent, for their~~his~~ own property. Where there is more than one owner, either legal or equitable, then all owners must jointly initiate the application or petition. Provided, however, that:

- a. This does not mean that both spouses ~~both a husband and wife~~ must initiate the application on private real property which is owned by them.

- b. *through f. remains unchanged.*

- g. Where the application is applicable to property that is within an approved development, a subsequent phase or development tract located within a development, including but not limited to, a condominium, timeshare condominium, or homeowners' association as defined and regulated in F.S. chs. 718, 720, and 721, respectively, an application or petition may be initiated by the property owner(s) ~~of the subsequent phase or development tract~~.

- (2) remains unchanged.*

(b) through (d) remain unchanged.

Sec. 34-202. Submittal requirements for applications requiring public hearing.

Staff note: Revise section to clarify and remove antiquated language.

- (a) *Submittal requirements for all public hearing applications.* All applications for public hearing requests must include the following. Any additional expenses due to inaccurate or incomplete information will be borne by the applicant.

- (1) and (2) remain unchanged.*

- (3) *Applicant's statement.* Notwithstanding the requirements of Section 34-201(a)(1)a, the applicant must sign a statement, under oath, that they are~~he is~~ the owner or the authorized representative of the owner of the property and that they have~~he has~~ full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the action approved by the County in accordance with this Code. This must also include a statement that the property owner will

not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed by the approved action.

(4) through (13) remain unchanged.

(b) remains unchanged.

DIVISION 7. PUBLIC HEARINGS

Sec. 34-231. Public participation.

Staff note: revise section to clarify that “Party” and “Participant” are both defined terms in LDC Section 34-2. Add new language governing evidence and testimony during quasi-judicial proceedings to add parameters intending at preserving due process while requiring participants to provide focused evidence and testimony within new time limits.

(a) remains unchanged.

- (b) *Participation before Board; zoning matters.* At public hearings on zoning matters, only the ~~parties~~ Parties, the Hearing Examiners, and ~~participants~~ Participants at the proceeding before the Hearing Examiner may address the Board. This prohibition does not apply to the Board's legal counsel, County staff whose sole purpose is to facilitate the zoning hearing, or legal counsel representing a ~~p~~Party or ~~hearing p~~Participant. The testimony presented to the Board will be limited to:

(1) through (4) remains unchanged.

(c) remains unchanged.

- (d) Record Evidence and Testimony in Quasi-judicial Proceedings. In addition to the provisions of this Code and the Lee County Administrative Code, acceptance of evidence and testimony into the record in quasi-judicial proceedings is subject to the following:

- (1) Decisions must be made based on competent substantial evidence entered into the record.
- (2) Unsworn testimony or conclusory assertions of law made by Attorneys does not constitute competent substantial evidence.
- (3) Participants may testify as to factual matters and any element of the case that would not require specialized training or special education. Unless qualified as an expert by knowledge, skill, experience, training, or education and accepted as an expert, Participants may not testify or present evidence as to matters which would require expert testimony.
- (4) Hearsay testimony or evidence presented by lay witnesses cannot be accepted into evidence or read into the record.
- (5) Irrelevant testimony or evidence cannot be accepted as part of the record.
- (6) A Party may raise an objection at the time the hearsay or irrelevant testimony or evidence is offered, at which time, the Hearing Examiner must rule on the objection. If the objection is sustained, the evidence may not be accepted into the record, in any form. The Hearing Examiner may exclude hearsay or irrelevant testimony or evidence without an objection being raised.
- (7) Unless agreed upon by the Parties, testimony of Participants before the Hearing Examiner is limited to no more than 15 minutes per Participant.

ARTICLE IV. PLANNED DEVELOPMENTS

DIVISION 1. GENERALLY

Sec. 34-341. Employment of ~~P~~planned development designation.

Staff note: Revise language to use consistent terminology. Relocate and modify language from Section 34-380.

~~(a) The Lee Plan requires Developments of County Impact to be developed as planned developments. These Developments of County Impact, defined in Subsection (b) of this section, if not already zoned for the use desired, must be rezoned only to the most applicable planned development category. Other proposed developments, regardless of size, may seek a planned development designation where the developer desires and the Division Director determines that it is in the public interest to do so.~~

~~(a)(b) The Lee Plan provides that certain owner-initiated rezonings and special exceptions meeting specified thresholds will be reviewed as Developments of County Impact. The Development of County Impact thresholds are further categorized as major or minor planned developments as follows:~~

~~(1) Major planned developments.~~

~~a. through m. remain unchanged.~~

~~n. If a proposed amendment to an approved planned development would, if taken by itself, constitute a major planned development (Development of County Impact, see Section 34-341(b)(1)), then the application to amend must proceed as a new and separate major planned development.~~

~~(2) Minor planned developments.~~

~~a. and b. remain unchanged.~~

~~c. An existing development, such as a mobile home development, that has already been developed but does not conform to the regulations for a conventional district, that requests a rezoning to a planned development classification, will be reviewed in the same manner as a minor planned development except that a Zoning Traffic Study ~~Traffic Impact Statement~~ will not be required.~~

~~d. All other requests for amendments to approved planned developments a Master Concept Plan or its auxiliary documentation will be treated procedurally as minor planned developments, but with application information and materials specified by Section 34-373(a). Amendments to an approved major or minor Master Concept Plan or its attendant documentation will be treated procedurally as minor planned developments. These applications will require only as much information, as deemed necessary by the Director, needed to describe the changes requested, to specify the incremental change in impacts expected from the amendment, and to detail the changes in development, environment and background (surrounding land use, traffic volumes, water, wastewater and other service availability, etc.), that have occurred since the original application.~~

Secs. 34-342 – 34-37072. Reserved.

DIVISION 2. APPLICATION AND PROCEDURE FOR APPROVAL

Staff note: This division has been revised to eliminate redundant and outdated language and clarify application requirements.

~~Sec. 34-371. General requirements.~~

~~All applications for planned development zoning or Master Concept Plan approval must follow the requirements detailed in Article II, Division 6 of this chapter and the requirements set out in this division.~~

~~Sec. 34-372. Preapplication conference.~~

~~The applicant may initiate the planned development process by requesting an optional pre-application conference with the Department staff. In this request, the applicant shall provide a description of the property in~~

question, the location of the property, the existing use, special features and the use proposed. Through this meeting, the applicant may avail himself of staff in order to be oriented to the planned development process, to determine what application materials are required (if a minor planned development), and to be advised of the impacts of the Lee Plan, surrounding development and zoning, and other public policy on the development proposal.

A mandatory pre-application conference is required in accordance with Section 12-108 for mine excavation planned development applications.

Sec. 34-373. Planned development application requirements. ~~Application.~~

(a) *Minimum required information for planned development zoning applications.* Rezoning applications for all planned developments, with the sole exception of Mine Excavation Planned Developments (MEPD) under Chapter 12, must include the following information, supplemented, where necessary, with written material, maps, plans, or diagrams. ~~A MEPD application must be submitted in accordance with Section 12-110 and is subject to the sufficiency timing provisions outlined in Section 34-372.~~ Wherever this section calls for the exact or specific location of anything on a map or plan, the location must be indicated by dimensions from an acceptable reference point, survey marker or monument.

(1) ~~General Application.~~ A ~~general~~ completed application form for public hearing in accordance with the requirements set forth in Sections 34-201 through 34-203. Two or more planned development categories may be combined in one application under the following circumstances:

a. and b. remain unchanged.

(2) and (3) remain unchanged.

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

a. remains unchanged.

b. Maps drawn at the same scale as the Master Concept Plan marked or overprinted to show:

~~i. Soils, classified in accordance with the USDA/SCS System;~~

~~i.ii.~~ Vegetation and ground cover, classified in accordance with the Florida Land Use and Cover Classification system;

iii. Significant areas of rare and unique upland habitats as defined in the Lee Plan; and

~~iv. A County topographic map (required if available) or a USGS quadrangle map showing the subject property; and~~

~~iiiiv.~~ Existing and historic flow-ways.

~~c. A Florida Land Use, Cover and Classification System (FLUCCS) map at the same scale as the Master Concept Plan, prepared by an environmental consultant. The FLUCCS map must clearly delineate any federal and State jurisdictional wetlands and other surface waters, including the total acreage of federal and State wetlands.~~

~~cd.~~ The nature and location of any known or recorded historical or archaeological sites as listed on the Florida Master Site File or the Lee County Historical Site Survey, and the location of any part of the property that is located within Level 1 or Level 2 zones of archaeological sensitivity pursuant to Chapter 22. The plan must show the outline of historic buildings and approximate extent of archaeological sites. A description of proposed improvements that may impact archaeological or historical resources must also be provided.

~~d.e.~~ Additional submittal requirements for PRFPD District applications are set forth in Section 34-941.

(5) remains unchanged.

- (6) *Master Concept Plan.* All applications must be accompanied by a graphic illustration (Master Concept Plan) of the proposed development. PRFPDs must comply with Section 34-941.

~~If blasting is proposed to be conducted on the property in order to excavate lakes or other site elements, the location of all proposed blasting must be shown. See Section 34-202(b)(6) for other required information.~~

~~Copies of the Master Concept Plan must be provided in two sizes, 24 inches by 36 inches, and 11 inches by 17 inches in size. Both sizes of the Master Concept Plan must be clearly legible, depict the correct scale for the size drawing and be drawn at a scale sufficient to adequately show and identify the following information:~~

- a. remains unchanged.
- b. The location of all points of vehicular ingress and egress from existing easements or rights-of-way into the development. ~~If a subdivision, the plan must also show the general location of all proposed internal street rights-of-way or easements and the general location of all points of vehicular ingress and egress from the proposed internal rights-of-way or easements into multiple-family, commercial, or industrial use lots.~~
- c. The plan must indicate the general location, and configuration, ~~and approximate dimensions~~ of the lots or parcels (including subdivided parcels and outparcels). The proposed use of the lots or parcels must be keyed to the list of proposed uses submitted with the application.
- d. ~~Individual development areas (i.e., residential, retail, office, manufacturing, mixed-use listed, etc.) with detail showing the boundary of each development area within which buildings, parking or other uses will be located.~~
- e. ~~The general location of service areas for delivery of goods or services must be shown for all developments that are not residential subdivisions.~~
- df. The general location of ~~proposed parks and recreation~~ amenity areas and facilities, ~~as well as indigenous areas and flow ways to be preserved, restored or created.~~
- eg. ~~Open space design~~ A plan delineating the indigenous preserves and/or native tree preservation areas as required per Section 10-415(b) and flow ways to be preserved, restored or created. ~~Adjustments and field corrections to the plan can be done administratively at the time of development order review provided the minimum commitments made as part of zoning approval are maintained. No changes to an indigenous or native tree preserve area can be made administratively that would negatively affect screening or buffering to an adjacent property.~~
- fh. The minimum percentage of open space required by Section 10-415(a), unless the proposed development consists solely of ~~conventional~~ single-family dwelling units on lots of no less than 6,500 square feet. For commercial and industrial developments, the percentage of open space within each lot or outparcel must be as set forth in Section 34-414(c).
- gi. ~~The minimum width and composition of all proposed~~ The minimum required buffers along the perimeter of the subject property, ~~as well as between the individual uses, if the types of proposed uses require buffer separations.~~ References to types of buffers as described in Chapter 10 are acceptable.
- j. ~~Proposed access and facilities for public transit in accordance with Sections 10-442 and 34-411(e).~~
- hk. The general location of excavations for on-site fill and wet retention. ~~If the applicant proposes to remove excavated material from the property a planned development for mining and a general mining permit may be required.~~

~~If the development is located within a floodplain or flow-way, it is the applicant's responsibility at the time of local development order or district permitting to compensate for impacts to flood storage capacity or flow-ways due to filling of the site.~~

- ii. The location of any requested deviations, keyed to the schedule of deviations, including drawings demonstrating the effect the requested deviations will have on the site plan.
 - (7) ~~*Zoning Traffic Study*~~*Traffic Impact Statement*. A *Zoning Traffic Study*~~Traffic Impact Statement~~ in a format and to the degree of detail required by ~~a form furnished by the County and in conformance with the adopted County Administrative Code. Upon written request, the Director may waive this requirement for minor planned developments.~~
 - (8) *Schedule of uses*. A schedule of uses keyed to the Master Concept Plan as well as a summary of proposed development parameters for the entire property including the following information:
 - a. ~~and b. remain unchanged.~~
 - c. ~~The proposed percentage of open space for the entire site.~~
 - d. ~~The maximum height, in feet, in each individual development area. If parking under buildings is proposed, it must be indicated and included in the total maximum height of the building.~~
 - (9) *Deviations*. A schedule of deviations and a written justification for each deviation requested as part of the Master Concept Plan accompanied by documentation including sample detail drawings, as may be required, illustrating how each deviation would enhance the achievement of the objectives of the planned development and will not cause a detriment to public interests. The location of each requested deviation must be indicated on the Master Concept Plan.
 - (10) *Property development regulations*. A property development regulations table that establishes the minimum lot area and dimensions, minimum setbacks, building separation, maximum height, maximum floor area ratio (FAR), and maximum lot coverage within the planned development. Uses that have specific setback requirements within the LDC will be subject to the requirements set forth in the LDC, unless specifically stated within the proposed property development regulations table.
- (b) *Surface Water Management Plan*.
- (1) ~~and (2) remain unchanged.~~
 - (3) If the development is to be constructed in phases or if the ~~Zoning Traffic Study~~ *Traffic Impact Statement* utilized phasing, then a description of the phasing program must be submitted.
 - (4) ~~remains unchanged.~~
- (c) *Amendments to ~~built~~ Planned Developments (PD)*. The submittal requirements of this section may be modified by the Director in accordance with Section 34-201(c). ~~Any part or all of a planned development that is built may be the subject of an application for a variance or other approval covered by this chapter wherein the subject property is the only part of the original planned development that will be affected by the requested approval. The application may include a legal description and sketch of the portion of the overall planned development that will be directly affected by the rezoning request. The application must include a legal description and sketch of the entire planned development boundary.~~

If the subject property meets the threshold for a Development of County Impact, it will be reviewed in accordance with the provisions in this chapter that apply to Developments of County Impact. If the subject property is not a Development of County Impact, it will be reviewed in accordance with the provisions in this chapter that apply to conventional zoning districts. In either case, the applicant will be the owner of the subject property and the consent of the owners of the remainder of the original planned development will be unnecessary. However, these owners must be given notice of the application and other proceedings as if they were owners of property abutting the subject property regardless of their actual proximity to the subject property.

For the purposes of this subsection, the term "built" means that all of the roads, utilities, buffering, open space, surface water management features and structures, common space, common amenities, common landscaping, gatehouses, entrance signs, entrance ways and other similar items identified as part of the final approved Master Concept Plan have been constructed and acknowledged by the County as complete. In the case of residential planned developments or mixed developments that include residential structures, the term "built" does not mean that all residential structures must have been constructed on individual platted lots.

(d) Sufficiency. Sufficiency reviews will be conducted in accordance with Chapter 125, Florida Statutes.

- (1) Upon initial submission of application information for applications for planned developments, the County will have up to 20 business days to review the application to determine if the required materials, in the required form, have been included in the application or resubmission.
- (2) If the required materials have been properly submitted, the application will be found sufficient for review.
- (3) If the required materials have not been properly submitted or resubmitted, the County must provide the applicant a letter with a brief explanation as to why the application is not complete for review and request the necessary additional information within 20 business days of the date the application is initially submitted or additional information is resubmitted.
- (4) After notice of insufficiency, the applicant has 60 days to submit supplemental or corrected documents, unless a longer time is agreed to in writing by the Director and the applicant prior to the expiration of the 60 days. If the supplement or corrections are not submitted within the 60 days (or other time period agreed to) the application will be deemed withdrawn.
- (5) If the County does not provide the applicant written notice of the insufficiencies within 20 business days of the date the application is initially submitted or additional information resubmitted, the application will be deemed sufficient and ready for substantive review.
- (6) Insufficiency issues not raised during the initial sufficiency review may not serve as the basis for a finding of insufficiency during subsequent rounds of sufficiency review. Notwithstanding, this provision is not intended to restrict new insufficiency comments generated from documents or information submitted by the applicant in response to a prior insufficiency comment.
- (7) A waiver of the time frames may be voluntarily agreed to by the applicant and the County. The County may request, but not require, a waiver of the time frames by an applicant, except that, with respect to a specific application, a waiver may be required in the case of a declared local, State or federal emergency that directly affects the administration of all permitting activities of the County.
- (8) If the applicant has made no less than two bona fide attempts to submit supplemental or corrected documents in response to the County's insufficiency notices and the applicant disputes that additional supplemental documents or information is required, the applicant may submit a written notice seeking to terminate the sufficiency review process. At that time, the County must proceed with its substantive review of the application as it exists on that date. However, if the additional information requested by County staff is needed to find the application consistent with the Code or Lee Plan, the failure to provide the additional information requested may affect the County's ability to find the application consistent with County regulations. Termination of the sufficiency review process will not terminate the need for the applicant to meet its burden to prove that the application is consistent with County regulations.
- (9) Where a proposed planned development is identified by staff as a possible Development of Regional Impact, the applicant will be notified that the application will be deemed sufficient only when accompanied by either a binding letter of interpretation from DCA or a complete and sufficient ADA. Failure by the County to notify the applicant in a timely manner (within 30 days of the application) will nullify any finding of insufficiency based on this requirement. Assuming the application is sufficient in all other respects, staff will commence its review of the planned development. However, there will be

no hearing held before the Hearing Examiner until the applicant submits a binding letter of interpretation from DCA or a complete and sufficient ADA.

Sec. 34-374 – 34-377. Reserved.

Sec. 34-375. Prehearing conference.

Prior to the public hearing by the Hearing Examiner on an application under this division, the Department may schedule and conduct a conference to facilitate a meeting of the applicant and staff persons from all relevant County, State, sub-state regional and federal agencies and special use districts. The purpose of this meeting is to identify, discuss and resolve various issues and to advise the applicant of staff concerns and potential recommendations. The product of this conference will include the staff's recommendations based upon the original or an amended application, and the applicant's written objections, if any.

Sec. 34-376. Prehearing materials.

(a) Summary report.

- (1) After an application is found sufficient and before transmittal of the staff report to the Hearing Examiner, the applicant may provide a report that includes a substantive analysis of the request with copies of documents, studies, plans, or other materials (hereinafter, "materials") for the Hearing Examiner to consider.
- (2) The applicant's report will be transmitted to the Hearing Examiner with the staff report.
- (3) The applicant must submit three complete copies of the report to the staff at least 25 calendar days prior to the scheduled hearing. Staff will include one copy of the report to the Hearing Examiner and one copy to the County Attorney's office with the staff report. The third copy will be retained in the official zoning file. If the materials are not submitted a minimum of 25 calendar days prior to the scheduled hearing, the applicant waives the right to have the materials transmitted to the Hearing Examiner prior to the hearing.
- (4) If the materials include substantive changes to the information submitted with the original application or in response to sufficiency questions asked by staff, staff may withdraw the sufficiency determination and seek a continuance to review the materials.

(b) Expert testimony information.

- (1) The Director may require an applicant to provide the following information at least 48 hours before the date an expert is expected to testify:
 - a. Expert's name, business address and current resume;
 - b. A detailed description of the expert's qualifications (or copy of current resume) and the area of expertise;
 - c. A copy of the report that serves as the basis of the expert's opinion (if not already submitted with the application or included in the staff report). The report must include:
 1. A brief description of research conducted by the expert to reach the opinion;
 2. A description of the facts, assumptions, and data forming the basis of the opinion; and
 3. The opinion;
 - d. Copies of materials relied on in formulating the expert's opinion;
 1. Summary or demonstrative materials do not need to be provided in advance, provided the underlying data or facts are provided;
 2. Citations to the Land Development Code, Lee County Administrative Codes, Florida Statutes, U.S. Code, Florida Administrative Code, or Lee Plan are sufficient to meet this requirement.
- (2) The Director's written request for information must be issued a minimum of 30 days prior to the hearing.
- (3) The expert testimony information may not be submitted to the Hearing Examiner prior to the hearing unless included in the applicant's summary report referenced in Subsection (a) of this section.

Sec. 34-377. Public hearing.

~~(a) Hearing before Board of County Commissioners.~~

~~(1) After the Hearing Examiner's hearing, an application for a planned development, together with all attendant information, staff reports and the Hearing Examiner minutes and resolution of recommendation, will be forwarded to the Board of County Commissioners. The Board will consider the application in public hearing in accordance with Article II of this chapter. After reviewing all the identified information, the Board of County Commissioners may either:~~

~~a. Continue further consideration until additional information is provided by applicant or staff or until the applicant makes changes in the application, subject to re-review by staff and the Hearing Examiner as required; or~~

~~b. Formally approve, approve with modification, or deny the application.~~

~~If the Board of County Commissioners denies the application without prejudice, it may remand the proposal to staff with directions to bring the application back to the Hearing Examiner once the application is amended. If new or additional information, not previously provided to staff or the Hearing Examiner is supplied by the applicant subsequent to the Hearing Examiner hearing the Board of County Commissioners may remand the application to the Hearing Examiner for rehearing.~~

~~(2) The decision of the Board of County Commissioners must be supported by a formal finding, that, in addition to the guidelines set forth in Article II of this chapter, the criteria set forth in Subsection (a)(2) of this section have or have not been satisfied.~~

~~(3) In addition to adopting a Master Concept Plan for the planned development, the Board of County Commissioners may adopt any special conditions necessary to address unique aspects of the subject property in the interest of protecting the public health, safety and welfare. If any recommended special condition is found to be insufficient, the Board of County Commissioners may substitute its own language for such special condition in the final resolution.~~

~~(4) If a schedule of deviations is a part of the planned development application, the Board of County Commissioners may approve, approve with modification, or reject the entire schedule or specific items based upon their finding that each item:~~

~~a. Enhances the achievement of the objectives of the planned development; and~~

~~b. Preserves and promotes the general intent of this chapter to protect the public health, safety and welfare.~~

~~(5) The Board of County Commissioners may require, as a condition of approval of the deviation, that the applicant receive administrative approval of a more specific development plan for each affected development area or parcel. Applications for administrative approval will be processed as administrative amendments in accordance with Section 34-380 of this chapter and may be granted by the Director only upon a finding that public health, safety, and welfare will not be adversely affected by the request.~~

~~(6) If the Board of County Commissioners denies or modifies the requested uses, deviations, or other information shown on the Master Concept Plan, a revised Master Concept Plan must be submitted to the Director reflecting the substance of the approved resolution prior to execution of the resolution. Legible copies of the revised Master Concept Plan must be provided in two sizes, 24 inches by 36 inches, and 11 inches by 17 inches in size.~~

~~(7) No development orders may be issued until the approved resolution has been signed by the chairman.~~

~~(8) An application remanded for further consideration must be brought to hearing before the Hearing Examiner within six months of the date the remand order is rendered. If the application is not brought~~

~~forward as ordered within six months, it will be deemed withdrawn. Thereafter, the applicant will be required to file a new application for consideration by the Hearing Examiner and the Board.~~

Sec. 34-378. Effect of planned development zoning.

Staff note: This section has been revised to clarify the hierarchy of applicable regulations, clarify existing language regarding compliance with PD approval, and remove redundant and outdated requirements.

- (a) *Compliance with applicable regulations.* After the adoption of the Master Concept Plan and the conditions and auxiliary documentation that govern it, any and all development and subsequent use of land, water and structures within the planned development must be in compliance with the following, in order of precedence:
- (1) The Lee Plan.
 - (2) Divisions 1 through 3 of this article.
 - (3) The Master Concept Plan and The conditions, deviations, and development parameters approved by the Zoning Resolution attendant conditions and auxiliary documentation.
 - (4) The approved Master Concept Plan.
 - ~~(4)(5)~~ Applicable County development regulations in force at the time of submission of the application for a development order.
 - ~~(5)(6)~~ The general provisions of this chapter, unless otherwise excepted by an approved schedule of deviations.
- ~~(b) *Applicability of development regulations.* The Master Concept Plan (see Section 34-373(a)(6)) is conceptual only, and development pursuant to the Master Concept Plan is subject to all development regulations established to protect health, safety and welfare that are in force at the time of submission of the application for a development order. This section must be interpreted and applied such that no approved use will be vested as to density or intensity unless the proposed density or intensity is specifically reviewed and approved during the planned development process.~~
- ~~(c) *Recording of notice.* The Department must record a notice of Master Concept Plan approval in the official records of the County. The notice should include a statement which explains that the Master Concept Plan approval is an encumbrance on the real estate described in the plan.~~
- ~~(d) *Prohibitions.*~~
- ~~(1) The introduction of a use of land or water not provided for on the Master Concept Plan or attendant documentation thereto.~~
 - ~~(2) Creation of a development parcel or outparcel not specified on the Master Concept Plan.~~
 - ~~(3) No development parcel or outparcel may be created that is not of sufficient size and configuration to support the principal use proposed together with all accessory land and water uses, such as open space, parking, surface water management and the like, or that does not have permanent and irrevocable rights to such space or use on adjacent and abutting property.~~
- ~~(be) *Compliance with Zoning Approval to run with the land.* The terms and conditions of the zoning approval (other than the Master Concept Plan as set forth in Section 34-381) run with the land and remain effective in perpetuity or until a new zoning action is approved by the Board of County Commissioners. All developments must remain in compliance with the terms and conditions of the zoning approval. Failure to do so will be a violation of this Code and subject to enforcement action.~~
- ~~(cf) *Noncompliance.* If the County discovers a~~ Noncompliance with the applicable regulations forth in subsection (a) the regulations or the Master Concept Plan and its attachments, the County may withhold result in the rejection of any permit, certificate or license to construct, occupy or use any part of the planned

development, ~~unless necessary to abate the noncompliance. This will not be construed to injure the rights of tenants of previously completed and properly occupied phases.~~

- (dg) *Access points.* Access points (e.g., driveways) directly onto the County street system must be in substantial compliance with the approved MCP. Turning movements other than right-in, right-out at approved locations shown on the MCP, median openings and traffic control devices depicted on a MCP are not guaranteed or vested.

Approval for construction of access points, median openings, turning movements and traffic control devices (e.g., traffic lights) is reserved to the County. County approval will be based upon facts and circumstances applicable to the request at the time the application for development or permit approval is submitted.

Approved access points, median openings, turning movements and traffic control devices (e.g., traffic lights) are subject to modification by the County to protect public health, safety, and welfare.

~~Sec. 34-379. Binding nature of approval of Master Concept Plan.~~

~~All terms, conditions, safeguards and stipulations made at the time of the approval of a Master Concept Plan are binding upon the applicant or any successor in title or interest to all or part of the planned development. Departure from the approved plans or failure to comply with any requirement, condition or safeguard constitutes a violation of this chapter.~~

Staff note: Revise section to remove redundant and non-regulatory language. Retained language relocated to Section 34-341 in double underline.

~~Sec. 34-380. Amendments to approved Master Concept Plan.~~

- (a) ~~Amendments to an approved Master Concept Plan or its attendant documentation may be requested at any time during the development of or useful life of a planned development.~~
- (b) ~~The Director may administratively approve an amendment to a planned development in accordance with Section 34-174.~~
- (c) ~~Proposed amendments to an approved planned development for the use of Greater Pine Island TDUs are subject to Sections 2-147 and 2-152.~~
- (d) ~~If a proposed amendment to an approved planned development would, if taken by itself, constitute a major planned development (Development of County Impact, see Section 34-341(b)(1)), then the application to amend must proceed as a new and separate major planned development.~~
- (e) ~~All other requests for amendments to a Master Concept Plan or its auxiliary documentation will be treated procedurally as minor planned developments, but with application information and materials specified by Section 34-373(a).~~
- (f) ~~Notice of an amendment to a Master Concept Plan must be recorded in the same manner as the approved Master Concept Plan itself.~~
- (g) ~~An updated Master Concept Plan of the entire planned development boundary must be submitted for attachment to the resolution adopting the amendment. This is required whether or not the amendment will affect the entire planned development project or just one parcel.~~

~~Sec. 34-381. Duration of rights conferred by an approved planned development.~~

~~Development rights conferred by an approved planned development, including Zoning Resolution and Master Concept Plan, will remain valid until vacated by operation of State law or in accordance with Chapter XIII, (Procedures and Administration), of the Lee Plan, as amended. The duration of approved planned developments issued for mining excavation are subject to Chapter 12. Planned development approvals issued for mining excavation before September 1, 2008, are subject to Sections 12-109 and 12-121.~~

~~Secs. 34-379382—34-410. Reserved.~~

DIVISION 3. DESIGN STANDARDS

Sec. 34-411. General standards.

Staff note: Revise section to remove redundant and non-regulatory language and clarify remaining requirements.

- ~~(a)~~—All planned developments must be consistent with the provisions of the Lee Plan.
- ~~(a)(b)~~ All planned developments must be designed and constructed in accordance with the provisions of all applicable County development regulations in force at that time. ~~Deviations from the general provisions of this chapter may be permitted if requested as part of the application for a planned development in accordance with Section 34-373(a)(9) and approved by the Board of County Commissioners based on the findings established in Section 34-377(a)(4).~~ Pursuant to Section 34-373(a)(10) the establishment of property development regulations for planned developments does not require deviations from Articles VI and VII of this chapter. ~~Amendments to approved Master Concept Plans may be reviewed pursuant to Section 34-380.~~
- ~~(b)(c)~~ The tract or parcel proposed for development under this article must be located so as to minimize the negative effects of the resulting land uses on surrounding properties and the public interest generally, and must be of such size, configuration and dimension as to adequately accommodate the proposed ~~development structures, all required open space, including private recreational facilities and parkland, bikeways, pedestrian ways, buffers, parking, access, on-site utilities, including wet or dry runoff retention, and reservations of environmentally sensitive land or water.~~
- ~~(d)~~—All planned developments must have access to existing or proposed roads. Access must comply with the requirements of Chapter 10 and be located so that site-related industrial traffic does not travel through predominantly residential areas.
- ~~(e)~~—If within the LeeTran public transit service area, the development shall be designed to facilitate the use of the transit system.
- ~~(f)~~—Development and subsequent use of the planned development shall not create or increase hazards to persons or property, whether on or off the site, by increasing the probability or degree of flood, erosion or other danger, nor shall it impose a nuisance on surrounding land uses or the public's interest generally through emissions of noise, glare, dust, odor, air or water pollutants.
- ~~(g)~~—Every effort shall be made in the planning, design and execution of a planned development to protect, preserve or to not unnecessarily destroy or alter natural, historic or archaeological features of the site, particularly mature native trees and other threatened or endangered native vegetation. Alteration of the vegetation or topography that unnecessarily disrupts the surface water or groundwater hydrology, increases erosion of the land, or destroys significant wildlife habitat is prohibited. That habitat is significant that is critical for the survival of rare, threatened or endangered species of flora or fauna.
- ~~(h)~~—A fundamental principle of planned development design is the creative use of the open space requirement to produce an architecturally integrated human environment. This shall be coordinated with the achievement of other goals, e.g., the preservation or conservation of environmentally sensitive land and waters or archaeological sites.
- ~~(i)~~—Site planning and design shall minimize any negative impacts of the planned development on surrounding land and land uses.
- ~~(c)(j)~~ Where a proposed planned development is surrounded by existing development or land use with which it is compatible and of an equivalent intensity of use, the design emphasis shall be on the integration of this development with the existing development, in a manner consistent with current regulation.
- ~~(d)(k)~~ Where the proposed planned development is surrounded by existing development or land use with which it is not compatible or which is of a significant higher or lower intensity of use (plus or minus ten percent of the gross floor area per acre if a commercial or industrial land use, or plus or minus 20 percent of the residential density), or is surrounded by undeveloped land or water, the design emphasis will be to separate and mutually protect the planned development and its environs.

- (l) ~~In large residential or commercial planned developments, the site planner is encouraged to create subunits, neighborhoods or internal communities which promote pedestrian activity and community interaction.~~
- (m) ~~In order to enhance the viability and value of the resulting development, the designer shall ensure the internal buffering and separation of potentially conflicting uses within the planned development.~~
- (n) ~~Density or type of use, height and bulk of buildings and other parameters of intensity should vary systematically throughout the planned development. This is intended to permit the location of intense or obnoxious uses away from incompatible land uses at the planned development's perimeter, or, conversely, to permit the concentration of intensity where it is desirable, e.g., on a major road frontage or at an intersection.~~
- (o) ~~Minimum parking and loading requirements are set forth in Article VII, Divisions 25 and 26 of this chapter. Where land uses are generators of occasional peak demand for parking space, a portion of the required parking may be pervious or semi-pervious surfaces, subject to the condition that the parking area is constructed and maintained so as to prevent erosion of soil. In all cases, sufficient parking must be provided to prevent the spilling over of parking demand onto adjacent properties or rights-of-way at times of peak demand.~~
- (p) ~~Internal consistency through sign control, architectural controls, uniform planting schedules and other similar controls is encouraged.~~

~~Sec. 34-412. Reserved.~~

~~Sec. 34-413. Density or intensity of use.~~

~~Density or intensity of use permitted in any planned development shall be determined on a case-by-case basis in accordance with the following:~~

- (1) ~~The range of density or the uses permitted or encouraged under the Lee Plan at that location;~~
- (2) ~~The availability of adequate capacity of all public facilities and services (in order of precedence, roads, water, sewer, surface water management, public safety, schools and other public services);~~
- (3) ~~The level of public services to be provided by the development; and~~
- (4) ~~The nature of and the density and intensity of existing development surrounding the project.~~

~~In no case, however, shall the density of a planned development be permitted to exceed six units per acre in areas designated as rural or open lands by the Lee Plan.~~

~~Sec. 34-414. 34-412. Open space.~~

Staff note: Revise section to delete redundant language and streamline remaining requirements.

- (a) ~~For the purpose of calculating requirements for planned developments, the term "open space" means:~~
 - (1) ~~Open space has the meaning given such term in Chapter 10.~~
 - (2) ~~Common open space means open space that is physically accessible to all residents of the development.~~
 - (3) ~~Private open space means open space that is physically separated from the common open space and is accessible primarily from a building or unit to which it is appurtenant.~~
- (b) ~~Open space should be reasonably accessible to all dwelling units.~~
- (c) ~~Each lot, tract or outparcel must meet or exceed the minimum open space percentage and size requirements of Chapter 10. The minimum amount of open space for the total development area may be no less than the minimum percentage required in Chapter 10 for large projects, including indigenous vegetation preservation.~~

~~A request may be made to assign minimum~~ Open space percentages may be assigned to individual lots, tracts or outparcels that are different than those required by the Chapter 10, provided that:

(1) through (3) remain unchanged.

(4) No lot, tract or outparcel may provide less than ten percent open space.

~~All such requests must be approved by the Board of County Commissioners as part of the planned development rezoning.~~

~~(d) Unimproved open space, e.g., reserved conservation or preservation areas such as wetlands (see the County Comprehensive Plan adopted in Article V of this chapter, as amended, or as further amended, renumbered or replaced), must be committed at the completion of the first phase.~~

~~(e) With respect to design standards applicable to mine excavation planned developments, the standards set forth in Chapter 12 control.~~

~~Sec. 34-415. Provision of public facilities and services.~~

~~(a) If, at the time of rezoning or final plan review, a proposed planned development is found to require the creation, enlargement or extension of any road or street, any public utility system or other public service provision:~~

~~(1) Notwithstanding concept plan approval, no permits for occupancy or use of the development, or phase thereof, shall be issued until such additional infrastructure is in place, or the service is available;~~

~~(2) The developer shall make provisions acceptable to the appropriate agency, utility or other service provider for offsetting any incremental increase in net cost of or premature and unprogrammed commitment of capital necessitated by the act or timing of the development; or~~

~~(3) The developer shall provide the necessary capital facilities and services in such a manner as to ensure their continuous operation and maintenance for the near and long term, in accordance with the standards set by the appropriate local, regional, State and federal agencies.~~

~~(b) The requirements set forth in Subsection (a) of this section shall be subject to credits or additional conditions as specified in other County ordinances.~~

~~(c) Each and every planned development approved after, December 3, 1990, and all previous planned developments with resolutions containing a condition requiring payment of road impact fees, are subject to the following standard: If Chapter 2, Article VI, Division 2, pertaining to road impact fees, is ever repealed or rescinded or otherwise becomes of no force and effect, the developer or property owner or successor of the developer or property owner must pay an amount of road impact fees equivalent to that required by Chapter 2, Article VI, Division 2, or the specific amount of mitigation required by the resolution, or provide alternative mitigation acceptable to the Director. The amount of the fee will be determined as of the date Chapter 2, Article VI, Division 2 is repealed or rescinded or otherwise becomes of no force and effect.~~

Secs. 34-4136—34-49040. Reserved.

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 34-612. Types and general purpose of districts.

Staff note: Revise section to remove redundant language.

There are two basic types of zoning districts provided for in this article: conventional zoning districts and Planned Development Districts. The general purpose of both types of zoning districts is to implement the goals, objectives and policies of the Lee Plan, as well as to provide protection to the public health, safety and welfare through the regulation of land use.

(1) remains unchanged.

(2) *PD Planned Development Districts.* The purpose and intent of the various Planned Development Districts is to further implement the goals, objectives and policies of the Lee Plan while providing some degree of flexibility in planning and designing developments, ~~by:~~

- a. ~~Facilitating state of the art site planning in order to improve the quality of the built environment and to ensure the most economical use of land and public resources;~~
- b. ~~Stimulating, where appropriate, the integration of new development with surrounding land uses, providing for consistency and visual harmony through various techniques, including screening and buffering, sign control, architectural controls and landscape design;~~
- c. ~~Encouraging multiple or mixed use development strategies, including the use of several housing types, the provision of several uses in combination such as residential and neighborhood commercial, office and light industry, and other analogous combinations;~~
- d. ~~Promoting improved and unifying design techniques that reduce dependence on vehicular movement within the development, encourage the use of joint parking and loading facilities, provide for joint access, and generally maintain adequate service and facilities while avoiding negative impacts on surrounding land use and traffic circulation;~~
- e. ~~Encouraging patterns of land use that support more economical provision of infrastructure;~~
- f. ~~Providing a mechanism by which the preservation or conservation of historic or natural resources and environmental amenities, including open space, may be ensured;~~
- g. ~~Providing a mechanism for offsetting any increased cost of the premature commitment of capital by any public utility or service provider through developer donations and dedications of capital, through private provisions and operation of services and facilities, or through a system of impact fees;~~
- h. ~~Providing a process and record on which developers, public officials, the general public and the consumers of development may rely; and~~
- i. ~~Providing for the protection and preservation of historic resources through reuse, sensitive adaptive use, compatible design and rehabilitation.~~

~~Use and development regulations for Planned Development Districts are provided in Division 9 of this article.~~

Sec. 34-613. Zoning maps.

Staff note: Revise section to remove redundant language.

- (1) Public availability. The official and current zoning maps are part of the public records. The Department of Community Development will retain a copy of the zoning maps ~~consistent with statutory recordkeeping requirements.~~
- ~~(2) Unauthorized changes to zoning maps. No one may acquire any interest or right in property or personalty from an unauthorized change in the Official Zoning Map.~~
- (23) Vested rights. There is no right to rely on either the official or current zoning maps to vest development or private rights. Staff members and members of the public must consult the pertinent zoning resolutions, Hearing Examiner decisions for special exceptions or variances, and administrative approvals or deviations to determine the parameters and conditions affecting the subject property.
- ~~(4) Both the Official Zoning Map and the current zoning map are a part of this chapter as if fully described in this chapter.~~

~~Sec. 34-614. Official Zoning Map.~~

- ~~(a) — *Description.* The boundaries of each Zoning District as they were officially adopted from 1991 through 1994 by Resolution Nos. 91-09-42, 92-03-11, 93-01-17 and 94-03-27 are designated and established on the Official Zoning Map of the County. Amendments approved by the Board of County Commissioners since the adoption of the Official Zoning Maps are shown on the current zoning map described below.~~
- ~~(b) — *Replacement pages and new Official Zoning Maps.* If a page of the Official Zoning Map becomes damaged, destroyed, lost, or it is determined an error exists in the Official Zoning Map, the current zoning map will control.~~

~~Sec. 34-615. Current zoning maps.~~

- ~~(a) — *Description.* The current zoning maps of the County consist of section maps depicting the same information on the Official Zoning Map as it may be subsequently modified by zoning amendments, special exceptions, variance or administrative deviations, etc. and mapping corrections since the adoption of the Official Zoning Maps. For the purposes of this section, the term "mapping corrections" means corrections applied to the current zoning map to provide an accurate reflection of the legal description attached to a duly adopted zoning resolution.~~
- ~~(b) — *Preparation.*~~
 - ~~(1) — Current zoning maps are scaled, computer-generated maps.~~
 - ~~(2) — Printed copies of the current zoning map that are provided as part of a public records or zoning verification letter request must contain the following statement: "This map represents the Official Zoning Map and all district boundary changes, special exceptions, zoning variances and administrative amendments approved as of (date) _____, _____."~~
 - ~~(3) — The boundaries of each district will be shown on the current zoning map, and the district symbols will be used to designate each district.~~
 - ~~(4) — For mapping purposes only, a zoning district boundary line may be drawn to the centerline of a street, stream or river, or to the shoreline of a stream, river or other body of water, and all existing streets or bodies of water within such district may be included within such district without delineation of the streets or bodies of water.~~
 - ~~(5) — Official changes to the current zoning map will be entered into the computer data base in the following manner:~~
 - ~~a. — The district boundary change will be entered into the data base and will indicate the new district designation, as well as a symbol referencing additional zoning information.~~
 - ~~b. — The additional zoning information may include the Board of County Commissioner's resolution number, what the change of districts was and any special conditions.~~
 - ~~(6) — All approved special exceptions or variances and all appropriate administrative approvals and deviations will be noted as follows:~~
 - ~~a. — The property in question will be marked with a reference symbol directing the reader to additional zoning information;~~
 - ~~b. — The additional information may include the Hearing Examiner case number, type of action taken (i.e., special exception or variance) and special conditions and the administrative approval or deviation reference number.~~

Sec. 34-~~614~~616. Rules for interpretation of district boundaries.

Secs. 34-~~615~~17, 34-618. Reserved.

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

(a) and (b) remain unchanged.

(c) ~~Conditions.~~ Nothing in this subsection authorizes the imposition of conditions on a conventional rezoning. Where previously adopted resolutions of approval for conventional rezonings include conditions of approval, such conditions remain valid and enforceable, unless removed through a subsequent zoning action.

(c) ~~Property development regulations.~~ Divisions 2 through 9 of this article contain property development regulations tables which set forth the minimum development regulations for development of land within the specified districts.

Sec. 34-622. Use activity groups.

(a) and (b) remain unchanged.

(c) Use activity groups. Use activity groups are as follows:

(1) through (8) remain unchanged.

(9) Contractors and builders. This group includes all general, operative and special trade contractors and builders, including:

Group II. Permits offices, indoor storage and light fabrication work. Outdoor storage of materials and equipment is permitted in accordance with 34-3001 et seq if enclosed. Specifically prohibited is any heavy construction equipment such as cement trucks, cranes, bulldozers, well-drilling trucks and other similar heavy equipment, or wrecking or demolition debris.

(10) through (12) remain unchanged.

(13) Essential service facilities. Buildings or above-ground structures, exceeding 27 cubic feet in volume, required to provide essential services (defined in Section 34-2), including electricity, communications, telephone, cable television, gas, water, sewage, solid waste and resource recovery. This does not include wireless communication facilities which are regulated by Section 34-1441 et seq.

<i>Group I (Section 34-1611 et seq.)</i>
--

(14) through (54) remain unchanged.

(55) Vehicle and equipment dealers (Section 34-1352). This group includes establishments primarily involved in the retail sale or storage of motor vehicles, trailers, boats and other similar equipment. Incidental servicing and repairs and the stocking of replacement parts is a normal ancillary function.

(56) remains unchanged.

Secs. 34-623 – 34-625. Reserved.

Sec. 34-623. Performance standards, environmental quality.

All uses and activities permitted by right, special exception or temporary permit in any zoning district, including planned development and PUD Districts, must be constructed, maintained, placed, conducted, and operated so as to:

- ~~(1) Comply with all local, State, and federal air, noise, and water pollution standards; and~~
- ~~(2) Not adversely impact water quality and water needs.~~

Sec. 34-624. Performance standards, creation of nuisance.

All uses and activities permitted by right, special exception or temporary permit in any zoning district, including planned development and PUD Districts, must be constructed, maintained, placed, conducted, and operated so as to:

- (1) ~~Not be injurious or offensive and thereby constitute a nuisance to owners or occupants of adjacent premises, nearby residents, or to the community, by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, fire or explosive hazard, light pollution, or glare;~~
- (2) ~~Not cause light from a point source of light to be directed, reflected, or refracted beyond the boundary of the parcel or lot, onto adjacent or nearby residentially zoned or used property or onto any public right of way, and thereby constitute a nuisance to owners or occupants of adjacent premises, nearby residents, or to the community; and~~
- (3) ~~Ensure all point sources of light and all other devices for producing artificial light are shielded, filtered, or directed in such a manner as to not cause light trespass.~~

DIVISION 2. AGRICULTURAL DISTRICTS

Sec. 34-653. Use regulation table.

Staff note: Staff note: **Asterisks (* * *)** indicate intervening table rows that are omitted from this amendment because they remain unchanged. Revise section to update cross-references, allow Helistops by special exception in AG districts (consistent with other zoning classifications), remove note (4) to allow mobile homes without requirement to meet AG-1 property development regulations, allow parks by right in AG districts, and remove note (7), which previously applied to planned developments and is now outdated. Align consumption on premises with amendments to Section 34-1264.

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

Aircraft landing facilities, private:				
Lawfully existing:				
Expansion of aircraft landing strip or helistop or heliport landing pad	Section 34-1231 et seq.	SE	SE	SE
New accessory buildings	Section 34-1231 et seq.	P	P	P
New:				
Aircraft landing strip and ancillary hangers, sheds and equipment	Section 34-1231 et seq.	SE	SE	SE
Helistop	Section 34-1231 et seq.	SE	SE	SE

Assisted living facility	Notes (1), (21), Section 34-1411, Section 34-1491, et seq.	EO/SE	EO/SE	EO/SE
Bed and breakfast (df)	Note (16), Section 34- 1491 et seq. 1494	P	P	—

Consumption on premises	Section 34-1261 et seq.	P/AA/SE	P/AA/SE	P/AA/SE

Dwelling unit:				
Mobile home	Notes (4) & (17), Section 34-1921 et seq.	P	P	P
Single-family residence, conventional	Note (17)	P	P	P
Second conventional single-family residence on lot	Notes (5) & (17), Section 34-1180	P	P	P

Essential services	Sections 34-1611 et seq., 34-1741 et seq.	P	P	P
Essential service facilities (34-622(c)(13)):				
Group I	Sections 34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	P	P	P
Group II	Sections 34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	EO	EO
Excavation:				
Oil or gas	Section 34-1651	SE	SE	SE
Water retention	Sections 34-1651, 10- 329(c)	P	P	P
Mining	Note (24)	—	—	—

Parks (34-622(c)(32))				
Group I	Note (9)	P	P	P
Group II	Note (7)	EO/SEP	EO/SE-P	EO/SE-P

Notes:

(1) through (3) remain unchanged.

(4) ~~Reserved. Mobile home permitted, provided it is the only residential unit on the property; and provided, further, that the property meets the same lot area and dimensions, setbacks, height and maximum lot coverage as set forth in Table 34-654 for the AG-1 District.~~

(5) and (6) remain unchanged.

(7) ~~Reserved. Any new facility of ten or more acres or any expansion of an existing facility to ten or more acres requires a special exception.~~

(8) through (16) remain unchanged.

(17) Not permitted in Airport Noise Zone B. See Section 34-~~11041003~~ for exceptions.

(18) remains unchanged.

(19) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See Section 34-~~11041003~~.

(20) and (21) remain unchanged.

(22) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in Section 34-~~11041003~~ as applicable.

(23) Minimum of five acres required. Commercial ~~site location and~~ design standards apply.

(24) through 26 remain unchanged.

Sec. 34-654. Property development regulations table.

Staff note: Revise section to delete redundant special regulations listings and cross-references. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Property development regulations for agricultural districts are as follows:

Table 34-654. Property Development Regulations for Agricultural Districts

	<i>Special Notes or Regulations</i>	AG-1	AG-2	AG-3
Minimum lot dimensions and area:	Note (1)			
* * *				
Special regulations:				
Animals, reptiles, marine life	Section 34-1291 et seq.			
Consumption on premises	Section 34-1261 et seq.			
Docks, seawalls, etc.	Section 34-1863 et seq.			
Essential services	Section 34-1611 et seq.	Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.		
Essential service facilities (Section 34-622(c)(13))	Sections 34-1611 et seq., 34-2142			
Fences, walls, gatehouses, etc.	Section 34-1741 et seq.			
Nonroofed accessory structures	Section 34-2194(c)			
Railroad right-of-way	Section 34-2195			
Maximum height (feet)	Section 34-2171 et seq.	35	35	35

		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see Section 34-2175).

DIVISION 3. RESIDENTIAL DISTRICTS

Subdivision II. One- and Two-Family Residential Districts

Sec. 34-691. Purpose and intent.

Staff note: Revise section to remove cross-reference to Chapter 33 regulations (now incorporated into Chapter 34).

- (a) *RSC-1 Residential Single-Family Conservation District.* The purpose and intent of the RSC-1 Residential Single-Family Conservation District is to recognize and protect existing single-family residential developments, lots, structures and uses, previously permitted but not conformable to the regulation for other single-family residential districts set forth in this chapter, and to accommodate residential use of lawfully existing lots nonconforming under previous zoning regulations. This district may be applied to any land use category allowing residential uses set forth under the Lee Plan. This district is not available for new developments but 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 to achieve the purpose mentioned in this section. For the RSC-2 Zoning District, see Section 33-1626.

Remainder of section unchanged.

Sec. 34-694. Use regulations table.

Staff note: Revise use regulations table to allow accessory uses, buildings, and structures and accessory apartments and accessory dwelling units in RSC-2 zoning district, subject to Note (16), which has been relocated from Section 33-1626(c). Correct cross-references and align consumption on premises with amendments to section 34-1264. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

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

Table 34-694. Use Regulations for One- and Two-Family Residential Districts

	<i>Special Notes or Regulations</i>	<i>RSC-1</i>	<i>RSC-2</i>	<i>RSA</i>	<i>RS-1</i>	<i>RS-2</i>	<i>RS-3</i>	<i>RS-4</i>	<i>RS-5</i>	<i>TFC-1</i>	<i>TFC-2</i>	<i>TF-1</i>
Accessory uses, buildings and structures:	Sections 34-1171 et seq., 34-2441 et seq., 34-3106	P	P (16)	P	P	P	P	P	P	P	P	P

Accessory apartment and accessory dwelling unit	Notes (1) & (10), Section 34-1177	—	— <u>P</u> (16)	P	P	P	P	P	P	P	P	—

Consumption on premises	Section 34-1261 et seq.	<u>P/AA</u> /SE	<u>P/AA</u> /SE	<u>P/AA</u> /SE	<u>P/AA</u> /SE	<u>P/AA</u> /SE	<u>P/AA</u> /SE	<u>P/AA</u> /SE	<u>P/AA</u> /SE	<u>P/AA</u> /SE	<u>P/AA</u> /SE	<u>P/AA</u> /SE

Essential services	Section 34-1611 et seq. , 34-1748	P	P	P	P	P	P	P	P	P	P	P
Essential service facilities (Section 34-622(c)(13)):												
Group I	Section 34-1611 et seq. , 34-1741 et seq., 34-2142	P	P	P	P	P	P	P	P	P	P	P
Group II	Section 34-1611 et seq. , 34-1741 et seq.	—	—	—	EO	—	—	—	—	—	EO	—
Excavation:												
Oil or gas	Section 34-1651(c)	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Water retention	Section 34-1651(b) , 10-329(c)	P	P	P	P	P	P	P	P	P	P	P

Notes:

(1) through (12) remain unchanged

(13) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See Section 34-~~1104-1003~~.

(14) and (15) remain unchanged

(16) For Captiva Island, two accessory dwelling units, which may include accommodations for guests, family members, or domestic employees and their families, as well as permitted accessory structures, may be permitted on each lot zoned RSC-2.

Sec. 34-695. Property development regulations table.

Staff note: Revise section to remove redundant cross-references. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

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

Table 34-695. Property Development Regulations for One- and Two-Family Residential Districts

	Special Notes or Regulations	RSC-1	RSC-2	RSA	RS-1	RS-2	RS-3	RS-4	RS-5	TFC-1	TFC-2	TF-1
Minimum lot area and dimensions:	Sections 34-2221, 34-2222											

Special regulations:												
Animals, reptiles, marine life	Section 34-1291 et seq.											
Consumption on premises	Section 34-1261 et seq.											
Docks, seawalls, etc.	Section 34-1863 et seq.											
Essential services	Section 34-1611 et seq.											
Essential service facilities (Section 34-622(c)(13))	Section 34-1611 et seq.	Refer to the section specified for exceptions or additions to the minimum setback requirements listed in this table.										
Fences, walls, gatehouses	Section 34-1741 et seq.											
Nonroofed accessory structures	Section 34-2194(c)											
Railroad right-of-way	Section 34-2195											
Maximum height (feet)	Section 34-2171 et seq.	35	35	35	35	35	35	35	35	35	35	35
		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see Section 34-2171 et seq.).										

Notes:

(1) through (4) remain unchanged.

- (5) All lots in the Coastal Rural ~~future~~ land use category in Greater Pine Island (as delineated by ~~Policies Policy 1.4.7 and 24.3.3 of the Lee Plan~~) that are created after May 29, 2007, must comply with the additional regulations in Section ~~33-1052-34-1494~~. Lots created before that date are not required to comply with the additional regulations in Section ~~33-1052-34-1494~~.

Subdivision III. Multiple-Family Districts

Sec. 34-713. Alternate property development regulations for duplex, two-family attached and townhouse units.

Staff note: Revise section to remove duplicative regulations.

As an alternative to developing in accordance with Section 34-715, pertaining to property development regulations for multiple-family residential districts, a parcel may be developed with duplexes, two-family attached units and townhouses on lots with a minimum area of 2,400 square feet per unit without compliance with minimum width, depth or side yard setback requirements; provided:

- (1) The overall parcel on which the lots are developed shall comply with all lot coverage, area, width and depth requirements for the RM District in which located;
- (2) All structures shall comply with setbacks for the RM District in which located, as measured from the boundary of the overall parcel; and
- ~~(3) All structures shall comply with front and rear and water body setbacks for the RM District in which located, as measured from individual lot lines;~~
- (34) All structures which exceed the maximum height requirements of the RM District in which located shall comply with the additional setbacks specified in Article VII, Division 30, Subdivision II of this chapter as measured from the overall parcel boundary; and
- ~~(5) The applicant shall provide adequate assurance that all areas of the overall parcel which are not developed with individual lots shall remain as open space. Such assurance may be in the form of an easement or other document or combination of documents satisfactory to the County Attorney.~~

Sec. 34-714. Use regulations table.

Staff note: Revise section to correct cross-references and remove redundant cross-references. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Use regulations for Multiple-Family Districts are as follows:

Table 34-714. Use Regulations for Multiple-Family Residential Districts

	<i>Special Notes or Regulations</i>	<i>RM-2 (Note 5)</i>	<i>RM-3, RM-6, RM-8, RM-10 (Note 5)</i>
Accessory uses, buildings, and structures:	Sections 34-1171 et seq., 34-3106	P	P
* * *			
Consumption on premises	Section 34-1261 et seq.	<u>P/AA/SE</u>	<u>P/AA/SE</u>
* * *			
Essential services	Sections 34-1611 et seq. , 34-1748	P	P

Essential service facilities:	Sections 34-622(c)(13)		
Group I	Sections 34-1611 et seq. , 34-1741 et seq.	P	P
Group II	Sections 34-1611 et seq. , 34-1741 et seq. <u>and</u> 34-2141 et seq.	EO	—
Excavation:			
Oil or gas	Section 34-1651(b) (c)	SE	SE
Water retention	Section 34-1651(b) , 10-329(c)	P	P

Notes:

(1) through (10) remain unchanged.

(11) Not permitted in Airport Noise Zone B. See Section 34-~~1104-1003~~ for exceptions.

(12) Reserved.

(13) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See Section 34-~~1104-1003~~.

(14) through (16) remain unchanged.

Sec. 34-715. Property development regulations table.

Staff note: Revise section to remove redundant cross-references and correct remaining cross-references. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

No structure may hereafter be erected, constructed, moved, altered or maintained in the RM Districts in a manner that is not consistent with the property development regulations for Multiple-Family Districts, except as provided for in Article VIII of this chapter, or in Section 34-620 or Section 34-713.

Properties located within the Mixed-Use Overlay as delineated on Map 1-C of the Lee Plan and described in Objective 11.2 may apply the alternative property development regulations under the "MUO" category.

Property development regulations for Multiple-Family Districts are as follows:

Table 34-715. Property Development Regulations for Multiple-Family Residential Districts

	<i>Special Notes or Regulations</i>	<i>RM-2</i>	<i>RM-3</i>	<i>RM-6</i>	<i>RM-8</i>	<i>RM-10</i>	<i>MUO</i>
Minimum lot area and dimensions:	Sections 34-1493, 34-1494, 34-2221, 34-2222						
* * *							
Special regulations:							
Animals, reptiles, marine life	Section 34-1291 et seq.						
Consumption on premises	Section 34-1261 et seq.						
Docks, seawalls, etc.	Section 34-1863						
Essential services	Section 34-1611 et seq.						

Essential service facilities (Section 34-622(c)(13))	Section 34-1611 et seq.	Refer to the sections specified for exceptions or additions to the minimum setback requirements listed in this table.					
Fences, walls, gatehouses, etc.	Section 34-1741 et seq.						
Hotel/motel	Section 34-1801 et seq.						
Nonroofed accessory structures	Section 34-2194(c)						
Railroad right-of-way	Section 34-2195						
Maximum height (feet)	Section 34-2171 et seq.	35	35	35	35	35	As req. by Section 34-2175
		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see Section 34-2171 et seq.).					

Subdivision IV. Mobile Home Residential Districts

Sec. 34-731. Purpose and intent.

Staff note: Eliminate outdated cross reference.

(a) MHC Mobile Home Conservation Residential District.

(1) remains unchanged

(2) Mobile home developments constructed prior to the 1962 zoning regulations are 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).

(b) and (c) remain unchanged

Sec. 34-735. Use regulations table.

Staff note: Revise section to update and remove cross-references as needed. Delete redundant cross-references.

Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Use regulations for mobile home districts are as follows:

Table 34-735. Use Regulations for Mobile Home Districts

	Special Notes or Regulations	MHC-1, MHC-2	MH-1	MH-2	MH-3	MH-4
Accessory uses, buildings, and structures:	Sections 34-1171 et seq., 34-2441 et seq., 34-3106	P	P	P	P	P

Amateur radio antennas and satellite earth stations	Section 34-1175	Refer to Section 34-1175 for regulations.					
Consumption on Premises	Section 34-1261 et seq.	P/AA/SE	P/AA/SE	P/AA/SE	P/AA/SE	P/AA/SE	

Dwelling unit:							
Mobile home	Note (10), Section 34-1921 et seq.	P	P	P	P	P	
Single-family residence, conventional	Note (10)	P	P	P	P	P	
Essential services	Section 34-1611 et seq.	P	P	P	P	P	
Essential service facilities (Section 34-622(c)(13)):							
Group I	Section 34-1611 et seq., Section 34-1741 et seq.	P	P	P	P	P	
Excavation:							
Oil or gas	Section 34-1651(c)	SE	SE	SE	SE	SE	
Water retention	Section 34-1651(b), 10-329(c)	P	P	P	P	P	

Notes:

(1) through (9) remain unchanged.

(10) Not permitted in Airport Noise Zone B. See Section 34-1104-1003 for exceptions.

(11) Reserved.

(12) Not permitted in Airport Noise Zone unless accessory to a lawful mobile home or single-family residence. See Section 34-1104-1003

(13) remains unchanged.

Sec. 34-736. Property development regulations table.

Staff note: Revise section to remove redundant cross-references and update remaining cross-references as necessary. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Property development regulations for mobile home districts are as follows:

Table 34-736. Property Development Regulations for Mobile Home Residential Districts

	Special Notes or Regulations	MHC-1	MHC-2	MH-1 (2)	MH-2 (1), (2)	MH-3 (2)	MH-4 (2)

	Maximum height (feet)	Section 34-2171 et seq.	25	25	35	35	35	35
			Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special height limitations (see Section 34-2175).					

Special regulations:								
	Animals, reptiles, marine life	Section 34-1291 et seq.						
	Consumption on premises	Section 34-1261 et seq.						
	Docks, seawalls, etc.	Section 34-1863 et seq.						
	Essential services	Section 34-1611 et seq.	Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.					
	Essential service facilities (Section 34-622(c)(13))	Section 34-1611 et seq.						
	Fences, walls, gatehouses, etc.	Section 34-1741 et seq.						
	Nonroofed accessory structures	Section 34-2194(c)						
	Railroad right-of-way	Section 34-2195						

DIVISION 4. RECREATIONAL VEHICLE PARK DISTRICTS

Secs. 34-762 - 34-763. Reserved.

~~Sec. 34-762. Recreational vehicles as permanent residences.~~

Staff note: Delete section, which is antiquated and unnecessary.

The use of a recreational vehicle type unit by a "permanent resident" as a "permanent residence," as those terms are defined in F.S. Ch. 196, is expressly prohibited. Persons who have established permanent residency within a recreational vehicle park as of September 16, 1985, are exempt from the residency provisions of this section, provided that the proof of residency was established by an affidavit filed with the County prior to October 31, 1985.

~~Sec. 34-763. Tiedowns.~~

(a) ~~Tiedowns.~~

(1) The following recreational vehicles must be properly tied down in accordance with the standards set forth in F.A.C. Ch. 15C-1, as amended, or Chapter 6, Article IV, whichever is applicable, as follows:

a. All permanent units, as defined in section 34-2.

- b. ~~All travel trailers, motor homes or camping trailers left unattended for more than two weeks during the months of June through December. For the purposes of this section only, the term "unattended" will be interpreted to mean that the owner of the unit has not provided for a person to be responsible for the unit in the event of a hurricane watch alert as set forth in Subsection (a)(2) of this section.~~
- (2) ~~All travel trailers, motor homes or camping trailers must be tied down within 48 hours of the issuance of a hurricane watch for the County by the National Hurricane Center. Travel trailers, motor homes or camping trailers not tied down will be removed from the County within 48 hours of such a hurricane watch or placed within an approved off-lot storage area.~~

Sec. 34-767. Use regulations table.

Staff note: Revise section to allow single-family residences and mobile homes in RV districts to assure compliance with HB 803 (2026). **Asterisks (* * *)** indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Use regulations for recreational vehicle districts are as follows:

Table 34-767. Use Regulations for Recreational Vehicle Districts

	<i>Special Notes or Regulations</i>	<i>RV-2</i>	<i>RV-3</i>

Consumption on premises	Section 34-1261 et seq.	<u>P/AA/SE</u>	<u>P/AA/SE</u>
Dwelling Unit:			
Single-family residence, conventional		<u>P</u>	<u>PEO</u>
Mobile home		<u>P</u>	<u>P</u>
Essential services	Section 34-1611 et seq.	<u>P</u>	<u>P</u>
Essential service facilities (Section 34-622(c)(13)):			
Group I	Sections 34-1611 et seq., 34-1741 et seq.	<u>P</u>	<u>P</u>
Excavation:			
Oil or gas	Section 34-1651(e)	<u>SE</u>	<u>SE</u>
Water retention	Section 34-1651(b), 10-329(c)	<u>P</u>	<u>P</u>

Sec. 34-768. Property development regulations table.

Staff note: Delete note (12), which is redundant. **Asterisks (* * *)** indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Property development regulations for recreational vehicle districts are as follows:

Table 34-768. Property Development Regulations for Recreational Vehicle Districts

	<i>Special Notes or Regulations</i>	<i>RV-2</i>	<i>RV-3</i>
Minimum lot area and dimensions:	Sections 34-2221, 34-2222, 34-1611 et seq.		

Maximum height (feet)	Note (12), Section 34-2171 et seq.	35	35
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Notes:

(1) through (11) remain unchanged.

(12) ~~Reserved. Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special height limitations (see Section 34-2175).~~

(13) remains unchanged.

DIVISION 5. COMMUNITY FACILITIES DISTRICTS

Sec. 34-813. Use regulations table.

Staff note: Delete cross-references to sections proposed for deletion. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Use regulations for the community facilities districts are as follows:

Table 34-813. Use Regulations for Community Facilities Districts

	<i>Special Notes or Regulations</i>	<i>CF</i>
* * *		
Accessory uses, buildings and structures	Sections 34-1171 et seq., 34-2441 et seq., 34-2141 et seq., 34-1611 et seq.	P
Boat ramps, noncommercial		EO/SE
Bus station/depot	Section 34-1381 et seq.	P
* * *		
Consumption on premises	Section 34-1261 et seq.	P/AA/SE
* * *		
Essential service facilities:	Section 34-622(c)(13)	
Group I	Sections 34-1611 et seq. , 34-1741 et seq., 34-2141 et seq.	P
Group II	Sections 34-1611 et seq. , 34-1741 et seq., 34-2141 et seq.	EO
Excavation:		
Oil or gas		SE
Water retention	Section 34-1651 et seq.	P

Notes:

(1) remains unchanged.

(2) Except for ~~government owned and operated~~ parks (Section 34-622(c)(32)), facilities proposed for ten or more acres or the expansion of an existing facility that will bring the number of acres to ten or more acres or that changes the use, must request a special exception.

(3) through (8) remain unchanged.

(9) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in Section 34-~~11041003 (b)(2)~~ as applicable.

(10) through (12) remain unchanged.

Sec. 34-814. Property development regulations table.

Staff note: Revise section to eliminate outdated or duplicative cross-references. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Property development regulations for the community facilities districts are as follows:

Table 34-814. Property Development Regulations for Community Facilities Districts

	Special Notes or Regulations	CF

Place of worship		
Religious facility		
All other		

Maximum height (feet)	Note (3), Section 34-2171 et seq.	35

Notes (1) and (2) remain unchanged.

(3) — Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see Section 34-2175).

DIVISION 6. COMMERCIAL DISTRICTS

Sec. 34-844. Use regulations table.

Staff note: Revise section to remove redundant or no longer applicable cross-references. Delete note (19), which currently limits the maximum number of by-right fuel pumps to eight. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Use regulations for conventional commercial districts are as follows:

Table 34-844. Use Regulations for Conventional Commercial Districts

	Special Note s or Reg ulati ons	C- 1A	C-1	C-2	C- 2A	CN -1	CN -2	CN-3 (21), (23)	CC	CG	CS- 1	CS- 2	CH	CT	CR	C I	C P

Auto parts store	Note (19) Secti on 34- 1351 ; Secti on 34- 1353	P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	—

Automobile repair and service (Section 34-622(c)(2)):																		
	Group I	Note (19) Section 34-1351, Section 34-1353	—	P	P	P	—	—	—	P	P	—	—	—	—	—	P	—
	Group II	Note (19) Section 34-1351, Section 34-1353	—	—	P	P	—	—	—	—	P	—	—	—	—	—	P	—
	Automobile service station	Note s (19) & (34), Section 34-1351, Section 34-1353	—	P	P	P	—	P	—	P	P	—	—	P	SE	P	P	—

Boats:																		
	Boat parts store		P	P	P	P	—	P	P(2, 4)	P	P	—	—	—	—	—	—	—
	Boat ramp		EO /SE	EO /SE	P	P	—	—	—	P	P	—	—	—	P	P	—	—
	Boat rental		P	P	P	P	—	P	—	P	EO	—	—	P	P (7)	—	—	—
	Boat repair and	Sections 34-1352	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

service	34-3001 et seq.																	

Business services (Section 34-622(c)(5)):																		
Group I		P	P	P	P	P	P	P	P	P	P	P	P (8)	—	P	P	P	—
Group II	Note (34), Section 34-1352	—	P	P	P	—	—	SE	—	P	—	—	—	—	—	—	P	—
Bus station/depot	Section 34-1381 et seq.	—	—	P	P	—	—	—	SE	P	—	—	P	—	—	—	P	—

Car wash	Section 34-1353	—	P	P	P	—	—	—	P	P	—	—	P	—	—	—	—	—

Clubs:																		
Commercial		—	—	P	P	—	—	—	P	EO	—	SE	—	—	—	—	—	—
Fraternity	Section 34-2111	—	P	P	P	—	—	—	P	EO	—	SE	—	P	—	—	—	—
Membership organization	Section 34-2111	—	P	P	P	—	—	—	P	EO	—	—	—	—	—	—	—	—
Private		—	—	—	—	P	P	—	P	—	—	SE	—	P	P	—	—	—

Consumption on premises	Section 34-1261 et seq.	P/AA /SE	P/AA /SE	P/AA /SE	P/AA /SE	P/AA /SE	P/AA /SE	P/AA /SE(2)	P/AA /SE	P/AA /SE	P/AA /SE	P/AA /SE	P/AA /SE	P/AA /SE	P/AA /SE	P/AA /SE	—	—

Convenience food and beverage store	Section 34-1353	P(19)	P(19)	P(19)	P(19)	—	SE(19)	—	P	P	—	—	P	SE(19)	P	P	—

Essential services	Section 34-1611 et seq.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Essential service facilities:	Section 34-622(c)(13)																
Group I	Sections 34-1611 et seq., 34-1741 et seq.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Group II	Sections 34-1611 et seq., 34-1741 et seq., 34-2141 et seq.	EO	—	—	—	—	—	—	EO	—	—	—	—	—	—	—	—
Excavation:																	
Water retention	Section 34-1651 et seq.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Mobile home dealers	Section 34-1352	—	—	P	—	—	—	—	—	SE	—	—	—	—	—	—	—

Parking lot:																	
Accessory		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Commercial		—	SE	SE	SE	—	—	—	SE	SE	—	—	—	—	—	—	—
Gara ge, publi c parki ng		—	SE	SE	P	—	—	—	SE	SE	—	—	—	—	—	—	—
Park-and-ride	Section 34-1388	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Tem pora ry	Note (14), Section 34-3049	P	P	P	P	P	P	—	P	P	P	P	P	P	P	P	P

Rental or leasing establishments (Section 34-622(c)(39)):																	
Group I	Sections 34-1352 , 34-3001 et seq.	P	P	P	P	—	P	P	P	P	—	—	P	P	—	—	—
Group II	Sections 34-1352 , 34-3001 et seq.	P	P	P	P	—	P	P	P	P	—	—	P	P	P	—	—
Group III	Sections 34-1352	—	P	P	P	—	—	—	P	P	—	—	P	P(17)	—	—	—

		Section 34-3001 et seq.																
	Group IV	Section 34-1352 et seq.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Restaurant, fast food		Section 34-1353	—	P	P	P	—	—	—	P	P	—	—	P	P	SE	—	—

Storage:																		
	Indoor only	Section 34-3001 et seq.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	—
	Storage, open	Section 34-3001 et seq., 34-1352	—	P	P	P	—	—	—	P	P	—	—	—	—	—	P	—

Variety store			P	P	P	P	—	P	P	P	P	—	—	—	—	—	—	—
Vehicle and equipment dealers (Section 34-622(c)(55)):																		
	Group I	Section 34-1352	—	P	P	P	—	—	—	—	P	—	—	—	—	—	—	—
	Group II	Section 34-1352	—	P	P	P	—	—	—	P	P	—	—	—	—	—	—	—
	Group III	Section 34-1352	—	P	P	P	—	—	—	—	P	—	—	—	—	—	—	—

Group IV	Section 34-1352	—	P	P	P	—	—	—	—	P	—	—	—	—	—	—	—
Group V	Section 34-1352	—	—	—	—	—	—	—	—	P	—	—	—	—	—	—	—

Notes:

(1) through (18) remain unchanged.

(19) All services performed by an automotive repair and service establishment, including repair, painting and body work activities, must be performed within a completely enclosed building. Providing estimates for work to be completed or performing minor repair services, such as replacement of windshield wiper blades, automobile batteries, and light bulbs are excluded from this provision. Limited to eight pumps unless a greater number is approved as part of a special exception or as specifically approved in the Master Concept Plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998, will not be considered nonconforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.

(20) through (25) remain unchanged.

(26) Not permitted in Airport Noise Zone B. See Section 34-~~11041003~~ for exceptions.

(27) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See Section 34-~~11041003~~.

(28) and (29) remain unchanged.

(30) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in Section 34-~~11041003~~ as applicable.

(31) through (33) remain unchanged.

(34) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. ~~Projects with outdoor storage will be considered vehicle and equipment dealers, Group I, and must comply with Section 34-1352.~~

(35) and (36) remain unchanged.

Sec. 34-845. Property development regulations table.

Staff note: Revise table to remove redundant and outdated cross-references. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

No structure may hereafter be erected, constructed, moved, altered or maintained in any conventional commercial district in a manner inconsistent with the property development regulations for conventional commercial districts, except as provided for in Article VIII of this chapter, or in Section 34-620.

Properties located within the Mixed-Use Overlay, as delineated on Map 1-C of the Lee Plan and described in Objective 11.2, may apply the alternative property development regulations under the MUO category.

Property development regulations for conventional commercial districts are as follows:

Table 34-845. Property Development Regulations for Commercial Districts

	Special Notes or Regulations	C- 1A	C- 1	C- 2, C- 2A	CN- 1	CN- 2	CN- 3	CC, CG	CS- 1	CS- 2	CH	CT	CR	CI	CP	MUO

Minimum lot area and dimensions:	Sections 34-1611 et seq., 34-2221, 34-2222															0
Special regulations:		Refer to the sections specified for exceptions or additions to the minimum setback requirements listed in this table.														
Animals, reptiles, marine life	Section 34- 1291 et seq.															
Consumption on premises	Section 34- 1261 et seq.															
Dairy products (sic 202)	Section 34- 2443															
Docks, seawalls, etc.	Section 34- 1863															
Essential services	Section 34- 1611 et seq.															
Essential service facilities (Section 34- 622(c)(13))	Section 34- 1611 et seq.															
Fences, walls, gatehouses, etc.	Section 34- 1741 et seq.															
Fertilizer mixing	Section 34- 2443															
Hotel/motel	Section 34- 1801 et seq.															
Nonroofed accessory structures	Section 34- 2194(e)															
Railroad right-of-way	Section 34- 2195															
Outdoor storage or display of merchandise	Section 34- 3001 et seq., Note (8)															
Maximum height (feet)	Section 34- 2171 et seq.	35	35	35	35	35	35	35	35	35	35	35	35	35	35	As reqd. by Sec. 34- 2175
		Note: Bonita Beach, Captiva, San Carlos Islands, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special														

		height limitations (see Section 34-2175)	
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DIVISION 7. MARINE-ORIENTED DISTRICTS

Sec. 34-873. Use regulations table.

Staff note: Revise section to remove redundant or outdated cross-references and correct remaining cross-references. **Asterisks (* * *)** indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Use regulations for marine-oriented districts are as follows:

Table 34-873. Use Regulations for Marine-Oriented Districts

	<i>Special Notes or Regulations</i>	<i>CM</i>	<i>IM</i>	<i>PORT</i>
* * *				
Boat repair and service	Sections 34-1352, 34-3001 et seq.	P (1)	P	—
* * *				
Consumption on premises	Section 34-1261 et seq.	<u>P/AA/SE</u>	<u>P/AA/SE</u>	<u>P/AA/SE</u>
* * *				
Essential services	Section 34-1611 et seq.	P	P	P
Essential service facilities (Section 34-622(c)(13)):				
Group I	Section 34-1611 et seq.	P	P	P
Excavation:				
Water retention	Section 34-1651	P	P	—
Oil or gas		SE	SE	—
* * *				
Storage:				
Indoor only	Section 34-3001 et seq.	P	P	P
Open	Sections 34-3001 et seq., 34-1352	P	P	P
* * *				
Vehicle and equipment dealers (Section 34-622(c)(55)), Group III	Section 34-1352	P	P	—

Notes:

(1) through (8) remain unchanged.

(9) Not permitted in Airport Noise Zone B. See Section 34-~~11041003~~ for exceptions.

(10) Permitted in Airport Noise Zone B only when ancillary to lawful mobile home or single-family residence. See Section 34-~~11041003~~.

(11) and (12) remain unchanged.

Sec. 34-874. Property development regulations table.

Staff note: Revise section to remove redundant or outdated cross-references and correct remaining cross-references. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Property development regulations for marine-oriented districts are as follows:

Table 34-874. Property Development Regulations for Marine-Oriented Districts

	<i>Special Notes or Regulations</i>	<i>CM</i>	<i>IM</i>	<i>PORT</i>
Minimum lot area and dimensions:	Sections 34-1611 et seq. , 34-2221, 34-2222			

Special regulations:		Refer to the section specified for exceptions to the minimum setback requirements listed in this table.		
Animals, reptiles, marine life	Section 34-1291 et seq.			
Consumption on premises	Section 34-1261 et seq.			
Docks, seawalls, etc.	Section 34-1863			
Essential services	Section 34-1611 et seq.			
Essential service facilities (Section 34-622(c)(13))	Section 34-1611 et seq.			
Fences, walls, gatehouses, etc.	Section 34-1741 et seq.			
Hotel/motel	Section 34-1801 et seq.			
Nonroofed accessory structures	Section 34-2194(c)			
Railroad right-of-way	Section 34-2195			

DIVISION 8. INDUSTRIAL DISTRICTS

Sec. 34-903. Use regulations table.

Staff note: Revise section to remove redundant or outdated cross-references and correct remaining cross-references. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Use regulations for industrial districts are as follows:

Table 34-903. Use Regulations for Industrial Districts

	<i>Special Notes or Regulations</i>	<i>IL Note (14)</i>	<i>IG Note (14)</i>	<i>IR Note (14)</i>

Automobile repair and service (Section 34-622(c)(2)):				
Group I	Note (19) Section 34-1351	P	P	—
Group II	Note (19) Section 34-1351	P	P	—

Bus station/depot	Section 34-1381 et seq.	P	P	—

Consumption on premises	Sections 34-1261 et seq., 34-2352	P/AA/SE	P/AA/SE	—
Contractors and builders (Section 34-622(c)(9)):				
Group I		P (1)	P	—

	Group II		P (1)	P	—
	Group III	Sections 34-1352 , 34-2443, 34-3001 et seq.	P (1)	P(12)	—

	Essential services	Section 34-1611 et seq.	P	P	P
	Essential service facilities:	Section 34-622(c)(13)			
	Group I	Sections 34-1611 et seq., 34-1741 et seq.	P	P	P
	Group II	Sections 34-1611 et seq., 34-1741 et seq.	EO	—	—
	Group III	Section 34-1611 et seq., CFPD, IPD, or MPD only	EO	—	—
Excavation:					
	Water retention	Section 34-1651	P	P	P
	Oil or gas		SE	SE	SE
	Farm equipment, sales, storage, rental or service	Sections 34-1352 , 34-3001 et seq.	—	—	P

	Mobile home dealers	Section 34-1352	P	P	—

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

Storage:					
	Indoor	Section 34-3001 et seq.	P	P	P (3)
	Open	Sections 34-3001 et seq., 34-1352	P	P	P (3)

	Trucking terminal	Section 34-1352	SE	P	P (3)

Notes:

(1) through (16) remain unchanged.

(17) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in Section 34-~~1104~~~~1003~~ as applicable.

(18) remains unchanged.

(19) All services performed by an automotive repair and service establishment, including repair, painting and body work activities, must be performed within a completely enclosed building. Providing estimates for work to be completed or performing minor repair services, such as replacement of windshield wiper blades, automobile batteries, and light bulbs are excluded from this provision.

Sec. 34-904. Property development regulations table.

Staff note: Revise section to remove redundant or outdated cross-references and correct remaining cross-references. Asterisks (* * *) indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Property development regulations for industrial districts are as follows:

Table 34-904. Property Development Regulations for Industrial Districts

	<i>Special Notes or Regulations</i>	<i>IL</i>	<i>IG</i>	<i>IR</i>
Minimum lot area and dimensions:	Sections 34-1611 et seq. , 34-2221, 34-2222			

Special regulations:				
Animals, reptiles, marine life	Section 34-1291 et seq.			
Consumption on premises	Section 34-1261 et seq.			
Docks, seawalls, etc.	Section 34-1863			
Essential services	Section 34-1611 et seq.	Refer to the sections specified for exceptions to the minimum setback requirements listed in this table.		
Essential service facilities (Section 34-622(c)(13))	Section 34-1611 et seq.			
Fences, walls, gatehouses, etc.	Section 34-1741 et seq.			
Nonroofed accessory structures	Section 34-2194(c)			
Railroad right-of-way	Section 34-2195			
Maximum height (feet)	Section 34-2171 et seq.	35	35	35
		Note: Bonita Beach, Captiva, San Carlos Island, Gasparilla Island conservation district, Greater Pine Island and areas within the airport hazard zone have special limitations (see Section 34-2175).		

DIVISION 9. PLANNED DEVELOPMENT DISTRICTS

Sec. 34-931. Purpose and intent.

Staff note: Revise section to remove cross-references to sections proposed for deletion.

- (a) *Generally.* The general purpose and intent of the various Planned Development Districts is set forth in Section 34-612(2). ~~The purpose and intent of specific Planned Development Districts is set forth in Subsections (b) through (k) of this section.~~

Remainder of section unchanged.

Sec. 34-932. - Regulation of land use in planned developments.

Staff note: Revise section to delete language addressed elsewhere in LDC. Relocate language from Section 34-933, which is proposed for deletion, which is noted in double underline format.

(a) remains unchanged.

- (b) Except in the AOPD, MEPD and PRFPD Districts, or where otherwise specifically indicated to the contrary, the uses listed in Section 34-934, pertaining to use regulations for Planned Development Districts, may be permitted in the indicated districts when consistent with the goals, objectives and policies of the Lee Plan for the land use category in which the property is located, and when approved on the enumerated documentation of the Master Concept Plan. Uses that are not specifically listed in Section 34-934 may also be permitted if, in the opinion of the Director, they are substantially similar to a listed permitted use.

In the MEPD and PRFPD Districts, only those uses specifically listed in Section 34-941 may be approved on the Master Concept Plan. For uses allowed in the AOPD District, refer to Section 34-942.

- (b) ~~Special conditions may be formulated and applied to address unique aspects of the parcel in the protection of a bona fide public interest. The source of such restrictions may include good planning practice as well as those specifications set forth in the application documents, policy and standards set forth in the Lee Plan.~~
- (c) ~~All special conditions must be reasonably related to the proposed development and to any reasonably expected impacts on public services and facilities and the public safety, health and general welfare. Such special conditions should be pertinent to the mitigation of these impacts. All conditions must be adopted as part of the zoning resolution and as an appendix to the approved Master Concept Plan or engineered mine site plan set that governs the planned development.~~
- (d) ~~The standards for use and development of a planned development will be set forth in the zoning or MEPD resolution and its attachments, and, unless modified through the schedule of deviations, where applicable (see Section 34-412), such standards may not be less restrictive than the minimum standards set forth elsewhere in this chapter, Chapter 12, or other applicable development regulations.~~
- (e) ~~Areas devoted to various uses must be designated on the concept plan or mine site plan set. The application for a planned development must include a schedule detailing the uses desired, identifying such uses by citing the enumerated uses of one or more conventional zoning districts, use activity groups (Section 34-622), and defined uses (Section 34-2).~~

Sec. 34-933. Reserved.Permitted uses.

Staff note: Delete section and relocate language as necessary.

~~Except in the AOPD, MEPD and PRFPD Districts, or where otherwise specifically indicated to the contrary, the uses listed in Section 34-934, pertaining to use regulations for Planned Development Districts, may be permitted in the indicated districts when consistent with the goals, objectives and policies of the Lee Plan for the land use category in which the property is located, and when approved on the enumerated documentation of the Master Concept Plan. Uses that are not specifically listed in Section 34-934 may also be permitted if, in the opinion of the Director, they are substantially similar to a listed permitted use.~~

~~In the MEPD and PRFPD Districts, only those uses specifically listed in Section 34-941 may be approved on the Master Concept Plan. For uses allowed in the AOPD District, refer to Section 34-942.~~

Sec. 34-934. Use regulations table.

Staff note: Revise section to allow commercial recreation facilities, group IV in IPDs consistent with conventional industrial districts. Remove note (27), which limits fuel pumps to a maximum of eight by right. Revise section to remove redundant/outdated cross-references and delete cross-references to sections that are proposed for deletion. **Asterisks (* * *)** indicate intervening table rows that are omitted from this amendment because they remain unchanged.

Use regulations for Planned Development Districts are as follows:

Table 34-934. Use Regulations for Planned Development Districts

	<i>Special Notes or Regulations</i>	<i>RPD</i>	<i>MHPD</i>	<i>RVPD</i>	<i>CFPD</i>	<i>CPD</i>	<i>IPD Note (37)</i>	<i>MPD</i>	<i>MEPD</i>
Accessory uses and structures	Note (1), Sections 34-1171 et seq., 34-1611 et seq.,	P	P	P	P	P	P	P	—

	34-2441 et seq., 34-1863, 34-2141 et seq., 34-3106								

Auto parts store	<u>Note (16)</u> Section 34-1353	P(4)	P(4)	—	—	P	—	P	—
Automobile repair and service (Section 34-622(c)(2)), all Groups	Sections 34-1351, 34-1353, Notes (16) & (41)	—	—	—	—	P	P	P	—
Automobile service station	<u>Note (16)</u> Note (41), Sections 34-1351, 34-1353	P(4)	P(4)	—	—	P	P	P	—

Boat repair and service	Sections 34-1352, 34-3001 et seq.	—	—	—	—	P	P	P	—

Business services (Section 34-622(c)(5)):									
Group I		P(4)	P(4)	—	—	P	P	P	—
Group II	Note (12), Section 34-1352	—	—	—	—	P	P	P	—
Bus station/depot	Section 34-1381 et seq.	—	—	—	P	P	P	P	—

Car wash	Section 34-1353	—	—	—	—	P	—	P	—

Clubs:									
Country		P	P	P	—	P	—	P	—
Commercial		—	—	—	—	P	—	P	—
Fraternal, membership organization	Section 34-2111	—	—	—	—	P	—	P	—
Private	Section 34-2111	P	P	P	—	P	—	P	—

Contractors and builders (Section 34-622(c)(9)), all Groups	Sections 34-1352, 34-3001 et seq.	—	—	—	—	P	P	P	—
Convenience food and beverage store	Section 34-1353	P(4), (27)	P(4), (27)	—	—	P	P	P(27)	—

Essential services	Note (1) <u>and</u> Sections 34-1611 et seq., 34-1741 et seq.	P	P	P	P	P	P	P	—

Essential service facilities (Section 34-622(c)(13)):										
Group I	Note (1) and Sections 34-1611 et seq. , 34-1741 et seq. and 34-2141 et seq.	P	P	P	P	P	P	P	P	—
Group II	Notes (1) & (45), Sections 34-1611 et seq. , 34-1741 et seq. and 34-2141 et seq.	P	P	P	P	P	P	P	P	—
Group III	Note (1) and Sections 34-1611 et seq. , 34-1741 et seq., 34-2141 et seq.	—	—	—	P	—	P	P	P	—
Excavation:										
Mining	Note (44), Section 12-101 et seq.	—	—	—	—	—	—	—	—	P
Water retention	Section 34-1651	P	P	P	P	P	P	P	P	P
Oil or gas	Section 34-1651	P(4)	P(4)	P	P	P	P	P	P	P

Mobile home dealers	Section 34-1352	—	—	—	—	P	P	P	P	—

Recreation facilities:										
Commercial (Section 34-622(c)(38)) Groups I, III		—	—	—	—	P	—	P	—	—
Commercial (Section 34-622(c)(38)) Group IV		—	—	—	—	P	<u>P</u> —	P	—	—

Rental or leasing establishment (Section 34-622(c)(39)):										
Group I	Sections 34-1352 , 34-3001 et seq.	P(4)	P(4)	P(8)	—	P	—	P	—	—
Group II	Sections 34-1201 et seq., 34-1352 , 34-3001 et seq.	P(4)	P(4)	—	—	P	P	P	P	—
Group III	Sections 34-1352 , 34-3001 et seq.	—	—	—	—	P	P	P	P	—
Group IV	Sections 34-1201 et seq., 34-1352 , 34-3001 et seq.	—	—	—	—	P	P	P	P	—

Restaurant, fast food	Section 34-1353	—	—	—	—	P	—	P	—	
Restaurants (Section 34-622(c)(43)):										
Storage:										
Indoor only	Note (1), Section 34-3001 et seq.	P(4)	P(4)	P	P	P	P	P	P	—
Storage, open	Note (5), Sections 34-3001 et seq., 34-1352	—	—	P(15)	—	P	P	P	P	—

Vehicle and equipment dealers (Section 34-622(c)(55)):										
Groups I, II, and III	Section 34-1352	—	—	—	—	P	P	P	P	—
Group IV	Section 34-1352	—	—	P(17)	—	P	P	P	P	—
Group V	Section 34-1352	—	—	—	—	P	P	P	P	—

Notes:

(1) through (4) remain unchanged.

(5) If the use or activity does not conform to the criteria set forth in Section 34-938, then it is subject to the setback requirements set forth in Sections 34-935(b)(4)(a)(4) and 34-2441 et seq.

(6) through (11) remain unchanged.

(12) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. ~~Projects with outdoor storage will be considered vehicle and equipment dealers, Group I, and must comply with Section 34-1352.~~

(13) through (15) remain unchanged.

(16) All services performed by an automotive repair and service establishment, including repair, painting and body work activities, must be performed within a completely enclosed building. Providing estimates for work to be completed or performing minor repair services, such as replacement of windshield wiper blades, automobile batteries, and light bulbs are excluded from this provision. ~~Reserved.~~

(17) through (19) remain unchanged

(20) Recreational vehicle sites in mobile home planned developments (MHPD) must be designated on the approved Master Concept Plan. All recreational vehicles approved as part of a MHPD are subject to the regulations in Sections ~~34-762~~ 34-764 through 34-766 and 34-1179.

(21) through (26) remain unchanged.

(27) ~~Reserved. Limited to eight self-service fuel pumps (df) unless a greater number is specifically approved as part of the planned development and depicted on the Master Concept Plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998 will not be considered nonconforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.~~

(28) Not permitted in Airport Noise Zone B.

(29) Not permitted in Airport Noise Zone B. See Section 34-~~1104~~1003 for exceptions.

- (30) Reserved.
- (31) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See Section 34-~~1104~~~~1003~~.
- (32) through (49) remain unchanged.

Sec. 34-935. Property development regulations.

Staff note: Revise section to remove relocated language. Delete redundant language, clarify applicability of minimum setbacks from development perimeter.

The provisions of this section do not apply to PRFPDs; property development regulations for PRFPDs are set forth in Section 34-941.

~~(a) Minimum area for planned developments.~~

- ~~(1) Recreational vehicle planned developments.~~ The minimum area required for a new recreational vehicle planned development is 20 acres. A minimum of five acres is required to expand an existing recreational vehicle park, a phased recreational vehicle park or an approved recreational vehicle planned development in order to provide additional recreation vehicle units to the park. However, a recreational vehicle park, a phased recreational vehicle park or an approved recreational vehicle planned development can be expanded by less than five acres, if the expansion is solely for the purpose of providing amenities to the park and will not result in creating additional recreational vehicle units.
- ~~(2) Other planned developments.~~ Minimum area and dimensions are not specified for other planned developments. However, the net developable land remaining, after deleting any environmentally sensitive lands and waters, must be of such size, configuration and dimension as to adequately accommodate the proposed structures, parking, access, on-site utilities, including wet or dry runoff retention, all required open space, including buffers, and similar spatial requirements.

~~(a)-(b) Minimum setbacks of structures and buildings from development perimeter boundaries.~~

- (1) The following development perimeter setbacks apply unless alternate setbacks are approved as part of the planned development. ~~All~~ Buildings and structures must be set back from the development perimeter a distance equal to the greater of:
 - a. *through h. remains unchanged.*
- (2) Parking or internal roads or drives may not be closer to the development perimeter than the width of any buffer area or landscape strip, required by Chapter 10, ~~Chapter 33~~, or five feet, whichever is greater.
- (3) and (4) remain unchanged.
- ~~(5) The provisions of this subsection notwithstanding, the Board of County Commissioners may require greater setbacks and buffers when, in its opinion, they are necessary for the protection of public health, welfare or safety.~~

Re-letter (c) and (d) to (b) and (c).

~~(d)-(e) Minimum lot size, dimensions and setbacks.~~ Minimum lot size, dimensions and setbacks are established through the planned development approval process. Applicant's must demonstrate the planned development proposed minimum standards are compatible with the surrounding area.

~~(1) Lot size and dimensions.~~

- a. ~~In the RPD and MHPD Districts, if the development contains or consists of a conventional subdivision for single-family residences, two-family or duplex structures or mobile homes, the lot dimensions and areas specified in Section 34-695 for the RSA, RS-1, RS-2, RS-3, RS-4, RS-5 and TF-~~

~~1 Single Family and Two Family Districts or in Section 34-736 for the MH-1, MH-2, MH-3 or MH-4 Mobile Home Districts shall apply as appropriate, unless other lot areas and dimensions are approved by the Board of County Commissioners.~~

- ~~b. Where the Master Concept Plan calls for dwelling units on individual lots in clusters or townhouse configurations, the specific lot areas and dimensions shall be determined by the space requirements of the unit itself, the provision of private open space and the voluntary reservation of additional common open space, if any.~~

~~(2) Setbacks for residential buildings and mobile homes. Setbacks from lot lines and separation of buildings for residential buildings and mobile homes in residential planned developments and mobile home planned developments shall be determined as follows:~~

- ~~a. If the development contains or consists of a subdivision for single family detached or duplex structures or mobile homes, the front, side and rear setbacks specified in Section 34-695 for the RSA, RS-1, RS-2, RS-3, RS-4, RS-5 and TF-1 Single Family and Two Family Districts or in Section 34-736 for the MH-1, MH-2, MH-3 or MH-4 Mobile Home District shall apply as appropriate, unless other lot areas and dimensions are approved by the Board of County Commissioners.~~
- ~~b. Where the Master Concept Plan calls for single family detached or attached zero lot line housing, each dwelling unit structure may have one wall without windows or doors on a side lot line, may encroach with eaves or cornice no more than 36 inches into the adjacent yard, and shall maintain at least a minimum separation from the building or mobile home on the side opposite the zero-setback line consistent with the standard set forth in Subsection (e)(2)c of this section.~~
- ~~c. Where the Master Concept Plan calls for clustering of single-family detached structures or mobile homes, and so long as sufficient separation is maintained to prevent the spread of fire, and so long as adequate access is provided for emergency services as certified by the County Fire Official, the separation of buildings may be reduced to no less than ten feet.~~

~~(3) Setbacks for buildings in commercial planned developments, industrial planned developments and mixed-use planned development.~~

- ~~a. If the development contains or consists of a subdivision for development parcels to be sold or leased as improved land for further development for commercial, industrial or multifamily residential purposes, where permitted, side and rear setbacks for all lots shall be scheduled on the Master Concept Plan, except that, where a lot line is congruent with the development perimeter, the setback defined in Subsection (b) of this section shall have priority.~~
- ~~b. The setbacks from internal streets shall be determined by the functional classification of the streets as set forth in Section 34-2192.~~

(e) (4) *Minimum separation of buildings.* Unless otherwise specified, where there are two or more principal buildings on a development tract, the minimum separation of buildings shall be one-half of the sum of their heights, or 20 feet, whichever is greater.

(f)(g) *Height of buildings.* Maximum heights are established in Section 34-2175. Notwithstanding, applicants must demonstrate the planned development proposed heights are compatible with the surrounding area.

~~(1) Except as restricted by Section 34-2175, height of buildings in all other planned developments will vary in accordance with the land use classification of the subject property according to the Lee Plan Land Use Plan Map as follows:~~

- ~~a. In the intensive development and central urban land use categories, buildings may be as tall as 135 feet above minimum flood elevation with no more than 12 habitable stories.~~
- ~~b. In the urban community land use category, buildings may be as tall as 95 feet above minimum flood elevation with no more than eight habitable stories.~~

- c. ~~In the airport and tradeport commerce land use categories, buildings may be as tall as 45 feet above minimum flood elevation with no more than three habitable stories. With the consent of the port authority, the Board of County Commissioners may approve building heights up to 95 feet above minimum flood elevation with no more than eight habitable stories.~~
- d. ~~In the industrial interchange, industrial-commercial interchange, general interchange and general commercial interchange land use categories, buildings may be as tall as 75 feet above minimum flood elevation with not more than six habitable stories.~~
- e. ~~In the suburban, outlying suburban and rural land use categories and in any other land use category in which a planned development is appropriate, buildings may be as tall as 45 feet above minimum flood elevation with no more than three habitable stories, except that such buildings may be as tall as 75 feet above minimum flood elevation with no more than six habitable stories when the applicant demonstrates that the additional height is required to increase common open space for the purposes of preserving environmentally sensitive land, securing areas of native vegetation and wildlife habitat, or preserving historical, archaeological or scenic resources.~~

~~(g)(h)~~ *Open space.* See Section ~~34-4124(a)~~ 10-413 for definitions pertaining to open space.

(1) through (6) remain unchanged.

Sec. 34-936. Reserved.General conditions for all land uses.

Staff note: Delete section in its entirety. Requirements addressed elsewhere in LDC.

- ~~(a) *Compliance with use restrictions.* Only those land uses enumerated in the documentation to the Master Concept Plan are permitted in a planned development. The conditions of approval in the applicable zoning resolution shall be incorporated into covenants, restrictions and rules of operation binding on the developer, his successors and heirs, tenants in fee or leasehold.~~
- ~~(b) *Parking.* Unless governed by alternative standards established by special conditions, parking for any use in this planned development will be governed by Article VII, Division 26 of this chapter in accordance with the actual use.~~
- ~~(c) *Signs.* Signage for any use in a planned development, not otherwise governed by special conditions, shall be controlled by general sign regulations currently in force.~~
- ~~(d) *Sale of alcoholic beverages.* Package sales and sales of alcoholic beverages for on-premises consumption shall be governed by the provisions of Article VII, Division 5 of this chapter, and other special conditions set forth at the time of planned development approval.~~
- ~~(e) *Outdoor display of goods.* Except in RPD and MHPD developments, all open display of goods for sale shall be set back from public rights of way no less than 25 feet. In the RPD and MHPD Districts, the outdoor display or storage of goods for retail sale is prohibited.~~
- ~~(f) *Outdoor storage of goods.* Any and all storage of retail or wholesale goods shall be enclosed by a wall or opaque fence or solid hedge, not less than six feet in height, or otherwise completely visually buffered.~~
- ~~(g) *Lighting.* Lighting of the exterior and parking areas of the planned development uses shall be of the lowest intensity and energy use adequate for its purpose and shall not create conditions of glare outside the area designated for commercial uses.~~
- ~~(h) *Bikeways and pedestrian ways.* Unless governed by alternative standards established by special conditions, bicycle paths and pedestrian ways must be located and constructed in accordance with the requirements set forth in Chapter 10.~~

Sec. 34-939. Recreational Vehicle Planned Development property development regulations.

Staff note: Add subsection (b) to include relocated language from Section 34-935. Re-letter subsequent sections.

(a) *remains unchanged.*

(b) Minimum area. The minimum area required for a new recreational vehicle planned development is 20 acres. A minimum of five acres is required to expand an existing recreational vehicle park, a phased recreational vehicle park or an approved recreational vehicle planned development in order to provide additional recreation vehicle units to the park. However, a recreational vehicle park, a phased recreational vehicle park or an approved recreational vehicle planned development can be expanded by less than five acres, if the expansion is solely for the purpose of providing amenities to the park and will not result in creating additional recreational vehicle units.

~~(c)(b)~~ *Design criteria.*

(1) through (8) *remain unchanged.*

~~(d)(c)~~ *Accessory structures and additions.* Individual accessory structures, additions or freestanding storage sheds may be permitted only in nontransient parks, and only when in compliance with the regulations set forth in Sections 34-764 through 34-766 and 34-1179.

~~(e)(d)~~ *Recreational vehicles as permanent residences.* The use of a recreational vehicle type unit by a "permanent resident" as a "permanent residence," as those terms are defined in F.S. Ch. 196, is expressly prohibited as of September 16, 1985.

Sec. 34-941. Private Recreational Facilities Planned Developments.

Staff note: Revise applicability section to update Lee Plan cross-references. Remove reference to Lee Plan Map 1-F, which is proposed to be deleted. Incorporate language exempting golf courses within the Kingston development from PRFPD requirements consistent with applicable policies of Lee Plan Goal 13, which is proposed to be deleted. Revise subsection (c)(3) to delete cross-references to sections proposed for deletion.

(a) *Applicability.* The PRFPD Private Recreational Facilities Planned Development District option may only be requested and approved in those areas designated as Density Reduction/Groundwater Resource on the Future Land Use Map (Map 1-A). Golf courses and ancillary uses in the Mixed-Use Planned Development (MPD) zoning district subject to Settlement Agreement Case No. 22-CA-002743 approved under Sec. 70.001, F.S. are exempt from this Section. ~~(depicted on the Lee Plan Private Recreation Facilities Overlay Map (Map 1-F).~~

Subsection (b) remains unchanged.

(c) *Uses.*

Subsection (1) remains unchanged.

(2) *Permissible uses.*

a. *remains unchanged.*

b. The following uses are permitted only if approved in the adopted zoning resolutions and their general location is shown on an adopted Master Concept Plan:

Aquifer storage and recovery facilities.

Boarding horse stables and riding areas (see Note 1).

Campgrounds—Tent camping only, including:

Camping area offices (see Note 1).

Camping restrooms (see Note 1).

Excavations for water retention (~~Section 34-1651~~).

Forestry towers.

Golf courses, including:

Country clubs (see Note 1).

Golf course restrooms (see Note 1).

Golf course maintenance areas (see Note 1).

Helistops—If required by emergency services.

Recreational and educational facilities (see Note 4).

Wireless communication facilities (see Note 1).

- c. The following commercial uses may be permitted within a private recreation facility planned development only if specifically included in the adopted zoning resolution and the general location of commercial uses are shown on an adopted Master Concept Plan. Commercial intensity is limited as described in Note 1 of this section:

Bait and tackle shops.

Banks and financial establishments, Group I (Section 34-622(c)).

Business services, Group I.

Clothing stores.

Consumption on premises (Section 34-1261 et seq.).

Day care centers, child, adult.

Drive through facilities for any permitted use.

Drugstores, pharmacies.

EMS, fire, sheriff's station.

Food stores, Group I (Section 34-622(c)).

Hardware stores.

Health care facilities, Group III (Section 34-622(c)).

Insurance companies (Section 34-622(c)).

Laundries or dry cleaning, Group I (pick-up and drop-off only) (Section 34-622(c)).

Medical offices.

Parking lots, accessory (Article VII, Division 26 of this chapter.).

Personal services, Groups I and II (not including laundromats, massage parlors, dating services, tattoo parlors and escort services) (Section 34-622(c)).

Pet shops.

Places of worship (Section 34-2051 et seq.).

Recreation facilities, Groups I and IV (Section 34-622(c)).

Religious facilities (Section 34-2051 et seq.).

Repair shops, Groups I and II (Section 34-622(c)).

Restaurants, fast food (~~Section 34-1353~~).

Restaurants, all groups (Section 34-622(c)).

Social services, Groups I through II (Section 34-622(c)).

Temporary contractors' offices and equipment storage sheds (Section 34-3044).

Used merchandise stores, Group I (Section 34-622(c)).

Variety stores.

- (3) *Accessory uses and structures.* The following uses and structures may be permitted as accessory uses and structures when specifically included in the adopted zoning resolution:

Administrative offices (see Note 1).

Bed and breakfast establishments (Section 34-~~1493~~1494).

Boat ramps and docks.

Boat rentals—Motorized boats limited to trolling motors.

Dwelling units: One caretaker's residence.

Entrance gates and gatehouses (Section 34-1748).

Essential services (~~Section 34-1611 et seq.~~).

Essential service facilities, Group I (~~Sections 34-1611 et seq. and 34-1741 et seq.~~).

Fishing piers.

Fences, walls (see Note 5).

Food and beverage services, limited (see Note 2).

Fractional ownership, dwelling units.

Golf course driving ranges and practice areas.

Parking lots—Accessory to a permitted use.

Play areas—Elementary school age and teenage and young adults, as discussed in Park Planning Guidelines, Third Edition.

Service/maintenance areas ancillary to approved permissible uses (see Note 1).

Signs.

Timeshare, dwelling units.

Remainder of Section is unchanged.

DIVISION 10. SPECIAL PURPOSE DISTRICTS

Subdivision IV. Planned Unit Development District

Sec. 34-1036. Procedure for approval; effect of PUD zoning.

Staff note: Revise subsection (3)(f) to remove cross-reference to section deleted by Ordinance 26-07.

Unless otherwise specified, applications for final PUD zoning must be submitted and processed in the same manner as zoning changes generally (see Article II of this chapter) and in accordance with the following procedures. However, subsequent to September 30, 1985, no application for the approval of a preliminary PUD development plan under this section will be accepted. Thereafter, all new Planned Unit Developments will be approved and administered under Article IV of this chapter and Division 9 of this article.

(1) and (2) remain unchanged.

(3) *Final approval.*

a. through e. remain unchanged.

- f. Subsequent to September 30, 1985, any applicant holding a preliminary PUD plan approved in accordance with this subdivision, that also meets the standards of detail and sufficiency of information set forth in Article IV, Division 2 of this chapter, may elect to seek approval of the final PUD development plan by submitting an application for a development permit in accordance with Chapter 10 and AC-13-4. In all other aspects, the final plans must be consistent with this subdivision and all other applicable development regulations in force. The PUD zoning will become final when the initial development permit is issued in conformance with Chapter 10.

(4) remains unchanged.

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

Staff note: Revise subsection (h) to correct cross-reference.

(a) through (g) remain unchanged.

- (h) *Off-street parking and loading.* Off-street parking and loading requirements for a PUD shall be as for comparable uses set forth in Chapter 10, Article III and Article VII, Divisions 25 and Division 26 of this chapter.

(i) through (m) remain unchanged.

DIVISION 11. REDEVELOPMENT OVERLAY DISTRICTS

~~Subdivision I. Reserved. General Requirements~~

Staff note: Delete entirety of Subdivision I (Redevelopment Overlay Districts), which are antiquated and no longer applicable within unincorporated Lee County.

~~Sec. 34-1080. Purpose and intent.~~

- ~~(a) The Redevelopment Overlay District is a special zoning classification established to recognize and provide for the unique requirements of redevelopment that cannot be adequately addressed through existing regulations. The purpose of the district is to create favorable conditions for the revitalization of redevelopment areas, or portions thereof, by establishing a procedure through which such areas can be master planned. The master planning may include development guidelines and standards that, to the extent covered, are intended to provide an incentive driven alternative to the standard zoning and other land development regulations.~~
- ~~(b) It is the express policy of the Board of County Commissioners that development consistent with an approved Redevelopment Overlay District and Master Site Plan be voluntary. Without limiting the generality of the foregoing principle, no application for development approval or rezoning may be denied on the basis that the proposed plan of development is inconsistent with an established Redevelopment Overlay District and Master Site Plan for the area, unless the applicant has voluntarily chosen to seek approval pursuant to them.~~

~~Sec. 34-1081. Definitions.~~

~~In order to effectuate the purpose and intent of the Redevelopment Overlay District, the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Community Redevelopment Advisory Committee (CRAC)* means an advisory committee appointed pursuant to Resolution No. 90-07-22, by the Board of County Commissioners.~~

~~*Community Redevelopment Agency (CRA)* means an agency established by the County pursuant to Florida Statutes, to undertake and implement improvements, as well as to promote and create favorable conditions for the development, redevelopment and revitalization of the community redevelopment areas.~~

Community Redevelopment Agency Board (CRA Board) means the Board of County Commissioners sitting as the governing Board of the Community Redevelopment Agency, pursuant to Resolution No. 90-07-22, adopted by the Board of County Commissioners on July 7, 1990.

Community redevelopment areas means those unincorporated portions of the County established as community redevelopment areas, pursuant to Resolution Nos. 90-07-21 and 91-06-13 adopted by the Board of County Commissioners, and any other resolutions that may be adopted to establish additional community redevelopment areas.

Community redevelopment plan means a community-wide plan, pursuant to F.S. §§ 163.360 and 163.362, which consists of policies, methods and strategies applicable to all community redevelopment areas.

Component plan means a redevelopment plan that examines the conditions and needs and provides redevelopment recommendations for a specific area, i.e., North Fort Myers, etc., hereinafter referred to as component areas. The plans are a component of the community redevelopment plan, hence the term component plan. The Board of County Commissioners has adopted component plans for, North Fort Myers, San Carlos Island, State Road 80, and Lehigh Acres.

Local Redevelopment Planning Committee (LRPC) means a committee of citizens appointed by the Community Redevelopment Agency Board to represent a component area.

Master Site Plan (MSP or Plan) means a plan for a specific area within a component area. The Plan may include zoning and development regulations that are customized to fit the needs of the area subject to the Master Site Plan.

Sec. 34-1082. Overview of Redevelopment Overlay District regulations.

- (a) *Optional nature of Redevelopment Overlay Districts.* Landowners in an approved Redevelopment Overlay District are encouraged to develop or redevelop their property in conformance with the applicable Redevelopment Overlay District Master Site Plan and design guidelines. Should a landowner choose to avail himself of the modified land development regulations of the Redevelopment Overlay District, then compliance with all applicable portions of the Redevelopment Overlay District will be mandatory for that property. Landowners within a Redevelopment Overlay District are not subject to or required to participate in any of its provisions unless that landowner elects to do so. A landowner's decision to use Redevelopment Overlay District regulations must be made in writing. This document must be recorded by the applicant in Lee County's official records and must acknowledge that the decision to develop under the Redevelopment Overlay District runs with the land. So long as the property utilizes the Redevelopment Overlay District's regulations to legitimize its existing plan of development, compliance with those regulations will continue to be required. If a property owner subsequently chooses to redevelop in complete conformance with the then existing regulations applicable to the underlying zoning district, compliance with the Redevelopment Overlay District's regulations is not required. In that event a form approved by the Department of Community Development reflecting the landowner's election to opt out of the Redevelopment Overlay District must be executed and recorded in the same manner as the election to participate.
- (b) *Design guidelines.* Design guidelines may be developed for each Redevelopment Overlay District. These guidelines will provide technical and design assistance for exterior commercial building renovations and new construction. They are intended to encourage owners and tenants to improve, in a consistent manner, the overall ambiance of the Redevelopment Overlay District in an effort to give it a sense of place and relatedness between the establishments included within the district. Design guidelines address such things as preferred landscape materials and exterior colors. The design guidelines are offered simply to encourage the proper maintenance and improvement of the visual character of the districts. These guidelines are adopted through the County Administrative Code process.
- (c) *Types of Redevelopment Overlay Districts and Subdistricts.* Each Redevelopment Overlay District may be comprised wholly or in part of a district or subdistrict that:
- (1) Does not change the uses, or the method of County approval required to allow a use in the underlying zoning districts, i.e., only changes the property development regulations, open space/buffering/landscaping, parking, or signage requirements, or requires some form of integrated infrastructure;
 - (2) Changes the uses or method of County approval required to allow a use, from that required in the underlying zoning districts; and

- (3) — Allows expansion so long as the subdistrict area is geographically defined and approved in the same manner as either of the nonexpansion areas set forth above, and any planning criteria or conditions established for the expansion subdistrict are first met.
- (d) — *Development approvals.* Once a landowner has elected to develop under Redevelopment Overlay District regulations, the Community Development Director, or designee, is authorized and required to determine whether each development request complies with the Redevelopment Overlay District's land development regulations. When a property owner submits a development request relying on the Redevelopment Overlay District regulations, a copy of the recorded document reflecting the property owner's election to participate in the Redevelopment Overlay District must be provided.
 - (1) — Redevelopment Overlay District regulations may authorize the Community Development Director, or designee, to administratively approve the proposed plan of development under the Redevelopment Overlay District's regulations, so long as the following criteria are met:
 - a. — The applicant has provided a copy of an acceptable executed and recorded overlay participation agreement to the County;
 - b. — The proposed development is consistent with the Lee Plan and the applicable adopted Redevelopment Overlay District's Master Site Plan and land development regulations; and
 - c. — The proposed development would not have any apparent negative effects on adjoining property, and would not have an adverse impact on the public health, safety, or welfare.
 - (2) — The Director may approve, approve with conditions, or deny a development request within a Redevelopment Overlay District.
 - (3) — Development proposals that seek to include uses that require approval of a special exception under Redevelopment Overlay District use regulations, may only be approved by the Director if the Lee County Hearing Examiner has approved the requested special exception and the development proposal meets the contention of Subsection (d)(1)a of this section.
 - (4) — Notwithstanding the foregoing, property previously zoned to any of the Planned Development Districts are not eligible to participate in a Redevelopment Overlay District through the administrative approval process. Instead, amendments to an existing planned development must follow the planned development amendment process specified in Section 34-380. Developers of new planned developments may voluntarily elect to participate in a Redevelopment Overlay District, provided the uses proposed for the planned development are also allowed in the Redevelopment Overlay District or subdistrict, except that the planned development request must provide site-specific location of their proposed uses and footprints of structures to be developed. Development requests submitted pursuant to Section 34-373(a)(6) are not legally sufficient.
 - (5) — Development requests seeking administrative approval must file an application for same on forms substantially similar to those provided by the County and must detail the specific type of approval or relief being sought.
- (e) — *Elements of a Redevelopment Overlay District.* Each Redevelopment Overlay District includes two distinct elements: the Master Site Plan and the design guidelines. A Master Site Plan is a required element, while design guidelines, although encouraged, are an optional element unless stated otherwise in a particular Redevelopment Overlay District. Together these elements are intended to encourage redevelopment in a manner consistent with the applicable component plan. Both the Master Site Plan and design guidelines may have textual and graphic aspects.

Sec. 34-1083. Criteria for Master Site Plans.

The following minimum criteria must be satisfied prior to the adoption of a Master Site Plan:

- (a) — Property must be located within a community redevelopment component area.
- (b) — Properties within the proposed Master Site Plan area must either:
 - (1) — Possess unifying distinctive elements that create an identifiable setting, character, or association which share common development or redevelopment problems of such a nature that it would be more practical or desirable to address them concurrently as a Redevelopment Overlay District rather than to have each individual property owner seek relief from specific development regulations; or

- (2) — Share a common problem that the Board of County Commissioners, acting as the Community Redevelopment Agency Board, determines should or could be addressed through the Redevelopment Overlay District process.
- (c) — A component plan must be completed and adopted prior to the preparation and adoption of a Master Site Plan.
- (d) — A Master Site Plan must be prepared and adopted in accordance with the procedures set forth in Section 34-1087. The Master Site Plan must be consistent with the component plan.

~~Sec. 34-1084. Contents of Master Site Plan.~~

- (a) — The complexity of a Master Site Plan may range from a simple document addressing one or two issues to a full-scale land development master plan that provides for modifications to the current use regulations, property development regulations, and other land development regulations, for the existing underlying zoning districts. The type of Master Site Plan that will be adopted largely depends on the number and scope of problems being addressed.
- (b) — All Master Site Plans must contain, at a minimum, the following:
 - (1) — A clearly specified purpose and intent;
 - (2) — A clearly described perimeter of the district or subdistrict to which it will apply, including a legal description and boundary sketch; and
 - (3) — An identification name for notation on official documents.

~~Sec. 34-1085. Limitation to new land development regulations.~~

- (a) — A Redevelopment Overlay District and Master Site Plan may address those specific land development regulations that need to be modified to further the district's stated purpose and intent. For example, if the Master Site Plan would alter the current parking or open-space requirements, it must state which regulation (for example, by section number) is being modified, how, and to what extent, the regulation is being altered. If a Master Site Plan does not modify existing regulations, the then-current regulations of the underlying zoning districts will apply along with all other land development regulations applicable to a particular development request.
- (b) — The Master Site Plan is not required to address all aspects of zoning and development but may address and modify the zoning and development standards provisions of this Code, and any other development regulations necessary to accomplish the stated purpose and intent of the Redevelopment Overlay District.

~~Sec. 34-1086. Infrastructure.~~

Where the Master Site Plan provides for shared infrastructure, such as common parking, surface water management, water and sewer facilities, and the like, a mechanism for its implementation must be provided within the plan. The plan must provide adequate assurances that the proportionate part of the shared infrastructure needed for development of each parcel will be provided prior to, or concurrent with, development of that parcel pursuant to the plan.

~~Sec. 34-1087. Master Site Plan initiation and adoption.~~

- (a) — *Consideration of proposed Master Site Plan.* A proposed Master Site Plan must first be considered by the Local Redevelopment Planning Committee and the community redevelopment agency staff. The Local Redevelopment Planning Committee will make a recommendation to the Community Redevelopment Advisory Committee, as to whether a Master Site Plan should be prepared.
- (b) — *Approval or denial.* After the Local Redevelopment Planning Committee has made its recommendation to the Community Redevelopment Advisory Committee, the Community Redevelopment Advisory Committee must consider and determine whether or not to approve the request to prepare the Master Site Plan. If the Community Redevelopment Advisory Committee does not approve the request to prepare a Master Site Plan, the matter will be decided by the Community Redevelopment Agency Board.
- (c) — *Submittal documents.* Once the proposed scope of the Master Site Plan has been decided and approved by the corresponding geographic local redevelopment planning committee, and the Community Redevelopment Advisory Committee, the Director of the Community Redevelopment Agency will consult with the Director of Community Development and determine what submittal documents will be required, given the scope of the Master Site Plan. In the event they cannot agree, the matter will be resolved by the County Manager.

- (1) ~~Master Site Plans that do not modify use regulations. If the Master Site Plan does not propose to modify the uses permitted in the underlying zoning districts or the approval required to allow the use, submittal documents may be as simple as the proposed language for modifying specific land development regulations consistent with Subsection (a) of this section. Other submittal documents will be provided as set forth above.~~
 - (2) ~~Master Site Plans that modify existing use regulations. If the Master Site Plan proposes to modify the use regulations of the underlying zoning districts, or the type of approval required to allow a use, then the Master Site Plan must include the following, unless specifically exempted by the Director of Community Development or the County Manager:~~
 - a. ~~Existing property lines, current zoning and land uses.~~
 - b. ~~The general location of all principal buildings and their current use.~~
 - c. ~~Proposed uses of land.~~
 - d. ~~A statement as to the kind and number of additional public facilities or utilities that will be required in the area, if applicable.~~
 - e. ~~Existing and/or proposed density or intensity of land such as lot sizes, setbacks, building heights, number of dwelling units per acre, etc.~~
 - f. ~~General location and pattern of vehicular and pedestrian circulation.~~
 - g. ~~Open space and recreation.~~
 - h. ~~Other general information such as:~~
 1. ~~Access control.~~
 2. ~~Architecture and sign guidelines.~~
 3. ~~Parking.~~
 4. ~~Pedestrian ways and bikeways.~~
 5. ~~Open space design.~~
 6. ~~Other similar attributes.~~
 - i. ~~Proposed modifications to the existing land development regulations.~~
 - (d) ~~Submission to Department of Community Development. Upon completion of the Master Site Plan, including review and approval by the Local Redevelopment Planning Committee and the approval of the Community Redevelopment Advisory Committee, the plan will be submitted to the Department of Community Development for review and comment.~~
 - (e) ~~Presentation to Local Planning Agency and Board of County Commissioners.~~
 - (1) ~~Community redevelopment staff will present the proposed Redevelopment Overlay District regulations to the Local Planning Agency and the Board of County Commissioners. The Department of Community Development staff will prepare a report which addresses consistency of the Master Site Plan with the Lee Plan and other issues of concern. This report will include a recommendation and will be presented at the Local Planning Agency and the Board of County Commissioners hearings.~~
 - (2) ~~The Community Redevelopment Agency staff must provide written notice that:~~
 - a. ~~States whether the subject property is located within the boundaries of the proposed Redevelopment Overlay District;~~
 - b. ~~Explains development consistent with the Redevelopment Overlay District and Master Site Plan will be optional;~~
 - c. ~~Advises if uses other than those allowed in the underlying zoning district will be allowed in the Redevelopment Overlay District; and~~
 - d. ~~Identifies who the property owner may contact to obtain additional information and participate in the planning process.~~
- No defect in, or failure to receive, notice will affect the validity of an approved Redevelopment Overlay District or its Master Site Plan, so long as the Community Redevelopment Agency staff has made a good faith effort to provide the notice required herein.
- (f) ~~Public hearings; notice required.~~
 - (1) ~~The proposed Redevelopment Overlay District and Master Site Plan will be reviewed by the Local Planning Agency at a public hearing for determination of consistency with the Lee Plan. Notice of the Local Planning Agency hearing will be as provided generally for consistency determinations by the Local Planning Agency through publication of the agenda.~~

(2) After the Local Planning Agency hearing, the Redevelopment Overlay District and Master Site Plan must be reviewed at public hearings before the Board of County Commissioners. Notice of the hearings will be provided to all property owners within the proposed Redevelopment Overlay District and within 500 feet of the boundaries of the proposed Redevelopment Overlay District, consistent with current regulations for zoning use changes. Notice will be consistent with F.S. § 125.66. At the public hearings all interested parties will be afforded an opportunity to express their views respecting the proposed Redevelopment Overlay District and Master Site Plan.

(g) *Effective date.* The Redevelopment Overlay District and Master Site Plan will be effective when approved by a resolution or ordinance of the Board of County Commissioners adopted at the final public hearing.

~~Sec. 34-1088. Amendment to adopted Redevelopment Overlay District and Master Site Plan.~~

If at any time it becomes necessary or desirable to amend or modify an adopted Redevelopment Overlay District or Master Site Plan, the following procedures will apply:

- (1) *Minor changes.* Minor changes that do not modify approved land uses, or adversely affect adjacent properties may be administratively approved by the Director of Community Development.
- (2) *Other changes.* Other amendments that are not treated as minor changes will require an amendment to the Master Site Plan with public hearings in accordance with the procedures for adopting the original plan.

~~Sec. 34-1089. Review of development requests.~~

Once a Redevelopment Overlay District has been adopted, property owners within the Master Site Plan boundaries have the option of developing consistent with that plan. If a property owner desires to develop under that plan, the owner or developer must comply with Section 34-1082(d), and any additional requirements set forth for a specific Redevelopment Overlay District.

~~Sec. 34-1090. Placement of boundaries of adopted Master Site Plan and Redevelopment Overlay District for community redevelopment areas on Official Zoning Maps.~~

Upon adoption of a Redevelopment Overlay District and Master Site Plan by the Board of County Commissioners, the following will be shown on the official County zoning maps:

- (1) The boundaries of the Master Site Planned areas;
- (2) To the extent of any differences, the boundaries of the Redevelopment Overlay District, so as to depict all portions of the community redevelopment areas that are eligible to use the provisions of that Redevelopment Overlay District; and
- (3) Those specific properties that have elected to participate in the Redevelopment Overlay District.

Secs. 34-1080 - 34-1090. Reserved.

Subdivision I. San Carlos Island Redevelopment Overlay District.

Staff note: San Carlos Island Redevelopment Overlay District Regulations have been relocated in their entirety from Chapter 33 (Sections 33-1742 through 33-1744) to Subdivision II. Revise cross sections and remove cross sections as required and revise language for clarity as needed. Sections have been renumbered accordingly. Subdivisions III and IV remain reserved.

Sec. 34-1091. Purpose and intent.

(a) *Purpose and affected area.* The San Carlos Island Redevelopment Overlay District (District) is designed to stimulate the revitalization of San Carlos Island. A legal description of the District's boundary is set forth in Figure 34-1091-A ~~Appendix I~~. The district is comprised of the following four subdistricts as depicted in Figure 34-1091-B:

- (1) San Carlos Island Commercial Corridor (SCC) Subdistrict;
- (2) San Carlos Island Commercial Corridor Expansion (SCCE) Subdistrict;

- (3) San Carlos Island Fisherman's Wharf (SCF) Subdistrict; and
- (4) San Carlos Island Waterfront (SCW) Subdistrict.

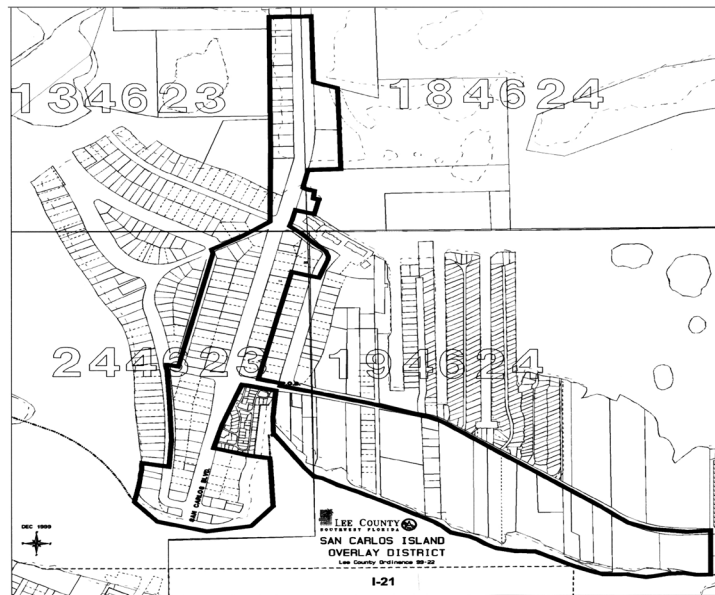


Figure 34-1091-A. San Carlos Island Redevelopment Overlay District

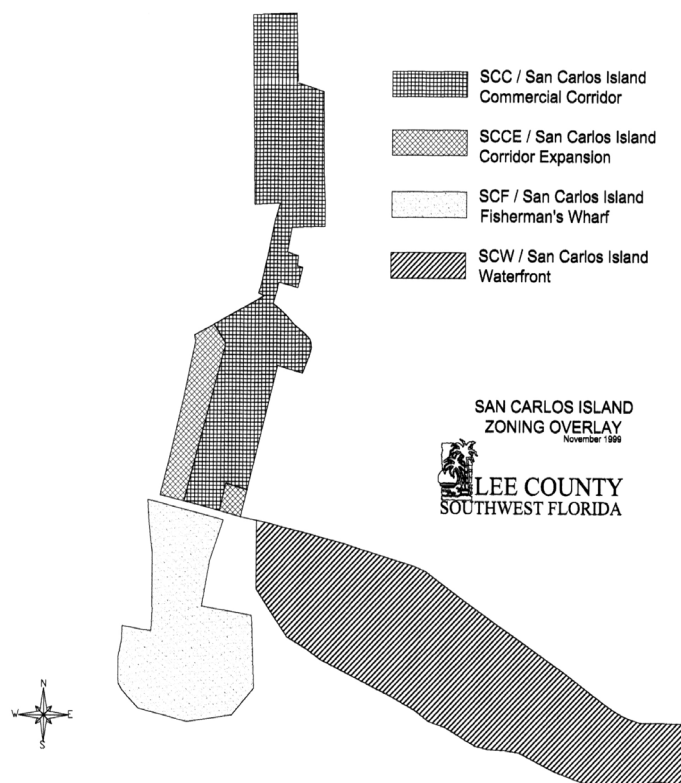


Figure 34-1091-B. San Carlos Island Zoning Overlay

(b) *Optional nature of these regulations.* Individual landowners may choose to follow all existing County regulations when they build or rebuild, or at solely their option, they may elect to develop or redevelop under the applicable provisions of this District. However, once a landowner elects to use any of the modified development regulations of this District on a particular parcel, then the landowner must comply with all of the applicable requirements of the district for that property. A landowner's election to redevelop or develop under the applicable district provisions must follow the procedure set forth in Section 34-1082(a) to become effective.

(c) *Planned Development Zoning.*

- (1) Property previously zoned to a planned development district will not be eligible to participate in the district through the administrative approval process for redevelopment overlay districts. Instead, amendments to their existing approvals must follow the existing planned development amendment process specified in Section 34-371.
- (2) Notwithstanding the above, new planned developments electing to participate in the redevelopment overlay district may be approved as part of the district, so long as the uses requested as part of the planned development are included in Table 1, in Section 34-1093, and requisite approvals are obtained.

Sec. 34-1092. Modified land development regulations, the Master Plan.

The District Master Site Plan (plan or MSP) contains graphic and textual aspects which modify the following specified land development regulations. A reduced copy of the San Carlos Island MSP is adopted by reference and included in reduced form as Figure 34-1091-Bin Appendix I. In general, the SCC and SCF Subdistricts retain the uses allowed in the underlying zoning districts. The SCW and SCCE Subdistricts alter the uses from those of the underlying zoning district to allow those uses set forth in Table 1 of this section. In addition, the type of approval required for certain uses has been modified, as also set forth in Table 1 of this section. All other County land development regulations remain in full effect.

- (a) *Planning criteria and conditions for the SCCE Subdistrict.* No use set forth in Table 1 of this section for the SCCE Subdistrict can be approved unless the following planning criteria and conditions are found to exist by the Director or the Hearing Examiner, as applicable:
 - (1) The property to be developed is under unified control, and is abutting land within either the SCC Subdistrict or abutting lands previously approved for development in the SCCE Subdistrict under these provisions;
 - (2) There must be a unified plan of development shown on a Master Development Plan submitted with the development request;
 - (3) Vehicular access to the proposed development request area:
 - a. Is not allowed through a less intense or residential area; and
 - b. Must be either from San Carlos Boulevard or through joint access with adjacent properties;
 - (4) Landscaping and buffering is provided consistent with existing regulations in Section 10-416, except that:
 - a. Any reduced landscaping or buffering provisions of the district may not be utilized; and
 - b. If the property to be developed abuts South Street, a buffer that conforms to Section 10-416(d) must be provided along South Street; and
 - (5) The property to be developed or redeveloped must comply with all of the requirements of Chapter 10, without variances thereto.

(b) Land development regulations, land uses. Development requests. Applications for Development Permits electing to apply the land development regulations of the district are processed as administrative approvals pursuant to Section 34-1082(d), subject to the following:

- (1) The uses permitted within the SCC and SCF Subdistricts are those in effect for the underlying zoning districts at the time a complete application/legally sufficient development request is submitted.
- (2) Regardless of the uses allowed in an existing underlying zoning district, the only uses allowed in the SCW and SCCE Subdistricts are those set forth in Table 1 of this section at the time an application for Development Permit is deemed complete. development request is deemed legally sufficient. Land uses that are not expressly included in Table 1 of this section may be permitted by the Director only if they are no more intense than the most similar listed use, considering impacts such as noise, hours of operation, traffic generation, compatibility with the purposes of this overlay district and similar factors, and any required approvals are obtained.

(c) Use of Table 1. The following abbreviated terms have the meaning stated and apply to Table 1 and its explanatory notes: The letters "SE" mean a use only permitted by a special exception approved pursuant to Section 34-145(c), approval under Section 34-1082(d)(1)a is required as well; "—" means that the use is not allowed; and the letter "P" means a use is permitted subject to approval by the Director pursuant to Section 34-1082.

Table 1. Land Uses in the SCCE and SCW Subdistricts

<u>Land Uses</u>	<u>Special Notes or Regulations</u>	<u>SCCE</u>	<u>SCW</u>
<u>Accessory apartment</u>	<u>Section 34-1177, Note A</u>	<u>P</u>	<u>P</u>
<u>Administrative offices</u>		<u>P</u>	<u>P</u>
<u>ATM (automatic teller machine)</u>		<u>SE, Note I</u>	<u>P, Note B</u>
<u>Bait and tackle shop</u>		<u>SE, Note I</u>	<u>P, Note B</u>
<u>Banks and financial establishment, Group I (Section 34-622(c)(3))</u>		<u>SE, Note I</u>	
<u>Bar or cocktail lounge</u>	<u>Section 34-1261 et seq.</u>	<u>SE, Note I</u>	<u>SE, Note B</u>
<u>Bed and breakfast establishments</u>		<u>SE, Note I</u>	<u>—</u>
<u>Boats:</u>	<u>Section 34-1352</u>	<u>SE*</u>	
<u>Boat parts store</u>		<u>SE*</u>	<u>—</u>
<u>Boat rental</u>		<u>SE*</u>	<u>P</u>
<u>Boat repair and service</u>		<u>SE*</u>	<u>P</u>
<u>Boat sales</u>		<u>—</u>	<u>—</u>
<u>Boat storage (all heights)</u>		<u>*Note I</u>	<u>P</u>
<u>Boatyard</u>	<u>Note H</u>	<u>—</u>	<u>P</u>
<u>Clubs, private</u>	<u>Note A</u>	<u>SE</u>	<u>P</u>
<u>Commercial fishery including land support</u>		<u>SE, Note I</u>	<u>P</u>
<u>Commercial use of beachfront sea—ward of the waterbody setback line</u>		<u>—</u>	<u>P</u>
<u>Consumption on premises</u>	<u>Section 34-1261 et seq.</u>	<u>SE, Note I</u>	<u>SE, Note B</u>
<u>Cultural facilities, excluding animal or reptile exhibits and zoos</u>		<u>SE, Note I</u>	<u>—</u>
<u>Docking or mooring facilities</u>		<u>—</u>	<u>P</u>
<u>Drive-through facility for any permitted use</u>		<u>SE, Note I</u>	<u>—</u>

Dwelling unit, multiple-family units	Note A	SE, Note I	—
Entrance gates and gatehouses		SE, Note I	P
Essential services	Section 34-1611 et seq.	P	P
Essential service facilities (Section 34-622(c)(13)):			
• Group I	Section 34-1611 et seq.	P	P
• Group II		SE	SE
Excavation, water retention	Section 34-1651(b)	P	P
Fish house, wholesale, retail		SE, Note I	P
Food and beverage service, limited		SE	P, Note B
Freight and cargo handling establishments (Section 34-622(c)(17))	Note A	—	P
Gift and souvenir shop		SE, Note I	—
Home occupation		P	—
Hobby, toy, game shops (Section 34-622(c)(21))		SE, Note I	—
Hotel/motel		SE, Note I	—
Laundromat, laundry or dry cleaning, Group I (Section 34-622(c)(24))	Note B	SE, Note I	
Marina	Section 34-1862, Notes G & H	—	P
Offices, marine-oriented government	Note C	SE, Note I	P
Package store	Section 34-1261 et seq.	SE, Note I	—
Parks (Section 34-622(c)(32)), public or private:			
• Group I		P	P
• Group II (limited to boat ramps and nature trails)		SE	P
Parking lot:			
Accessory		P	P
Commercial		SE	—
Temporary		SE	P
Personal services (Section 34-622(c)(33)), Groups I and II		SE, Note I	—
Recreation, personal (Section 34-622(c)(38))		P	P
Rental or leasing establishments, Group I (Section 34-622(c)(39))	Sections 34-1352, 34-3001 et seq.	SE, Note I	—
Residential accessory uses (Section 34-622(c)(42))		P	—
Restaurants (Section 34-622(c)(43)):		SE*	
• Groups I, II		SE*	P
• With outdoor seating		*Note I	P
Schools, commercial (Section 34-622(c)(45))	Note D	SE, Note I	P
Signs in accordance with Chapter 30	Note F	P	P

<u>Specialty retail shop, Groups I, II, III (Section 34-622(c)(47))</u>		<u>SE, Note J</u>	<u>—</u>
<u>Temporary uses</u>	<u>Section 34-3041 et seq.</u>	<u>SE</u>	<u>P</u>
<u>Transportation services, Group I (Section 34-622(c)(53))</u>		<u>—</u>	<u>P Note J</u>
<u>Vehicle and equipment dealers, Group III (Section 34-622(c)(55))</u>	<u>Section 34-1352</u>	<u>SE, Note I</u>	<u>—</u>

Notes:

- A. Limited to marine-oriented operations.
- B. Limited to establishments which are clearly accessory and subordinate to a marina or commercial fishing land support facility.
- C. Mainly the U.S. Coast Guard, Army Corps of Engineers, State Department of Environmental Protection, Marine Patrol and other marine-oriented County facilities.
- D. Limited to marine-oriented schools such as sailing schools.
- E. Limited to seafood markets.
- F. As modified by Section 34-1092(e)(6).
- G. In addition to the marina accessory uses listed in Section 34-2, the following uses are included if clearly accessory and subordinate to a marina: food stores, laundry facilities, rental or leasing facilities, Group I, and specialty retail shop, Group I.
- H. Boat sales and boat part sales which are clearly accessory and subordinate to this use are allowed.
- I. This use is only allowed east of San Carlos Boulevard.
- J. This use is allowed only where the underlying zoning is CM or IM, and the land use category is Urban Community.

(d) Property development regulations, all subdistricts.

- (1) Required off-street parking. Off-street parking is generally required in accordance with Section 34-2011 et seq. Those requirements assume that patrons of each land use will arrive in a private automobile that will be parked in a private lot on the same premises. With the existing public parking lots in the district that may be used by the local merchants for customer parking, the number of off-street parking spaces required for any given land use must conform to Section 34-2020, except that marinas and other water-related uses will provide at least the following minimum number of parking spaces:
 - Boat slips: Two spaces per five slips.
 - Dry storage: One space per six slips.
 - Charter or party fishing boats, including passenger carrying vessels such as sunset trips, eco-trips, etc., but excluding local or international cruise ships: One space per four passengers, based on the maximum capacity of the boats using the docks or loading facilities.
- (2) Alternative parking surfaces for parking lots may be permitted within the District, except for parking lots abutting San Carlos Boulevard, provided that:
 - a. The areas are adequately drained and continuously maintained in a dust-free manner. Acceptable alternative surfaces include gravel, crushed shell, or other similar materials. Parking on grass or other unimproved surfaces such as sand or dirt is prohibited; and

- b. Parking spaces for disabled persons must be paved with asphalt or concrete to provide a smooth surface without gaps or holes that would create a danger to the user.
- (e) Property development regulations, SCC and SCF Subdistricts only. The Director may administratively approve modifications to the property development regulations, ground-mounted sign regulations, off-street parking requirements, open space and buffering requirements set forth for the underlying zoning district for those properties in the SCC and SCF Subdistricts that physically abut or front upon San Carlos Boulevard, so long as the requirements below are met. All other properties within the SCC and SCF Subdistricts are subject to the land development regulations applicable to the underlying zoning in effect at the time a legally sufficient development request is submitted.
- (1) Property development regulations.
 - a. Lot requirements. Minimum lot dimension or area requirements set forth for the zoning districts in which an eligible property is located may be administratively reduced by the Director as follows:
 - 1. For an existing lot where the need for the reduction resulted from a government road right-of-way acquisition program and was not otherwise self-created; or
 - 2. To create a new lot with a reduced lot depth, if the lot would comply with all lot width and area requirements and the lot is otherwise created in accordance with all other applicable regulations.
 - b. Setbacks. The minimum street, side or rear setback requirements set forth in the property development regulations for the underlying zoning districts in which the property is located may be reduced by the Director as follows:
 - 1. Existing buildings and structures. Buildings and structures within the overlay district that are not in compliance with the street setback requirements of Section 34-2192 will be considered legally nonconforming, subject to the provisions of Section 34-3203(a) and (b), so long as the noncompliance resulted from a governmental road right-of-way acquisition program.
 - 2. New buildings and structures. Any building or structure erected after January 1, 1999, must comply with all applicable setback development regulations for the underlying zoning districts then in effect, except that:
 - i. Where existing buildings on the abutting properties on both sides of the property in question are located closer to the street right-of-way than allowed by Section 34-2192, the Director may approve a minimum street setback equal to the average setback of the existing buildings on the abutting property; or
 - ii. Where only one of the abutting lots has an existing building, the Director may approve a setback equal to one-half of the sum of the minimum setback for the existing building on the abutting lot and the required setback.
 - 3. Street setbacks for flag poles may be reduced by the Director so long as no part of the structure encroaches into the public right-of-way.
 - c. Maximum lot coverage. If a portion of a site's parking or other development was reduced by a governmental road right-of-way acquisition program, then the site area lost thereby may be calculated as part of the overall lot area when determining maximum permitted lot coverage.

- (2) *Open space, landscaping, and buffering.* The minimum open space, landscaping, and buffering required for developments may be modified as follows:
- a. *Lots that meet or exceed required standards.* Lots that meet or exceed the minimum area requirements for the underlying zoning districts in which the property is located must comply with all open space, landscaping, and buffering requirements in effect at the time the Application for Development Permit is deemed completed ~~development request is deemed legally sufficient.~~
 - b. *Lots that cannot meet standards.* The Director may administratively approve modifications to the buffering, open space, and landscaping requirements for lots that cannot meet the area or dimensional requirements of the underlying zoning districts in which the property is located where the noncompliance resulted from a governmental right-of-way acquisition program and was not otherwise self-created, as follows:
 1. *Buffering.* Buffer areas between parking lots and the street right-of-way line may be waived, provided that a fence, wall or other acceptable method (e.g., bollards) is used to prevent vehicles from entering the parking lot or parking spaces at other than the site's designated access point. If waiving the buffering requirements would still not allow the property to be developed in compliance with all other applicable regulations, then the Director may administratively approve modifications to the open space requirements, as set forth below.
 2. *Open space.* The percentage of open space required by the underlying zoning districts may be reduced by up to 50 percent. If reducing the open space requirements by 50 percent would still not allow the property to be developed in compliance with all other applicable regulations, then the Director may administratively approve modifications to the landscaping requirements, as set forth below.
 3. *Landscaping.* Landscaping requirements may be reduced in proportion to approved modifications to the open space requirements.
- (3) *Access.* The Director, subject to approval of the State Department of Transportation, where required, may reduce the access point distance separation requirements to accommodate driveway or parking lot accesses, but only if they provide the sole vehicle access to two or more abutting properties.
- (4) *Off-street parking.* Alternative parking patterns such as off-site or shared parking lots are encouraged in the SCC and SCF Subdistricts. To allow flexibility in meeting a site's parking requirements, the Director may make modifications as follows:
- a. *Properties meeting certain minimum lot requirements.* No parking modifications may be administratively approved for any use located on a lot or parcel that meets the minimum lot depth, width, and area requirements for the underlying zoning districts in which located notwithstanding the effect of a governmental right-of-way acquisition program.
 - b. *Properties reduced below minimum depth requirements.*
 1. The Director may administratively reduce the number of required parking spaces otherwise required in proportion to any reduction in a parcel's area resulting from a governmental right-of-way acquisition program. For example, if a lot lost 1,000 square feet of area for road right-of-way (ROW) purposes (100-foot frontage by ten-foot depth for new ROW) and the resulting lot depth was reduced below the minimum for the underlying zoning districts, then the parking requirements may be reduced by the Director up to six spaces (1,000 square feet divided by 162 square feet, the area of the standard parking space, i.e., nine feet by 18 feet, which equals 6.17, reduced to the next lower whole

number, six) in order to meet the parking requirement. If the parking requirements still cannot be met, the Director may administratively approve the minimum number of off-site parking spaces necessary to meet the site's parking requirements, so long as:

- i. The site's property owner has entered into a written agreement with the property owner of the off-site parking lot that has been approved by the County Attorney's office and recorded in the County's public records;
- ii. The furthest parking space in the off-site parking lot is located no more than 300 feet from the property in question; and
- iii. No road or other restrictive barrier exists between the use and the parking lot that would prohibit safe pedestrian travel.

2. To allow flexibility in meeting a site's parking requirements, the Director may administratively approve a request to allow up to 50 percent of the required number of parking spaces for land uses in the SCC and SCF Subdistricts to be located off-site, so long as the requirements of Sections 34-1089 and 34-2020(e) are met.

(5) Off-street loading. Businesses within these subdistricts are exempt from providing designated off-street loading zones as required by Section 10-260 et seq.

(6) Signs.

- a. All signs within the SCC and SCF Subdistricts must comply with Chapter 30 except that where an existing building on the property is closer to the right-of-way than the minimum setback required by Section 34-2192 as a result of a governmental right-of-way acquisition program such that a ground-mounted sign could not be located between the existing building and the right-of-way and still comply with Chapter 30, then the Director may administratively approve either of the following alternatives:

1. Reduce the required sign setback to accommodate a permitted ground-mounted sign, provided that no part of the sign may encroach into or over the public right-of-way or otherwise create an unsafe condition for passing motorists (see Section 30-1(b)); or
2. Approve a ground-mounted sign to be located in the side yard next to the building but at a higher height than normally permitted, provided that the sign is the minimum height necessary to sufficiently convey a message about the owner or occupants of the property, the commodities, products or services available on the property, or the business activities conducted on such property (see Section 30-1(e)(4)); and does not exceed 30 feet in height.

- b. New billboards are not permitted within the SCC or SCF Subdistricts. Existing billboards destroyed by fire or other natural forces beyond 50 percent may be rebuilt in their current locations, at their current size.

(f) Property development regulations, SCW and SCCE Subdistricts and certain properties in the SCC and SCF Subdistricts. Modified land development regulations for the SCW and SCCE Subdistricts and those properties in the SCC and SCF Subdistricts which do not abut or front upon San Carlos Boulevard are set forth in Table 2 of this section. Off-street parking for these areas is addressed in Subsection (g) of this section. Except where specifically noted, the terminology and special regulations found in Table 2 have the same meaning and effect as they do throughout this chapter. All other land development regulations applicable to the underlying zoning districts and development request will continue to have their same force and effect.

Table 2. Property Development Regulations for SCW, SCCE, and
Portions of SCC and SCF Subdistricts*

	<u>Special Notes or Regulations</u>	<u>*As limited in Subsection (f) of this section</u>
<u>Minimum lot area and dimensions</u>		
<u>Minimum lot size:</u>	<u>Section 34-2221</u>	<u>10,000 sq. ft.</u>
<u>Lot width</u>	<u>Section 34-2222</u>	<u>50 ft.</u>
<u>Lot depth</u>		<u>100 ft.</u>
<u>Minimum building setbacks</u>		
<u>Street (from edge of right-of-way)</u>	<u>Section 34-2191</u>	<u>25 ft.</u>
<u>Side yard</u>	<u>Section 34-2192</u>	<u>20 ft.</u>
<u>Rear yard</u>	<u>Section 34-1174</u>	<u>20 ft.</u>
<u>Waterbody</u>	<u>Notes B & C</u>	<u>25 ft.</u>
<u>Minimum building separation</u>		<u>20 ft.</u>
<u>Minimum accessory use setbacks</u>		<u>25 ft.</u>
• <u>Street</u>		<u>25 ft.</u>
• <u>Side and rear lot lines</u>	<u>Note A</u>	<u>0 ft. or 20 ft.</u>
• <u>Waterbody</u>	<u>Notes B & C</u>	<u>25 ft.</u>
<u>Maximum height</u>	<u>Section 34-2171 et seq., Note D</u>	<u>35 ft. or 3 habitable stories, whichever is less</u>
<u>Maximum lot coverage</u>		<u>60%</u>

Notes: All notes referencing LDC sections must be complied with and met, plus the following, as applicable:

- A. The zero feet setback applies only to attached commercial buildings.
- B. Limited to docks, nonroofed boardwalks, and decks with public access.
- C. Boat service buildings or boat service structures, whether principal or accessory structures, may be built up to the mean high water line, as applicable.
- D. For boat storage facilities, dry, located within an existing IM, IL and CM Zoning Districts located in the SCW Subdistrict, the setback requirements of Section 34-2174 are modified to only require the setbacks for heights greater than 55 feet above mean sea level.

(g) Off-street parking for the SCW and SCCE Subdistricts and certain properties in the SCC and SCF Subdistricts. It is an important element of this District to allow alternative parking patterns such as shared parking lots for the SCW and SCCE Subdistricts and those properties in the SCC and SCF Subdistricts that do not abut or front upon San Carlos Boulevard. To allow flexibility in meeting a site's parking requirements in these areas, the Director may administratively approve a development request to allow up to 50 percent of the required number of parking spaces for any land use in the SCW and SCCE Subdistricts and those properties in the SCC and SCF Subdistricts that do not abut or front upon San Carlos Boulevard to be located off-site, so long as:

- (1) The site's property owner has entered into a written agreement with the property owner of the off-site parking lot which has been approved by the County Attorney's office and recorded in the County's public records;
- (2) No road or other restrictive barrier would exist between the site and the proposed off-site parking that would prohibit safe pedestrian travel; and
- (3) The furthest parking space in the off-site parking lot is located no more than 300 feet from the property in question, except that:

- a. The Director may approve the use of parking spaces greater than 300 feet off-site up to 1,000 feet off-site, so long as the applicant demonstrates that no other spaces for parking are available closer than those being proposed; or
- b. If there are still not a sufficient number of spaces available within 1,000 feet, then so long as a shuttle service acceptable to the Director is provided and maintained between the parking spaces and the uses they serve, such parking may be used to meet up to 50 percent of the overall parking requirement.

Secs. 34-1904 – 34-1100. Reserved.

DIVISION 12. AIRPORT COMPATIBILITY DISTRICT

Secs. 34-1113—34-~~1124~~1168. Reserved.

DIVISION 13. DISTRICT-SPECIFIC DEVELOPMENT REGULATIONS

Staff note: New Division 13 is proposed to incorporate the Matlacha Residential Overlay, North Fort Myers Commercial Corridor and Lehigh Acres Commercial Overlay, and Northeast Lee County New Community.

Subdivision I. - Commercial Overlay Districts

Sec. 34-1125. Applicability.

The provisions of this subdivision apply to all commercially-zoned properties within the Lehigh Acres Commercial Overlay Zones designated by the Lee Plan or commercially-zoned properties with frontage on, or contiguous to and developed in conjunction with properties with frontage on, the following roadways within North Fort Myers Community Plan Area:

- (a) U.S. 41/Cleveland Avenue.
- (b) Old 41/Tamiami Trail.
- (c) Pine Island/Bayshore Road (West of I-75).
- (d) Hancock Bridge Parkway.
- (e) Pondella Road.

For the purposes of this subdivision, “developed in conjunction with” means development approved by the same Development Permit.

Sec. 34-1126. Property development regulations.

Staff note: Section 34-1126 replaces the North Fort Myers-specific Commercial Corridor Property Development Regulations in favor of the development standards within the Mixed-Use Overlay.

Properties located in a Commercial Overlay District may apply the alternative property development regulations under the MUO category in Table 34-845.

Sec. 34-1127. Use regulations.

Staff note: Relocate the use regulations from LDC Section 33-1596, which is proposed for deletion in its entirety. Revise applicability to govern Commercial Overlay Districts consistent with Section 34-1125, and update cross-references and notes for consistency and clarity. Unlike the current Commercial Corridor regulations, which

supersede the underlying zoning district, the revised overlay regulations apply in addition to the underlying zoning. Marinas are identified as permitted uses only on property within the Water Dependent Overlay to consolidate applicable use regulations from the Town Center provisions proposed for deletion from Section 33-1604.

The following use regulations apply to Commercial Overlay Districts in addition to the use regulations of the underlying zoning district. Where the underlying zoning district and these use regulations provide different approval classifications for the same use, the less restrictive approval classification shall apply***:

<u>Use Description</u>	<u>Special Notes or Regulations</u>	<u>Commercial Corridor</u>
<u>Accessory apartment</u>	<u>Notes (1) & (25), Section 34-1177</u>	<u>P</u>
<u>Administrative offices</u>	<u>==</u>	<u>P</u>
<u>Aircraft landing facilities, private: Lawfully existing:</u>	<u>==</u>	<u>==</u>
<u>Expansion of aircraft landing strip, helistop or heliport landing pad</u>	<u>Section 34-1231 et seq.</u>	<u>SE*</u>
<u>New accessory buildings</u>	<u>Section 34-1231 et seq.</u>	<u>P</u>
<u>Aircraft landing facilities, private; new:</u>	<u>==</u>	<u>==</u>
<u>Aircraft landing strip and ancillary hangars, sheds and equipment</u>	<u>==</u>	<u>==</u>
<u>Heliport</u>	<u>==</u>	<u>==</u>
<u>Helistop</u>	<u>Section 34-1231 et seq.</u>	<u>SE*</u>
<u>Animals, Keeping and breeding of Class I or Class II (df)</u>	<u>==</u>	<u>==</u>
<u>Amateur radio antennas and satellite earth stations when accessory to an existing principal use</u>	<u>==</u>	<u>Refer to Section 34-1175 for regulations</u>
<u>Amusement park, less than ten acres</u>	<u>==</u>	<u>==</u>
<u>Animals:</u>	<u>==</u>	<u>==</u>
<u>Clinic</u>	<u>Section 34-1321 et seq.</u>	<u>P</u>
<u>Kennel</u>	<u>Section 34-1321 et seq.</u>	<u>P</u>
<u>Control center (including Humane Society)</u>	<u>==</u>	<u>SE*</u>
<u>Assisted living facility</u>	<u>Notes (9), (29), Section 34-1411 et seq.</u>	<u>P</u>
<u>ATM (automatic teller machine)</u>	<u>==</u>	<u>P</u>
<u>Auto parts store +A41:</u>	<u>==</u>	<u>==</u>
<u>No installation service</u>	<u>Note (19) Section 34-1351</u>	<u>P</u>
<u>With installation service</u>	<u>Note (19) Sections 34- 1351, 34-1353</u>	<u>P</u>
<u>Automobile repair and service (Section 34- 622(c)(2)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>Note (19) Sections 34- 1351, 34-1353</u>	<u>P</u>
<u>Group II</u>	<u>Note (19) Sections 34- 1351, 34-1353</u>	<u>P</u>
<u>Automobile service station</u>	<u>Notes (19) & (3334), Sections 34-1351, 34-1353</u>	<u>P</u>
<u>Bait and tackle shop</u>	<u>Note (33)</u>	<u>P</u>

<u>Banks and financial establishments (Section 34-622(c)(3)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P</u>
<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Bar, cocktail lounge or nightclub as an accessory use to a hotel or restaurant</u>	<u>Sections 34-1201 et seq., 34-1261 et seq.</u>	<u>AA/SE*</u>
<u>Bar, cocktail lounge or nightclub (freestanding)</u>	<u>Sections 34-1201 et seq., 34-1261 et seq.</u>	<u>SE**</u>
<u>Bed and breakfast (df)</u>	<u>Note (25), Section 34-1494</u>	<u>P</u>
<u>Boardinghouse</u>	<u>Note (25), Section 34-1493</u>	<u>P</u>
<u>Boats:</u>	<u>==</u>	<u>==</u>
<u>Boat parts store</u>	<u>==</u>	<u>P</u>
<u>Boat ramp</u>	<u>==</u>	<u>P</u>
<u>Boat rental</u>	<u>==</u>	<u>P</u>
<u>Boat repair and service</u>	<u>==</u>	<u>==</u>
<u>Boat sales</u>	<u>==</u>	<u>P</u>
<u>Boat storage, dry, not exceeding 18 feet above grade</u>	<u>Note (32)</u>	<u>SE*</u>
<u>Boat storage, dry, exceeding 18 feet above grade</u>	<u>Note (32)</u>	<u>SE*</u>
<u>Brewpub</u>	<u>Section 34-1261 et seq.</u>	<u>AA/SE*</u>
<u>Broadcast studio, commercial radio and television</u>	<u>Section 34-1441 et seq.</u>	<u>P</u>
<u>Building materials sales (Section 34-622(c)(4))</u>	<u>==</u>	<u>P</u>
<u>Business services (Section 34-622(c)(5)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P</u>
<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Bus station/depot</u>	<u>Section 34-1381 et seq.</u>	<u>P</u>
<u>Caretaker's residence</u>	<u>Note (30)</u>	<u>SE*</u>
<u>Car wash</u>	<u>Section 34-1353</u>	<u>P</u>
<u>Cleaning and maintenance services (Section 34-622(c)(7))</u>	<u>==</u>	<u>P</u>
<u>Clothing stores, general (Section 34-622(c))</u>	<u>==</u>	<u>P</u>
<u>Clubs:</u>	<u>==</u>	<u>==</u>
<u>Country</u>	<u>==</u>	<u>P</u>
<u>Commercial</u>	<u>==</u>	<u>P</u>
<u>Fraternal</u>	<u>Section 34-2111</u>	<u>P</u>
<u>Membership organization</u>	<u>Section 34-2111</u>	<u>P</u>
<u>Private</u>	<u>==</u>	<u>P</u>
<u>Cold storage warehouse and processing plant (including pre-cooling)</u>	<u>==</u>	<u>==</u>
<u>Commercial fishery</u>	<u>==</u>	<u>==</u>
<u>Communication facility, wireless</u>	<u>Refer to Section 34-1441 et seq. for regulations</u>	<u>P</u>

<u>Community residential home</u>	<u>Note (29)</u>	<u>P</u>
<u>Consumption on premises</u>	<u>Section 34-1261 et seq.,</u> <u>Note (33)</u>	<u>P/AA/SE Refer to bars,</u> <u>cocktail lounges, and</u> <u>nightclubs</u>
<u>Contractors and builders (Section 34-622(c)(9)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P</u>
<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Group III</u>	<u>==</u>	<u>SE*</u>
<u>Convenience food and beverage store</u>	<u>Section 34-1353</u>	<u>P</u>
<u>Cultural facilities (Section 34-622(c)(10))</u>	<u>==</u>	<u>P</u>
<u>Day care center, adult, child</u>	<u>Note (25)</u>	<u>P</u>
<u>Department store</u>	<u>==</u>	<u>P</u>
<u>Dormitory</u>	<u>Note (25)</u>	<u>P</u>
<u>Drive-through facility for any permitted use</u>	<u>==</u>	<u>P</u>
<u>Drugstore, pharmacy</u>	<u>==</u>	<u>P</u>
<u>Dwelling unit:</u>	<u>==</u>	<u>==</u>
<u>Duplex</u>	<u>Notes (25) & (35)</u>	<u>EO</u>
<u>Single-family</u>	<u>Note (26)</u>	<u>EO</u>
<u>Two-family attached</u>	<u>Notes (25) & (35)</u>	<u>EO</u>
<u>Townhouse</u>	<u>Note (25)</u>	<u>P</u>
<u>Mobile home</u>	<u>==</u>	<u>==</u>
<u>Multiple-family building</u>	<u>Note (25)</u>	<u>P</u>
<u>Entrance gates and gatehouse</u>	<u>Section 34-1748</u>	<u>P</u>
<u>Emergency operations center</u>	<u>==</u>	<u>P</u>
<u>EMS, fire or sheriff's station</u>	<u>Note (33)</u>	<u>P</u>
<u>Essential services</u>	<u>Section 34-1611 et seq.</u>	<u>P</u>
<u>Essential service facilities (Section 34-622(c)(13)),</u> <u>Group I</u>	<u>Section 34-1611 et seq.</u>	<u>P</u>
<u>Excavation:</u>	<u>==</u>	<u>==</u>
<u>Mining</u>	<u>==</u>	<u>==</u>
<u>Water retention</u>	<u>Section 34-1651 et seq.</u>	<u>P</u>
<u>Oil or gas</u>	<u>==</u>	<u>==</u>
<u>Farm equipment, sales, storage, rental or service</u>	<u>==</u>	<u>P</u>
<u>Feed or fertilizer, mixing and sales</u>	<u>==</u>	<u>P</u>
<u>Fish house, wholesale</u>	<u>==</u>	<u>==</u>
<u>Flea market:</u>	<u>==</u>	<u>==</u>
<u>Open</u>	<u>==</u>	<u>EO</u>
<u>Indoor</u>	<u>==</u>	<u>P</u>
<u>Food and beverage service, limited</u>	<u>==</u>	<u>SE*</u>
<u>Food stores (Section 34-622(c)(16)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>Note (33)</u>	<u>P</u>

<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Food Truck Park</u>	<u>Section 34-2352</u>	<u>P/SE</u>
<u>Fraternity house</u>	<u>== Section 34-1493</u>	<u>==</u>
<u>Freight and cargo handling establishments (Section 34-622(c)(17))</u>	<u>==</u>	<u>==</u>
<u>Funeral home or mortuary:</u>	<u>==</u>	<u>==</u>
<u> No cremation</u>	<u>==</u>	<u>P</u>
<u> With cremation</u>	<u>==</u>	<u>P</u>
<u>Gambling establishments and casino style gaming</u>	<u>==</u>	<u>SE**</u>
<u>Gasoline dispensing system, special</u>	<u>==</u>	<u>==</u>
<u>Hardware store</u>	<u>==</u>	<u>P</u>
<u>Health care facility (Section 34-622(c)(20)):</u>	<u>==</u>	<u>==</u>
<u> Group I (less than 50 beds)</u>	<u>==</u>	<u>==</u>
<u> Group II (less than 50 beds)</u>	<u>==</u>	<u>==</u>
<u> Group III</u>	<u>==</u>	<u>P</u>
<u> Group IV</u>	<u>==</u>	<u>==</u>
<u>Heliport or helistop</u>	<u>==</u>	<u>See aircraft landing facilities, private</u>
<u>Hobby, toy and game shops (Section 34-622(c)(21))</u>	<u>==</u>	<u>P</u>
<u>Home care facility</u>	<u>Note (25)</u>	<u>P</u>
<u>Home occupation:</u>	<u>==</u>	<u>==</u>
<u> No outside help</u>	<u>Note (27), Section 34-1771 et seq.</u>	<u>P</u>
<u> With outside help</u>	<u>Note (27), Section 34-1771 et seq.</u>	<u>AA</u>
<u>Hotel/motel</u>	<u>Note (31), Section 34-1801 et seq.</u>	<u>P</u>
<u>Household and office furnishings (Section 34-622(c)(22)):</u>	<u>==</u>	<u>==</u>
<u> Group I</u>	<u>==</u>	<u>P</u>
<u> Group II</u>	<u>==</u>	<u>P</u>
<u> Group III</u>	<u>==</u>	<u>P</u>
<u>Impound yard</u>	<u>==</u>	<u>==</u>
<u>Insurance companies (Section 34-622(c)(23))</u>	<u>==</u>	<u>P</u>
<u>Laundromat</u>	<u>==</u>	<u>P</u>
<u>Laundry or dry cleaning (Section 34-622(c)(24)):</u>	<u>==</u>	<u>==</u>
<u> Group I</u>	<u>==</u>	<u>P</u>
<u> Group II</u>	<u>==</u>	<u>P</u>
<u>Lawn and garden supply store</u>		<u>P</u>
<u>Library</u>	<u>Note (25)</u>	<u>P</u>
<u>Maintenance facility (government)</u>	<u>==</u>	<u>P</u>
<u>Manufacturing of:</u>	<u>==</u>	<u>==</u>

<u>Apparel products (Section 34-622(c)(1))</u>	<u>==</u>	<u>EO</u>
<u>Dairy products (SIC 202 only)</u>	<u>==</u>	<u>EO</u>
<u>Electrical machinery and equipment (Section 34-622(c)(11))</u>	<u>==</u>	<u>EO</u>
<u>Fabricated metal products</u>	<u>==</u>	<u>EO</u>
<u>(Section 34-622(c)(14)), Group III</u>	<u>==</u>	<u>EO</u>
<u>Food and kindred products</u>	<u>==</u>	<u>EO</u>
<u>(Section 34-622(c)(15)), Group III</u>	<u>==</u>	<u>EO</u>
<u>Leather products</u>	<u>==</u>	<u>EO</u>
<u>(Section 34-622(c)(25)), Group II</u>	<u>==</u>	<u>EO</u>
<u>Lumber and wood products</u>	<u>==</u>	<u>EO</u>
<u>(Section 34-622(c)(26)), Group II</u>	<u>==</u>	<u>EO</u>
<u>Measuring, analyzing and controlling instruments (Section 34-622(c)(28))</u>	<u>==</u>	<u>EO</u>
<u>Novelties, jewelry, toys and signs (Section 34-622(c)(29)), all groups</u>	<u>==</u>	<u>EO</u>
<u>Rubber and plastic products (Section 34-622(c)(44)), Group II</u>	<u>==</u>	<u>EO</u>
<u>Marina</u>	<u>Section 34-1862</u>	<u>P/EO ***</u>
<u>Marina, ancillary uses</u>	<u>==</u>	<u>P/EO ***</u>
<u>Mass transit depot or maintenance facility (government-operated)</u>	<u>==</u>	<u>SE*</u>
<u>Medical office</u>	<u>==</u>	<u>P</u>
<u>Micro-brewery, -distillery, -winery</u>	<u>Section 34-1261 et seq.</u>	<u>AA/SE*</u>
<u>Mobile home dealers</u>	<u>Section 34-1352</u>	<u>SE*</u>
<u>Model:</u>	<u>==</u>	<u>==</u>
<u>Home</u>	<u>Section 34-1951 et seq.</u>	<u>P</u>
<u>Unit</u>	<u>Section 34-1951 et seq.</u>	<u>P</u>
<u>Display center</u>	<u>Section 34-1951 et seq.</u>	<u>P</u>
<u>Multi-slip docking facility</u>	<u>==</u>	<u>P</u>
<u>Nightclubs</u>	<u>Sections 34-1201 et seq., 34-1261 et seq.</u>	<u>Refer to bars, cocktail lounges, and nightclubs</u>
<u>Nonstore retailers (Section 34-622(c)(30)), all groups</u>	<u>==</u>	<u>P</u>
<u>Package store</u>	<u>Section 34-1261 et seq.</u>	<u>P</u>
<u>Paint, glass and wallpaper</u>	<u>==</u>	<u>P</u>
<u>Parks (Section 34-622(c)(32)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P</u>
<u>Group II</u>	<u>==</u>	<u>SE*</u>
<u>Parking lot:</u>	<u>==</u>	<u>==</u>
<u>Accessory</u>	<u>==</u>	<u>P</u>
<u>Commercial</u>	<u>==</u>	<u>SE*</u>
<u>Garage, public parking</u>	<u>==</u>	<u>SE*</u>

<u>Temporary</u>	<u>Note (14), Section 34-3049</u>	<u>P</u>
<u>Pawnshop</u>	<u>==</u>	<u>SE**</u>
<u>Personal services**** (Section 34-622(c)(33)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P</u>
<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Group III</u>	<u>==</u>	<u>P</u>
<u>Group IV</u>	<u>==</u>	<u>P</u>
<u>Pet services</u>	<u>==</u>	<u>P</u>
<u>Pet shop</u>	<u>==</u>	<u>P</u>
<u>Pharmacy</u>	<u>==</u>	<u>P</u>
<u>Place of worship</u>	<u>Note (25), Section 34-2051 et seq.</u>	<u>P</u>
<u>Plant nursery</u>		<u>P</u>
<u>Post office</u>	<u>==</u>	<u>P</u>
<u>Printing and publishing (Section 34-622(c)(36))</u>	<u>==</u>	<u>SE*</u>
<u>Processing and warehousing</u>	<u>==</u>	<u>EO</u>
<u>Produce stand</u>	<u>==</u>	<u>==</u>
<u>Racetracks (Section 34-622(c)(37)): Groups I and II</u>	<u>==</u>	<u>==</u>
<u>Recreation facilities: Commercial (Section 34-622(c)(38)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P</u>
<u>Group III</u>	<u>Note (20)</u>	<u>P/SE*</u>
<u>Group IV</u>	<u>Note (20)</u>	<u>P/SE*</u>
<u>Recreation facilities: Personal</u>	<u>==</u>	<u>P</u>
<u>Recreation facilities: Private on-site</u>	<u>==</u>	<u>P</u>
<u>Recreation facilities: Private off-site</u>	<u>==</u>	<u>P</u>
<u>Recycling facility</u>	<u>==</u>	<u>SE*</u>
<u>Religious facilities</u>	<u>Note (25), Section 34-2051 et seq.</u>	<u>P</u>
<u>Rental or leasing establishments (Section 34-622(c)(39)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>Sections 34-1352, 34-3001 et seq., Note (33)</u>	<u>P</u>
<u>Group II</u>	<u>Sections 34-1352, 34-3001 et seq.</u>	<u>P</u>
<u>Group III</u>	<u>Sections 34-1352, 34-3001 et seq.</u>	<u>P</u>
<u>Group IV, except for truck tractors, semitrailers, dump trucks similar large transportation and hauling equipment.</u>	<u>Sections 34-1352, 34-3001 et seq.</u>	<u>P</u>
<u>Repair shops (Section 34-622(c)(40)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P</u>
<u>Group II</u>	<u>==</u>	<u>P</u>

<u>Group III</u>	<u>==</u>	<u>P</u>
<u>Group IV</u>	<u>==</u>	<u>P</u>
<u>Group V</u>	<u>==</u>	<u>==</u>
<u>Research and development laboratories (Section 34-622(c)(41)):</u>	<u>==</u>	<u>==</u>
<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Group IV</u>	<u>==</u>	<u>P</u>
<u>Residential accessory uses (Section 34-622(c)(42))</u>	<u>Note (27)</u>	<u>P</u>
<u>Restaurant, fast food</u>	<u>Section 34-1353</u>	<u>P</u>
<u>Restaurants (Section 34-622(c)(43)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>Note (33)</u>	<u>P</u>
<u>Group II</u>	<u>Note (33)</u>	<u>P</u>
<u>Group III</u>	<u>Note (33)</u>	<u>P</u>
<u>Group IV</u>	<u>==</u>	<u>P</u>
<u>Roominghouse</u>	<u>— Section 34-1493</u>	<u>==</u>
<u>Schools:</u>	<u>==</u>	<u>==</u>
<u>Commercial (Section 34-622(c)(45))</u>	<u>Section 34-2381</u>	<u>P</u>
<u>Noncommercial</u>	<u>Note (25),</u> <u>Section 34-2381</u>	<u>P</u>
<u>Self-service fuel pumps</u>	<u>Note(18)</u>	<u>P</u>
<u>Signs in accordance with Chapter 30</u>	<u>==</u>	<u>P</u>
<u>Social services (Section 34-622(c)(46)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P</u>
<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Group III</u>	<u>==</u>	<u>Planned Development</u>
<u>Group IV</u>	<u>==</u>	<u>Planned Development</u>
<u>Specialty retail shop (Section 34-622(c)(47)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P</u>
<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Group III</u>	<u>==</u>	<u>P</u>
<u>Group IV</u>	<u>==</u>	<u>P</u>
<u>Stable, commercial</u>	<u>==</u>	<u>==</u>
<u>Storage:</u>	<u>==</u>	<u>==</u>
<u>Indoor only</u>	<u>Section 34-3001 et seq.</u>	<u>P</u>
<u>Storage, open</u>	<u>Sections 34-3001 et seq.,</u> <u>34-1352</u>	<u>SE*</u>
<u>Studios (Section 34-622(c)(49))</u>	<u>==</u>	<u>P</u>
<u>Supermarket</u>	<u>==</u>	<u>P</u>
<u>Temporary uses</u>	<u>Section 34-3041 et seq.</u>	<u>P</u>
<u>Theater:</u>	<u>==</u>	<u>==</u>
<u>Indoor</u>	<u>Section 34-2471 et seq.</u>	<u>P</u>

<u>Drive-in</u>	<u>Note (25), CPD or MPD only</u> <u>Section 34-2471 et seq.</u>	<u>EO</u>
<u>Timeshare units</u>	<u>Note (25), Section 34-1493</u>	<u>SE*</u>
<u>Transportation services (Section 34-622(c)(53)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>P/EO***</u>
<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Group III</u>	<u>==</u>	<u>P</u>
<u>Group IV</u>	<u>==</u>	<u>P</u>
<u>Truck stop</u>	<u>==</u>	<u>==</u>
<u>Trucking terminal, motor, rail, air, including warehousing of goods awaiting shipment, parking, and storage of rolling stock</u>	<u>==</u>	<u>==</u>
<u>Used merchandise stores (Section 34-622(c)(54)):</u>	<u>==</u>	<u>==</u>
<u>Group I, except pawn shops</u>	<u>==</u>	<u>P</u>
<u>Group I, limited to indoor display only</u>	<u>==</u>	<u>P</u>
<u>Group II</u>	<u>==</u>	<u>P</u>
<u>Group III</u>	<u>==</u>	<u>P</u>
<u>Group IV</u>	<u>==</u>	<u>EO</u>
<u>Variety store</u>	<u>==</u>	<u>P</u>
<u>Vehicle and equipment dealers (Section 34-622(c)(55)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>Section 34-1352</u>	<u>P</u>
<u>Group II</u>	<u>Section 34-1352</u>	<u>P</u>
<u>Group III</u>	<u>Section 34-1352</u>	<u>P</u>
<u>Group IV</u>	<u>Section 34-1352</u>	<u>P</u>
<u>Group V</u>	<u>==</u>	<u>==</u>
<u>Warehouse:</u>	<u>==</u>	<u>==</u>
<u>Hybrid</u>	<u>Section 34-3006</u>	<u>SE*</u>
<u>Mini-warehouse</u>	<u>==</u>	<u>SE*</u>
<u>Private</u>	<u>==</u>	<u>SE*</u>
<u>Public</u>	<u>==</u>	<u>SE*</u>
<u>Wholesale establishment (Section 34-622(c)(56)):</u>	<u>==</u>	<u>==</u>
<u>Group I</u>	<u>==</u>	<u>==</u>
<u>Group II</u>	<u>==</u>	<u>==</u>
<u>Group III</u>	<u>Note 15</u>	<u>P</u>
<u>Group IV</u>	<u>Note 15</u>	<u>SE*</u>

All references to numbered notes are to those notes found in Section 34-844.

*Uses allowed by special exception may also be requested through PD zoning.

**Use must not be located closer than 500 feet, measured in a straight line, from any public school or charter school; childcare center; park, playground, or public recreation facility; place of worship or religious facility; cultural center; or hospital.

***Marinas and marina accessory uses, including Transportation Services, are permitted by right on property located within the Water-Dependent Overlay depicted on Lee Plan Map 1-H. Outside the Water-Dependent Overlay, these uses are limited to existing only, unless the underlying zoning district permits the use, in which case the less restrictive provision applies. All planned developments approved prior to adoption of this provision will retain the uses approved.

****Bail bonding, escort services, fortunetellers, palm readers, card readers, or massage parlors are not permitted.

Secs. 34-1128—34-1134 Reserved.

Subdivision II. - Matlacha Residential Overlay

Sec. 34-1135. Applicability.

Staff note: Matlacha Residential Overlay Map has been relocated from Appendix I, which is proposed to be deleted in its entirety. Applicability section has been relocated from Section 33-1450 and modified accordingly.

The provisions of this article apply to all residential development located within Matlacha's Island Harbor, and the southern portion of the Crows Subdivisions, with the exception of residential properties located within the Matlacha Historic District, as depicted in Figure 34-1125.

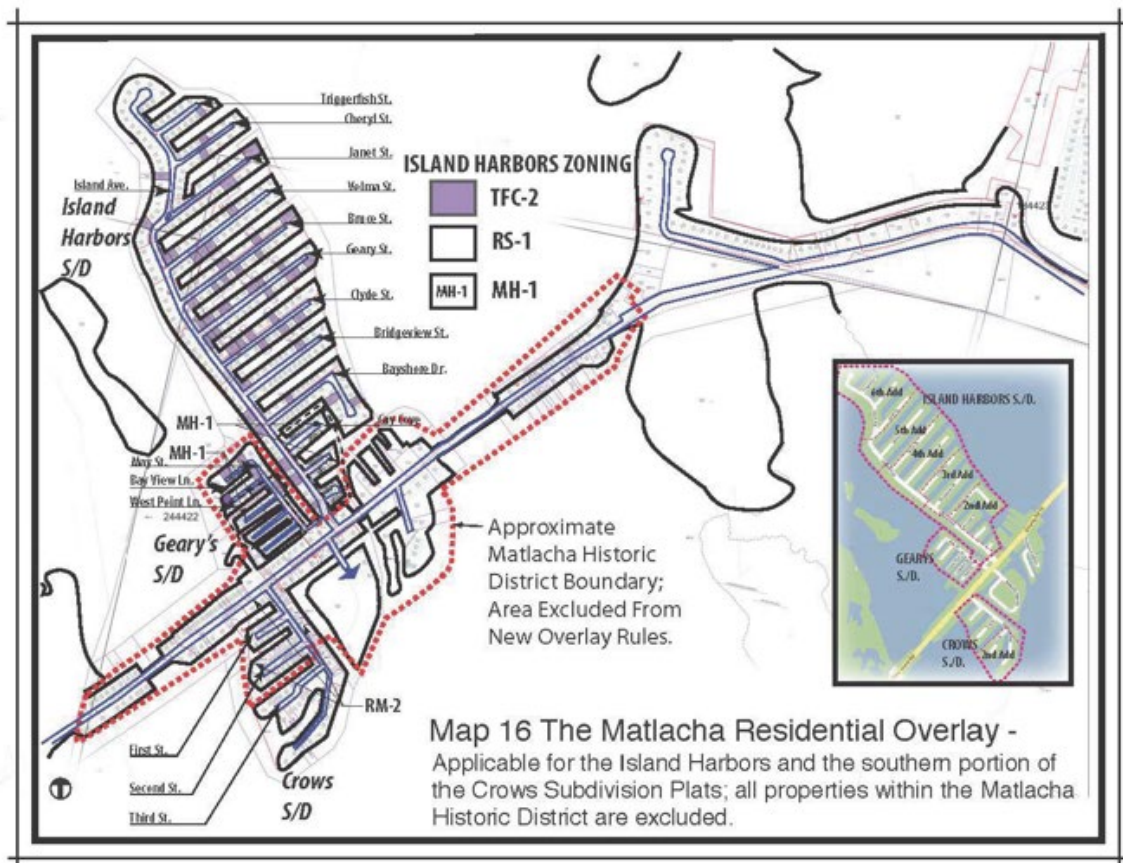


Figure 34-1135: Matlacha Residential Overlay

Sec. 34-1136. Corner lot setbacks.

Staff note: relocated from Section 33-1462 in its entirety.

The front, side, and rear yard setbacks will be located in accordance with Figure 34-XXXX for the following corner lots:

Second Addition to Island Harbors PB 9 PG 107:

- Bayshore and Island - Lot 105.
- Bayshore and Island - Lot 133.
- Cay Cove and Island - Lot 104.
- Cay Cove and Island - Lot 88.
- Broadwater and Island - Lot 87.
- Broadwater and Island - Lot 76.
- Harborview and Island - Lot 75.
- Harborview and Island - Lot 68.

Third Addition to Island Harbors PB 10 PG 97:

- Bayshore and Island - Lot 149.
- Bridgeview and Island - Lot 150.
- Bridgeview and Island - Lot 184.
- Clyde and Island - Lot 191.

Fourth Addition to Island Harbors PB 10 PG 98:

- Clyde and Island - Lot 228.
- Geary and Island - Lot 229.
- Geary and Island - Lot 273.
- Bruce and Island - Lot 289.

Fifth Addition to Island Harbors PB 10 PG 99:

- Bruce and Island - Lot 335.
- Velma and Island - Lot 336.
- Velma and Island - Lot 379.
- Janet and Island - Lot 386.

Sixth Addition to Island Harbors Unit One PB 10 PG 119:

- Janet and Island - Lot 416.

Sixth Addition to Island Harbors Unit Two PB 12 PG 93:

- Cheryl and Island - Lot 454.
- Triggerfish and Island - Lot 455.
- Triggerfish and Island - Lot 466.
- Island - Lot 467.

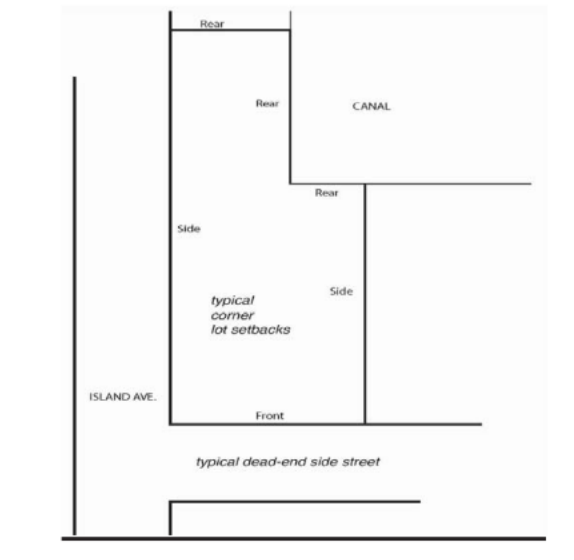


Figure 34-1136

Sec. 34-1137. Property development regulations.

Staff note: Property development regulations table has been relocated from Section 33-1463, which is proposed to be removed in its entirety. Property development regulations table has been modified to remove second floor lot coverage requirement and vertical plane requirement. Table notes have also been deleted and modified for clarity, resulting in a simpler set of property development regulations that keep or increase existing allowances.

Property development regulations for the Matlacha Residential Overlay are as follows:

Table 34-1127. Matlacha Residential Overlay Development Standards

	<i>Lot Area (in square feet)</i>		
	<i>Less than 2,499</i>	<i>From 2,500 to 6,499</i>	<i>More than 6,500</i>
<u>Maximum Lot Coverage</u>	<u>40%</u>	<u>40%</u>	<u>40%</u>
<u>Maximum Height (feet)</u>	<u>32</u>	<u>32</u>	<u>32</u>
<u>Minimum Setbacks:</u>			
<u>Front yard (feet)</u>	<u>18</u>	<u>18</u> ⁽¹⁾	<u>20</u> ⁽¹⁾
<u>Rear yard (feet)</u>	<u>15</u> ⁽²⁾	<u>15</u> ⁽²⁾	<u>20</u> ⁽²⁾
<u>Rear yard (waterbody) (feet)</u>	<u>12</u> ⁽²⁾	<u>12</u> ⁽²⁾	<u>20</u> ⁽²⁾
<u>Side yard (feet)</u>	<u>5</u>	<u>7.5</u>	<u>7.5</u>

Notes:

(1) For lot depth 100 feet or greater, the front yard setback is 25 feet.

(2) For lot depth of 50 feet or less, the rear yard and rear yard waterbody setbacks are ten feet.

Secs. 34-1138 - 34-1144. Reserved.

Subdivision III. Northeast Lee County New Community

Staff note: The Northeast Lee County New Community section has been relocated from Lee Plan Objective 29.9 into the LDC. The requirements established by these amendments incorporate regulatory requirements from this Lee Plan objective that are not addressed elsewhere in the Lee Plan or LDC. While the language has been edited

and organized for clarity, the regulatory intent of Lee Plan Objective 29.9 and its attendant policies is contained herein.

Sec. 34-1145. Applicability and scope.

- (a) The provisions of this subdivision apply to all property within the New Community future land use category within the Northeast Lee County Planning District.
- (b) Variances or deviations may not be granted from the open space, wetland preservation, conservation easement, or additional water quality treatment requirements of Sections 34-1147, 34-1148(a) through (c), and 34-1150(a)(1).

Sec. 34-1146. Planned development required.

Property within the Northeast Lee County New Community may only be developed as a unified planned development.

Sec. 34-1147. Open space and conservation.

- (a) Open space. A minimum of 60 percent of the planned development, inclusive of on-site preservation areas, must be provided as open space, as defined in this Code.
- (b) Wetland preservation. A minimum of 90 percent of the wetlands within the planned development must be preserved.
- (c) Conservation easements.
 - (1) Establishment and maintenance. Conservation easements benefitting a public agency acceptable to Lee County, or to Lee County itself, and dedicated to an appropriate maintenance entity must be recorded over a minimum of 50 percent of the planned development.
 - (2) Use for on-site mitigation. Conservation easements required by this section may be used for on-site mitigation required by this Code.
 - (3) Phasing permitted. Conservation easements may be recorded in phases concurrent with development order approvals. Phased conservation easements must meet the minimum requirements of subsections (c)(1) and (c)(4).
 - (4) Phasing requirements. The cumulative area subject to recorded conservation easements concurrent with development order approvals must be equal to or greater than the cumulative area approved for development.
- (d) Ownership and maintenance. Required open space must be located in separate tracts outside of privately owned lots and dedicated to a community development district, independent special district, master property owners' association, or other entity approved by the Lee County for perpetual maintenance.

Sec. 34-1148. Environmental protection.

Development within the Northeast Lee County New Community must:

- (a) Establish or maintain wildlife connections between on-site preserve areas and adjacent conservation areas;
- (b) Provide wildlife crossings necessary to maintain connections between habitat areas; and
- (c) Concentrate development primarily within areas previously impacted by agricultural uses or other development activities.
- (d) Incorporate Florida Friendly Landscaping with the low irrigation requirements in common open space areas.

- (e) Include a binding commitment to implement an environmental education program for homeowners, businesses and visitors to describe the local ecology, including but not limited to wildlife, plant communities, and native habitats, in addition to the design standards, restoration projects, and management programs/plans, incorporated into the development to address environmental protection.

Sec. 34-1149. Surface water management and water quality.

(a) System requirements. The surface water management system must:

- (1) Provide at least 50 percent more water quality treatment than required by the South Florida Water Management District for on-site stormwater management basins;
- (2) Protect or restore existing regional flowways;
- (3) Protect groundwater levels and wetland hydroperiods within preserve areas, as required by applicable permits; and
- (4) Include site-specific measures to reduce discharge rates.

(b) Required plans. The applicant must submit the following for County review and approval as part of the planned development or development order process, as applicable:

- (1) A water quality monitoring plan that demonstrates that water leaving the development meets current state and federal water quality standards. Monitoring will be required on a quarterly basis for a minimum of 5 years from the date of acceptance of construction of the water management system by the SFWMD. Monitoring may be eliminated after 5 years if the water quality standards are met.
- (2) A lake management plan addressing fertilizer and pesticide use, erosion control, bank stabilization, lake maintenance, and management of lakes exceeding 12 feet below lake surface (BLS).
- (3) A site-specific ecological and hydrological plan addressing excavation, grading, exotic vegetation removal, supplemental planting, and success criteria.
- (4) Site-specific mitigation and enhancements to reduce discharge rates and demonstrate that the proposed planned development will not result in significant detrimental impacts on present or future water resources.

(c) Irrigation. Available reclaimed water and surface water generated by the development must be used to meet irrigation demands to the extent practicable.

Sec. 34-1150. Public facilities and centralized services.

Development must connect to centralized potable water and sanitary sewer service, except for temporary facilities used during construction and unmanned essential services until centralized service is extended.

Sec. 34-1151. Roadway buffers, access, and pathways.

(a) External roadway buffers. Development adjacent to an external roadway must provide a roadway setback or perimeter buffer at least 50 percent wider than the minimum width otherwise required by this Code.

(b) Multipurpose pathways. Where the planned development abuts State Road 31 or County Road 78, sufficient right-of-way or easement area must be provided to accommodate an eight-foot-wide multipurpose pathway.

Secs. 34-1152 - 34-1169. Reserved.

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. GENERALLY

~~Sec. 34-1169. Purpose and applicability.~~

Staff note: Delete redundant language.

~~The purpose of this article is to provide rules and regulations which supplement, modify or further explain rules and regulations found elsewhere in this chapter, and, unless specifically noted to the contrary, the provisions of this article apply to all zoning districts.~~

Sec. 34-1170. Purpose of supplemental regulations.

Staff note: Delete redundant language and relocate language from other deleted sections to more appropriate location.

- (a) ~~Regulations over and above those imposed by other sections of this chapter are necessary for certain uses which, because of their uniqueness or potential for substantial impact on surrounding land uses, warrant minimum standards which cannot properly be addressed in general provisions or property development regulations set for in specific districts. The purpose of the supplemental regulations set forth in this article is to set forth the detailed regulations, including, but not limited to, the bulk, layout, yard size and lot area, that apply to these uses. The Board of County Commissioners may modify any of the requirements of this article in accordance with the procedures for a planned development application approval.~~
- ~~(b) Some of the uses provided for in this article exceed the minimum thresholds for Developments of County Impact (see Section 34-203) and will be required to apply for approval through the planned development procedure. The Board of County Commissioners may modify any of the requirements of this article in accordance with the procedures for a planned development application approval.~~
- (e) The supplemental regulations set out in this article apply to the specified use regardless of whether it is a use permitted by right, special exception, Development of County Impact or temporary use permit, as specified in the district use regulation.

DIVISION 2. ACCESSORY USES, BUILDINGS AND STRUCTURES

Sec. 34-1173. Development regulations.

Staff note: Revise section to delete redundant language and renumber. Add provision intended to allow accessory building/structures to be located on separate contiguous property under common ownership.

- (a) *Permitted structures and uses.* Unless specifically indicated to the contrary, accessory uses, buildings and structures that are customarily recognized as clearly incidental and subordinate to the principal use of the property, are permitted by right when located on the same lot or parcel and in the same zoning category as the principal use, provided that:
 - ~~(1) All uses, buildings and structures must comply with all applicable development regulations and Building Codes.~~
 - (2) Accessory buildings or structures may be built concurrently with a principal building or structure but, except as provided herein, no accessory use, building or structure may be commenced, erected, placed or moved onto a lot or parcel prior to the principal use, building or structure.Exceptions are as follows:
 - a. through (d) remain unchanged.
 - e. Accessory buildings or structures on separate property that is contiguous and under common ownership with a parcel on which the principal use, building or structure exists.
- (b) *remains unchanged.*

Sec. 34-1174. Location and setbacks generally.

Staff note: Revise subsection (b) to refine definition of "secondary street", incorporate the term multiple-frontage lot (as defined in Section 34-2), and provide clarification that garages located in accordance with this section may include accessory dwelling units.

(a) remains unchanged.

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

(1) remains unchanged.

(2) Accessory uses, buildings and structures may be located on ~~through lots~~ multiple-frontage lots as follows. For the purposes of this subsection only, the term "secondary street" means ~~the~~ any street opposite other than the street which provides principal vehicular access as determined by the prior development pattern of that block.

a. On ~~through~~ multiple-frontage lots with no dedicated buffer easement or residential project fence or wall, accessory uses, buildings and structures may be placed closer to ~~the~~ secondary streets than the principal building as long as the minimum setbacks for streets as set forth in Division 30, Subdivision III of this article are maintained.

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

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

(3) In the following cases, accessory uses, buildings and structures may be closer to the street than the principal building but may not be closer than the minimum setbacks for streets as set forth in Division 30, Subdivision III of this article.

a. *through c. remains unchanged.*

d. Garages, including garages containing accessory dwelling units, or carports for residential, commercial or industrial uses.

e. *remains unchanged.*

(c) through (f) remain unchanged.

Sec. 34-1177. Accessory apartments and accessory dwelling units.

Staff note: Add reference to RSC-2 zoning district permissions provided by 33-1626(c), which is proposed to be deleted. Corresponding change to use regulations table in Section 34-694.

(a) *Density.*

(1) and (2) remain unchanged.

(3) A maximum of one accessory apartment or one accessory dwelling unit is permitted per principal, single-family residence. In the RSC-2 District, up to two accessory dwelling units are permitted. except as excluded by This limitation does not apply as provided in Section 34-1180(b).

(b) remains unchanged.

Sec. 34-1180. Additional dwelling unit on a lot in Agricultural Districts.

Staff note: revise section to remove reference to “conventional.” AG districts allow mobile homes by right, subject to compliance with AG-1 dimensional requirements, which is proposed to be deleted.

- (a) *Applicability.* This section provides the minimum regulations to permit development of an additional ~~conventional~~ single-family residence on the same parcel if the parcel has been zoned in an AG District and the parcel is developed in accordance with the density requirements of the applicable land use classification. Development of accessory apartments and accessory dwelling units, as defined, are subject to Section 34-1177.
- (b) *Standards.*
 - (1) through (3) remain unchanged.
 - (4) No more than two dwelling units constructed as two freestanding ~~conventional~~ single-family residences are permitted on the same parcel. Accessory apartments constructed in accordance with Section 34-1177 are permitted in conjunction with each single-family residence developed in accordance with this provision.
 - (5) through (7) remain unchanged.

DIVISION 5. ALCOHOLIC BEVERAGES

Sec. 34-1263. Sale for off-premises consumption.

- (a) through (c) remain unchanged.
- (d) In addition to the requirements of Subsections (a) through (c) of this section, any establishment primarily engaged in the sale of alcoholic beverages for consumption off-site shall also be required to comply with all applicable State liquor laws and Lee County Code of Ordinances ~~Section 3-2~~.
- (e) remains remain unchanged.

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

Staff note: This section is proposed to be revised to allow consumption on premises by right (without an administrative approval) in conjunction with certain uses provided that (1) the use is lawfully permitted; and (2) the COP area is limited to indoor only except as otherwise noted. Reference to bowling alleys and movie theaters has been removed in favor of the more general Commercial Recreation Facility, Group IV designation, and pickleball and other racquet sports are also addressed. Administrative approvals are still required in certain circumstances where compatibility concerns may arise, including for businesses with outdoor consumption on premises. COP requirements for planned developments are also revised and clarified. The special exception process for COP approvals remains in place for unique uses not otherwise addressed or where the Director finds that an application for administrative approval cannot be approved in accordance with the findings of Section 34-174.

- (a) *Approval required.* The sale or service of alcoholic beverages for consumption on-premises is not permitted until the location has been approved by the County as follows:
 - (1) Permitted by right. The sale or service of alcoholic beverages for consumption on premises is permitted by right when conducted in conjunction with a use listed below, provided the principal use is lawfully permitted at the location and all applicable standards of this section are met. Except as provided in subsection (a)(1)a., consumption on premises permitted by this subsection must occur indoors. No separate administrative approval or special exception for consumption on premises is required:
 - a. County-owned airports, arenas, and stadiums, including liquor, beer, malt liquor, and wine in restaurants, bars, lounges, concessions, concession stands, and package stores at County-owned airports;

- b. Recreation facilities, commercial Group IV, excluding gun ranges and health clubs, provided the standards set forth in (b)(2)a of this section are met;
 - c. 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 of this section are met;
 - d. Cocktail lounges in golf courses, tennis clubs, or indoor racquet and court recreation facilities, including racquetball, pickleball, and similar uses, provided the applicable standards set forth in subsections (b)(2)d and (b)(2)e of this section are met;
 - e. Hotels/motels, provided the standards set forth in Subsections (b)(2)c of this section are met;
 - f. Restaurants Groups II, III, and IV, and Brewpubs, provided the standards set forth in Subsections (b)(2)b of this section are met. Outdoor seating in conjunction with a Group II, III, or IV restaurant, or Brewpub may be approved administratively as provided in subsection (a)(2);
 - g. Beer and wine taste testing in conjunction with package sales (consumption off the premises).
- (12) Administrative approval. The sale or service of alcoholic beverages for consumption on premises may be approved through the administrative approval process for consumption on premises is required in accordance with Section 34-174 when in conjunction with the following uses:
- a. County owned airports, arenas, and stadiums, including liquor, beer, malt liquor, and wine in restaurants, bars, lounges, concessions, concession stands, and package stores at County owned airports;
 - ab. Bars, cocktail lounges, night clubs, micro-breweries, micro-distilleries, or micro-wineries located in commercial and industrial zoning districts that permit bars, cocktail lounges, night clubs, micro-breweries, micro-distilleries, or micro-wineries, provided the standards set forth in Subsections (b)(1) and (b)(3) of this section are met;
 - c. Bowling alleys and movie theaters provided the standards set forth in Subsections (b)(2)a and (b)(3) of this section are met;
 - d. 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;
 - e. Cocktail lounges in golf courses, tennis clubs, or indoor racquetball clubs, provided the standards set forth in Subsections (b)(2)d, (b)(2)e, and (b)(3) of this section are met;
 - f. Hotels/motels, provided the standards set forth in Subsections (b)(2)c and (b)(3) of this section are met;
 - g. Restaurants Groups II, III, and IV, and Brewpubs, provided the standards set forth in Subsections (b)(2)b and (b)(3) of this section are met. Outdoor seating in conjunction with a Group II, III, or IV restaurant, or Brewpub may be approved administratively provided:
 - 1. The outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), daycare center (child), park, or dwelling unit under separate ownership;
 - 2. The outdoor seating area is within 500 feet of a religious facility, school (noncommercial), daycare center (child), park, or dwelling unit under separate ownership but is a tenant of a multi-occupancy complex that is adjacent to an arterial or collector road;
 - hb. Charter, party fishing boat or cruise ship, provided the standards of Subsection (b)(3) of this section 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 land, nor is it transferrable;
 - i. Beer and wine taste testing in conjunction with package sales (consumption off the premises);

~~j~~c. Limited food and beverage services when:

- ~~1.~~ ~~a~~ Accessory to an agritourism activity permitted in accordance with Section 34-1711, provided that the consumption on premises in conjunction with the activity is not within 500 feet of a religious facility, school (noncommercial), daycare center (child), park, or dwelling unit under separate ownership; or
2. Accessory to a private residential amenity area.

~~k~~d. Food truck parks, provided the standards set forth in Subsection (b)(1) of this section and Section 34-2352 are met.

f. Any establishment covered by subsections (a)(1) or (a)(2) of this section that provides an outdoor area for the consumption of alcoholic beverages, provided the outdoor area meets the location standards set forth in subsection (b)(1);

(23) *Special exception.*

a. A special exception for consumption on the premises is required for:

1. Any establishment not covered by Subsections (a)(1) and (a)(2) of this section; or
2. Any proposed establishment that does not meet the decision-making criteria set forth in Section 34-174, as determined by the Director. The Director's decision is discretionary and may not be appealed. ~~except those covered by Subsection (a)(1)g of this section, which provides outdoor seating areas for its patrons consuming alcoholic beverages;~~

b. The burden of proof that ~~the grant of the special exception~~ consumption on premises will not have an adverse effect on surrounding properties 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 that exists or may be established within the center.~~

(34) *Planned developments and Planned Unit Developments.*

a. In addition to uses for which consumption on premises is otherwise permitted without administrative approval under this section, No administrative approval is necessary where consumption on premises for an individual establishment or other facility proposing consumption on the premises is explicitly designated on the Master Concept Plan, identified and is included in conjunction with the applicable use or uses on the schedule of uses, and approved as part of the planned development through the public hearing process.

b. ~~If~~ Where consumption on the premises is shown authorized as a permitted use on the approved schedule of uses but is not expressly designated pursuant to subsection (a), approval for a shopping center, no administrative approval for consumption on the premises is required for restaurants within the center must be obtained in accordance with this division and any applicable conditions or approval requirements established by Section 34-1264.

~~c. Consumption on the premises for other uses within planned developments and Planned Unit Developments require administrative approval or a special exception.~~

(b) *Location; parking.*

(1) *Prohibited locations.*

a. Except as may be exempted in Subsections (b)(2)b. (a)(1) or (2) of this section, or where an alternative separation is approved through the applicable consumption on premises public hearing process, no establishment for the sale or service of alcoholic beverages for consumption on the premises may be located within 500 feet of:

1. A religious facility, school (noncommercial), day care center (child) or park;

2. A dwelling unit under separate ownership, except when approved as part of a planned development; or
3. 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 the existing establishment, then the separation requirements will not apply. Approval of an alternative separation through the applicable consumption on premises public hearing process does not require a separate variance or deviation from the requirements of this subsection.

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

- a. ~~Bowling alleys~~ Recreation facilities commercial, Group IV, provided that:

1. There are no signs, or other indication visible from the outside of the structure concerned, that beer or wine or other malt and vinous beverages are served;
2. The ~~bowling alley establishment~~ is in a fully air-conditioned building with at least 10,000 square feet of floor ~~space under one roof area~~ and where both uses are owned by the same entity;
3. ~~The building contains at least 12 alleys available for bowling.~~ The facilities for the service of food and beverages must be in an area separate from the ~~alleys~~ recreational activity. 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 at least 500 feet, ~~measured as provided in this subsection,~~ from the uses in described in Subsections (b)(1)a.1 and (b)(1)a.2 of this section, as measured in accordance with Subsection (b)(1)a.

- b. Restaurants Groups II, III and IV, provided:

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.
- ~~4.1.~~ The outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), daycare center (child), park, or dwelling unit under separate ownership unless excepted by Subsection (b)(2)b.5;
- ~~5.2.~~ The outdoor seating area is within 500 feet of a religious facility, school (noncommercial), daycare center (child), park, or dwelling unit under separate ownership but and is a tenant of a multi-occupancy complex that is adjacent to an arterial or collector road;

- c. Hotels/motels, provided that:

1. The hotel/motel contains at least 100 guest rooms under the same roof, and those nightclubs, 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 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, cabaret, cocktail lounge, or bar must be through the lobby. Additional entrances are not permitted unless the additional entrance or door opens into an enclosed courtyard or patio. 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, 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 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 and court recreation facilities, including racquetball, pickleball, and similar uses, 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 court recreation facility consisting of not less than:

1. Ten regulation-size tennis courts;
2. Ten regulation-size ~~four-wall indoor racquetball courts~~ or court recreation courts;
3. A combination of tennis courts and ~~four-wall indoor racquetball courts~~ or court recreation courts numbering ten;
4. Clubhouse facilities, pro shop, locker rooms and attendant tennis, ~~or racquetball, or court recreation facilities,~~ all located on an abutting tract of land owned or leased by 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, provided that:

1. The club or organization conforms to all the requirements of 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.

- (3) ~~Parking. Establishments providing alcoholic beverages for consumption on the premises must comply with the parking requirements for the principal use set forth in Section 34-2020(b) must be demonstrated only where expressly required by this section or where demonstration of compliance is otherwise required as part of a separate development approval process.~~

Subsections (c) through (h) remain unchanged

Sec. 34-1265. Revocation of alcoholic beverage permit or approval.

Staff note: Revise section to reflect COP approval changes in Section 34-1264.

- (a) The Board has the authority to revoke an alcoholic beverage ~~special exception, administrative approval, or other alcohol-related approval~~ on the following grounds:

(1) through (10) remain unchanged.

(b) through (d) remain unchanged.

DIVISION 7. ANIMAL CLINICS AND FACILITIES

Sec. 34-1322. Enclosure of facilities.

Staff note: revise required setback in subsection (2)b from 200 feet to 100 feet in recognition of minimum lot size reduction from 5 acres to 2 acres approved by Ordinance 09-23.

Except as specifically provided in this division, all animal clinics, animal kennels and boarding facilities shall be completely enclosed within an air conditioned, soundproof building and shall have no outdoor cages, pens, runs or exercise facilities.

- (1) *Completely enclosed facilities.* Any animal clinic, kennel or boarding facility permitted by right or by special exception, as specified in the zoning district regulations, shall be required to meet the minimum lot size and setback requirements for the zoning district in which located.
- (2) *Facilities not completely enclosed.* Any animal clinic, kennel or boarding facility which contains outdoor pens, cages, runs or exercise facilities shall be required to meet the following minimum requirements in addition to the regulations in the applicable zoning district:
 - a. *Lot size.* Minimum lot size is two acres.
 - b. *Setbacks.* No portion of any pen, cage, run or other outdoor exercise facility shall be located closer than ~~200~~ 100 feet to any abutting lot or parcel under separate ownership, or from any street right-of-way line or easement.

DIVISION 8. ~~RESERVED. AUTOMOTIVE BUSINESSES; CONVENIENCE FOOD AND BEVERAGE STORES; FAST FOOD RESTAURANTS~~

Staff note: this Division is proposed to be deleted in its entirety. Section 34-1351 has been relocated to the applicable use regulations tables for automotive repair and service establishments. Delete Sections 34-1352 through 34-1354 in their entirety. The sections establish use-specific setback, buffering, landscaping, display, and design requirements that are duplicative of standards addressed elsewhere in the LDC, including Chapter 10 and other generally applicable development regulations. They also create a separate variance/deviation framework, including broad administrative relief for properties under three acres, that has resulted in frequent requests for relief and deviations through the planned development process. Eliminating these provisions removes an unnecessary additional layer of review while allowing the generally applicable zoning, buffering, landscaping, parking, lighting, and design standards to govern these uses.

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

~~Sec. 34-1351. Automotive repair and service.~~

- ~~(a) All services performed by an automotive repair and service establishment, including repair, painting and body work activities, must be performed within a completely enclosed building. Providing estimates for work to be completed or performing minor repair services, such as replacement of windshield wiper blades, automobile batteries, and light bulbs are excluded from this provision.~~
- ~~(b) Whenever an automotive repair and service establishment is within 75 feet of a residential use, all refuse and vehicle parts must be stored within a completely enclosed area.~~

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

~~*Purpose and intent.* The purpose of this section is to ensure that all establishments engaged in the outdoor display, sale, rental or storage of motor vehicles, boats, recreational vehicles, trailers, mobile homes, construction or farm equipment, or other similar items do not adversely impact adjacent land uses, especially residential land uses. The high levels of traffic, glare, and intensity of use associated with these uses may be incompatible with surrounding~~

uses, especially residential uses. Therefore, in the interest of protecting the health, safety and general welfare of the public, the following regulations will apply to the location, layout, drainage, operation, landscaping, and permitted sales and service activities:

- (a) *Applicability.* This section applies to all commercially zoned establishments engaged in the outdoor display, sale, rental or storage of motor vehicles, boats, recreational vehicles, trailers, mobile homes, construction or farm equipment, or other similar items; except water oriented rental establishments outdoors, that are regulated by Section 34-3151.
- (b) *Prohibited uses.*
 - (1) Except as provided in this section, no units may be used as sales offices or storage space. Any sales office or storage space, other than for the units, must be in a conventional building.
 - (2) A mobile home may be used as an office for sales of mobile home lots or units which are located within the mobile home development only.
- (c) *Minimum setbacks.*
 - (1) All buildings and structures must comply with the following setback:
 - a. Street setback: 50 feet.
 - b. Side yard setback: 40 feet.
 - c. Rear yard setback: 40 feet.
 - (2) All items covered by this section which are displayed or offered for sale or rent must be set back a minimum of 20 feet from any property line, unless Chapter 10 sets forth a different setback, in which case the greater setback will apply.
 - (3) All buildings and items covered by this section that are displayed or offered for sale or rent must be set back a minimum of 100 feet from any existing residence or any residentially zoned property. For the purposes of this section, the term "residentially zoned property" does not include property zoned AG.
- (d) *Display and parking areas.*
 - (1) No parking space or loading zone required by the parking regulations set forth in this chapter may be used for the display of merchandise or parking of rental vehicles.
 - (2) Areas used for display may be grass or other surface, provided it is maintained in a sightly, dust free manner.
- (e) *Storage facilities.* Areas used only for the commercial storage of motor vehicles, boats, trailers, recreational vehicles, mobile homes and construction or farm equipment which is not being displayed for sale or rent must be enclosed and buffered (see Sections 34-3005(b) and 10-416(d)).
- (f) *Lighting.* Site lighting must be designed in accordance with Section 34-625.
- (g) *Landscaping.* The following landscape requirements are in addition to the requirements of Section 10-416. Required landscaping adjacent to property boundaries:
 - (1) *Right of way buffer landscaping.*
 - a. Landscaping adjacent to rights of way external to the development project must be located within a landscape buffer easement that is a minimum of 25 feet in width.
 - b. An undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum average height of two feet. The berm must be planted with ground cover (other than grass), shrubs, hedges, trees and palms.
 - c. The required number of trees is five canopy trees per 100 linear feet. Three sabal palm trees may be clustered to meet one canopy tree requirement. Palms are limited to a maximum of 50 percent of the right of way tree requirement. Palms must be clustered and planted in staggered heights, a minimum of three palms per cluster, spaced at a maximum of four feet on center, with a minimum of a four foot difference in height between each tree.
 - d. All of the trees must be a minimum of 14 feet in height at the time of installation. Trees must have a minimum of a 3½-inch caliper at 12 inches above the ground and a six-foot spread. At installation, shrubs must be a minimum of three gallon, 24 inches in height at time of planting and maintained at a minimum of 36 inches in height within one year of planting. The shrubs must be planted three feet on center.

- (2) *Landscaping adjacent to all other property lines.*
 - a. Side property boundaries (other than those adjacent to rights-of-way) must be planted with a single hedge row consistent with the minimum requirements of Section 10-416. The hedge must be a minimum of 24 inches in height at planting, planted at three feet on center and must be maintained at a height of 36 inches within 12 months of planting.
 - b. Rear property boundaries (other than those adjacent to road rights-of-way) must be planted with a single hedge row. The hedge must be a minimum of 24 inches in height at planting, planted at three feet on center and must be maintained at a height of 36 inches within 12 months of planting.
- (h) *Perimeter walls.* These sites must be separated from adjacent residentially-zoned or residentially developed properties by an architecturally designed eight foot high solid wall utilizing materials similar in color, module and texture to those utilized for the building. Landscaping must be planted on the residential side of the fence or wall. The wall must be setback 25 feet from the property line and include five trees per 100 linear feet and a double hedge row. The trees and shrubs must meet the minimum planting standards per Section 10-420(c) and (d).
- (i) *Outdoor speakers.* The use of public address or loudspeaker systems that broadcast outdoors is prohibited.

Subdivision II. Convenience Food and Beverage Stores, Automotive Service Stations, Fast Food Restaurants, and Car Washes

Sec. 34-1353. General provisions.

- (a) *Purpose and intent.* The purpose and intent of this section is to ensure that establishments such as convenience food and beverage stores with or without gas pumps, automobile service stations with or without gas pumps, fast food restaurants, and car washes, accessory or stand alone, do not adversely impact adjacent land uses. The hours of operation, high levels of traffic, noise, glare and intensity associated with these uses may be incompatible with surrounding uses, specifically residential uses. In the interest of protecting the health, safety and welfare of the public, the following regulations apply to the location, design, operation, landscaping and related activities.
- (b) *Applicability.* This section applies to all stand alone or accessory convenience food and beverage stores, automobile service stations, fast food restaurants and car washes. In the event of conflict between the provisions of this section and the requirements of F.S. § 553.79, the requirements of F.S. § 553.79 shall prevail.
- (c) *Minimum lot area.* All buildings and structures must comply with the following minimum lot dimensions and area:
 - (1) Minimum frontage: 150 feet of frontage on a vehicular right-of-way.
 - (2) Minimum depth: 150 feet.
 - (3) Minimum lot or parcel area: 25,000 square feet.
- (d) *Minimum setbacks.* All buildings and structures must comply with the following setbacks:
 - (1) Street setback: 50 feet for arterials and collectors.
 - (2) Side yard setback: 15 feet.
 - (3) Rear yard setback: 20 feet.
- (e) *Street right-of-way buffer landscaping.* The following landscape requirements are in addition to the requirements set forth in Section 10-416.
 - (1) Landscaping adjacent to rights-of-way external to the development project must be located within a landscape buffer that is a minimum of 25 feet in width or 15 feet in width if abutting an internal accessway to a commercial development.
 - (2) For projects with an open drainage system, an undulating berm with a maximum slope of 3:1 must be constructed along the entire length of the landscape buffer. The berm must be constructed and maintained at a minimum height of two feet as measured from the grade of the parking lot. For projects with a closed drainage system a berm is not required.
 - (3) The required number of trees is five canopy trees per 100 linear feet. Three sabal palm trees may be clustered to meet one canopy tree requirement. Palms are limited to a maximum of 50 percent of the

right-of-way tree requirement. Palms must be clustered and planted in staggered heights, a minimum of three palms per cluster, spaced at a maximum of four feet on center, with a minimum of a four-foot difference in height between each tree.

- (4) All of the trees must be a minimum of 14 feet in height at the time of installation. Trees must have a minimum of a 3½-inch caliper at 12 inches above the ground and a six-foot spread. At installation, shrubs must be a minimum of three gallon, 24 inches in height at time of planting and maintained at a minimum of 36 inches in height within one year of planting. The shrubs must be planted three feet on center.
- (5) Landscaping adjacent to the rear and side property lines must comply with the minimum requirements established in Section 10-416 dependent on adjacent land uses.
- (f) *Separation.* Uses must be separated from adjacent residentially zoned or developed properties by:
 - (1) An architecturally designed eight-foot-high masonry wall or fence a minimum of 25 feet from the property line and landscaped with a minimum of five trees and 18 shrubs per 100 linear feet; or
 - (2) A 30-foot-wide Type F buffer with the hedge planted a minimum of 20 feet from the abutting property.The wall or fence must be constructed of materials similar in color and texture to those utilized for the principal structure. Landscaping must be planted between the wall or fence and the abutting property.
- (g) *Canopies.*
 - (1) Flat-roof canopies are allowed unless prohibited by conditions in a Planned Development. Canopies must be consistent with the architectural design, predominant color and features of the principal structure.
 - (2) Canopy lighting must comply with Section 34-625(d)(4)c.
 - (3) Canopies must be consistent with the predominant color of the principal structure.
- (h) *Accent banding.* Color accent banding and raised architectural features are permitted unless prohibited by conditions in a Planned Development.
- (i) *Primary facades.* All sides of a building facing adjacent rights-of-way external to the development project must be designed with primary facade features in compliance with Section 10-600.

~~Sec. 34-1354. Variances or deviations.~~

The provisions of this section apply to all new development, including redevelopment.

- (1) A deviation or variance from the requirements stated in Sections 34-1352 and 34-1353 must be obtained through the public hearing process unless the project qualifies for administrative relief under Subsection (3) of this section.
- (2) The applicant must demonstrate that the granting of the deviation or variance will not have an adverse impact on adjacent land uses in addition to the requirements set forth in Section 34-145.
- (3) Commercial or industrial zoned properties less than three acres in size may obtain administrative relief from Sections 34-1352 and/or 34-1353 to facilitate new development or redevelopment. Development of these sites will be limited to development that will bring the site into greater compliance with Sections 34-1352 and 34-1353 given existing site constraints such as location and configuration of existing buildings, parking areas, drainage, easements and/or other conditions. Commercial or industrial zoned properties three acres or greater in size may utilize the public hearing process for deviations or variances from Sections 34-1352 and/or 34-1353.

~~Secs. 34-13515—34-13870. Reserved.~~

~~DIVISION 9. BUS DEPOTS, STATIONS AND TERMINALS; PARK-AND-RIDE PARKING LOTS~~

Staff note: Delete all regulations related to bus terminals. Sections 34-1384 and 34-1385 have been relocated to new Section 34-2023.

~~Sec. 34-1381. Reserved.~~

~~Sec. 34-1382. Site plan.~~

All applications for a special exception or change of use for a bus station/depot or bus terminal shall include a site plan, drawn to scale, indicating but not limited to, following:

- (1) ~~The location of the bus stalls.~~
- (2) ~~Commuter parking.~~
- (3) ~~Taxi waiting stalls.~~
- (4) ~~Circulation pattern of the buses within and through the parking lot.~~
- (5) ~~Bus ingress and egress points to or from the parking lot.~~
- (6) ~~The location of the building housing the bus station/depot or bus terminal and the area designated for a waiting area, to include the storage and handling of luggage and parcels.~~

~~Sec. 34 1383. Access.~~

- (a) ~~The site plan shall be designed so that the location of ingress and egress points are adequate and the turning radii for buses are in accordance with the design standards as depicted in the latest edition of the publication of the American Association of State Highway and Transportation Officials (AASHTO), A Policy on Geometric Design of Highways and Streets, in order to provide safe and efficient maneuverability.~~
- (b) ~~All buses exiting a parking lot must enter the street right-of-way in a forward motion.~~
- (c) ~~The site plan shall ensure safe and adequate access to collector or arterial streets.~~

~~Sec. 34 1384. Parking generally.~~

- (a) ~~Off-street parking.~~ The parking for a bus station/depot or bus terminal where the loading and unloading of passengers, luggage or parcels may occur shall meet the following minimum requirements:
 - (1) ~~One parking space, excluding parking space for buses, shall be required per 100 square feet of total floor area dedicated to passenger waiting area, and one space shall be required per 1,000 square feet of total floor area dedicated to ticket sales or baggage or parcel handling areas.~~
 - (2) ~~Parking spaces shall be required for all buses using the site. A minimum of one bus parking space shall be required for each bus carrier using the facility. If arrival and departure times run concurrently, then additional parking must be provided to ensure that each bus has a separate parking space.~~
 - (3) ~~The parking spaces for each bus stall shall be designated by signage and pavement markings.~~
 - (4) ~~Each bus parking stall shall be a minimum of 12 feet by 50 feet in size for parallel or diagonal parking.~~
 - (5) ~~All required parking shall have a paved, dust free, all-weather surface.~~
 - (6) ~~For every 12 daily scheduled bus arrivals and departures, or a portion thereof, at locations where passengers may disembark, one parking space for taxicabs and one parking space for commuters shall be required.~~
- (b) ~~On-street parking.~~ In some instances, it may be appropriate for a bus station/depot to have the buses parked within an adjacent road right-of-way. In all such instances, the location of the bus turnout, proximity to the bus station/depot and how the bus will enter and exit the turnout must be shown on the site plan.

~~Sec. 34 1385. Parking for bus terminals.~~

- (a) ~~In addition to the requirements of Section 34 1384(a), where bus terminals are permitted by right or special exception, the following parking requirements shall apply:~~
 - (1) ~~One space for each 2,000 square feet of total floor area, with a minimum of five parking spaces, shall be required for buildings or structures dedicated to the housing of buses;~~
 - (2) ~~Adequate parking shall be provided for the outdoor storage of buses, if such storage is required; and~~
 - (3) ~~Where a bus terminal is used solely for the transient housing or parking of buses, the parking requirements of Section 34 1384(a) shall not apply.~~
- (b) ~~On-street parking as described in Section 34 1384(b) shall not be approved in conjunction with bus terminals.~~

~~Sec. 34 1386. Modification of parking requirements.~~

~~The Hearing Examiner has the authority, where a bus station/depot is permitted by special exception, to alter the requirements of Sections 34 1384(a)(1) and (6) where the size of the station/depot, frequency of use and destination of passengers may warrant a lesser or greater number of parking spaces.~~

~~Sec. 34 1387. Expansion of existing bus station/depot.~~

~~Where a bus station/depot has been approved by special exception, any additions, renovations or other expansions or increase in intensity, beyond that which was originally approved, will require a special exception.~~

DIVISION 10. CARE FACILITIES AND CENTERS

Sec. 34-1411. Assisted living facilities.

Staff note: Delete subsection (f) and incorporate similar language subsection (a) to streamline section.

- (a) *Generally.* Assisted living facilities (ALFs) are permitted by right or special exception as specified in the district use regulations or as approved as part of a Master Concept Plan in the RPD, CFPD, CPD or MPD Districts. Density, including density equivalents, must be calculated in accordance with Division 12 of this article based on the density ranges for the land use category in which the subject property is located.

(b) through (e) remain unchanged.

- ~~(f) *Density.* Density equivalents for assisted living facilities (ALFs) will be calculated based on the ratios set forth in Section 34-1494.~~

Sec. 34-1414. Continuing care facilities.

Staff note: Revise Subsection (c) to correct cross-reference.

(a) and (b) remain unchanged.

- (c) *Density.* Density equivalents for continuing care facilities (CCF) will be calculated based on the ratios set forth in Section 34-~~1493~~1494.

(d) through (f) remain unchanged.

DIVISION 11. WIRELESS COMMUNICATION FACILITIES

Sec. 34-1442. Definitions.

Staff note: Only defined terms proposed for amendment or addition are shown below. All other existing defined terms are omitted and remain unchanged.

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

Staff Note: The definition of *Balloon test* is revised to remove procedural requirements that are more appropriately regulated in Section 34-1446(d). The duration, scheduling, notice, and operational requirements for conducting a balloon test are substantive review standards and are better located within the permitting provisions rather than the definitions section. This amendment improves code organization without changing the intent or applicability of the balloon test requirements.

Balloon test means an event in which the applicant arranges to fly, or raise upon a temporary mast, ~~for four consecutive days,~~ a brightly colored balloon not less than three feet in diameter, at the maximum height and at the location of the proposed antenna-supporting structure.

Staff Note: This amendment clarifies the County's longstanding interpretation that lightning rods are excluded from the measurement of overall height. Similar to the general height measurement provisions of Section 34-2173, lightning rods are considered incidental safety equipment rather than part of the functional height of the wireless communications facility. This clarification codifies existing staff practice and provides consistent application of the height limitations established by this article.

Overall height means the height of a wireless communications facility measured as set forth in Section 34-2171, ~~but~~ without any adjustment for minimum required flood elevation. Overall height includes all antennas and other ancillary appurtenances that contribute to the functional height of the wireless communication facility, but excludes lightning rods and other incidental lightning protection devices.

Sec. 34-1444. Permissible wireless facility locations.

(a) remains unchanged.

(b) Exceptions.

(1) and (2) remain unchanged.

(3) On the barrier islands, ~~Greater Pine Island (see Section 33-1084)~~, and within the outer island future land use areas, the overall height of wireless communications facilities must not exceed 35 feet or the height limitation set forth in Section 34-2175.

(4) remains unchanged.

Sec. 34-1445. Development review process.

(a) remains unchanged.

(b) Zoning.

(1) remain unchanged.

(2) Special exception.

a. remains unchanged.

b. Appeal. ~~The Director or a~~Any aggrieved party may appeal decisions of the Hearing Examiner to the circuit court. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. The petition must be filed within 30 calendar days after the decision has been rendered.~~to the Board of County Commissioners following the procedures set forth in Section 34-83(b), Zoning Actions. The Board of County Commissioners will treat the decision of the Hearing Examiner as a recommendation and not as a final decision. Appeals must be filed with the Director within 30 calendar days after the decision has been rendered.~~

Staff Note: This amendment eliminates the unique appeal process applicable only to wireless communication facility special exceptions and variances. Under the current regulations, Hearing Examiner decisions for wireless communication facilities may be appealed to the Board of County Commissioners, while all other Hearing Examiner special exception and variance decisions are subject to judicial review in circuit court by petition for writ of certiorari. Staff has identified no continuing policy rationale for treating wireless communication facilities differently from other quasi-judicial zoning actions. This amendment promotes consistency within Chapter 34, streamlines the development review process, and aligns wireless communication facility approvals with the County's standard Hearing Examiner review procedures.

(c) remains unchanged.

Sec. 34-1446. Application submittal requirements.

Staff Note: A surety is not required for the removal of an abandoned wireless communications facility. The County retains independent authority under the Land Development Code and other applicable laws to address abandoned, unsafe, or noncompliant structures through code enforcement and unsafe structure provisions. Removal of this requirement simplifies administration while preserving the County's existing enforcement authority.

(a) through (b) remains unchanged.

(c) *Additional information for wireless communication facilities required at time of application for a development order or building permit.* In addition to the submittals required by Subsection (a) of this section, the following information must be provided along with the application for a development order or building permit:

(1) through (5) remains unchanged.

- (6) ~~Surety for removal. A financial surety or other form of financial guarantee, payable to the County, to ensure timely removal of the facility in the event of abandonment, non-use or cessation of use. The surety must conform with the following requirements:~~
- a. ~~Approval required. The surety must be posted prior to issuance of a building permit or development order to guarantee the removal of the antenna-supporting structure. The amount of the surety must be acceptable to the Director. Additionally, before any surety instrument is accepted by the Director as in compliance with this section, the surety instrument must be reviewed and approved by the County Attorney's Office. Once approved and funded, the surety instrument must be filed with the clerk of the Board of County Commissioners.~~
 - b. ~~Types of surety.~~
 - 1. ~~Cash performance bond.~~
 - 2. ~~Other types of security. The Board may accept letters of credit or escrow account agreements or other forms of security provided the reasons for not obtaining the bond are stated and the County Attorney approves the document.~~
 - c. ~~Certified cost estimate required. The amount of the surety will be based upon a professional engineer's certified cost estimate of the cost of removing the antenna-supporting structure from the site and properly disposing of the dismantled antenna-supporting structure.~~
 - d. ~~Initial amount of surety. The required surety must be posted with the Board and made payable to the County in an amount equal to 110 percent of the full cost of removal of the wireless communication facility as set forth in the professional engineer's certified cost estimate.~~
 - e. ~~Annual increase required. The amount of the surety must be kept in full force and effect and must be increased by ten percent compounded for each year the antenna-supporting structure remains on the site.~~
 - f. ~~Surety to remain in effect. The approved surety must remain funded until the wireless communication facility is removed from the site and properly disposed of.~~
 - g. ~~County's use of surety funds. The County may use the posted surety funds to remove or secure a wireless communication facility upon a determination of abandonment, non-use or cessation of use as set forth in Section 34-1451. In the event the posted amount of surety funds is insufficient to cover the full cost of removal, the County may file a lien on the site property for the amount of unpaid costs, including legal fees.~~
 - h. ~~Exemption from surety requirement. The Director may, with approval from the County Attorney's Office, exempt a municipality or governmental entity from the surety requirement.~~

(d) remains unchanged.

Sec. 34-1447. Development regulations.

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

(a) remains unchanged.

Staff Note: Standard antenna-supporting structures are typically manufactured in 10-foot modular sections. Revising the maximum height from 149 feet to 150 feet eliminates unnecessary engineering modifications associated with achieving a one-foot reduction in height. The additional one foot represents only a 0.67 percent increase in overall height and is not expected to result in any material increase in visual or land use impacts.

(b) *Where permissible, antenna-supporting structures.*

Table 34-1447. Permissible Antenna-Supporting Structure Heights, Locations and Applicable Review Process

<i>Zoning Classification</i>	<i>Maximum Overall Height Allowed by the Administrative Approval Process</i>	<i>Overall Height Requiring Approval by Special Exception</i>
Agricultural ⁵	75 feet ¹	75.1— 149 <u>150</u> feet

Residential ^{2, 4}	35 feet	35.1—75 feet
PRFPD ³	35 feet	Not Allowed
All other zoning districts ⁵	90 feet	90.1— 149 150 feet

Notes:

1 through 4 remain unchanged.

5 A variance is required, in addition to the special exception, for an antenna-supporting structure which exceeds the ~~149~~150-foot height limit.

(c) remains unchanged.

(d) Visual impacts minimized.

(1) through (3) remain unchanged.

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

a. and b. remain unchanged.

Staff Note: Revise landscaping requirements to focus buffering on portions of the fenced compound visible from streets, residential uses or zoning districts, and public recreational uses, rather than requiring landscaping around the entire perimeter regardless of visibility. Recognize existing buildings, topography, and mature vegetation that provide effective screening, while excluding fences, walls, and other improvements associated with the wireless communication facility from being used to avoid otherwise applicable landscaping requirements.

c. Landscaping.

1. ~~A landscaped buffer of at least ten feet in width must be planted along the entire exterior perimeter of the fence or wall required by Subsection (d)(4)b of this section. Where the proposed antenna-supporting structure will be located adjacent to a residential or public recreational use, or a lot within a Residential Zoning District, the landscaped buffer must be at least 15 feet in width. A landscaped buffer must be provided along those portions of the exterior perimeter of the fence or wall required by Subsection (d)(4)b that are visible from a street right-of-way or street easement, an existing residential use, a lot within a residential zoning district, or a public recreational use. The landscaped buffer must be at least ten feet in width where visible from a street right-of-way or street easement and at least 15 feet in width where visible from an existing residential use, residential zoning district, or public recreational use.~~

2. and 3. remain unchanged.

4. Where landscaping would otherwise be required under Subsection (d)(4)c.1, landscaping is not required along a portion of the fenced compound that is adequately screened from the applicable use or area by an existing building, topography, or mature vegetation that will remain after development. The fence or wall required by Subsection (d)(4)b, and improvements installed in connection with the wireless communication facility, may not be considered when determining whether adequate screening exists. If a site feature relied upon to provide adequate screening is removed, altered, or no longer provides such screening, the applicable landscaped buffer in Subsection (d)(4)c.1 must be installed and maintained.

d. and e. remain unchanged.

(e) General property development regulations.

Staff Note: This amendment modernizes the setback standards for new antenna-supporting structures by replacing the existing one-size-fits-all setback requirement with receiving use separation standards based on the sensitivity of the surrounding land uses. The full tower-height setback has resulted in the majority of new antenna-supporting structures requiring setback variances, despite many proposals demonstrating compatibility through the Special Exception process. The amendment retains a minimum 25 percent property line setback for every new antenna-supporting structure while preserving a full-height separation from residential receiving uses. Reduced separation standards for commercial, agricultural, industrial, and utility receiving uses better align setback requirements with land use compatibility, encourage placement within the County's established siting hierarchy, and reduce unnecessary reliance on the variance process. The amendment does not alter the Hearing Examiner's/or Director's responsibility to evaluate compatibility through the applicable Administrative Approval/Special Exception findings, which continue to govern the appropriateness of each proposed facility based on its individual context.

(1) *Setbacks.*

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

a. Table 34-1447(a) establishes the minimum receiving use separation requirements applicable to antenna-supporting structures. The following provisions govern the interpretation and application of Table 34-1447(a).

1. Regardless of the receiving use separation required by Table 34-1447(a), every antenna-supporting structure must maintain a minimum setback from every property line of the subject property equal to 25 percent of the overall height of the antenna-supporting structure. Where the minimum property line setback and the applicable receiving use separation differ, the more restrictive standard governs.
2. The receiving use separation must be measured horizontally from the nearest point of the antenna-supporting structure at ground level to the nearest property line of the receiving use identified in Table 34-1447(a).
3. Except for a caretaker's residence, property containing an existing residential use must be classified as RES regardless of the underlying zoning district.
4. Agricultural property not containing an existing residential use must be classified as AG.

Table 34-1447(a). Receiving Use Separation Requirements

<u>Receiving Use Classification</u>	<u>Receiving Use</u>	<u>Minimum Receiving Use Separation</u>
<u>RES – Residential</u>	<u>Residential zoning districts, existing residential uses regardless of zoning district, non-transient recreational vehicle parks, and the residential component of mixed-use developments.</u>	<u>100% of the overall height of the antenna-supporting structure</u>
<u>COM – Commercial/Institutional</u>	<u>Commercial uses, public facilities, schools, places of worship, transient recreational vehicle parks, public active recreational facilities, and similar non-residential institutional uses.</u>	<u>50% of the overall height of the antenna-supporting structure</u>

<u>AG – Agricultural</u>	<u>Agricultural property not containing an existing residential use.</u>	<u>50% of the overall height of the antenna-supporting structure</u>
<u>IND – Industrial / Utility</u>	<u>Industrial uses, sewer treatment plants, water treatment plants, electrical substations, utility compounds, transmission corridor tracts, and similar utility or infrastructure uses.</u>	<u>25% of the overall height of the antenna-supporting structure</u>

b. through c. remain unchanged.

(2) *Height.*

a. through f. remains unchanged.

Staff Note: Staff propose that height measurement standards specific to wireless communication facility ground equipment account for facilities located within Coastal Building Zone and other flood prone areas to consider base flood elevation standards.

g. The overall height of ground-mounted equipment or equipment enclosure may not exceed 12 feet, as measured in accordance with Section 34-2171.

h. remains unchanged.

(f) *Construction.*

(1) and (2) remain unchanged.

(3) *Lighting.*

a. and b. remain unchanged.

c. Required lighting.

1. All antenna-supporting structures 150 feet or greater in height above ground level must be artificially lighted when required by the Federal Aviation Administration and maintained pursuant to the technical requirements of the Federal Aviation Administration's current Advisory Circular 70/7460-1K, Obstruction Marking and Lighting, as amended, or other appropriate aviation authority. Unless pre-empted by FAA or FCC regulations, all lighting must be approved in conjunction with the development order for the facility.
2. If the height of a structure under construction equals or exceeds the height at which permanent obstruction lights are required by the FAA, FCC or ~~the Division of Development Services~~ other applicable aviation authority, temporary high or medium intensity flashing lights must be installed at that level in accordance with Advisory Circular 70/7460-1K, Obstruction Marking and Lighting, as amended.

Remainder of Section unchanged.

Sec. 34-1450. Fees and insurance.

(a) Antenna-supporting structures and wireless communications facilities must be insured by the owner against damage to persons and against damage to property. ~~Owner must provide a Certificate of Insurance to the Director annually.~~

(b) remains unchanged.

Staff Note: Amended language removes surety reference for consistency with elimination of §34-1446(c)(6) proposed herein.

Sec. 34-1451. Discontinued use.

(a) and (b) remain unchanged.

(c) *Removal of facility.* Within 120 days of a declaration of discontinued use, the property owner must either:

(1) remains unchanged.

(2) Dismantle and remove the facility. If transfer of ownership occurs, the new owner must supply the Director with an affidavit attesting that the antennas or antenna-supporting structure will be in use within 120 days of the transfer in accordance with Subsection (c)(1) of this section.

If the facility remains discontinued upon the expiration of 120 days, the County may enter upon the property and remove the facility, with all costs to be borne by the property owner. The County may recover all costs of removal through code enforcement liens, civil remedies, or any other lawful enforcement mechanism ~~use the funds posted in the surety for this purpose.~~

Sec. 34-1453. Variance criteria.

(a) remains unchanged.

(b) Appeal of decisions of the Hearing Examiner pursuant to this section will be to the circuit court. This review may only be obtained through filing a petition for writ of certiorari pursuant to the Florida Rules of Appellate Procedure. The petition must be filed within 30 calendar days after the decision has been rendered. ~~to the Board of County Commissioners in accordance with the provisions of Section 34-1445(b)(2).~~

DIVISION 12. DENSITY

Sec. 34-1493. Density equivalents.

Staff note: Relocated adjusted maximum density for Coastal Rural from Section 33-1052. Cross-references updated to reflect relocation of existing regulations elsewhere within LDC.

(a) remains unchanged.

(b) *Equivalency factors.*

(1) Bed and breakfast. Notwithstanding Section 34-1414(c), no density equivalency calculation is required for a bed and breakfast when the lodging includes four or less rentable spaces without kitchens and exterior entrances that are rentable for a limited time and at least one meal included for each guest each day of the stay. Bed and breakfasts exceeding four rentable spaces without kitchens will be calculated as four rentable spaces equals one dwelling unit.

(2) ~~Where dwelling or living units have lock-off accommodations, density will be calculated as follows:~~

~~a.~~—Timeshare units. Lock-off units will be counted as separate dwelling units whether or not they contain cooking facilities, as follows:

- i. Studio units will be counted as 0.1 dwelling units;
- ii. One-bedroom units will be counted as 0.25 dwelling units;
- iii. Two-bedroom units will be counted as 0.5 dwelling units;
- iv. Three-bedroom (or more) units will be counted as a full dwelling unit.

(3) ~~Density.~~ Density equivalents for health care, social service, adult living facilities (ALF), continuing care facilities, or other group quarters not meeting the Community Residential Homes allowances in F.S. ch. 419 are provided in dwelling unit equivalents:

a. and b. unchanged.

- c. Except as may be specifically set forth elsewhere in this chapter, where health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other group quarters are provided in dwelling units or other facilities wherein each unit does not have individual cooking facilities and where meals are served at a central dining facility or are brought to the occupants from a central kitchen, density equivalents will be calculated at the ratio of six people equals one dwelling unit.

A planned development, for which the Master Concept Plan states the number of persons that may occupy an approved adult living facility (ALF) or continuing care facility (CCF), may request an amendment to the approved Master Concept Plan to reflect the increased number of occupants based upon the equivalency factor set forth in this section (if applicable). Such amendment will be considered an administrative amendment that will be deemed to not increase density and may be approved pursuant to Section ~~34-380(b)~~ 34-174 as long as existing floor space is not increased to accommodate the increased number of occupants. If increased floor space is required, then a public hearing will be required.

(c) New residential development and redevelopment within Coastal Rural designated lands may be developed in accordance with the standard maximum density provisions or the adjusted maximum density provisions set forth in this Section and Lee Plan Policy 1.4.7 as follows:

- (1) The standard maximum density established by Policy 1.4.7 of the Lee Plan is one dwelling unit per 2.7 acres.
- (2) The adjusted maximum density established by Policy 1.4.7 of the Lee Plan is one dwelling unit per acre where a threshold of 70 percent of the development parcels is maintained or restored as native habitat, or where 70 percent of the site is maintained for agricultural use on those parcels identified as existing farmland on Lee Plan Map 1-G.

Sec. 34-1494. Residential density limitations in Coastal Rural FLU Future Land Use Category.

Staff note: Relocated from LDC Sec. 33-1052 and 33-1058.

New residential development and redevelopment within Coastal Rural designated lands may be developed in accordance with the standard maximum density provisions or the adjusted maximum density provisions set forth in this Section and Lee Plan Policy 1.4.7 as follows:

- (a) The standard maximum density established by Policy 1.4.7 of the Lee Plan is one dwelling unit per 2.7 acres.
- (b) The adjusted maximum density established by Policy 1.4.7 of the Lee Plan is one dwelling unit per acre where a threshold of 70 percent of the development parcels is maintained or restored as native habitat, or where 70 percent of the site is maintained for agricultural use on those parcels identified as existing farmland, classified as agriculture under Chapter 193, Florida Statute. on Lee Plan Map 2-C.
 - (1) Lots within small residential developments, as defined in Section 34-2081, subject to the adjusted maximum density provisions set forth in Sections 34-2083 through 34-2085, may be developed in accordance with the property development regulations for the RS-1 Zoning District, including lot width and depth, setbacks, special regulations, and lot coverage, without further rezoning approval. The maximum building height shall be governed by Section 34-2175.

Sec. 34-1495. Residential density limitations on Captiva Island.

Staff note: relocate from Section 34-1805 and revise to apply only to residential uses.

Residential density on Captiva Island is limited to the density permitted in its Future Land Use and may not exceed a maximum residential density of three (3) dwelling units per acre. Consistent with the definition of dwelling unit, residential density is not determined based on the number of bedrooms, floor area, or any other measure of intensity.

Secs. 34-1494 34-1495—34-1570. Reserved.

DIVISION 14. RESERVED ~~ESSENTIAL SERVICES AND FACILITIES~~

Staff note: This section is proposed to be removed in its entirety. Regulating essential services are often pre-empted by State law or result in complicated regulation of necessary infrastructure. Larger scale essential service facilities are governed by existing regulations.

~~Sec. 34-1611. Purpose.~~

~~The purpose of this division is to set forth the development regulations for uses defined as essential services or classified as essential service facilities Group I (Section 34-622(c)(13)).~~

~~Sec. 34-1612. Permitted uses.~~

~~All buildings or structures defined as essential services or classified as essential service facilities Group I (Section 34-622(c)(13)) are permitted by right in all zoning districts when necessary for the day-to-day operation of the service, subject to the requirements set forth in this division.~~

~~Sec. 34-1613. Setbacks.~~

- ~~(a) Structures regulated by this division that are three feet or less in height and which individually or collectively on the same parcel are 80 cubic feet or less in volume are exempt from all setback requirements.~~
- ~~(b) Buildings or structures that are over three feet but less than six feet in height, and which individually or collectively on the same parcel are 300 cubic feet or less in volume, must be set back a minimum of five feet from any street right-of-way or street easement and must comply with the visibility requirements set forth in Section 34-1614.~~
- ~~(c) Buildings or structures that exceed six feet in height or which individually or collectively on the same parcel exceed 300 cubic feet in volume but are less than 600 cubic feet in volume must comply with the minimum right-of-way or street easement setback for the district in which located and may not be located closer than 25 feet to any body of water.~~
- ~~(d) Buildings or structures that individually or collectively on the same parcel exceed 600 cubic feet in volume must comply with all setback requirements for the district in which located.~~

~~Sec. 34-1614. Height of structures in visibility triangle.~~

~~No building or structure regulated by this division that exceeds three feet in height may be permitted within the visibility triangle set forth in Section 34-3131, pertaining to vehicle visibility.~~

~~Sec. 34-1615. Maximum number of structures per residential block.~~

~~Not more than one structure or group of structures which collectively exceed 150 cubic feet in volume may be permitted on the same side of a street within any residential block, unless a minimum separation of four lot widths is observed between the structures.~~

~~Sec. 34-1616. Screening and buffering.~~

- ~~(a) Structures or equipment (excluding transmission poles) exceeding three feet in height or which individually or collectively on the same parcel exceed 27 cubic feet in volume must be of neutral, non-glare color or finish so as to make them as visually unobtrusive as possible.~~
- ~~(b) Structures or equipment (excluding transmission poles) exceeding three feet in height, or which individually or collectively on the same parcel exceed 80 cubic feet in volume, must be of neutral, non-glare color or finish, and shielded on all sides by shrubs at least 36 inches high at time of planting, consistent with the requirements of Section 10-420.~~

~~Sec. 34-1617. Exemptions from property development regulations.~~

~~Facilities defined as essential services or classified as essential service facilities, Group I, are exempt from the property development regulations that set forth minimum lot size, area and dimensions.~~

Secs. 34-1611~~1618~~—34-1650. Reserved.

DIVISION 15. RESERVED ~~EXCAVATION ACTIVITIES~~

Staff note: Division to be deleted. Excavation activities governed elsewhere in the LDC as indicated in the current language of this section.

Sec. 34-1651. General requirements for all excavation activities.

- ~~(a) Certificate to Dig. A certificate to dig must be obtained prior to receiving approval to excavate properties located within Level 1 or Level 2 zones of archaeological sensitivity pursuant to Chapter 22.~~
- ~~(b) Mining. Mining (def) activities may be permitted in accordance with Chapter 12.~~
- ~~(c) Driving or sinking of wells for the purpose of oil or gas exploration or extraction.~~
 - ~~(1) No oil or gas exploration wells or test wells may be commenced prior to obtaining a special exception for gas and oil exploration in accordance with the procedures set forth in Article II of this chapter.~~
 - ~~(2) No oil or gas exploration wells may be used for or converted to production wells prior to obtaining a special exception for gas and oil extraction in accordance with the procedures set forth in Article II of this chapter.~~
- ~~(d) Excavations for the purpose of water retention or other land development. No excavation activities, including removal of surplus material may be commenced prior to receiving approval in accordance with the provisions of Section 10-329 or Chapter 12, as applicable.~~

DIVISION 16. AGRITOURISM ACTIVITIES, PRODUCE STANDS, AND U-PICK OPERATIONS

Sec. 34-1711. Agritourism activities.

- (a) remains unchanged.*
- (b) Agritourism activities are those activities defined in Section 34-2 that are directly related to agriculture and that promote the intent of F.S. §§ 570.85—570.89. Activities permitted by right include:
 - (1) through (4) remains unchanged.*
 - (5) Other activities determined by the ~~Zoning~~ Director to be substantially similar to the above activities.
- (c) and (d) remains unchanged.*

DIVISION 17. FENCES, WALLS, GATES, AND GATEHOUSES

Sec. 34-1748. Entrance gates and gatehouses.

The following regulations apply to entrance gates or gatehouses that control access to three or more dwelling units or recreational vehicles, or any commercial, industrial or recreational facility:

Subsections (a) through (d) remain unchanged.

Staff note: Restore subsection (e), *Turn-arounds*, which was omitted during prior codification. No substantive change to the restored language is proposed.

- (e) Turn-arounds. A paved turn-around, having a turning radius sufficient to accommodate a U-turn for a single unit truck (SU) vehicle as specified in the AASHTO Green Book, current edition, must be provided on the ingress side of the gate or gatehouse.

DIVISION 18. HOME OCCUPATIONS; LIVE-WORK UNITS

Sec. 34-1773. Live-work units.

Staff note: Revise section to correct cross-reference.

(a) through (d) remain unchanged.

- (e) *Parking.* The multiple-use development parking standard (see Section 34-2020(b)) will be used to determine the minimum number of spaces required for each live-work unit. The minimum number of required parking spaces may be reduced up to 50 percent if a parking demand study is, provided that supports the reduction pursuant to Section 34-2020(c)(6) and administrative approval is obtained pursuant to Section ~~34-17434-2020(e)~~.

(f) *remains unchanged.*

DIVISION 19. HOTELS AND MOTELS

Sec. 34-1803. Existing hotels/motels.

- (a) A nonconforming 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.

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

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

Staff note: Delete section. Hotels are considered non-residential development and as such are not subject to density requirements except as specified in Section 34-1802.

~~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. With the exception of the South Seas Island Resort, the maximum permitted density for hotels or motels on Captiva Island may not exceed three units per gross acre. The redevelopment of nonconforming hotels and motels on Captiva Island will be governed by the provisions of Section 33-1628(b). That section will be interpreted to prohibit an increase in the number of rental units and to establish a maximum average unit size of 550 square feet.~~

Secs. ~~34-1806~~34-1805—34-1830. Reserved.

DIVISION 23. RESERVED.~~MOBILE HOMES~~

Staff note: Delete division, which is redundant and is regulated by Florida Building Code and applicable permitting procedures.

~~Sec. 34-1921. Move-on permit.~~

~~No mobile home shall be relocated or moved onto any property without first obtaining a move-on permit from the Division of Codes and Building Services.~~

~~Sec. 34-1922. Tiedowns.~~

~~All mobile homes shall be tied down in accordance with State and insurance regulations.~~

Secs. 34-1921~~23~~—34-1950. Reserved.

DIVISION 24. MODEL HOMES, UNITS AND DISPLAY CENTERS

Staff note: Delete section. Speculative homes are permitted and regulated as the dwelling unit type proposed at time of permitting.

Sec. 34-1953. Speculative homes~~Reserved~~.

~~Speculative homes may be permitted in any zoning district which permits construction, erection or emplacement of that type of unit, provided 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, will be permitted, except a for sale sign.

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

Staff note: Relocate certain development regulations from Lehigh Acres Model Home regulations to model home supplementary regulations to apply County-wide. revise to relocate subsection (a)(3) from LDC Sec. 33-1431. Revise subsection (b) to eliminate central water/sewer connection for model homes. Add subsection (b)(5) to allow models to be located within 300 feet of an arterial or collector road while prohibiting direct access to such road. Add subsection (g) to allow redevelopment of model homes by right.

- (a) *Generally.* Model homes and model units may be permitted by right, by special exception, or by administrative approval as specified in zoning district use regulations and as follows:

(1) and (2) remain unchanged.

(3) *Development order.* Local development order approval is required prior to commencing operation of a model home. The existing building, all building additions and site-related improvements, except landscaping as specified below, are required to meet the applicable commercial land development and building code regulations prior to development order approval. When required landscaping cannot be provided due to site constraints, landscaping improvements may be addressed through an alternative landscape betterment plan, per Section 10-419.

- (b) *Location; connection of utilities and Certificate of Occupancy.*

(1) remains unchanged.

(2) Model homes must ~~be connected to~~ have adequate water, sewer and electricity service and must receive a Certificate of Occupancy as a model home only, prior to use as a model.

(3) and (4) remain unchanged.

(5) New standalone single-family model homes are prohibited direct access to arterial and collector roads.

(c) through (f) remains unchanged.

~~(e)(g)~~ *Redevelopment of former standalone model homes with direct access to arterial and collector roads.* The following regulations will apply to redevelopment of former model homes:

(1) *Permitted uses.* The following uses are permitted by right. ~~may be approved for a model home through the special exception process.~~ These uses are in addition to the uses permitted by right or by special exception in the RS-1 Zoning District. Other uses are subject to approval through a rezoning, ~~planned development in accordance with Chapter 34, Article IV.~~

Banks and financial establishments (Section 34-622(c)(3)), Groups I and II.

Business services (Section 34-622(c)(5)), Group I.

Cleaning and maintenance services (Section 34-622(c)(7)).

Contractors and builders (Section 34-622(c)(9)), Group I.

Cultural facilities, limited to art galleries, aquariums, historical sites.

Day care centers, child and adult.

Hobby, toy and game shops (Section 34-622(c)(21)).

Laundromat.

Laundry or dry cleaning (Section 34-622(c)(24)), Group I.

Library.

Live-work unit (Subsection (h) of this section).

Medical office.

Nonstore retailers (Section 34-622(c)(30)), Group I.

Personal services (Section 34-622(c)(33)), Groups I, II, III and IV.

Place of worship.

Real estate sales office.

Religious facilities.

Repair shops (Section 34-622(c)(40)), Groups I and II.

Schools, commercial.

Signs per Chapter 30 and this chapter.

Studios (Section 34-622(c)(49)).

DIVISION 26. PARKING

Sec. 34-2011. Reserved. Applicability.

Staff note: Delete section in its entirety. Deleted requirements were relocated to Section 10-260(a) through 10-260(c) by Ordinance 26-07, but corresponding removal of language was not completed.

- (a) ~~New developments.~~ Residential and nonresidential uses must provide off-street parking spaces in accordance with the regulations in this division.
- (b) ~~Existing developments.~~
 - (1) ~~Existing buildings and uses 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 by fire or other natural forces in excess of 50 percent and are reconstructed at (but not to exceed) the legally documented actual use, density, and intensity existing at the time of destruction must provide, no less than, the number of parking spaces existing prior to the date of destruction (if existing parking spaces are less than the amount of parking required under this Code). Any subsequent changes to the actual use or increases in density and intensity on the property will be required to provide additional parking spaces associated with the change of use or development increases. In calculating the required additional parking, the required additional spaces will be proportionate to the increase in density or intensity above the preexisting development intensities or densities.~~
 - (2) ~~Existing buildings or uses enlarged in terms of floor area must provide additional parking spaces for the total floor area in accordance with this division.~~
 - (3) ~~When the use of a building is changed to a use that is required to have more parking than exists, the additional parking must be provided.~~
- (c) ~~Developments on islands without vehicular access to mainland.~~ Developments on islands where direct vehicular access to the mainland by bridge, causeway or street system is not available are exempt from this division.

Sec. 34-2012. Definitions.

Staff note: Revise section to add definition of “order point” and “point of service” as a companion to proposed amendments to Section 34-2021. Only defined terms proposed for amendment or addition are shown below. All other existing defined terms are omitted and remain unchanged.

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

Order point means an on-site location within a drive-through facility, located before a point of service, where a patron places an order for fulfillment at a point of service.

Point of service means an on-site location within a drive-through facility where a patron receives and may pay for food, merchandise, or other goods and services.

Sec. 34-2021. Drive-through stacking requirements.

Staff note: Revise section to codify existing Department interpretation regarding drive-through stacking for restaurant uses with multiple ordering points. Change “menu board” terminology to “order point” since many restaurants with drive-throughs have menu boards that are located before the actual order point (location where a customer places an order). Add provisions for drive-throughs without order points where a customer orders in advance rather than on-site (e.g., mobile ordering and telephone ordering).

Commercial establishments ~~with drive-through facilities providing drive-up service windows or stalls~~ must provide dedicated space to accommodate separate vehicle stacking for those uses in accordance with the following requirements. For the purpose of this section, a vehicle stacking space ~~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:~~

- (a) *Banks and financial establishments.* Stacking lanes to accommodate five vehicle stacking spaces ~~cars~~ per ~~window or point of service, including automatic teller machines, if located in a drive through lane.~~
- (b) *Car wash.* Stacking lanes to accommodate one vehicle stacking space ~~car~~ per service stall or five vehicle stacking spaces ~~cars~~, whichever is greater.
- (c) *Drive-in automotive oil change establishments.* Stacking lanes to accommodate two vehicle stacking spaces ~~cars~~ per service bay or five vehicle stacking spaces per site, whichever is greater. Each service bay may count as one vehicle stacking space.
- (d) *Restaurants.*
 - (1) *Drive-throughs with order points.* Stacking lanes to accommodate ten vehicle stacking spaces ~~cars~~ per ~~point of service~~ service lane, with a minimum of five vehicle stacking spaces preceding the order point(s) ~~menu board~~. Establishments with multiple order points merging into one point of service must provide a total of five spaces preceding the order points.
 - (2) *Drive-throughs without order points.* Stacking lanes to accommodate three vehicle stacking spaces per point of service.
- (e) *Other.* Stacking to accommodate five vehicle stacking spaces ~~cars~~ per service lane.

Sec. 34-2023. Parking for bus terminals.

Staff note: Section Relocated from Secs. 34-1484 and 34-1485 and modified for clarity.

(a) Off-street parking. The parking for a bus station/depot or bus terminal where the loading and unloading of passengers, luggage or parcels may occur shall meet the following minimum requirements:

- (1) One parking space, excluding parking space for buses, shall be required per 100 square feet of total floor area dedicated to passenger waiting area, and one space shall be required per 1,000 square feet of total floor area dedicated to ticket sales or baggage or parcel handling areas.
- (2) Parking spaces shall be required for all buses using the site. A minimum of one bus parking space shall be required for each bus carrier using the facility. If arrival and departure times run concurrently, then additional parking must be provided to ensure that each bus has a separate parking space.
- (3) The parking spaces for each bus stall shall be designated by signage and pavement markings.
- (4) Each bus parking stall shall be a minimum of 12 feet by 50 feet in size for parallel or diagonal parking.

- (5) All required parking shall have a paved, dust free, all-weather surface.
- (6) For every 12 daily scheduled bus arrivals and departures, or a portion thereof, at locations where passengers may disembark, one parking space for taxicabs and one parking space for commuters shall be required.
- (b) On-street parking. In some instances, it may be appropriate for a bus station/depot to have the buses parked within an adjacent road right-of-way. In all such instances, the location of the bus turnout, proximity to the bus station/depot and how the bus will enter and exit the turnout must be shown on the site plan.
- (c) In addition to the requirements of Section 34-2023~~1384~~(a), where bus terminals are permitted by right or special exception, the following parking requirements shall apply:
 - (1) One space for each 2,000 square feet of total floor area, with a minimum of five parking spaces, shall be required for buildings or structures dedicated to the housing of buses;
 - (2) Adequate parking shall be provided for the outdoor storage of buses, if such storage is required; and
 - (3) Where a bus terminal is used solely for the transient housing or parking of buses, the parking requirements of Section 34-2023~~1384~~(a) shall not apply.
- (d) On-street parking as described in Section 34-2023~~1384~~(b) shall not be approved in conjunction with bus terminals.

DIVISION 28. COASTAL RURAL DEVELOPMENT STANDARDS~~RESERVED~~

Sec. 34-2081. - Coastal Rural approval procedures.

Staff note: Section relocated from Sec. 33-1053. Update existing cross-references.

- (a) Approval procedures for commercial developments. All commercial development or redevelopment within the Coastal Rural land use designation must be approved in the form of a planned development, except where permitted by right or special exception in accordance with Section 2-148(d).
- (b) Approval procedures for large residential developments. Large residential developments, defined as those developments containing ten or more dwelling units, must be approved in the form of a planned development and meet the design standards set forth in Section 10-502. This requirement applies to projects developed pursuant to the standard maximum density and/or the adjusted maximum density. Where a project is developed pursuant to the adjusted maximum density, the development must provide a 30-foot-wide Type F buffer along the side and rear project boundaries.
- (c) Approval procedures for small residential developments. Small residential developments, defined as those developments containing less than ten dwelling units, may be developed in accordance with the regulations for the underlying zoning district and development order procedures set forth in Chapter 10, and where all other provisions of this Land Development Code are met. Refer to Section 10-506 for alternative property development regulations for small residential developments subject to the adjusted maximum density provisions.
- (d) Aggregation. Two or more developments, represented by their owners or developers to be separate developments, may be aggregated and be subject to the planned development approval procedures outlined in Subsection (b) of this section where the large residential development threshold is exceeded, and where the Director determines the developments are part of a unified plan of development. For the purposes of determining whether the developments are part of a unified plan of development, the Director will utilize the following criteria:
 - (1) Common control, ownership or a significant legal or equitable interest, or management of the developments;

- (2) Physical proximity of the developments, i.e., abutting property boundaries or boundaries separated solely by rights-of-way;
- (3) Reasonable closeness in time between the completion of up to 80 percent of one development and the submission of development order plans for the other development;
- (4) A master plan or series of plans or drawings covering the developments sought to be aggregated, which have been submitted to the County for authorization to commence development;
- (5) The voluntary sharing of infrastructure; and
- (6) A common advertising scheme or promotional plan.

Sec. 34-2082. - Coastal Rural development standards.

Staff note: Section relocated from LDC Sec. 33-1054. Update existing cross-references. Delete subsection (a), which is duplicative.

The following development standards apply to development or redevelopment within the Coastal Rural land use category that meet the thresholds for large residential developments:

~~(a) General standards. All requirements of this Code remain in effect except as modified through the planned development rezoning process or as otherwise provided in this article.~~

(a) Property development regulations.

- (1) Development must be clustered in a manner that provides for the protection of existing, on-site native vegetation, including wetlands and uplands, natural flow ways, and endangered, threatened or species of special concern.
- (2) Developments must connect to public utilities, when located within the boundaries of the certificated or franchised service area of any investor- or subscriber-owned water utility, or within the County Utilities future service areas as delineated on Maps 4-A and 4-B in the Lee Plan, and where a connection point is within one-quarter mile of the parcel boundary.
- (3) The minimum lot size along the planned development boundary must be one acre unless the development is adjacent to a residential lot or lots that are smaller than one acre, or where compatibility is addressed through an alternative design approved as part of the planned development rezoning process.
- (4) Open space must be consistent with one of the following:
 - a. 50 percent of the development area must be maintained as open space (exclusive of pervious areas within privately-owned lots).
 - b. The maximum lot coverage of residential lots is limited to 25 percent, including principal and accessory structures. All structures must comply with the following minimum setbacks from residential lot lines:
 - 1. Street: 50 feet, except where a minimum setback of 100 feet is required by Section 34-1174(b)(1).
 - 2. Side: 25 feet, except where a greater setback is required by Chapter 34.
 - c. Where a project is developed pursuant to the adjusted maximum density, the 70 percent habitat or agricultural requirement may be utilized to meet the minimum open space requirement set forth in Sections 34-2083 through 34-2085.
- (5) All buildings and structures must be set back a minimum of 50 feet from the planned development boundaries.

- (6) A 25-foot-wide modified Type D buffer must be provided along all abutting external rights-of-way. The buffer must contain five native canopy trees and 66 shrubs per 100 linear feet installed according to Section 10-420. Canopy trees and shrubs must be clustered to mimic the natural environment.
- (7) A 30-foot-wide Type F buffer installed according to Section 10-420 is required where proposed residential lots are smaller than one acre and abut external active agricultural uses, excluding pasturelands, or abut residential lots equal to or greater than one acre.
- (8) Developments must provide one tree per 2,500 square feet of development area.
- (9) Developments must minimize site disturbance by stemwall construction, low impact clearing, grading, and construction measures to reduce amount of fill placed on the lots.
- (10) Native habitat that is being preserved or restored in order to qualify for adjusted maximum density will be governed by Sections 34-2083 and 34-2084 instead of the AG-2 regulations in Chapter 34.
- (11) Existing farmland that is being committed to continued agricultural uses in order to qualify for adjusted maximum density will be governed by Section 34-2085, in addition to the AG-2 regulations in Chapter 34.

Sec. 34-2083. - Permanently preserved native habitat.

Staff note: Section relocated from LDC Sec. 33-1055. Update existing cross-references.

A development proposal that requests the adjusted maximum residential density for committing to "permanently preserved native habitat," as that term is defined in Section 34-2, must address the following requirements at the time of planned development rezoning and/or local development order application:

- (a) *Land uses in preserved habitat.* Native habitat that is counted as preserved or restored for the purposes of achieving adjusted maximum densities pursuant to Section 34-1494 cannot be part of any individual lots or parcels on which development is permitted.
 - (1) Portions of these native habitats may be used as buffer strips and wooded portions of golf courses, provided those areas have a minimum dimension of 40 feet and are shown on the ~~binding~~ Master Concept Plan or development order plans as native habitat.
 - (2) Land area that has an impervious surface cannot qualify as permanently preserved native habitat, unless replanted in accordance with Section 34-2084; however, the following maximum percentages of other land uses may be permitted within preserved native habitat areas:
 - a. Facilities for passive recreation such as hiking trails, bridle paths, boardwalks, or fishing piers, up to two percent of the preserved area.
 - b. Buffers, lakes, and utilities, up to ten percent of the preserved area.
 - c. Commercial or noncommercial agriculture, up to ten percent of the preserved area.
- (b) *Removal of invasive exotic plants.* Invasive exotic plants must be removed from the area being preserved. Methods to remove and control invasive exotic plants must be included on the development order plans. For the purposes of this subsection, the term "invasive exotic plant" means and includes the same plants as described in Section 10-420.
- (c) *Management plan.* The guarantee of preservation must also include a long-term management plan that will accomplish the following goals for the area being preserved:
 - (1) The preserved habitat must be kept free of refuse, debris, and pests and must be maintained in perpetuity against the reestablishment of invasive exotic plants. The management plan must describe how invasive exotic plants will be prevented from being reestablished within the preserved habitat.
 - (2) The preserved habitat must be managed to maintain a mosaic of plant and habitat diversity typical of the ecological community being preserved. A reference source describing the native habitats found in

Greater Pine Island is available in Chapter 3 of the Multi-Species Recovery Plan for South Florida, published by the U.S. Fish and Wildlife Service.

- (3) The management plan must describe acceptable forest management practices such as prescribed burning, selective thinning, and replanting. If the management plan does not include prescribed burning to mimic the historic fire regime, the plan must propose an alternative method for selectively thinning flammable understory plants.
- (4) The management plan must specify how the preserved habitat will be demarcated through fencing or other means to clearly identify preserved habitat without unnecessary blockage of recreational usage or wildlife movement.
- (5) The management plan must also comply with the standards set forth in Section 10-415(b)(4).
- (d) *Ownership of preserved habitat.* The underlying ownership of these permanently preserved native habitats may be retained by the original landowner, transferred to a homeowners or condominium association or transferred to another entity acceptable to the County.

Sec. 34-2084. - Restored native habitat.

Staff note: Section relocated from LDC Sec. 33-1056. Update existing cross-references.

A development proposal that requests the adjusted maximum residential density for committing to "restored native habitat," as that term is defined in Section 34-2, must address the following requirements at the time of planned development rezoning and/or local development order application. This requirement does not include landscaping, as required in Section 34-2082.

- (a) *Reintroduction of native trees.* Native trees must be planted and must be of species typical of the native habitat being restored, as set forth in the Multi-Species Recovery Plan. For example, the dominant tree species in mesic pine flatwoods, the most common native upland habitat on Pine Island, will be longleaf and South Florida slash pines; the dominant tree species in mesic temperate hammocks will be live oaks and cabbage palms.
 - (1) Site preparation must include removal of non-native vegetation that will compete with newly planted trees.
 - (2) A minimum of 100 trees per acre must be planted. Trees must be planted in clusters or random patterns rather than rows. Bare-root or containerized seedlings (seedling cone container size) may be planted using standard forestry techniques.
 - (3) Fertilization and appropriate watering are required at time of planting to ensure survival of seedlings, with spot irrigation beyond planting. Trees may be planted during the wet season to mitigate the use of water trucks or other forms of irrigation. Exotic and problematic plant monitoring and control is required for at least five years after planting.
- (b) *Reintroduction of native midstory shrubs and understory plants.* In addition to the introduction of native pine trees as mentioned in Subsection (a) of this section, midstory and understory species must be planted.
 - (1) These species must include at least five of the following:
 - a. Wiregrass (*Aristida stricta* var. *beyrichiana*);
 - b. Tarflower (*Bejaria racemosa*);
 - c. Wax myrtle (*Myrica cerifera*);
 - d. Fetterbush (*Lyonia lucida*);
 - e. Rusty lyonia (*Lyonia ferruginea*);
 - f. Gallberry (*Ilex glabra*);

- g. Saw palmetto (*Serenoa repens*); or
 - h. Cabbage palm (*Sabal palmetto*).
 - (2) Additional native species may be substituted for the species listed above with the consent of the County.
 - (3) No single species may comprise more than 50 percent of the total number of plants installed.
 - (4) All of the acreage being restored must be planted with acceptable midstory and understory plants.
 - a. A minimum of 250 native mid- and understory plants must be planted per acre. Plants must be placed in groupings or clusters throughout the area to be restored.
 - b. Plants to be used must consist of containerized plants or tubelings. Direct seeding may also be a viable alternative to planting with the approval of the County.
 - (5) Site preparation may be necessary to adequately prepare the site for planting. Site preparation may include such activities as re-contouring, disking, roller chopping, bush hogging, prescribed burning, herbiciding, or other recognized vegetation management activities.
 - (c) *Criteria for success of restoration.* Plantings of native trees and midstory and understory plants must be monitored annually to ensure a minimum survival rate of 80 percent.
 - (1) Monitoring must be performed for a minimum of five years after initial planting. Monitoring must be done by a qualified biologist, ecologist, forester, or natural areas manager subject to approval by the County.
 - (2) Annual monitoring reports must be submitted to the Director. After reviewing a monitoring report for the fifth or later year for methodology and accuracy, the Director is authorized to issue a finding that the restoration has been successfully completed and that no further monitoring reports are required, or that restoration has been partially completed and that monitoring reports are required only for the incomplete portion of the restoration.
 - (d) *Financial guarantees.* If a landowner wishes to begin development prior to successful completion of the restoration, completion must be assured in the same manner that off-site improvements or on-site subdivision improvements may be guaranteed pursuant to Section 10-154.
 - (e) *Flatwoods restoration bank.* As an additional alternative to restoring native habitat on-site or on contiguous or noncontiguous parcels combined into a single development application, the County may adopt an Administrative Code that sets forth the requirements for a third party to preserve or restore degraded upland habitats on large parcels on Pine Island. Credits for this restoration work could be sold to other landowners in Greater Pine Island who wish to increase their allowable density in accordance with Section 34-1494.
 - (1) The restored land must meet all of the conditions for restored native habitat in this section in addition to the requirements of the Administrative Code.
 - (2) The Administrative Code will determine the assignment of restoration credits in a manner that is proportional to the ecological value of the restoration using a functional assessment method acceptable to the County. Credits can be sold once the restoration has proven successful according to criteria set forth in the Administrative Code.
 - (3) The County will not be involved in any way in establishing the financial value of restoration credits.

Sec. 34-2085. - Continued agricultural use on existing farmland.

Staff note: section relocated from LDC Sec. 33-1057. Update existing cross-references.

A development proposal that requests the adjusted maximum residential density for committing to "continued agricultural use on existing farmland," as that term is defined in Section 34-2, must address the

following requirements at the time of planned development rezoning and/or local development order application.

(a) *Land uses.* Existing farmland that is committed to continued agricultural uses under this section is limited to those uses allowable under the applicable agricultural zoning category assigned to the land, plus the following additional restrictions:

- (1) Residential and commercial development is not permitted because those development rights have already been transferred by the landowner to other property.
- (2) The conditions for approval stipulated in the planned development zoning resolution or local development order approval applicable to the property may contain further restrictions on land uses.

(b) *Removal of invasive exotic plants.* Invasive exotic plants must be removed. Methods to remove and control invasive exotic plants must be included on the development order plans. The farmland must be maintained in perpetuity against the reestablishment of invasive exotic plants and must be kept free of refuse, debris, and pests. For the purposes of this subsection, the term "invasive exotic plant" means the same plants as described in Section 10-420.

Sec. 34-2086. - Lots developed to adjusted maximum densities.

Staff note: Section relocated from LDC Sec. 33-1058. Update existing cross-references.

Lots within small residential developments subject to the adjusted maximum density provisions set forth in Sections 34-2083 through 34-2085 may be developed in accordance with the property development regulations for the RS-1 Zoning District, including lot width and depth, setbacks, special regulations, and lot coverage, without further rezoning approval. The maximum building height shall be governed by Section 34-2175.

Secs. 34- ~~2087-2081~~—34-2110. Reserved.

DIVISION 29. RESERVED. PRIVATE CLUBS, FRATERNAL CLUBS AND MEMBERSHIP ORGANIZATION CLUBS

Staff note: Delete section.

Sec. 34-2111. Applicability of district use regulations.

~~The limited enumeration of a private, fraternal or membership organization club use is not meant to limit or abridge the rights of assembly in any way. Such organizations are not prohibited from meeting in various traditional and appropriate places. For example, a service club's weekly meeting at a restaurant in a district not otherwise allowing fraternal, membership organization or private clubs shall not constitute a zoning violation. However, where such an organization is the principal user of real property for meetings, entertainment, and food and beverage service, such a meeting place, hall or clubhouse shall be permitted only where this use is explicitly enumerated.~~

Secs. 34-2111~~2~~—34-2140. - Reserved

DIVISION 30. PROPERTY DEVELOPMENT REGULATIONS

Subdivision II. Height

Sec. 34-2175. Height limitations for special areas and Lee Plan land use categories.

Staff note: Append subsection (a)(2) to relocate provisions of Section 33-1627 to vest existing wireless communication facility in South Seas Island Resort. Update cross-references as required due to relocation/renumbering.

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

(a) *Special areas.*

(1) *remain unchanged.*

- (2) ~~Captiva Island, except South Seas Island Resort.~~ The height of a building or structure may not exceed 35 feet. The provisions of Section 34-2174(a) do not apply to Captiva Island. Unless approved as part of a planned development, No no variance or deviation from this height restriction may be granted; provided however, one communication tower, not to exceed 170 feet in height, may be constructed or replaced in accord with Section 33-1627. The communication tower must provide space for the County to provide emergency communications service as well as co-location capability for wireless carriers.

Notwithstanding the above height limitations, purely ornamental structural appurtenances and appurtenances necessary for mechanical or structural functions may extend above the roof peak provided that the total area dedicated to the exceedance of these elements, as measured by drawing a rectangle around the perimeter of the area(s) of the exceedances, equals 20 percent or less of the total roof area.

(3) *and (4) remain unchanged.*

- (5) ~~Greater Pine Island.~~ The height of a building or structure may not exceed 33 feet.

a. and b. remain unchanged.

c. No deviations from these height restrictions may be granted through the planned development process unless the variance criteria of Section 34-145 are met.

d. Any variances from these height restrictions must meet the requirements of ~~require all of the findings in Section 34-145(b)(3), except with the sole exception being where the relief is required to maintain or improve the health, safety, or welfare of the general public (not just the health, safety, or welfare of the owners, customers, occupants, or residents of the property in question).~~

- (6) *Matlacha Residential Overlay.* See Section 34-1137. ~~Chapter 33, Article VI.~~

(7) *and (8) remain unchanged.*

- (b) *Lee Plan land use categories.* Except as otherwise provided herein, maximum building height is established by future land use category as follows:

Staff note: Add maximum heights for Conservation Community and Preservation and Innovation future land use categories. **Asterisks (* * *)** indicate intervening table rows that are omitted from this amendment because they remain unchanged.

TABLE 34-2175(b) MAXIMUM BUILDING HEIGHT BY FUTURE LAND USE CATEGORY		
Future Land Use Category	Notes	Maximum Building Height

<u>Conservation Community</u>	<u>Note (1)</u>	45 feet

<u>Preservation and Innovation</u>	<u>Note (2)</u>	

Table notes remain unchanged.		

Subdivision III. Setbacks

Sec. 34-2192. Street setbacks.

(a) *remains unchanged.*

(b) *Exceptions.*

(1) *remains unchanged.*

(2) *Exception for certain existing lots and structures.*

- a. The setbacks set forth in Subsection (a) of this section will not apply to residential structures or public schools erected prior to August 1, 1986, or which received a development order or building permit which is still valid on August 1, 1986. This exception does not authorize an addition, enlargement, or alteration that increases an existing encroachment into a required street setback.

b. *remains unchanged.*

(3) through (5) *remain unchanged.*

DIVISION 33. RESERVED. SIGNS

Staff note: Delete redundant section.

~~Sec. 34-2411. Location and construction.~~

~~All on-site and off-site signs shall be located, erected and constructed in accordance with Chapter 30.~~

~~Secs. 34-2411 2412—34-2440. Reserved.~~

DIVISION 36. STORAGE FACILITIES AND OUTDOOR DISPLAY OF MERCHANDISE

Sec. 34-3001. Applicability.

Staff note: Delete cross-reference.

(a) *remains unchanged.*

- (b) The provisions of the division do not apply to the display, sale or rental of motor vehicles, boats, recreational vehicles, trailers, mobile homes, construction or farm equipment (~~see Section 34-1352~~); or to junk, impound yards, scrap or salvage yards (see Division 20 of this article); or to refuse, trash dumps and sanitary landfills (see Division 20 of this article); or to garage or yard sales by residents of dwelling units on their own property (see Section 34-622(c)(42)); or to the mooring or docking of aircraft or watercraft.

Sec. 34-3005. Storage facilities.

Staff note: Delete subsection (c), which is outdated due to state and federal requirements.

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

~~(c) Bulk storage of flammable liquids.~~

- ~~(1) Firewalls or dikes required. Whenever aboveground tanks for storage of gasoline, gas, oil or other flammable liquids are located on any land where such use is permitted, such tanks shall be surrounded by an unpierced firewall or dike of such height and dimensions as to contain the maximum capacity of~~

- the tanks. All storage tanks and adjacent structures shall meet the requirements of the Board of Fire Underwriters.
- (2) ~~Exceptions. Storage tanks containing liquified petroleum, commonly known as bottled gas, are specifically excluded from the provisions of this Subsection (c).~~

DIVISION 37. SUBORDINATE AND TEMPORARY USES

Subdivision II. Temporary Uses

Sec. 34-3041. Temporary use permits, generally.

- (a) *remains unchanged.*
- (b) *Location.* Temporary uses are subject to the following regulations:
- (1) *through (3) remain unchanged.*
- (4) Off-street parking with a surface type specified in Section ~~34-2017(b)~~10-260(h)(2) must be provided. If the temporary use will be on premises with existing parking facilities, no additional parking facilities will be required.
- (5) *remains unchanged.*
- (c) *remains unchanged.*
- (d) *Time limit.*
- (1) The maximum duration of a temporary use permit is 30 continuous days, except as provided for in Sections 34-3043 through ~~34-3048~~ 34-3049.
- (2) *remains unchanged.*
- (e) *through (h) remains unchanged.*

Sec. 34-3042. Carnivals, fairs, circuses and amusement devices.

Staff note: Revise subsection (d) to incorporate language from LDC Sec. 33-1629, which is proposed to be deleted.

- (a) *through (c) remain unchanged.*
- (d) *Excluded areas.* No temporary use permits under this section may be issued for Captiva Island or within the Gasparilla Island Conservation District. This section will not be construed to prohibit civic events or not-for-profit fundraising events, sponsored by 501(c) corporations designated by the U.S. Internal Revenue Service, or registered as a not-for-profit entity with the State. Such events include bazaars, fundraising events, seasonal or holiday observances, or activities (e.g., bounce houses) for which the public may have access.
- (e) *remains unchanged.*

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

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

- ~~(1) The equipment is less than six feet in height and 300 cubic feet in volume; and~~
- ~~(2) The maximum length of the use shall be six months, but the Director may extend the permit once for a period not to exceed six additional months in the event of circumstances beyond the control of the telephone company. Application for an extension shall be made at least 15 days prior to expiration of the original permit.~~

Sec. 34-3049. Reserved. Temporary mail distribution location.

- (a) ~~A shipping container or other structure approved by the building official through issuance of a temporary use permit, may be used for the temporary storage of mailed packages to be delivered to third parties off site within a designated area for a limited duration.~~
- (b) ~~Time.~~
 - (1) ~~Temporary mail distribution is allowed from November 1 through December 31. Any shipping container, storage pod, or other structure approved by the building official must be removed from the site no later than January 14.~~
 - (2) ~~The hours of operation are Monday through Saturday from 8:00 a.m. to 6:00 p.m.~~
- (c) ~~Location.~~
 - (1) ~~Temporary mail distribution structures may be located in commercial, residential and industrial zoning districts.~~
 - (2) ~~Temporary mail distribution structures may be located on a vacant lot or in parking lots or on grassed areas within developed properties. They may not be located in open space or preserve areas as designated on an approved local development order.~~
 - (3) ~~Structures used for temporary mail distribution must comply with all setback requirements for accessory structures. No more than one temporary mail distribution structure is allowed on a vacant lot.~~
 - (4) ~~Prior to the issuance of a temporary permit for the use in a single-family residence, the applicant must provide a notarized statement of no objection from the abutting property owners with the application for a temporary permit.~~
 - (5) ~~Temporary mail distribution may only occur with the prior approval of the property owner. If located within a subdivision controlled by a Property Owners' Association, the applicant must provide written documentation from the property owner and association identifying the site and approving the proposed activity.~~
 - (6) ~~No temporary mail distribution structure may be located in a public right-of-way.~~
- (d) ~~Size. A temporary mail distribution structure may not exceed 20 feet in length and must be securely placed on the ground and anchored as required by the Building Department.~~
- (e) ~~Activities.~~
 - (1) ~~The temporary mail distribution areas may only be used for the staging of mail packages to be delivered to third parties within the community. The intended mail recipients may not make trips to the temporary mail distribution areas to receive their packages.~~
 - (2) ~~Once mail is delivered to the distribution area, delivery of mail from the distribution area to its intended recipients may only be accomplished through the use of golf carts.~~
 - (3) ~~No new, permanent structure or improvement may be constructed.~~
 - (4) ~~No signage or advertisement may be located on the structure or property where the structure is located.~~
 - (5) ~~Storage of fuel for the delivery vehicle is prohibited in or near the storage area.~~
- (f) ~~Unless otherwise stated in this section, the following provisions do not apply to temporary mail distribution structures: Sections 34-210(d) and (e), 34-3041(e)(1), (3), (4), (g) through (i), and 34-3050.~~
- (g) ~~If a property owner is found in violation of these provisions, future temporary use permit for temporary mail distribution may not be issued for the property subject to the violation.~~

Editor's note(s) — Prior to the reenactment of Section 34-3049 by Ordinance No. 13-10, adopted May 28, 2013, Ordinance No. 11-08, § 10, adopted August 9, 2011, repealed Section 34-3049, which pertained to temporary parking lots. See also the Land Development Code Comparative Table.

Sec. 34-3050. Temporary storage facilities.

Staff note: Correct cross-reference in Subsection (b). Allow shipping containers for storage in conjunction with properties with a charitable service ad valorem tax exemption (not-for-profit).

The following regulations do not apply in commercial, industrial or mixed-use zoning districts where open storage is a permitted use, on property with a bona fide agricultural use or a bona fide charitable service located in an AG Zoning District, or to contractor's office and equipment storage sheds (see Section 34-3044).

(a) remains unchanged.

- (b) The use of vehicles, truck trailers, or shipping containers for storage of merchandise, produce, or commodities for periods of 48 hours or more may be permitted as a temporary use in a nonresidential district upon application and issuance of a temporary use permit (see Section 34-~~3041~~~~210~~) so long as:

(1) through (3) remain unchanged.

DIVISION 39. USE, OCCUPANCY AND CONSTRUCTION REGULATIONS

Staff note: Allow shipping containers for storage in conjunction with properties with a charitable service ad valorem tax exemption (not-for-profit).

Sec. 34-3105. Use of vehicles, truck trailers, or shipping containers for storage.

Except for a bona fide agricultural use or a bona fide charitable service located in an AG Zoning District, or where open storage is a permitted use in a Commercial, Industrial or Mixed-Use Zoning District, vehicles, truck trailers, shipping containers, and other similar structures may not be stored or used to store goods, produce or other commodities in any zoning district unless approved on a temporary basis in accordance with Sections 34-3044 and 34-3050.

Where allowed as open storage per this section, vehicles, truck trailers, shipping containers and other similar structures may not be stacked on top of one another and must be in compliance with Chapter 34, Division 36, including Section 34-3005.

Staff note: Delete Section 34-3106 in its entirety to reflect state preemption of local regulation of building design elements for single-family and two-family dwellings. Section 163.3202(5), Florida Statutes, identifies exterior cladding material as a building design element subject to the preemption. Because the principal dwelling may no longer be subject to local exterior cladding requirements in circumstances governed by the statute, retaining a separate residential-cladding requirement for accessory metal buildings creates an unnecessary and potentially inconsistent design standard.

Sec. 34-3106. Reserved.~~Use of metal buildings in Residential Districts.~~

~~The construction of enclosed or partially enclosed metal buildings, exceeding 240 square feet in total floor area or 12 feet in height above finished floor, must provide residential exterior cladding, as defined in Section 34-2, unless approved as a special exception, in the following Residential Districts: RS, RSA, RSC, TFC, TF, RM, RPD and the residential portions of an MPD. Single-family, duplex, two-family attached, and zero lot line dwelling units are exempt from this section.~~

Staff note: Relocate the commercial fishing equipment storage provisions from LDC Section 33-1089, within the Greater Pine Island regulations, to Chapter 34 as a generally applicable supplementary use regulation for Pine Island. The substantive use standards are retained, with revisions to terminology and cross-references for consistency with the reorganized Code.

Sec. 34-3108. Commercial fishing equipment storage as accessory use to residence.

- (a) Permitted use. The storage and repair of commercial fishing equipment, specifically fishing nets and crab traps, shall be permitted as an accessory use to a single-family or mobile home residence in Greater on Pine Island in the AG, RSC, RS, TFC and MH Zoning Districts when in compliance with the conditions set forth in Subsection (b) of this section.

- (b) Conditions.

- (1) The storage and repair of commercial fishing equipment such as nets and traps must be clearly subordinate to the use of the property for residential purposes.
- (2) Storage and repair of equipment is limited to equipment owned or leased by the occupant of the residence only.
- (3) Storage of equipment must comply with the setback requirements for accessory buildings and structures as set forth in Section 10-329(d) and Chapter 34, Article VII, Division 21, provided that, with the exception of boats, no storage will be permitted between the street right-of-way and the principal building.
- (4) Fishing nets, when not being repaired, must be stored neatly and covered by canvas or other suitable material.
- (5) Crab traps, when not being repaired, built or rebuilt, must be stacked neatly. Stacking of traps must not exceed six feet in height.
- (6) The open storage of discarded or derelict nets, traps, boats or other fishing equipment is prohibited.
- (7) The occupant of the property is responsible for maintaining the property free of rats and vermin.

Secs. 34-31089—34-3130. Reserved.

ARTICLE VIII. NONCONFORMITIES

DIVISION 1. GENERALLY

Sec. 34-3202. Reserved. Definitions.

Staff note: Definition relocated to Section 34-2.

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:

~~*Nonconforming use* means a use or activity which was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, but which fails, by reason of such adoption, revision or amendment, to conform to the use requirements of the zoning district in which located.~~

Sec. 34-3203. Enlargement or expansion of nonconforming structure.

Staff note: delete subsection (b) which pertains to lots and not buildings. Renumber and remove obsolete or unregulated terms.

(a) remains unchanged.

~~(b) Structures nonconforming due to area. A structure which is lawful in all respects, with the exception of lot area requirements, may be enlarged, provided that:~~

~~(1) The enlargement is otherwise permitted;~~

~~(2) All other property development requirements such as setbacks, height, bulk, lot coverage, parking and open space are met; and~~

~~(3) The enlargement does not increase the density or intensity of use.~~

~~(b)(c) Structures nonconforming due to height. A structure which is lawful in all respects with the exception of height restrictions may be enlarged, provided that:~~

~~(1) The enlargement is otherwise permitted; and~~

(2) The enlargement complies with height and setback requirements.

(c)~~(d)~~ ~~Structures nonconforming due to bulk or lot coverage.~~ A structure which is lawful in all respects with the exception of ~~bulk or lot coverage~~ shall not be enlarged.

Sec. 34-3204. Reserved. ~~Mobile home and recreational vehicle unit replacements and roof repairs.~~

Staff note: Delete redundant section.

~~Any mobile home or recreational vehicle unit which has been lawfully placed on any rental lot within any rental park, regardless of whether the park has been converted to either cooperative or condominium ownership prior to June 25, 1986, may be replaced by a unit of equal or smaller size, upon proof that the placement of the unit was lawful. Such proof may consist of copies of official tax records, tag registrations or County permits, or may be by affidavit or any other competent evidence. Permits shall also be issued for reroofing and roof repairs for any existing mobile home or recreational vehicle located within a mobile home or recreational vehicle park, regardless of lot size.~~

Sec. 34-3205. Uses approved by special exception or permit.

Staff note: Delete unnecessary cross-reference.

(a) *remains unchanged.*

(b) ~~For existing mining excavations approved by special exception, the provisions of Section 12-121 control.~~

DIVISION 2. NONCONFORMING USE OF LAND

Sec. 34-3223. Discontinuance.

Staff note: Revise section to clarify what happens to a nonconforming use on property subject to a zoning action.

Land used in whole or in part for a nonconforming use, which use is subsequently discontinued for a continuous period of six calendar months, may not again be used except in conformity with the regulations then in effect. The intent of the owner, lessee or other user is not relevant in determining whether the use has been discontinued.

A nonconforming use, that exists on property voluntarily made the subject of a zoning action may be continued subject to the provisions of Section 34-3222. ~~If a nonconforming use which is not specifically permitted under the zoning approval requested, then and ultimately granted becomes illegal as a result of the zoning approval. A the use is deemed illegal under this section and must be ceased and discontinued immediately upon approval of the zoning request.~~

Sec. 34-3224. Reserved. ~~Erection of additional structures.~~

Staff note: Delete redundant language.

~~No additional structure that does not conform to the requirements of this chapter may be erected in connection with a nonconforming use of land.~~

DIVISION 3. NONCONFORMING BUILDINGS AND USE OF BUILDINGS

Sec. 34-3241. Nonconforming buildings and structures.

Staff note: Relocate definition to Section 34-2. Delete outdated language and redundant language.

(a) ~~For the purposes of this division, the term "nonconforming building or structure" means a building or structure which was lawful prior to the adoption of the ordinance from which this chapter is derived, or the~~

~~adoption of a revision or amendment of this chapter, but which fails, by reason of such adoption, revision or amendment, to conform to the proper development requirements of the zoning district in which the building or structure is located due to its size, dimension or location on the lot.~~

- (b) A nonconforming building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) Except as provided in Section 34-3203, no such building or structure may be enlarged, altered or repaired in a way which, in the opinion of the Department Director or ~~their~~^{his} designee, increases its nonconformity, but any structure or building or portion thereof may be altered to decrease its nonconformity. ~~If there is more than one structure on a property with a legally nonconforming use, a limited expansion may be allowed subject to there being a determination that there will be an improvement to neighborhood compatibility. The limited expansion shall be to allow a structure or portion of a structure to be destroyed and the equivalent square footage replaced by expansion of another existing structure if the Department Director makes a determination that such expansion would not be detrimental to the neighborhood and such expansion is less than 50 percent of the current assessed value of the structure which will be expanded. Any expansion must also conform to setback requirements and all other requirements for the zoning district in which the property is located.~~
- (2) Except as provided in this section:
 - a. Any nonconforming structure or building, or portion thereof, that is substantially improved (reconstructed, rehabilitated, altered or demolished) to the extent that the cost of such improvement equals or exceeds a cumulative total of 50 percent of the current assessed value of the structure before the start of construction of the improvement may only be reconstructed at, but not to exceed, the lawful density or intensity existing at the time of destruction; provided, however, that the reconstruction of the structure is consistent with federal, State and local regulations and all the other provisions of this chapter. ~~Any such alteration, demolition, reconstruction or rebuilding must be recorded with the Division of Development Services for the purpose of establishing the value upon which subsequent alterations, demolition, reconstructions or rehabilitations will be based.~~

b. remains unchanged.

- ~~(3) A lawfully existing single family residence or mobile home damaged by fire or other natural forces may be repaired or replaced, provided the new unit is no larger in area, width and depth than the size of unit being replaced.~~
- ~~(4) Repairs, reconstruction or renewal of an existing structure, building or portion thereof for the purpose of its maintenance may be permitted. However, repairs, reconstruction or renewal of structural elements will be reviewed by the Director of the Division of Development Services to determine applicability under this section, or whether such repairs will be considered under Subsection (b)(2)a of this section. For the purposes of this section, a change in the roofline from a flat roof to a peaked roof constitutes an alteration as indicated in Subsection (b)(2)a of this section, provided that there is no increase in floor area.~~
- ~~(5) Should a nonconforming structure be moved on site for any reason, for any distance whatever, it may not be moved unless the relocation decreases the nonconformity.~~
- ~~(6) Any portion of a nonconforming structure that becomes physically unsafe or unlawful due to lack of repairs and maintenance, and which is declared unsafe or unlawful by a duly authorized County official, but which the owner wishes to repair, restore or rebuild, must be repaired, restored or rebuilt in conformance with the provisions of this chapter. Excluded from this provision are buildings that have been designated as historic by Chapter 22.~~
- ~~(7) Zoning applications that include property upon which a nonconforming structure exists at the time of the zoning application, must include a sworn statement from the property owner regarding the~~

~~owner's intent with respect to bringing the nonconforming structure into compliance in the event the zoning request is granted. A finding regarding the nonconforming structure must be included in the zoning resolution or decision.~~

DIVISION 4. NONCONFORMING LOTS

Sec. 34-3271. Definitions.

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

~~Nonconforming or substandard lot~~ means a lot of which the area, dimension or location was lawful prior to the adoption of the ordinance from which this chapter is derived, or the adoption of a revision or amendment of this chapter, and which fails by reason of such adoption, revision or amendment to conform to the requirements for the zoning district in which the lot is located.

Sec. 34-3274. Development of mobile home and recreational vehicle lots of record.

Staff note: Revise section to apply section development regulations to all MH/RV lots, regardless of whether located in a park, consistent with department interpretation.

A single-family dwelling unit, mobile home or recreational vehicle may be constructed or placed on a lot of record ~~within a mobile home or recreational vehicle park~~ provided that:

- (a) The ~~park~~lot was properly zoned or approved by special permit for mobile home or recreational vehicle use, or, in the case of single-family dwelling units, the property's zoning district lists single-family dwelling units as a permitted use; and
- (b) remains unchanged.*
- (c) For mobile home or recreational vehicle lots of record, the following will also apply:
 - (1) through (3) remain unchanged.*
 - (4) Any mobile home or recreational vehicle unit which has been lawfully placed on any rental lot of record within any rental park, regardless of whether the lot park has been converted to either cooperative or condominium ownership prior to June 25, 1986, may be replaced in accordance with the requirements of this section by a unit of equal or smaller size.

Appendix I. ~~RESERVED. PLANNING COMMUNITY AND REDEVELOPMENT~~ ~~OVERLAY DISTRICT BOUNDARIES AND LEGAL DESCRIPTIONS~~

Staff note: Appendix I is deleted in full.