

ORDINANCE NO. 16-19

AN ORDINANCE AMENDING THE LEE COUNTY LAND DEVELOPMENT CODE, CHAPTERS 2, 6, 10, 14, 22, 30, 32, 33, 34, APPENDIX I TO DELETE ESTERO PLANNING COMMUNITY MAPS, APPENDIX C TO UPDATE SWFIA AIRPORT NOISE ZONE MAP, APPENDIX D TO PROVIDE A LISTING OF AIRPORT/HELIPORT REVIEW ZONES AND APPENDIX K TO UPDATE THE ROAD IMPACT FEE BENEFIT DISTRICTS MAP. THE PROPOSED AMENDMENTS WILL: UPDATE THE PROPORTIONATE SHARE PAYMENT PROCESS CONSISTENT WITH STATE STATUTE; REMOVE THE ESTERO PLANNING COMMUNITY REGULATIONS; ALLOW FOR ADDITIONAL USES WITHIN THE NORTH FORT MYERS PLANNING COMMUNITY; MOVE THE SAN CARLOS ISLAND COMMUNITY REGULATIONS TO CHAPTER 33; CHANGE THE NOTIFICATION PROCEDURE FOR AIRPORT NOISE ZONES; ADD A REVIEW PROCESS FOR PROPERTIES LOCATED IN HELIPORT/AIRPORT REVIEW ZONES; ALLOW FOR FLAT ROOF CANOPIES FOR AUTOMOTIVE SERVICE STATIONS; ALLOW STORAGE CONTAINERS TO BE STORED WHERE OPEN STORAGE IS PERMITTED; KEEP THE LDC CONSISTENT WITH THE RECENT CHANGES IN THE FLORIDA STATUTES; CLARIFY AND REVISE EXISTING TEXT; AND ELIMINATE REDUNDANT TEXT.

THE SPECIFIC LDC PROVISIONS THAT WILL BE AMENDED/ADDED ARE: SEC. 2-45 (DEFINITIONS); SEC. 2-46 (CONCURRENCY CERTIFICATION); SEC. 2-66 (PURPOSE AND INTENT); SEC. 2-67 (FINDINGS); SEC. 2-68 (APPLICABILITY); SEC. 2-69 (GENERAL REQUIREMENTS); SEC. 2-70 (INTERGOVERNMENTAL COORDINATION); SEC. 2-71 (APPLICATION PROCESS); SEC. 2-72 (DETERMINING PROPORTIONATE FAIR-SHARE OBLIGATION); SEC. 2-73 (IMPACT FEE CREDIT FOR PROPORTIONATE FAIR-SHARE MITIGATION); SEC. 2-74 (PROPORTIONATE FAIR-SHARE AGREEMENTS); SEC. 2-75 (APPROPRIATION OF FAIR-SHARE REVENUES); SEC. 2-76 (CROSS JURISDICTIONAL IMPACTS); SEC. 2-268 (BENEFIT DISTRICTS ESTABLISHED); SEC. 2-351 (REFUND OF FEES PAID); SEC. 6-117 (IMPROVEMENTS OR REPAIRS NOT REQUIRING A PERMIT); SEC. 10-1 (DEFINITIONS); SEC. 10-104 (DEVIATIONS AND VARIANCES); SEC. 10-154 (ADDITIONAL REQUIRED SUBMITTALS); SEC. 10-383 (INTERPRETATION OF DIVISION); SEC. 10-384 (MINIMUM STANDARDS FOR ALL DEVELOPMENTS); SEC. 10-414 (SUBMITTAL REQUIREMENTS); SEC. 10-415 (OPEN SPACE); SEC. 10-416 (LANDSCAPE STANDARDS); SEC. 10-418 (SURFACE WATER MANAGEMENT SYSTEMS); SEC. 10-419 (ALTERNATE LANDSCAPE BETTERMENT PLAN); SEC. 10-420 (PLANT MATERIAL STANDARDS); SEC. 10-716 (PIPING MATERIALS FOR USE IN RIGHT-OF-WAY); SEC. 12-118 (MONITORING REQUIREMENTS; INSPECTIONS); SEC. 14-1 (PLANNING COMMUNITY REGULATIONS); SEC. 14-293 (PERMITS REQUIRED); SEC. 14-294 (SITE PLAN REVIEW); SEC. 14-295 (COMPLIANCE ENFORCEMENT); SEC. 22-102 (REGULAR CERTIFICATE OF APPROPRIATENESS); SEC. 22-103 (SPECIAL CERTIFICATE OF APPROPRIATENESS); SEC. 22-106 (ARCHAEOLOGICAL SITES AND DISTRICTS); SEC. 22-203 (REQUIRED NOTICES; ACTION BY HISTORIC PRESERVATION BOARD); SEC. 30-56 (PLANNING COMMUNITY REGULATIONS); SEC. 30-151 (TEMPORARY SIGNS); SEC. 30-153 (PERMANENT SIGNS IN COMMERCIAL AND INDUSTRIAL AREAS); SEC. 32-241 (LOT TYPES ALLOWABLE IN EACH

TRANSECT ZONE); SEC. 32-243 (PROPERTY DEVELOPMENT REGULATIONS); SEC. 32-502 (APPLICATION REQUIREMENTS); SEC. 33-1431 (MODEL HOMES); SEC. 33-1596 (USE REGULATIONS); SEC. 33-1602 (ELECTRONIC CHANGING MESSAGE CENTERS); SEC. 33-1742 (PURPOSE AND INTENT); SEC. 33-1743 (ELEMENTS OF THE REDEVELOPMENT OVERLAY DISTRICT); SEC. 33-1744 (MODIFIED LAND DEVELOPMENT REGULATIONS, THE MASTER PLAN); SEC. 34-2 (DEFINITIONS); SEC. 34-6 (COMPLIANCE WITH SPECIFIC PLANNING COMMUNITY REQUIREMENTS); SEC. 34-145 (FUNCTIONS AND AUTHORITY HEARING EXAMINER); SEC. 34-202 (GENERAL SUBMITTAL REQUIREMENTS FOR APPLICATIONS REQUIRING PUBLIC HEARING); SEC. 34-204 (SUBMITTAL REQUIREMENTS FOR ADMINISTRATIVE ACTION APPLICATIONS); SEC. 34-210 (TEMPORARY USE PERMITS); SEC. 34-622 (USE ACTIVITY GROUPS); SEC. 34-625 (OUTDOOR LIGHTING STANDARDS); SEC. 34-691 (PURPOSE AND INTENT); SEC. 34-715 (PROPERTY DEVELOPMENT REGULATIONS TABLE); SEC. 34-813 (USE REGULATIONS TABLE); SEC. 34-844 (USE REGULATIONS TABLE); SEC. 34-903 (USE REGULATIONS TABLE); SEC. 34-933 (PERMITTED USES); SEC. 34-934 (USE REGULATIONS TABLE); SEC. 34-1001 (APPLICABILITY); SEC. 34-1004 (AIRPORT NOISE ZONES); SEC. 34-1014 (APPLICABILITY); SEC. 34-1015 (DEFINITIONS); SEC. 34-1016 (HELIPORT/AIRPORT REVIEW ZONES); SEC. 34-1177 (ACCESSORY APARTMENTS); SEC. 34-1261 (DEFINITIONS); SEC. 34-1264 (SALE OR SERVICE FOR ON-PREMISES CONSUMPTION); SEC. 34-1292 (HORSES AND OTHER EQUINES); SEC. 34-1352 (DISPLAY, SALE, RENTAL OR STORAGE FACILITIES FOR MOTOR VEHICLES, BOATS, RECREATIONAL VEHICLES, TRAILERS, MOBILE HOMES OR EQUIPMENT); SEC. 34-1353 (CONVENIENCE FOOD AND BEVERAGE STORES, AUTOMOTIVE SERVICE STATIONS, FAST FOOD RESTAURANTS, AND CAR WASHES); SEC. 34-1354 (VARIANCES OR DEVIATIONS); SEC. 34-1414 (CONTINUING CARE FACILITIES); SEC. 34-1494 (DENSITY EQUIVALENTS); SEC. 34-2019 (OTHER USE OF PARKING LOTS); SEC. 34-2020 (REQUIRED PARKING SPACES); SEC. 34-2479 (SOUND SYSTEMS); SEC. 34-3042 (CARNIVALS, FAIRS, CIRCUSES AND AMUSEMENT DEVICES); SEC. 34-3050 (TEMPORARY STORAGE FACILITIES); SEC. 34-3051 (TEMPORARY USE OF RV(S)); SEC. 34-3105 (USE OF VEHICLES, TRUCK TRAILERS, OR SHIPPING CONTAINERS FOR STORAGE FOR NON-AGRICULTURAL PURPOSES); SEC. 34-3272 (LOT OF RECORD DEFINED; GENERAL DEVELOPMENT STANDARDS).

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

WHEREAS, the Board of County Commissioners of Lee County, Florida, has adopted the Lee County Land Development Code (LDC) which contains a comprehensive listing of regulations applicable to the development of land in Lee County; and

WHEREAS, Goal 39 of the Lee County Comprehensive Land Use Plan (Lee Plan) mandates that the County maintain clear, concise, and enforceable development regulations that fully address on-site and off-site development impacts, yet function in a streamlined manner; and

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

WHEREAS, the LDCAC has reviewed the proposed amendments to the LDC on April 8, 2016, May 13, 2016 and July 8, 2016 and recommended approval of the proposed amendments as modified; and

WHEREAS, the Executive Regulatory Oversight Committee reviewed the proposed amendments to the Code on May 11, 2016 and July 13, 2016 recommended approval of the proposed amendments as modified; and

WHEREAS, the Local Planning Agency reviewed the proposed amendments on June 27, 2016 and July 25, 2016, and found them consistent with the Lee Plan, as indicated.

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

SECTION ONE: AMENDMENT TO LDC CHAPTER 2

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

Chapter 2 ADMINISTRATION ARTICLE II. CONCURRENCY MANAGEMENT SYSTEM

DIVISION 1. CONCURRENCY MANAGEMENT PROVISIONS

Sec. 2-45. - Definitions.

(a) Cost - All improvements and associated costs of capital improvement implementation, such as design, right-of-way acquisition, planning and design studies, engineering, inspection, and physical development costs directly associated with construction of motor vehicle, transit, pedestrian and bicycle facilities, as may be adjusted to the anticipated year it will be incurred.

Development Trips - Estimated vehicular traffic volume assigned to a roadway segment(s) from the stage or phase of development under review.

Phase - A discrete, five-year or lesser construction timeframe of development, including the local government issuance of certificates of occupancy for that construction or its functional occupancy.

Proportionate Share – A contribution calculated based upon the number of trips from the proposed project expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

Roads Impact Fee District – The geographic area in which road impact fees may be collected and spent as depicted in the Lee County Land Development Code Appendix K, Map 1.

Service Volume – The highest number of vehicles for a given level of service.

Service Volume Increase - The additional number of vehicles for a given level of service resulting from an improvement to a roadway segment.

Significant Impact - The traffic projected to be generated at the end of any stage or phase of the proposed project, cumulatively with previous stages or phases, will utilize five percent or more of the adopted peak hour level of service maximum service volume of the roadway, and the roadway is projected to be operating below the adopted level of service standard at buildout of that stage or phase.

Stage - One in a series of approximately equal increments in the development of a proposed project upon which are placed quantified limits for construction that are reasonably calculated to ensure that the state and regional roadway network affected by the proposed project will not be overburdened by development traffic. A stage is to be a subset of a particular project phase of project planned for a project by a developer. A stage of development includes both a specific type and amount of development and the associated, approved buildout timeframe for that project.

State Highway System – All existing roads maintained by the Florida Department of Transportation.

Transportation Deficiency - A facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

Sec. 2-46. - Concurrency certification.

No change (a) and (b).

(c) *Consideration of impacts.* If the director determines that a development permit is not exempt from the minimum concurrency requirements of the Lee Plan, the director will consider the impact the development will have on potable water, sanitary sewer, surface water management, solid waste disposal, ~~parks and recreation, roadway facilities~~ and public schools. The director will consider the type and intensity of use of the proposed development in relation to the demands the use can reasonably be expected to make on those facilities and the times when the demand can reasonably be expected to occur during the course of the development. When measuring the expected impacts of a development, the director will include only the ~~impacts of permanent traffic (see definitions) and other similar~~ continuing infrastructure demands of the development. The director will disregard temporary impacts such as fire flow tests. The director may rely upon studies, measurements or calculations prepared by qualified professionals, or upon generally accepted guidelines, rules, formulas, studies or other theories developed by professional experts working or publishing in this field of inquiry, or upon relevant historical trends or experiences, or upon related rules and standards adopted by other governmental agencies, or upon any combination of these sources. The burden of disproving the accuracy of the director's determination lies with the person who disputes it.

To promote uniformity in the application of this subsection, the director may prepare administrative rules prescribing the methodology by which the impacts of a proposed development will be determined. Those rules will be set forth in an Administrative Code adopted by the Board of County Commissioners.

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

(e) *Means of measuring level of service in relation to location of development.* When measuring the availability of a public facility to serve a development, the level of service at which the facility is operating or is expected to operate will be measured in relation to its location to the development as follows:

No change 1-4.

~~(5) *Parks and recreation.* The quantity of regional parks will be measured in acres and applied to the total permanent and seasonal resident population in the County. The quantity of community parks will be measured in acres within the unincorporated area of the county and applied within each community park impact fee district to the permanent resident population within the unincorporated portion of that district.~~

~~(6) *Roads.* Concurrency on all roads will be determined on a roadway segment by segment basis consistent with the level of service standards set forth in Lee Plan Policy 37.1.1, except where the Board has:~~

- ~~a. Designated constrained roads,~~
- ~~b. Created transportation concurrency management areas,~~
- ~~c. Created transportation concurrency exception areas,~~
- ~~d. Created long term transportation management systems pursuant to — Florida Administrative Code 9J-5.0055, or~~

~~e. Designated multimodal transportation districts pursuant to F.S. § 163.3180(15) or similar allowable modifications to standard road concurrency.~~

No change 7.

No change (f) and (g).

~~(h) For parks and recreation facilities, the development must meet one of the following two standards:~~

~~(1) At the time of development order or permit is issued, the necessary facilities and services must be in place or under actual construction; or~~

~~(2) A development order or permit is issued with a stipulation that, at the time of the issuance of a certificate of occupancy or its functional equivalent, the acreage for the necessary facilities and services to serve the new development is dedicated to or acquired by the local government; and~~

~~a. The necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent as provided in the adopted Lee County five year schedule of capital improvements; or~~

~~b. At the time the development order or permit is issued, the necessary facilities and services are the subject of a binding executed agreement that requires the necessary facilities and services to serve the new development to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent; or~~

~~c. At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to F.S. § 163.3220, or an agreement or a development order issued pursuant to F.S. ch. 380, to be in place or under actual construction not more than one year after issuance of a certificate of occupancy or its functional equivalent.—~~

~~(i) Determination of road facility capacity. In determining the capacity of a road facility, the director will include existing roadways and committed improvements, as provided in Policy 37.3.2 of the Lee Plan.~~

No change (j) – (n).

~~(o) Requirements for activity affecting constrained roads. Concurrency compliance for land development activity affecting constrained roads will be determined in accordance with Lee Plan objective 22.2 to the extent these policies provide additional restrictions that supplement other provisions of this article. The requirements of these policies are as follows:~~

~~(1) A maximum volume to capacity (v/c) ratio of 1.85 for all constrained roads.~~

~~(2) The director may not issue permits that cause the maximum volume to capacity ratio to be exceeded or that affect the maximum volume to capacity ratio once exceeded.~~

~~(3) Once the maximum volume to capacity ratio is achieved, permits may only be issued where capacity enhancements and operational improvements have been identified and commitments to implement those improvements are made that will maintain the volume to capacity ratio on the constrained segment at or below 1.85.~~

~~(p) *De minimus impact.* The Florida Legislature has found that a de minimus impact is consistent with Part II of Chapter 163. Therefore, the impact of a single-family home on an existing lot will constitute a de minimus impact on all roadways regardless of the level of deficiency of the roadway.~~

~~Other than single-family homes on existing lots, no impact will be de minimus if the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility. Further, except for single-family homes on existing lots, no impact will be de minimus if it would exceed the adopted level of service standard of any affected designated hurricane evacuation route.~~

~~Lee County will maintain records to ensure that the 110 percent criteria is not exceeded. Annually, Lee County will submit to the State Land Planning Agency a summary of the de minimus records along with its updated Capital Improvements Element. In the event the State Land Planning Agency determines that the 110 percent criteria has been exceeded, the County will be notified of the exceedence and no further de minimus exceptions for the applicable roadway will be granted until the volume is reduced below the 110 percent. The County will provide proof of the reduction to the State Land Planning Agency prior to issuing further de minimus exceptions.~~

DIVISION 2. - PROPORTIONATE FAIR-SHARE PROGRAM

Sec. 2-66. - Purpose and intent.

The purpose of this Division is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the Proportionate Fair-Share, as required by and in a manner consistent with §163.3180(46), F.S., as amended.

Sec. 2-67. - Findings.

(a) Transportation capacity is a commodity that has a value to both the public and private sectors.

(b) ~~The Lee County Proportionate Fair-Share Program:~~

(1) Provides a method by which the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sector;

(2) Provides a means by which developers may proceed ~~under certain conditions, notwithstanding the failure of transportation concurrency,~~ by contributing their proportionate fair-share of the cost to improve/construct a transportation facility;

(3) Maximizes the use of public funds for adequate transportation facilities to serve future growth, and may, in certain circumstances, allow the county to expedite

transportation improvements by supplementing funds currently allocated or planned for transportation improvements in the Capital Improvement Element (CIE), Lee Plan Map 3A, or the Lee County MPO Long Range Transportation Plan (LRTP); and,

(4) ~~Is consistent with §163.3180(16)(4)(i), F.S., as amended, and supports the policies under Goals 37 and 38 in the Lee Plan; and,~~

~~(5) Works within the county's existing concurrency management system.~~

Sec. 2-68. - Applicability.

~~The Proportionate Fair Share applies to all developments in unincorporated Lee County that have been notified of a lack of capacity to satisfy transportation concurrency on a transportation facility, identified one or more significant impacts, and the total proportionate share calculation exceeds road impact fees. in the County Concurrency Management System, including transportation facilities maintained by FDOT or another jurisdiction that are relied upon for concurrency determination. This provides a funding mechanism to implement County transportation needs through the Capital Improvement Element (CIE.) The Proportionate Fair Share is not available to developments of regional impact (DRIs) using proportionate fair share under shall not be applied in a manner that imposes upon new development any responsibility for funding an existing transportation deficiency. § 163.3180(12), F.S., or to developments exempted from concurrency as provided in 2-46(p).~~

Sec. 2-69. - General requirements.

(a) A developer may choose to ~~satisfy the transportation concurrency requirements of the county by making~~ make a proportionate fair-share contribution, pursuant to the following requirements:

(1) The proposed ~~development project~~ project is consistent with the Lee Plan and applicable land development regulations; and

(2) The ~~five-year~~ schedule of capital improvements in the County Capital Improvement Element (CIE) ~~or the long-term schedule of capital improvements for an adopted long-term concurrency management system, Map 3A, or the Lee County MPO Long Range Transportation Plan (LRTP), includes, or may be amended to include,~~ a transportation improvement(s) that, upon completion, will mitigate additional traffic generated by the proposed development. ~~If the County transportation concurrency management system indicates that the capacity of the improvement has been consumed by the vested trips of previously approved development, then the provisions of 2-69(b) apply.~~

Commentary: ~~Pursuant to §163.3180(16)(b)1, F.S., the transportation improvement in section (a)(2) above may be a programmed capital improvement that enhances the capacity of the transportation system to accommodate the impacts of development. For example, this may involve widening and/or reconstructing a roadway or where the primary roadway is constrained or widening is no longer desired, this could involve creating new reliever roadways, new network additions, new transit capital facilities (e.g., bus rapid transit corridor), or other major mobility improvements, such as expansion of bus fleets to increase service frequency. Local governments may, at their discretion, wish to make short-term operational improvements in advance of the capacity project. If the capacity of the planned improvement is fully committed,~~

~~or there is no eligible project in an adopted work program, a developer could potentially still participate at the discretion of the local government pursuant to (b) below.~~

~~(b) The county may choose to allow a developer to satisfy transportation concurrency for a deficient road segment through the Proportionate Fair Share Program by contributing to an improvement that is not contained in the five-year schedule of capital improvements in the Capital Improvement Element or a long-term schedule of capital improvements for an adopted long-term concurrency management system but which, upon completion, will satisfy the requirements of the County Transportation Concurrency Management System, where the following apply:~~

~~(1) The county conducts an advertised public hearing to consider the proportionate fair share agreement and corresponding future changes to the five-year CIP; and,~~

~~(2) The county adopts, by resolution or ordinance, a commitment to add the improvement to the 5-year schedule of capital improvements in the Capital Improvement Element (CIE) no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement must be reviewed by the Board and determined to be financially feasible pursuant to §163.3180(16) (b) 1, F.S., consistent with the Lee Plan, and in compliance with the provisions of this Article. Financial feasibility means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed 10 years to fully mitigate impacts on the transportation facilities.~~

~~(c) If the funds allocated for the 5-year schedule of capital improvements in the County CIE are insufficient to fully fund construction of a transportation improvement required by the concurrency management system, the County may still enter into a binding proportionate fair-share agreement with a developer authorizing construction of that amount of development on which the proportionate fair share is calculated, if in the opinion of Lee County DOT, the proposed proportionate fair share amount is sufficient to pay for one or more improvements that will, by itself or in combination with other committed contributions, significantly benefit the transportation system. To qualify for consideration under this section, the proposed improvement must be contained in an adopted short- or long-range county plan or program, MPO, FDOT or local or regional transit agency. Proposed improvements not reflected in an adopted plan or improvement program but that would significantly reduce access problems and congestion or trips on a major corridor, such as new roads, service roads, or improved network development and connectivity, may be considered at the discretion of the Board. The improvements funded by the proportionate fair share component must be adopted into the 5-year capital improvements schedule for the Lee Plan CIE in the next annual capital improvement element update.~~

~~(d) Any improvement project proposed to meet the developer's fair share obligation must meet the county design standards for locally maintained roadways and those of the FDOT for the state highway system.~~

~~Sec. 2-70. -- Intergovernmental coordination.~~

~~Pursuant to policies in the Intergovernmental Coordination Element of the Lee Plan and applicable policies in the Southwest Florida Regional Planning Council's Strategic Regional Policy Plan, the county will coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the county receiving the application~~

~~for proportionate fair share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.~~

Sec. 2-740. Application Agreement process.

~~(a) Upon Notification of a lack of capacity to satisfy transportation concurrency, the county must also notify the applicant/developer in writing of the opportunity to satisfy transportation concurrency in accordance with the requirements for the proportionate share program set forth in Section 2-69.~~

(a) *Applicability.* This section applies if there are additional developer mitigation responsibilities resulting from one or more significant impacts and outlines the agreement process for mitigation responsibilities and payments.

The determination of significant impact(s) will be based on a Lee County approved traffic analysis contained in an Application for Public Hearing for a Development of Regional Impact (DRI), or an Application For Development Order for development outside of a DRI as outlined in AC-13-16.

~~(b) *Meeting Required.* Prior to submitting an application for a proportionate fair share agreement t~~The applicant must attend schedule a pre-application meeting with the County Attorney, Directors or designees of Lee County Department of Community Development Planning and Lee County Department of Transportation (DOT) to discuss eligibility, application submittal requirements additional transportation analysis at the option of the Directors or applicant, potential mitigation options, and related issues prior to initiating a proportionate share agreement with the County. If the an impacted facility is on the Strategic Intermodal System (SIS) state highway system, or a roadway maintained by or within another municipality, then the applicant must notify and invite the Florida Department of Transportation (FDOT) and/or the chief municipal transportation agency representative to participate in the pre-application meeting.

~~(c) Eligible applicants must submit an application to the county that includes an application fee set forth in the fee manual and the following:~~

- ~~(1) Name, address and phone number of owner(s), developer and agent;~~
- ~~(2) Property location, including parcel identification numbers;~~
- ~~(3) Legal description and survey of property;~~
- ~~(4) Project description, including type, intensity and amount of development;~~
- ~~(5) Proposed phasing schedule, if applicable;~~
- ~~(6) Description of requested proportionate fair share mitigation method;~~
- ~~(7) Copy of concurrency application;~~
- ~~(8) Copy of the project's Traffic Impact Statement (TIS); and,~~
- ~~(9) Location map depicting the site and affected road network.~~

(c) *Agreement.* Application procedures, requirements and review criteria for proportionate share agreements are contained in Lee County Administrative Code AC13-16. All AC13-16 requirements must be met in order for the County and applicant to enter into a proportionate share agreement. The agreement must be approved and executed by the Lee County Board of County Commissioners.

~~(d) The director or the designee will review the application and certify that the application is sufficient and complete within 20 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the Proportionate Fair Share Program as indicated in Section 2-69, then the county will notify the applicant in writing of the reasons for such deficiencies within 20 business days of submittal of the application. If the deficiencies are not remedied by the applicant within 20 business days of receipt of the written notification, then the application will be deemed abandoned. The director may, in his discretion, grant a one-time extension not to exceed 60 calendar days.~~

(d) *Shared Transportation Facilities.* Proposed proportionate share mitigation for development impacts to facilities on the state highway system or facilities maintained by another municipality require the agreement of the Florida Department of Transportation (FDOT) or the municipality. The applicant must submit a copy of the executed agreement(s) for inclusion in the proportionate share agreement. The county may enter into proportionate share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

~~(e) Pursuant to §163.3180(16) (e), F.S., proposed proportionate fair share mitigation for development impacts to facilities on the SIS requires the agreement of the Florida Department of Transportation (FDOT). If an SIS facility is proposed for proportionate share mitigation, the applicant must submit a copy of the executed agreement between the applicant and the FDOT for inclusion in the proportionate fair share agreement.~~

(e) *Payment of Proportionate Share.* Payment of the proportionate share mitigation is due in accordance with the terms of the finalized and executed proportionate share agreement. All payments are non-refundable.

~~(f) When an application is deemed sufficient, complete, and eligible, the county will advise the applicant in writing. The county attorney will prepare a proportionate fair share obligation and binding agreement. A draft agreement will be delivered to the appropriate parties for review, including a copy to the FDOT for proposed proportionate fair share mitigation on SIS facilities, no later than 60 calendar days from the date the applicant received the notification of a sufficient application and no fewer than 14 calendar days prior to the meeting when the agreement will be considered.~~

(f) *Dedications.* Dedication of necessary right-of-way for facility improvements pursuant to a proportionate share agreement must be completed prior to, or as part of final plat approval or issuance of the development order for infrastructure improvements for the project.

~~(g) The county will notify the applicant regarding the date the agreement will be considered for final approval by the Board. No proportionate fair share agreement will be effective until approved by the commission, or pursuant to staff approval for agreements below a certain dollar amount.~~

Sec. 2-721. - Determining proportionate fair-share obligation.

(a) Timing. Unless an application for Development Order is part of a Development of Regional Impact, significant impacts will be determined based on projected traffic at the end of an approved stage or phase. Proportionate fair-share mitigation for concurrency transportation impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities. The fair market value of the proportionate share mitigation for the impacted facilities will not differ regardless of the form of the mitigation.

~~(b) A development is not required to pay more than its proportionate fair share unless the road impact fee obligation under the adopted fee schedule exceeds the proportionate fair share mitigation of the project. The fair market value of the proportionate fair share mitigation for the impacted facilities will not differ regardless of the form of the mitigation.~~

(c) Calculation. The methodology formula that will be used to calculate an applicant's proportionate fair share obligation on each significantly impacted roadway is stated in § 163.3180 (12), F.S., as follows:

~~"The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS."~~

OR

Proportionate Fair-Share = σ [(Development Trips;_{sub \sub}) / (Service Volume Increase;_{sub \sub})] × Cost;_{sub \sub};

~~(Note: In the context of the formula, the term "cumulative" does not include a previously approved stage or phase of a development.)~~

Where:

Development Trips;_{sub \sub}; = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the concurrency management system;

SV Increase;_{sub \sub}; = Service volume increase provided by the eligible improvement to roadway segment "i" per section 2-69;

Cost;_{sub \sub}; = Adjusted cost of the improvement to segment "i". Cost includes all improvements and associated costs, such as design, right of way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

~~Commentary: Under the definition of "development trips," only those trips that trigger a concurrency deficiency would be included in the proportionate fair-share calculation.~~

(d-c) Cost Determination. For the purposes of determining proportionate fair-share obligations, the county will determine improvement costs based upon the actual maximum estimated cost of

the improvement as reflected in the ~~Capital Improvement Element CIE~~, the MPO/Transportation Improvement program Long Range Transportation Plan (LRTP), or the FDOT Work Program. Where this information is not available, improvement the cost of full capital improvement implementation identified in Section 2-71(b) will be determined at the discretion of ~~by the Lee County Department of Transportation Director~~ using one of the following methods:

(1) ~~An analysis of by the county or appropriate entity of costs by cross section type that incorporates data from recent projects and is updated annually and approved by the commission. In order to accommodate increases in construction material costs, project costs which will be adjusted by an inflation factor, if warranted; or~~

(2) FDOT Cost Per Mile Models for construction, as adjusted to include all costs of capital improvement implementation; or

~~The most recent issue of FDOT Transportation Costs, as adjusted based upon the type of cross section (urban or rural); locally available data from recent projects on acquisition, drainage and utility costs; and significant changes in the cost of materials due to unforeseeable events. Cost estimates for state road improvements not included in the adopted FDOT Work Program will be determined using this method in coordination with the FDOT District; or~~

(3) An engineer's certified cost estimate provided by the applicant and accepted by the Director of Lee County DOT.

(d) Impact fee obligation. A development is not required to pay more than its proportionate share unless the road impact fee obligation under the adopted fee schedule exceeds the proportionate share mitigation of the project.

Sec. 2-732. - Impact fee credit for proportionate fair-share mitigation.

(a) Credit. Proportionate fair-share mitigation will be applied as a credit against road impact fees assessed to the project ~~to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the county's impact fee ordinance.~~

(b) Road Impact Fee Credits. ~~Road~~ Impact fee credits for the proportionate fair-share contribution will be determined when the ~~transportation road~~ road impact fee obligation is calculated for the ~~proposed development project.~~ If the developer's proportionate fair-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of development under review, then the developer or its successor must pay the ~~remaining~~ impact fee amount to the county in accordance with the governing fee schedule at the time of permitting. If the developer's proportionate share obligation is greater than the development's anticipated road impact fee, the developer will enter into an agreement as outlined in Section 2-70, as amended. Developer initiated roadway capital improvements or right-of-way dedication consistent with LDC Article VI, Division 2 (Roads Impact Fee), may be included in proportionate share mitigation.

~~(c) The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. Road impact fee credit based upon proportionate fair share contributions for a proposed development cannot be transferred to another district unless the road improvement will provide relief in an adjacent district.~~

~~(d) Major projects, not included within the local government's impact fee ordinance that can demonstrate a significant benefit to the impacted transportation system, may be eligible for impact fee credit at the county's discretion consistent with the standards for Class 3 roadways set forth in section 2-275(a)(3).~~

Sec. 2-74. Proportionate fair-share agreements.

~~(a) Upon execution of a proportionate fair share agreement (agreement) the applicant will receive a county certificate of concurrency approval. If the applicant fails to apply for a development permit within three years of the execution of the agreement, then the agreement will be considered null and void, and the applicant must reapply for a concurrency certificate. Once paid, proportionate share payments and impact fees are not refundable.~~

~~(b) Payment of the proportionate fair share contribution is non refundable and due in full within 60 days of execution of the Agreement, or prior to the issuance of the first development order, whichever occurs first. If the payment is not made in the time frame stated above, then the proportionate share cost will be recalculated and a new agreement must be executed.~~

~~(c) Dedication of necessary right of way for facility improvements pursuant to a proportionate fair share agreement must be completed prior to issuance of the development order.~~

~~(d) Requested changes to a development project subsequent to a development order may be subject to additional proportionate fair share contributions to the extent the change would generate additional traffic that would require mitigation.~~

~~(e) Applicants may submit a letter to withdraw from the proportionate fair share agreement prior to the execution of the agreement. The application fee and any associated advertising costs to the county will be non refundable.~~

~~(f) The county may enter into proportionate fair share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.~~

Sec. 2-753. Appropriation of fair-share revenues.

~~(a) The county has the authority to will deposit appropriate proportionate fair-share revenues for transportation improvements at its discretion in the appropriate project account for funding of scheduled improvements in the County Capital Improvement Element CIE, or as otherwise established agreed upon in the terms of the proportionate fair-share agreement. At the discretion of the county, proportionate fair share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate fair-share revenues were derived. Proportionate fair share revenues may also be used as the 50 percent local match for funding under the FDOT TRIP.~~

~~(b) If a scheduled facility improvement is removed from the Capital Improvement Element CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of section 2-69.~~

~~(c) Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in Section 339.155, F.S., the county may coordinate with other impacted jurisdictions and agencies to apply proportionate fair share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP. The coordination must be ratified by the county through an interlocal agreement establishing a procedure for earmarking the developer contributions for the purpose of improving the impacted regional facility.~~

Sec. 2-764. - Cross jurisdictional impacts.

~~*Commentary:* This section provides a concept to advance intergovernmental coordination objectives in local government comprehensive plans and applicable policies in adopted regional plans. It provides an opportunity for a local government to address the impacts of a proposed development in an adjacent local government that is at or near its border. It is intended as a means of managing development on a regional thoroughfare, and not for application to minor roadways. A regional transportation facility in this context would most likely be an arterial roadway, but could be a major collector roadway that is planned for expansion and reclassification as an arterial. To apply this method, each participating local government must first enter an interlocal agreement to incorporate the provision into their respective land development regulations. The permitting local government would use the methodology in this section to determine whether a significant impact may occur across its border and offer its neighbor an opportunity to evaluate the proposed development to determine if it would exceed their adopted LOS standards for concurrency. Where the proposed development would trigger a concurrency failure on the neighboring local government's roadway, that local government would use the proportionate fair share methodology to determine the applicant's obligation. In this situation, the applicant would need to provide a proportionate fair share contribution to the adjacent local government that experiences a concurrency deficiency, as well as to the permitting local government.~~

~~(a) In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the county may enter an agreement with one or more adjacent local governments to address cross jurisdictional impacts of development on regional transportation facilities. The agreement must provide for application of the methodology in this section to address the cross jurisdictional transportation impacts of development. Application procedures, requirements and review criteria agreements for intergovernmental coordination agreements to address cross jurisdictional impacts are contained in Lee County Administrative Code AC13-16, as amended. All AC13-16 requirements must be complied with in order for an intergovernmental coordination agreement to be approved and executed by the Board of County Commissioners.~~

~~(b) A development application submitted to the county subject to a transportation concurrency determination meeting all of the following criteria will be subject to this section:~~

~~(1) All or part of the proposed development is located within five mile(s) of the area which is under the jurisdiction, for transportation concurrency, of an adjacent local government; and~~

~~(2) Using its own concurrency analysis procedures, the county concludes that the additional traffic from the proposed development would use [five percent or more of the adopted peak hour LOS maximum service volume] of a regional transportation facility~~

~~within the concurrency jurisdiction of the adjacent local government ("impacted regional facility"); and~~

~~(3) The impacted regional facility is projected to be operating below the level of service standard, adopted by the adjacent local government, when the traffic from the proposed development is included.~~

~~(c) Upon identification of an impacted regional facility pursuant to subsection (b)(1)–(3), the county will notify the applicant and the affected adjacent local government in writing of the opportunity to derive an additional proportionate fair share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.~~

~~(1) The adjacent local government has up to 90 days in which to notify the county of a proposed specific proportionate fair share obligation, and the intended use of the funds when received. The adjacent local government must provide reasonable justification that both the amount of the payment and its intended use comply with the requirements of Section 163.3180(16), F.S. If the adjacent local government declines proportionate fair share mitigation under this section, then the provisions of this section would not apply and the applicant would be subject only to the proportionate fair share requirements of the county.~~

~~(2) If the subject Application is subsequently approved by the county, the approval will include a condition that the applicant provides, prior to the issuance of building permits covered by that application, evidence that the proportionate fair share obligation to the adjacent local government has been satisfied. The county may require the adjacent local government to declare, in a resolution, ordinance, or equivalent document, its intent for the use of the concurrency funds to be paid by the applicant.~~

ARTICLE VI. IMPACT FEES

DIVISION 2. ROAD IMPACT FEE

Sec. 2-268. Benefit districts established.

(a) Benefit districts. There are hereby established ~~five~~ four roads impact fee benefit districts as shown in Appendix K - Map 1. Impact fees collected and impact fee credits issued prior to November 3, 2003 will be retained in the accounts for the previous eight districts shown in Appendix K - Map 2 and spent within the benefit district from which they were originally collected or issued to benefit.

(b) Subdistricts may be created by interlocal agreement. Incorporated municipalities constitute sub districts for the purpose of this division. All or a portion of a municipality may be within the established districts set forth in Appendix K-4. Municipal district boundaries will expand and contract as the municipality boundaries are amended in accordance with Florida law.

DIVISION 4. COMMUNITY PARKS IMPACT FEE

Sec. 2-351. - Refund of fees paid.

No change (a).

(b) Funds not expended or encumbered by the end of the calendar quarter immediately following 20 years from the date the community regional parks impact fee was paid will, upon application of the feepayer within 180 days of that date, be returned to the feepayer with interest at the rate of three percent per annum.

SECTION TWO: AMENDMENT TO LDC CHAPTER 6

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

Chapter 6 BUILDINGS AND BUILDING REGULATIONS ARTICLE II. CODES AND STANDARDS

DIVISION 3. BUILDING CODE

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

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

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

No change (a) through (g).

(h) A wireless alarm system as defined in Section 553.793, Florida Statutes, as in effect, including any ancillary components or equipment attached to the system.

SECTION THREE: AMENDMENT TO LDC CHAPTER 10

Lee County Land Development Code Chapter 10 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 10 DEVELOPMENT STANDARDS ARTICLE I. IN GENERAL

Sec. 10-1. Definitions.

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

Subdivision.

- (1) A subdivision is a type of development. The term "subdivision" means the following:
 - a. The division of a lot into ~~two~~ three or more parcels; or

No change b. and c.

**ARTICLE II. ADMINISTRATION
DIVISION 2. DEVELOPMENT ORDERS
SUBDIVISION II. PROCEDURES**

Sec. 10-104. Deviations and variances.

No change (a) through (h).

- (i) Variances or deviations in planned developments. For developments that have received zoning as a planned development, specific variances or deviations from the terms of these regulations are not required if the variances or deviations were approved as part of the schedule of deviations attendant to the master concept plan. Any requests for variances or deviations that were not included on the approved master concept plan must be processed in accordance with ~~this section~~ 34-380.

No change (j).

Sec. 10-154. Additional required submittals.

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

(2) *Title certification.* Certification of title for property subject to development order approval must meet the following criteria:

a. *Form.* The certification of title must be in one of the following forms:

i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.

~~ii. Ownership and encumbrance report, no greater than 30 days old at the time of the initial development order submittal.~~

~~iii-ii.~~ Title insurance policy with appropriate schedules, no greater than five years old at the time of the initial development order submittal and an affidavit of no change covering the period of time between issuance of the Policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate, or title opinion ~~or ownership and encumbrance report~~ must be submitted in the alternative.

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

(12) Reserved.

~~Hazardous materials emergency plan. Any applicant for a private port facility which did not receive approval of a hazardous materials emergency plan at the time of rezoning shall be required to submit a hazardous materials emergency plan, which shall be subject to the approval of the County Divisions of Emergency Management, Water Resources and Planning, and of the appropriate fire district. The plan shall also provide for annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan shall comply with the spill prevention control and countermeasure~~

~~plan (SPCC) as called for in the federal oil pollution prevention regulations, 40 CFR 112, as amended.~~

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS DIVISION 5. FIRE SAFETY

Sec. 10-383. Interpretation of division; conflicting provisions.

No change (a)-(c).

- (d) The Board of Adjustments and Appeals holds the jurisdiction to grant variances from the provisions of this division, except as otherwise provided herein. The procedure and criteria applicable to the variance proceedings is set forth in section 6-71 et. seq. The Development Services Director holds the jurisdiction to grant administrative deviations from water main installation per LDC Sec. 10-104(15) and 10-384(c)(6).

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

No change (a) and (b).

- (c) Water main installation. Water main installation will be provided in accordance with the following standards.

No change 1-5.

- (6) The applicant may submit a request for an administrative deviation in accordance with section 10-104(a)(~~13~~)(15) for alternatives to line sizing, dead-end and intersecting water main criteria if they embody sound engineering practices and are demonstrated by the applicant's professional engineer.

ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS DIVISION 6. OPEN SPACE, BUFFERING AND LANDSCAPING

Sec. 10-414. Submittal requirements.

- (a) Landscape plan required. Prior to the approval of a development order, an applicant whose development is covered by the requirements of this section must submit a landscape plan. The landscape plan must be prepared by and bear the seal of a landscape architect registered in the State of Florida. The plan must include the narrative and calculations to ensure that the proposed landscaping will be in compliance with requirements of this code. However, small ~~projects~~ developments may qualify for a hardship waiver if the cost of compliance with the landscape architect requirement is disproportionate to the cost of the entire ~~project~~ development. This waiver is subject to the sole discretion of the Director.

Sec. 10-415. Open space.

- (a) Open space calculations. All development must contain the minimum percentage of open space as outlined in the following table below:

OPEN SPACE REQUIREMENT		
Type of Development	Open Space as % of Development Area	
	<u>Small Projects Development</u>	<u>Large Projects Development</u>
Residential: Type of dwelling units as defined in chapter 34-2 located in conventional zoning districts with conventional zoning district lot coverage.		
Single-family residence or Mobile Home on a single lot with a minimum lot size of 6,500 sq. ft.	None	None
Duplex on a single lot with a minimum lot size of 7,500 sq. ft.	None	None
Two-family attached each on an individual lot with a minimum lot size of 3,750 sq. ft. per unit	None	None
All other residential	35%	40%
Industrial	10%	20%
Other: All other uses including, but not limited to commercial, places of worship, recreational vehicle parks, community facilities, schools (excluding Lee County School District), etc.	20%	30%
Note: multiple use sites with conventional zoning must comply with each corresponding use percentage in this table.		
Planned Development Zoning: Planned developments must provide open space as required in chapter 34 and per the approved master concept plan and resolution. Consistency with the master concept plan is in addition to the requirements of this provision, unless deviations have been granted.		
Compact Communities: Development constructed in accordance with chapter 32 of this Code will provide open spaces in accordance with the provisions of that chapter.		

(b) Indigenous native vegetation and trees.

(1) Preservation.

- a. Large developments, with existing indigenous native vegetation communities must provide 50 percent of their open space percentage requirement through the onsite preservation of existing native vegetation communities. Refer to section 10-701 for major indigenous plant communities of the County and section 10-1 for the definition of indigenous open space.
- b. If the development area does not contain existing indigenous native vegetation communities, but does contain existing indigenous native trees, then 50 percent of their open space percentage requirement must be met through the onsite preservation of existing native trees consistent with subsection 1 through 4 below. Refer to Appendix E and section 34-373(6)(g).

No change 1-3.

- ~~4. Effort must be made to preserve heritage trees with at least a 20-inch caliper dbh, including but not limited to live oak, South Florida slash pine, or longleaf pine. If a heritage tree must be removed from a site then a replacement tree with a minimum 20-foot height must be planted within an appropriate open space area.~~
- 5 4. Projects Developments greater than five acres in size that abut an arterial or collector road and have existing native trees within 50-feet of the right-of-way must be designed to provide a 50-foot right-of-way buffer for tree preservation. Drainage or utility easements located within or adjacent to the 50-foot right-of-way buffer area must be established in the location with the least amount of trees as determined by onsite inspection by Lee County. The preservation of the existing trees will not require a double hedge row to be installed as part of the right-of-way buffer. The preserve area may not be utilized for drainage or other similar uses that may adversely affect the existing native trees. To increase long-term survival of the existing trees to be retained, appropriate arboricultural techniques to reduce impacts to the existing trees must be used. Those techniques must include ways to reduce impacts to the trees' root systems and crowns during construction and must be clearly provided on the landscape plans of the development order. The native tree preservation right-of-way buffer may be used toward meeting the indigenous preservation requirement.

Applications submitted pursuant to this section encompassing difficult sites, such as irregularly shaped parcels or indigenous areas, may demonstrate that the intent of this section can be more effectively accomplished through an alternative right-of-way buffer design. Approval of an alternative design is at the discretion of the Director or designee.

No change c.

- (2) Salvaging existing native plants. Open space areas must be designed to incorporate as many of the existing large native trees and sabal palms as possible. ~~Irrigation water must be available on the development site and provisions for adequate irrigation provided.~~ Salvaged native plants relocated to an indigenous preserve must be provided with a temporary above ground irrigation system or other means of irrigation to ensure survivability.

- a. ~~Sabal palms. For projects greater than ten acres, healthy sabal palms with a minimum eight-foot clear trunk and maximum of 25-foot clear trunk must be salvaged if conditions (e.g., no rock) and sequence of construction allows. If sequence of construction does not allow the on-site relocation of sabal palms, then the sabal palms must be salvaged for an off-site recipient site or sale. The salvage efforts must be coordinated with the division of environmental sciences staff whether used on-site or otherwise. The number of sabal palms to be relocated or salvaged must be shown on the landscape plan approved as part of the development order. Any sabal palms being relocated must be moved in a horticulturally correct manner per Lee County Extension Services brochure Lee 8/2000A. A 90 percent survival for relocated sabal palms is required. Death of over ten percent of the relocated sabal palms will require a 1:1 replanting.~~
- b. ~~Other trees. Healthy native trees with a minimum caliper of four inches at four and one-half feet above the ground (dbh) may be relocated onsite for five tree credits~~

toward ~~code required landscaping~~ general tree requirements. The trees must be properly prepared for relocation through root pruning or other horticulturally correct methods, ~~approved by the Environmental Sciences Director.~~

No change (3).

- (4) Maintenance. A plan must be submitted for the long term maintenance of vegetation in indigenous open space areas. This indigenous vegetation management plan must include the following criteria:

No change a-e.

- f. ~~Written m~~Monitoring reports, including photos, that ~~narratively~~ document preserve area conditions must be submitted prior to obtain development order approval; and, again after project following construction completion in order to obtain but prior to issuance of a certificate of compliance (CC). The ~~CG~~ monitoring report submitted following construction completion must describe and document ecological restoration activity that has occurred in the preserve areas. If review of the monitoring reports reveals death or significant decline to preserve vegetation, then revision of the management plan and restoration in accord with section 10-423 will be required.

No change (5).

- (c) Minimum dimensions.

- (1) The minimum average width of open space areas must be ten feet.
- (2) The minimum area of open space must be 180 square feet.
- (3) For ~~projects~~ developments under less than ten acres in size, indigenous open space areas must have a minimum average width of 20 feet and minimum area of 400 square feet.

For ~~projects~~ developments over greater than ten acres in size, indigenous open space areas must have a minimum average width of 40 feet and minimum area of 1,500 square feet.

No change 4-6.

No change (d).

Sec. 10-416. Landscape standards.

- (a) General Trees. Landscaping for all new developments, except community and regional parks as defined in the Lee Plan, must include, at a minimum, the following number of trees, in addition to the landscaping required for parking and vehicle use areas and buffers. General tree requirements may be reduced through the utilization of larger trees as specified in section 10-420(c)(2) ~~or through use **of an alternative landscape betterment plan (see section 10-419)~~ or through the use of planted detention areas as specified in section 10-416(a)(5). Existing waterbodies within the development area will not be included in the calculation for general tree requirements.

- (1) ~~Single-family r~~ Residential developments including recreational vehicle developments that are constructed on individual (single) lots. One tree must be provided per 3,000 square feet of development area. The preferred location to install these trees is on

common property (clubhouse, lakes, dry detention or other similar property) prior to the issuance of a certificate of completion. Tree credits should be utilized per section 10-420(j) for indigenous preserves, where applicable following the guidelines set forth in LDC Sec. 10-414(c).

- (2) Single-family developments with a conventional zoning district lot and lot coverage with minimum lot sizes of 6,500 square feet or greater. Single-family developments with a conventional zoning district lot and lot coverage with minimum lot sizes of 6,500 square feet or greater will be required to provide a minimum of two trees per lot.
- ~~(3) All other residential developments. All other residential developments must provide one tree per 3,000 square feet of development area.~~
- ~~(4) Recreational vehicle developments. One tree must be provided per 3,000 square feet of development area.~~
- ~~(53) All other developments. One tree must be provided per each 3,500 square feet of development area.~~
- ~~(6) Compact communities. Development constructed in accordance with chapter 32 must provide street trees on both sides of all streets. Street trees located between a lot and a street may be counted towards the tree planting requirements of this section.~~
- (4) Heritage Trees. For large developments effort must be made to preserve native heritage trees with at least a 20 inch caliper dbh, Preserved Heritage Trees may be counted at a 5:1 credit ratio towards the general tree requirement. If a heritage tree must be removed from a site then a replacement native canopy tree with a minimum 20 foot height must be planted within an appropriate open space area. The replacement tree can only be counted at a 1:1 ratio towards meeting the general tree requirement.
- (5) For each 400 square feet of dry detention or drainage area planted with appropriate native herbaceous vegetation (minimum one-gallon container size planted three-foot on center) and mulched with pine straw, the general tree requirement may be reduced by one ten-foot tree.

No change (b).

- (c) Landscaping of parking and vehicle use areas. The provisions of this section apply to all new off-street parking or other vehicular use areas. Existing landscaping that does not comply with the provisions of this code 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 changed, or the structure has been vacant for a period of one year or more and a request for an occupational license to resume business is made. Consistent with the provisions of section 10-104, the Director may permit administrative deviations where a conflict exists between the application of this division and the requirements for the number of off-street parking spaces or area of off-street loading facilities.

No change (1).

- (2) Internal landscaping. All parking areas must be internally landscaped to provide visual relief and cooling effects and to channelize and define logical areas for pedestrian and vehicular circulation, as follows:
 - a. Trees must be planted or retained in landscaped areas in parking areas, including landscaped areas reserved for future parking spaces, to provide for canopy coverage when the trees mature. At least one canopy tree or a cluster of three sabal palms must be planted or retained for every 250 square feet of required internal planting area, and no parking space may be more than 200 feet from a tree planted in a permeable island, peninsula or median of ~~18-foot minimum width~~. Canopy requirements ~~may~~ must be met with existing indigenous native trees whenever such trees are located within the parking area.

Sec. 10-418. Surface water management systems.

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

No change (1) and (2).

- (3) Bulkheads, geo-textile tubes, riprap revetments or other similar hardened shoreline structures. Bulkheads, Geo-textile tubes, riprap revetments or other similar hardened shoreline structures may comprise up to 20 percent of an individual lake shoreline. These structures cannot be used adjacent to single-family residential uses. A compensatory littoral zone equal to the linear footage of the shoreline structure must be provided within the same lake meeting the following criteria:
 - a. A five-foot wide littoral shelf planted with herbaceous wetland plants ~~to provide 50 percent coverage at time of planting~~. To calculate the littorals for this shelf design indicate the number of linear feet of shoreline structure multiplied by five feet for the littoral shelf width divided by 2 to obtain the required plant quantity ~~multiplied by 50 percent for the plant coverage at time of planting; or~~
 - ~~b. An 8:1 slope littoral shelf with herbaceous wetland plants to provide 50 percent coverage at time of planting; or~~
 - e b. An equivalent littoral shelf design as approved by the Director.
- ~~(4) For each 400 square feet of dry detention area or drainage swale planted with appropriate native herbaceous vegetation (minimum one gallon container size planted three foot on center) the general tree requirement may be reduced by one ten-foot tree.~~
- (~~5~~ 4) Restoration of existing bank slopes that have eroded over time and no longer meet the minimum littoral design criteria applicable at the time the lakes were excavated will be in accordance with section 10-329(f).

Sec. 10-419. Alternate landscape betterment plan.

Projects that can not comply with the criteria of this division may demonstrate how the requirements can be more effectively accomplished through an alternate landscape betterment plan. Alternative, creative designs are encouraged for difficult sites for landscape design, including but not limited to ~~"in-fill" developments~~, existing developments, and irregularly shaped parcels. The approval of the alternate landscape betterment plan is at the Development

Services Director's discretion and may include conditions to ensure that the overall landscape design complies with the intent of this division.

The following conditions must be met:

- (1) The plan ~~may not deviate from~~ must provide the minimum open space requirements of section 10-415.

No change (2) – (6).

Sec. 10-420. Plant material standards.

No change (a) and (b)

- (c) Trees and palms.

- (1) Code-required trees must be a minimum of ten feet in height, have a two-inch caliper (at ~~42~~ 6 inches above the ground) and a four-foot spread at the time of installation. Palms must have a minimum of ten feet of clear trunk at planting. Trees having an average mature spread or crown less than 20 feet may be substituted by grouping the same so as to create the equivalent of a 20-foot crown spread. Trees adjacent to walkways, bike paths and rights-of-way must be maintained with eight feet of clear trunk.
- (2) Larger trees substituted to reduce the minimum number of general trees (palms excluded) must be no less than four inches in diameter at ~~42~~ 6 inches above the ground and no less than 16 feet in height at the time of planting. The general tree requirement cannot be reduced in number by more than 50 percent.

No change (d) and (e)

- (f) The height of all trees, palms, and shrubs located within the buffer areas must be measured from the ~~final~~ parking lot grade of the project site. All other plants are measured from the final grade in which they reside. Tree and shrub heights may not be less than the minimum requirements set forth in LDC10-420(c) and LDC10-420(d).
- (g) Mulch requirements. A two-inch minimum layer, after watering-in, of mulch or other recycled materials must be placed and maintained around all newly installed trees, shrubs, and groundcover plantings. Each tree must have a ring of mulch no less than 24 inches beyond its trunk in all directions. The use of cypress mulch is strongly discouraged. Sand, gravel, rock, or shell are not appropriate mulch materials.

No change (h) and (i)

- (j) Credits.

No change (1)

- (2) Each existing indigenous native tree preserved in place, which has a trunk diameter of four inches or greater measured at four and one-half feet above the ground (dbh) will receive a credit of five trees against the general ~~landscape tree~~ requirements. Native palms preserved in place that are eight feet or greater from ground level to base of fronds, will receive a credit of three trees. Existing sabal palms, identified on the

development order plans that are relocated onsite will be given a two tree credit. Credits for existing trees may not be used to reduce the required parking canopy trees in parking or vehicle use areas. Existing native trees in buffers may be used for credit provided they occur within the required 100-foot buffer segment.

Credits will apply only when the trees are labeled as protected-credit trees. If the protected-credit trees die within three years from the development order certificate of compliance, they must be replaced by the number of credit trees taken.

No change (3) and (4)

ARTICLE V. ILLUSTRATIONS, TABLES AND DIAGRAMS

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

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

	Concrete	Plastic Type	DI	Steel	Aluminum	HDPE
Lines in traveled way:						
Water	No	Yes (2)	Yes(2)	No	No	Yes (2)
Sewer force main	No	Yes (2)(4)	Yes(2) <u>No</u>	No	No	Yes (2)
Sewer gravity main	No	Yes (2)	No	No	No	No
Reuse main	No	Yes (2)	Yes (2)	No	No	Yes (2)
Stormwater drain	Yes	Yes (3)(5)	No	No	No	Yes (3)(5)
Utility conduit	Yes	Yes (2 1)	Yes	Yes	Yes	Yes (1)
Lines in right-of-way:						
Water	No	Yes(3)(9) <u>(2)</u>	Yes (2)	No	No	Yes (2)
Sewer force main	No	Yes (2)(4)	Yes (2) <u>No</u>	No	No	Yes (2)
Sewer gravity main	No	Yes (2)	No	No	No	No
Reuse main	No	Yes (2)	Yes (2)	No	No	Yes (2)
Stormwater drain	Yes	Yes (3)	No	Yes (1)(8) (4)	Yes (4)	Yes (3)
Utility conduit	Yes	Yes (1)	Yes	Yes	Yes	Yes (1)
Stormwater lines in drainage easement	Yes	No	No	Yes (4)	Yes (4)	No

- (1) Encased in concrete, if in banks more than one layer; otherwise, SDR 26, ASTM 2241 or DR 25 AWWA C 900, DR17 HDPE, or thicker.
- (2) In accordance with the LCU Design Manual requirements or all requirements, specifications, and design manual of the utility service area provider (including all casing pipe requirements), whichever is more stringent.
- (3) In compliance with the latest edition of the FDOT Standards for Road and Bridge Construction and related indexes, including, but not limited to, supplemental specifications, Standard Modifications and approved materials list.
- (4) Not on County-maintained roads.
- (5) Not on County-maintained Arterial or Collector roads.

SECTION FOUR: AMENDMENT TO LDC CHAPTER 12

Lee County Land Development Code Chapter 12 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 12 RESOURCE EXTRACTION ARTICLE II. MINING AND EXCAVATION

Sec. 12-118. Monitoring requirements; inspections.

No change (a) and (b).

- (c) *Monitoring reports.* Monitoring reports must be submitted in accord with this section unless the MEPD resolution conditions provide otherwise.
 - (1) *Water quality.* In addition to the requirements set forth in section 12-117, the operator of the mining operation together with the property owner must submit an annual report that provides:

No change a. and b.

- c. Signed and sealed bathymetric surveys covering the new areas excavated and providing the depth of the existing excavation as well as the ~~quality~~ quantity and type of materials excavated.

SECTION FIVE: AMENDMENT TO LDC CHAPTER 14

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

Chapter 14 ENVIRONMENTAL AND NATURAL RESOURCES ARTICLE I. IN GENERAL

Sec. 14-1. Planning community regulations.

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

- (a) ~~Estero Planning Community.~~
- (a) ~~(b)~~ Greater Pine Island.

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

ARTICLE IV. WETLANDS PROTECTION

Sec. 14-293. Permits required.

- (a) An Environmental Resource Permit (ERP) is required prior to any development that will impact wetlands. The ERP will be issued by either the Florida Department of Environmental Protection (FDEP) or South Florida Water Management District (SFWMD) in accordance with F.S. ch. 373 and F.A.C. Ch. 62.
- (b) The County will not independently review impacts to wetlands resulting from development.
- ~~(c) Prior to receipt of a copy of the appropriate state authorization relating to wetlands, the County may not issue building permits or development orders where development will cause impacts to existing wetlands on the subject property.~~

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

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

~~Sec. 14-295. Compliance enforcement.~~

- ~~(a) Lee County will enforce the provisions of any state authorization relating to wetlands, including ERP's, issued and incorporated into a local development order or building permit.~~
- ~~(b) The County will prosecute violations of state wetland regulations and ERP applicable conditions or requirements incorporated into local permits through the code enforcement process set forth in Chapter 2.~~

Secs. 14-293 ~~6~~—14-370. Reserved.

SECTION SIX: AMENDMENT TO LDC CHAPTER 22

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

**Chapter 22 HISTORIC PRESERVATION
ARTICLE II. ADMINISTRATION AND ENFORCEMENT
DIVISION 3. CERTIFICATE OF APPROPRIATENESS**

Sec. 22-102. - Regular certificate of appropriateness.

No change (a).

- (b) The historic preservation board staff will, within five working days from the date a complete application has been filed, approve, deny or approve with conditions an application for a regular certificate of appropriateness presented by the owner of a designated historic resource or a property within a designated historic district. The findings of the staff will be mailed to the applicant by regular mail, or when available, via electronic means, within two working days of the staff decision, accompanied by a statement explaining the decision. The applicant will have an opportunity to appeal the staff decision by applying for a special certificate of appropriateness within 30 calendar days of the date the decision is issued.

Sec. 22-103. Special certificate of appropriateness.

No change (a) and (b).

- (c) Public hearing. The historic preservation board shall hold a public hearing upon an application for a special certificate of appropriateness affecting designated historic resources or districts. Notice of the public hearing shall be given to the property owner(s) by certified regular mail, or when available, via electronic means, ~~return receipt requested~~, and to other interested parties by an advertisement in a newspaper of general circulation at least five calendar days but no sooner than 20 calendar days prior to the date of hearing. The written staff report will be available to the public and distributed to the applicant and the historic preservation board at least 7 days prior to the public hearing. The staff report is final once distributed to the historic preservation board. The applicant may request a meeting with staff to discuss the recommendation made in the staff report prior to the public hearing.

Sec. 22-106. Archaeological sites and districts.

No change (a) and (b).

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

No change (1) and (2).

- (3) The staff of the historic preservation board must, within 15 calendar days of receipt of a complete application for a certificate to dig, approve the application for a certificate to dig, or approve the certificate to dig subject to specified conditions, including but not limited to a delay not to exceed 60 days to allow any necessary site excavation or additional archaeological assessment prior to commencement of the proposed construction activity. Staff's decision must be based on the application and any other guidelines the historic preservation board may establish. If the approved certificate to dig requires archaeological excavation, the certificate must specify a period of time

during which excavation may occur, not to exceed 60 days unless the owner agrees to an extension. The owner must have an archaeologist conduct excavations as necessary during this period. The certificate to dig and any staff findings must be mailed by regular mail, or when available, via electronic means, to the applicant ~~by certified mail, return receipt requested,~~ within seven calendar days of its review and approval.

ARTICLE III. DESIGNATION OF HISTORIC DISTRICTS AND RESOURCES

DIVISION 3. PROCEDURE

Sec. 22-203. Required notices; action by historic preservation board.

The historic preservation board will hold timely public hearings on every petition for designation made pursuant to this chapter. References in this chapter to calendar days will include Saturdays, Sundays and legal holidays. References in this chapter to working days exclude Saturdays, Sundays and legal holidays.

- (1) Notice to owner. The historic preservation board shall notify the property owner(s) of its intent to consider a proposed designation at least 20 calendar days prior to the date of the public hearing. When designation is proposed by the owner pursuant to Section 22-201(1), notice will be sent to the applicant by regular mail, or when available, via electronic means. When designation is proposed by the preservation board or Board of County Commissioners pursuant to Section 22-201(2), ~~Notice shall will~~ be sent by certified mail, return receipt requested, to the record owners of the property as reflected by the current ad valorem tax roll. The designation report will be available to the public and distributed to the applicant and the historic preservation board at least 7 days prior to the public hearing. The designation report is final once distributed to the historic preservation board. The applicant may request a meeting with staff to discuss the designation report prior to the public hearing. ~~Prior to the hearing, the county staff shall furnish the owners with copies of the designation report and this chapter. County staff shall make a reasonable effort to contact the owners after mailing the notice of intent to designate, answer the owner's questions and address areas of concern prior to the public hearing.~~

SECTION SEVEN: AMENDMENT TO LDC CHAPTER 30

Lee County Land Development Code Chapter 30 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 30 SIGNS

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Sec. 30-56. Planning community regulations.

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

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

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

ARTICLE IV. RESTRICTIONS BASED ON LOCATION

DIVISION 2. ON-SITE SIGNS

Sec. 30-151. Temporary signs.

- (6) Real estate signs.
 - a. Temporary "for sale," "for rent" or "for lease" signs.

No change 1. (i, ii, iii).

- 2. Signs are to be located a minimum of 15 feet from the right-of-way line and a minimum of 15 feet from the side lines, ~~except where the building is in a commercial area the sign may extend to the sidewalk line.~~ No signs may be fastened to trees.

No change 3.

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

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.

No change (1) through (4)

- (5) Electronic changing message centers. Electronic 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 the county comprehensive plan as intensive development, industrial development, interchange areas or tradeport, or

No change 2. through 4.

- 5. In the North Fort Myers Planning Community (Commercial Corridors) pursuant to Sec. 33-1602.

SECTION EIGHT: AMENDMENT TO LDC CHAPTER 32

Lee County Land Development Code Chapter 32 is amended as follows with strike through identifying deleted text and underline identifying new text.

Chapter 32 COMPACT COMMUNITIES ARTICLE II. FORM-BASED CODE COMPONENTS AND GENERAL REQUIREMENTS DIVISION 3. LOT TYPES

Sec. 32-241. - Lot types allowable in each transect zone.

No change (a) through (e).

- (f) Additional lot types, unique to a particular Compact Community Planned Development may be requested and assigned to any transect under the following circumstances:

Subsections (1) through (3) remain unchanged.

- (4) Open space, integration of the separate portions of the development, and architectural features are consistent in the proposed lot types with the other lot types throughout the proposed Compact Community Planned Development, consistent with a Traditional Neighborhood Development design if development is to be located within the proposed lot types; and.
- (5) A schedule of uses specific to the proposed lot type ~~will be~~ is established from either section 32-244 and/or the list of uses identified for all planned developments under section 34-934.

Sec. 32-243. - Property development regulations.

TABLE 32-243 — PROPERTY DEVELOPMENT REGULATIONS FOR EACH LOT TYPE

Setbacks						
Street (min/max)				Side Yard (min)	Rear Yard ^{1, 2} (min)	Water Body ³ (min)
Core	Center	General	Edge			
0/ 10	0/ 10	not permitted 0/ 10	not permitted	0	0	25

Height ⁴ (min/max in stories; max in feet)					Accessory Apartments ⁵ (max bldg footprint in sf)
Core	Center ⁹	General	Civic	Edge	
2/6; 65'	2/4; 65'	not permitted 55'	not permitted	not permitted	not permitted

(a) **Property development regulations.** Each Compact Community Development must provide for and comply with its approved property development regulations.

(1) The Property development regulations provided under Table 32-243 do not apply to development approved under the Compact Community planned development rezoning process. The specific property development regulations for a development approved under the Compact Community planned development rezoning process must be approved by the Board during the rezoning public hearing process. The approved property development regulations must provide for the following:

- i. Lot area (minimum and maximum in square feet),
- ii. lot width (minimum and maximum),
- iii. frontage percentage (minimum and maximum),
- iv. lot coverage by all buildings (maximum),
- v. setbacks (minimum), including street, side yard, rear yard, and water body,
- vi. height (maximum subject to the maximum height permitted under the Lee Plan or Land Development Code),
- vii. maximum building footprint of accessory apartments (in square feet); and,
- viii. comply with the requirements of the Lee Plan, achieve the objectives of the planned development, and will not cause a detriment to the public health, safety and welfare.

(2) Property development regulations for all other Compact Communities must meet the requirements set forth in Table 32-243 or request a deviation meeting the requirements for approval of deviations under Chapter 34.

(3) The property development regulations approved during the planned development rezoning process or provide under Table 32-243 supersede contradictory requirements in this Code including the property development regulations for individual zoning districts in chapter 34.

(4) Unless approved through rezoning process or a deviation is approved, each Compact Community planned development must meet, in addition to the approved property development regulations, the requirements of subsections (c) through (o) below.

Dimensions for each lot type. ~~Table 32-243 provides property development regulations that apply to each designated lot type. These requirements supersede contradictory requirements in this Code including the property development regulations for individual zoning districts in chapter 34.~~

No change (b).

(c) **Frontage percentages.** Frontage percentage is the percentage of the width of a lot that is required to be occupied by the building's primary façade. ~~Table 32-243 provides minimum and maximum frontage percentages for each lot type.~~

- (1) Up to 50 percent of the width of the primary façade may be counted as meeting the frontage percentage requirement even though it may be set back up to ten feet further from the street than the primary façade's principal plane. See example in figure 32-243(a).
- (2) The location of the primary façade's principal plane is not changed by façade extensions such as bay windows, awnings, porches, balconies, stoops, colonnades, or arcades, or by upper stories that are closer to or further from the street.
- (3) The width of a porte cochere may be counted as part of the primary façade.

No change (d) through (o).

~~(p) Property Development Regulations unique to a particular Compact Community Planned Development may be requested and approved as part of the Compact Community Planned Development Application without the need for deviations.~~

ARTICLE V. COMPACT COMMUNITIES THROUGH PLANNED DEVELOPMENT REZONING

Sec. 32-502. - Application requirements.

No change (a) through (c).

(d) **Deviations.** Deviations may be requested from the Land Development Code. An applicant must clearly identify deviations requested from the specific standards of the Land Development Code. The Board of County Commissioners will decide whether to accept, modify, or reject each proposed deviation during the planned development rezoning process based on a determination as to the consistency of each deviation with this chapter, good planning practice for compact communities, and the deviation criteria in chapters 10 and 34. Potential deviations specific to compact communities include the following:

No change (1) thorough (3).

- (4) For lots types shown in article II, modified transect zone assignments (table 32-241), ~~modified property development regulations (table 32-243),~~ and/or modified use regulations (table 32-244). Additional uses within a lot type may be proposed for a Compact Community Planned Development under the following circumstances:
 - a. The uses included in section 32-244 do not adequately allow for the types of development proposed to be contained within the proposed Compact Community Planned Development;
 - b. A schedule of uses specific to each lot type is proposed with uses being from section 34-934; and,

- c. A justification of how the additional uses promote a mix of uses, enhance the planned development and are consistent with a Traditional Neighborhood Design.
- (5) Additional or changes to lot types, accompanied by allowable transect zone assignments (table 32-241), proposed property development regulations (table 32-243), and proposed use regulations (table 32-244) will be approved in accordance with section 32-241(f).
- (6) Unless otherwise approved through the planned development process, the property development regulations for each lot type must meet the requirements of table 32-243.

SECTION NINE: AMENDMENT TO LDC CHAPTER 33

Lee County Land Development Code Chapter 33 Planning Community Regulations, Article II Estero Planning Community is deleted in its entirety along with any figures and appendices associated therewith. Article II is hereinafter RESERVED as set forth below.

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

ARTICLE II. ~~ESTERO PLANNING COMMUNITY~~ RESERVED

ARTICLE V. LEHIGH ACRES PLANNING COMMUNITY DIVISION 3. SPECIFIC USE STANDARDS

Sec. 33-1431. Model homes.

No change (a) and (b).

(c) The following regulations will apply to redevelopment of former model homes:

ARTICLE VIII. NORTH FORT MYERS PLANNING COMMUNITY DIVISION 3. COMMERCIAL CORRIDOR LAND DEVELOPMENT PROVISIONS SUBDIVISION VI. COMMERCIAL CORRIDOR USE REGULATIONS

Sec. 33-1596. Use regulations.

The following use regulations apply to property located within the commercial corridor as defined in 33-1537:***

USE DESCRIPTION	SPECIAL NOTES OR REGULATIONS	COMMERCIAL CORRIDOR
Social services (34-622(c)(46)):	-	-
Group I	-	P
Group II	-	<u>P</u>
Group III	-	<u>Planned Development</u>
Group IV	-	<u>Planned Development</u>

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

*** All planned developments approved prior to adoption of this provision will retain the uses approved.

SUBDIVISION VII. SIGNS

Sec. 33-1602. Electronic Changing Message Centers.

Electronic changing message centers, as defined in Sec. 30-2, are permitted per Sec. 30-153(5) and are also permitted in the North Fort Myers Planning Community as follows:

- (1) Non-commercial uses only;
- (2) Maximum one electronic changing message center per property;
- (3) Predominantly commercial areas on Commercial Corridors within North Fort Myers Planning Community per LDC Sec.33-1537 only;
- (4) Electronic changing message centers must otherwise be in compliance with LDC Chapter 30 including landscaping requirements;
- (5) Electronic changing message centers are limited to a maximum of 72 square feet for properties with 100 to 300 linear feet of road frontage or 96 square feet for properties with over 300 linear feet of road frontage;
- (6) Electronic changing message centers are limited to 20 feet in height.

ARTICLE XII. SAN CARLOS ISLAND REDEVELOPMENT OVERLAY DISTRICT

Sec. 33-1742. 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 Appendix I. The District is comprised of the following four sub-districts:
 - (1) San Carlos Island Commercial Corridor (SCC) Sub-district,
 - (2) San Carlos Island Commercial Corridor Expansion (SCCE) Sub-district,
 - (3) San Carlos Island Fisherman's Wharf (SCF) Sub-district, and
 - (4) San Carlos Island Waterfront (SCW) Sub-district.
- (b) Optional nature of these regulations. Individual landowners may choose to follow all existing Lee 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 the 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, below, and requisite approvals are obtained.
- (d) Authority. This district is consistent with and helps to implement the adopted component redevelopment plan for San Carlos Island. This redevelopment overlay district complies with all requirements for such districts found in sections 34-1080 through 34-1090.

Sec. 33-1743. Elements of the redevelopment overlay district.

This district includes two distinct elements. The first is the master site plan that modifies specified land development regulations, and authorizes changes in the uses or type of approval required for a use in the four sub-districts, as set forth in section 33-1744. The second element is a set of design guidelines adopted by administrative code that includes recommendations regarding landscape materials, commercial storefronts, signage and preferred colors. The design guidelines enable private landowners to construct new buildings, or to rehabilitate existing buildings and other facilities, consistent with the specified guidelines, and also encourage proper maintenance. Combined, the two elements help to facilitate the redevelopment of the district in a manner consistent with the San Carlos Island component plan.

Sec. 33-1744. 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. All other Lee County Land Development Regulations remain in full effect. A reduced copy of the San Carlos Island MSP is adopted by reference and included in reduced form in Appendix I. In general, the SCC and SCF Sub-districts retain the uses allowed in the underlying zoning districts. The SCW and SCCE Sub-districts alter the uses from those of the underlying zoning district to allow those uses set forth in Table 1, below. In addition, the type of approval required for certain uses has been modified, as also set forth in Table 1.

- (a) Planning criteria and conditions for the SCCE Sub-district. No use set forth in Table 1 for the SCCE Sub-district 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 Sub-district or abutting lands previously approved for development in the SCCE Sub-district 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 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 Sub-districts are those in effect for the underlying zoning district(s) at the time a legally sufficient development request is submitted.
- (2) Regardless of the uses allowed in an existing underlying zoning district(s), the only uses allowed in the SCW and SCCE Sub-districts are those set forth in Table 1 at the time a development request is deemed legally sufficient. Land uses that are not expressly included in Table 1 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 letter "SE" means 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 SUB-DISTRICTS

<u>Land Uses</u>	<u>Special Notes or Regulations</u>	<u>SCCE</u>	<u>SCW</u>
<u>Accessory Apartment</u>	<u>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>Land Uses</u>	<u>Special Notes or Regulations</u>	<u>SCCE</u>	<u>SCW</u>
<u>Bait and tackle shop</u>		<u>SE</u> <u>Note I</u>	<u>P</u> <u>Note</u> <u>B</u>
<u>Banks and financial establishment, Group I (34-622(c)(3))</u>		<u>SE</u> <u>Note I</u>	
<u>Bar or cocktail lounge</u>	<u>34-1261 et seq.</u>	<u>SE</u> <u>Note I</u>	<u>SE</u> <u>Note</u> <u>B</u>
<u>Bed and breakfast establishments</u>		<u>SE</u> <u>Note I</u>	-
<u>Boats:</u> <u>Boat parts store</u> <u>Boat rental</u> <u>Boat repair and service</u> <u>Boat sales</u> <u>Boat storage (all heights)</u>	<u>34-1352</u>	<u>SE*</u> <u>SE*</u> <u>SE*</u> <u>SE*</u> - <u>*Note</u> <u>I</u>	- <u>P</u> <u>P</u> - <u>P</u>
<u>Boatyard</u>	<u>Note H</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</u> <u>Note I</u>	<u>P</u>
<u>Commercial use of beachfront sea-ward of the water body setback line</u>		-	<u>P</u>
<u>Consumption on premises</u>	<u>34-1261 et seq.</u>	<u>SE</u> <u>Note I</u>	<u>SE</u> <u>Note</u> <u>B</u>
<u>Cultural facilities, excluding animal or reptile exhibits and zoos</u>		<u>SE</u> <u>Note I</u>	-
<u>Docking or mooring facilities</u>		-	<u>P</u>
<u>Drive-through facility for any permitted use</u>		<u>SE</u> <u>Note I</u>	-
<u>Dwelling unit, Multiple-family units</u>	<u>Note A</u>	<u>SE</u> <u>Note I</u>	-
<u>Entrance gates and gatehouses</u>		<u>SE</u> <u>Note I</u>	<u>P</u>
<u>Essential services</u>	<u>34-1611 et seq.</u>	<u>P</u>	<u>P</u>

<u>Land Uses</u>	<u>Special Notes or Regulations</u>	<u>SCCE</u>	<u>SCW</u>
<u>Essential service facilities (34- 622(c)(13)):</u> • <u>Group I</u> • <u>Group II</u>	<u>34-1611 et seq.</u>	<u>P</u> <u>SE</u>	<u>P</u> <u>SE</u>
<u>Excavation, Water Retention</u>	<u>34-1651(b)</u>	<u>P</u>	<u>P</u>
<u>Fish house, wholesale, retail</u>		<u>SE</u> <u>Note I</u>	<u>P</u>
<u>Food and beverage service, limited</u>		<u>SE</u>	<u>P</u> <u>Note</u> <u>B</u>
<u>Freight and cargo handling establishments (34-622(c)(17))</u>	<u>Note A</u>	<u>-</u>	<u>P</u>
<u>Gift and souvenir shop</u>		<u>SE</u> <u>Note I</u>	<u>-</u>
<u>Home Occupation</u>		<u>P</u>	<u>-</u>
<u>Hobby, toy, game shops (34-622(c)(21))</u>		<u>SE</u> <u>Note I</u>	<u>-</u>
<u>Hotel/motel</u>		<u>SE</u> <u>Note</u>	<u>-</u>
<u>Laundromat, Laundry or dry cleaning, Group I (34-622(c)(24))</u>	<u>Note B</u>	<u>SE</u> <u>Note I</u>	
<u>Marina</u>	<u>34-1862</u> <u>Note G</u> <u>Note H</u>	<u>-</u>	<u>P</u>
<u>Offices, marine-oriented government</u>	<u>Note C</u>	<u>SE</u> <u>Note I</u>	<u>P</u>
<u>Package store</u>	<u>34-1261 et seq.</u>	<u>SE</u> <u>Note I</u>	<u>-</u>
<u>Parks (34-622(c)(32)), public or private,</u> <u>Group I</u> <u>Groups II (limited to boat ramps & nature</u> <u>trails)</u>		<u>P</u> <u>SE</u>	<u>P</u> <u>P</u>
<u>Parking lot:</u> <u>Accessory</u> <u>Commercial</u> <u>Temporary</u>		<u>P</u> <u>SE</u> <u>SE</u>	<u>P</u> <u>-</u> <u>P</u>
<u>Personal services (34-622(c)(33)), Groups I and II</u>		<u>SE</u> <u>Note I</u>	<u>-</u>
<u>Recreation, personal (34-622(c)(38))</u>		<u>P</u>	<u>P</u>

<u>Land Uses</u>	<u>Special Notes or Regulations</u>	<u>SCCE</u>	<u>SCW</u>
<u>Rental or leasing establishments, Group I (34-622(c)(39))</u>	<u>34-1352, 34-3001 et seq.</u>	<u>SE Note I</u>	<u>-</u>
<u>Residential accessory uses (34-622(c)(42))</u>		<u>P</u>	<u>-</u>
<u>Restaurants (34-622(c)(43)):</u> • <u>Group(s) I, II</u> • <u>With Outdoor Seating</u>		<u>SE*</u> <u>SE*</u> <u>*Note</u> <u>I</u>	<u>P</u> <u>P</u>
<u>Schools, commercial (34-622(c)(45))</u>	<u>34-2381 Note D</u>	<u>SE Note I</u>	<u>P</u>
<u>Signs in accordance with chapter 30</u>	<u>Note F</u>	<u>P</u>	<u>P</u>
<u>Specialty retail shop, Group(s) I, II, III (34-622(c)(47))</u>		<u>SE Note J</u>	<u>-</u>
<u>Temporary uses</u>	<u>34-3041 et seq.</u>	<u>SE</u>	<u>P</u>
<u>Transportation Services, Group I (34-622(c)(53))</u>		<u>-</u>	<u>P Note J</u>
<u>Vehicle and equipment dealers, Group III (34-622(c)(55)):</u>	<u>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 ~~34-1142(e)(7)~~. 33-1743(e)(6) "Signs"

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 sub-districts.

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

Boat slips: Two spaces per five slips.

Dry storage: One 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 sub-districts 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 Sub-districts 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 Sub-districts 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 district(s) 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 district(s) 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 non-compliance resulted from a governmental road right-of-way acquisition program.
 - 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 district(s) 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 district(s) in which the property is located must comply with all open space, landscaping, and buffering requirements in effect at the time the 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 district(s) in which the property is located where the non-compliance 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.

Open space. The percentage of open space required by the underlying zoning district(s) 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 Florida 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 district(s) 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 district(s), 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 Sub-districts 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 Sub-districts are exempt from providing designated off-street loading zones as required by division 25, section 34-1981, et seq.
- (6) Signs.
 - a. All signs within the SCC and SCF Sub-districts 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
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 Sub-districts. 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 Sub-districts and certain properties in the SCC and SCF Sub-Districts. Modified land development regulations for the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts which do not abut or front upon San Carlos Boulevard are set forth in Table 2, below. Off-street parking for these areas is addressed in sub-section (g) below. 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 district(s) and development request will continue to have their same force and effect.

TABLE 2
PROPERTY DEVELOPMENT REGULATIONS
FOR SCW, SC CE, AND PORTIONS OF SCC AND SCCF SUB-DISTRICTS*

	<u>Special Notes or Regulations</u>	<u>*As limited in 33-1744 (f), above</u>
<u>Minimum Lot Area and Dimensions</u>		
<u>Minimum Lot Size:</u>	<u>34-2221,</u>	<u>10,000 sq. ft.</u>
<u>Lot Width</u>	<u>34-2222,</u>	<u>50 ft.</u>
<u>Lot Depth</u>	<u>34-2142</u>	<u>100 ft.</u>
<u>Minimum Building Setbacks:</u>		
<u>Street (from edge of Rt-of-way)</u>	<u>34-2191</u>	<u>25 ft.</u>
<u>Side Yard</u>	<u>34-2192</u>	<u>20 ft.</u>
<u>Rear Yard</u>	<u>34-1174</u>	<u>20 ft.</u>
<u>Water Body</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>• Water Body</u>	<u>Notes B & C</u>	<u>25 ft.</u>
<u>Maximum Height</u>	<u>34-2171 et seq.</u> <u>Note D</u>	<u>35 ft. or 3 habitable stories,</u> <u>whichever is less</u>
<u>Maximum Lot Coverage</u>		<u>60%</u>
<u>Notes: All notes referencing LDC sections must be complied with and met, plus the following as applicable:</u>		
<u>A. The 0 feet setback applies only to attached commercial buildings</u>		
<u>B. Limited to docks, non-roofed boardwalks, and decks with public access.</u>		
<u>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.</u>		
<u>D. For boat storage facilities-dry located within an existing IM, IL and CM zoning district(s) located in the SCW Sub-district, the set back requirements of section 34-2174 are modified to only require the setbacks for heights greater than 55 feet above mean sea level.</u>		

(g) Off-street parking for the SCW and SCCE Sub-districts and certain properties in the SCC and SCF Sub-Districts. It is an important element of this District is to allow alternative parking patterns such as shared parking lots for the SCW and SCCE Sub-districts and those properties in the SCC and SCF Sub-districts 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 Sub-districts and those properties in the SCC and SCF Sub-districts 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 use(s) they serve, such parking may be used to meet up to 50 percent of the overall parking requirement.

SECTION TEN: AMENDMENT TO LDC CHAPTER 34

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

ARTICLE I. IN GENERAL

Sec. 34-2. Definitions.

Agritourism activity means any agricultural related activity on land classified as agricultural under F.S. § 193.461 that is consistent with and accessory to a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions. An agritourism activity does not include the construction of new or additional structures or facilities intended primarily to house, shelter, transport, or otherwise accommodate members of the general public. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Storage means the safekeeping of goods, wares, products or other commodities in an area for more than 48 hours for later use or disposal. The term "storage" includes the keeping of boats, cars, recreational vehicles, etc., for others, whether or not compensation is made to the property owner. The term does not include animals, nor does it apply to the outdoor display of products for sale ~~by~~ such as boats, mobile homes, construction equipment ~~or vehicles dealers, or~~ landscaping materials, or customary and usual activities accessory to agricultural or residential uses ~~dwelling~~s.

Sec. 34-6. Compliance with specific planning community requirements.

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

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

**ARTICLE II. ADMINISTRATION
DIVISION 4. HEARING EXAMINER**

Sec. 34-145 Functions and Authority (Hearing Examiner)

No change (a) through (e).

- ~~(f) Equitable jurisdiction. The Hearing Examiner does not have the authority to render decisions based on the law of equity in proceedings under this section.~~
- ~~(g)~~ (f) The Hearing Examiner is limited to the authority granted within County regulations. The Hearing Examiner may consider state, federal, or common law in the application of the County regulations.

**ARTICLE II. ADMINISTRATION
DIVISION 6. APPLICATIONS AND PROCEDURES FOR CHANGES, PERMITS,
INTERPRETATIONS AND APPROVALS**

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

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

No change (1) and (2).

(3) Certification of title and encumbrances. Certification of title and encumbrances submitted for property subject to zoning approval must meet the following criteria:

a. Form. The certification of title must be in one of the following forms:

i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company.

~~ii. Ownership and encumbrance report, no greater than 30 days old at the time of the initial development order submittal.~~

~~iii-ii.~~ Title Insurance Policy with appropriate schedules, no greater than five years old at the time of the initial ~~development order~~ zoning case submittal and an affidavit of no change covering the period of time between issuance of the policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate, or title opinion ~~or ownership and encumbrance report~~ must be submitted in the alternative.

(b) Additional submittal requirements for owner-initiated applications. In addition to the submittal requirements set forth in (a), every application initiated by a property owner involving a change in the zoning district boundaries, or a request for special exception, deviation or variance, applicable to the property owner's land must include the following:

No change (1), (2) and (3).

(4) Reserved.

~~Hazardous materials emergency plan for port facilities. Any applicant seeking a rezoning for a private port facility must submit a hazardous materials emergency plan, which will be subject to the approval of the County Divisions of Emergency Management, Water Resources and Planning, and of the appropriate fire district. The plan must provide for annual monitoring for capacity and effectiveness of implementation. At the minimum, the plan must comply with the spill prevention control and countermeasure plan (SPCC) called for in the Federal Oil Pollution Prevention Regulations, 40 CFR 112, as amended.~~

(5) *Bonus density.* When applicable, the number of bonus density units requested, ~~the source of the bonus density units (TDR's, housing density bonus, etc.), and the resulting gross residential density of the proposal, and documentation substantiating compliance with each of the review criteria set forth in section 2-146. A copy of the bonus density application must also be included as an attachment to the zoning application.~~

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

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

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

If the subject property includes a portion of property within one STRAP, than in addition to the STRAP number, a metes and bounds legal description must also be submitted as follows:

...

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

Sec. 34-210. Temporary use permits.

No change (a), (b) and (c).

- (d) Additional required information. In addition to the application information, the applicant shall submit satisfactory evidence of the following:

No change (1) – (5).

- (6) Evidence shall be submitted that, where applicable, the applicant for a proposed use has complied with Ordinance No. 94-26– 14-15 of the County, pertaining to special events.

**ARTICLE VI. DISTRICT REGULATIONS
DIVISION 1. GENERALLY**

Sec. 34-622. Use activity groups.

No change (a) and (b)

- (c) Use activity groups are as follows:

No change (1) through (37)

- (38) Recreation facilities, commercial. Recreational facilities, not specifically regulated elsewhere in this Code, operated as a business and open to the public for a fee. This does not include facilities owned or operated by a government unit.

GROUP I	
	Coin-operated amusement establishments that primarily provide coin-operated amusement devices; coin-operated includes coins, tokens or other similar devices
	<u>This neither authorizes nor permits any use or activity in violation of the provisions found in Florida Statutes Chapter 849, Gambling.</u>
GROUP IV. Indoor facilities.	
	<u>Indoor Gun Range</u>

Sec. 34-625. Outdoor lighting standards.

No change (a) through (c).

- (d) *Standards and criteria.* In addition to the standards and criteria for outdoor lighting established in this subsection, there are standards for sea turtle lighting in chapter 14, article I, division 2 of this Code and further technical standards are specified in a related County Administrative Code. When specific standards are not addressed in these sources, the standards contained in the Illuminating Engineering Society of North America (IESNA) Handbook, (latest edition) will apply.

No change (1) through (3).

- (4) *Luminaire mount standards.* the following standards apply to luminaire mountings.

No change a. and b.

- c. *Canopy lighting.* Light fixtures mounted on the underside of a canopy must be recessed or shielded full cutoff type so that the light is restrained to 85 degrees or less from the vertical. As an alternative (or supplement) to the canopy ceiling lights, indirect lighting may be used where the light is beamed upward and then reflected down from the underside of the canopy. When this method is used, light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy. ~~No part of the canopy may be back-lighted.~~ Exposed lights may not be mounted on the top or sides (fascias) of the canopy. The sides (fascias) of the canopy may not be illuminated in any manner as long as the illumination is consistent with the county restrictions on off-site light spillage which must be analyzed in the photometry plan.

**ARTICLE VI. DISTRICT REGULATIONS
DIVISION 3. RESIDENTIAL DISTRICTS
SUBDIVISION II. ONE- AND TWO-FAMILY RESIDENTIAL DISTRICTS**

Sec. 34-691. Purpose and intent.

- (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 Sec. 33-1626.

SUBDIVISION III. MULTIPLE-FAMILY DISTRICTS

Sec. 34-715. Property development regulations table.

Property development regulations for multiple-family districts are as follows:

TABLE 34-715. PROPERTY DEVELOPMENT REGULATIONS FOR
MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

		Special Notes or Regulations	RM-2	RM-3	RM-6	RM-8	RM-10
	Minimum lot area and dimensions:	34-1493, 34-1494, 34-2221, 34-2222, 34-2142					
	Single-family detached:	Note (7)					
	Minimum lot size (square feet)		6,500 (1)	14,500	7,500	6,500	6,500
	Lot area per unit (square feet)		6,500 (1)	14,500	7,500	6,500	6,500
	Lot width (feet)		65	75	75	65	65
	Lot depth (feet)		100	100	100	75	75
	Duplex, two-family, townhouse:	Note (7)					
	Minimum lot size (square feet)	34-713	7,500 (2)	29,000	14,000	10,000	10,000
	Lot area per unit (square feet)		3,750	14,500	7,000	5,000	5,000
	Lot width per unit (feet)		37.5	50	50	40	40
	Lot depth (feet)		100	100	100	100	100
	Multiple-family:	Note (7)					
	Minimum lot size (square feet)		10,000	43,500	20,500 (3)	15,000	12,000
	Lot area per unit (square feet)		3,000	14,500	6,500 (3)	5,000	4,000
	Lot width (feet)		100	100	100	100	100
	Lot depth (feet)		100	120	120	120	120
	Nonresidential uses:						
	Lot area (square feet)		10,000	20,000	10,000	10,000	10,000
	Lot width (feet)		75	100	75	100	100
	Lot depth (feet)		100	100	100	100	100

Notes:

No change Note (1) and (2).

~~(3) 14,000 square feet for the first two dwelling units plus 6,500 square feet for each additional dwelling unit in the same building.~~ Reserved.

No change Note (4) through (7).

**ARTICLE VI. DISTRICT REGULATIONS
DIVISION 5. COMMUNITY FACILITIES DISTRICTS**

Sec. 34-813. Use regulations table.

Use regulations for the community facilities districts are as follows:

TABLE 34-813. USE REGULATIONS FOR COMMUNITY FACILITIES DISTRICTS

	Special Notes or Regulations	CF
<u>Aircraft landing facilities, private:</u> <u>Lawfully existing</u>		
<u>Expansion of aircraft landing strip;</u> <u>or helistop or heliport landing pad</u> <u>New Accessory Buildings</u>	<u>34-1231 et seq.</u> <u>34-1231 et seq.</u>	<u>SE/EO</u> <u>P</u>
<u>New: Helistop</u>	<u>34-1231 et seq.</u>	<u>SE</u>
<u>Maintenance facility (government)</u>		<u>P</u>

DIVISION 6. COMMERCIAL DISTRICTS

Sec. 34-844. Use regulations table.

Use regulations for conventional commercial districts are as follows:

TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C- 1A	C-1	C-2	C-2A	CN- 1	CN- 2	CN- 3 (21, 23)	CC	CG	CS- 1	CS- 2	CH	CT	CR	CI	CP
Recreation, facilities:																	
Commercial (34- 622(c)(38))																	
Group I		P	P	P	P	—	—	P	P	P	—	—	—	P	—	—	—
Group III	Note(20)	—	P/SE	P/SE	P/SE	—	—	—	—	—	—	—	—	P/SE	—	—	—
Group IV	Note(20)	<u>P</u>	—	—	—	—	—	—	P/SE	P/SE	—	—	—	P/SE	—	—	—

DIVISION 8. INDUSTRIAL DISTRICTS**Sec. 34-903. Use regulations table.**

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

	Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)
Food and kindred products (34- 622(c)(15)):				
Group I	Note (9)	—	P	P
Group II	Note (9)	SE <u>P</u>	P	P
Group III	Note (9)	P	P	—

DIVISION 9. PLANNED DEVELOPMENT DISTRICTS**Sec. 34-933. - Permitted uses.**

Except in the MEPD ~~and~~ PRFPD, ~~and Compact PD~~ 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. ~~In the Compact PD district, allowable uses of individual lots are set forth in chapter 32, article II.~~

Sec. 34-934. Use regulations table.

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

			Special Notes or Regulations	RPD	MHPD	RVPD	Compact PD	CFPD	CPD	IPD Note (37)	AOPD	MPD	MEPD
Accessory uses and structures			Note (1), 34-1171 et seq., 34-2441 et seq., 34-1863, 34-2141 et seq., 34-3106	P	P	P	—	P	P	P	P	P	—
Accessory apartment			Note (2), (21), & (28), 34-1177	P	—	—	—	—	—	—	—	P	—

Notes:

No change Note (1) through (20).

(21) In RPDs, ~~MHPDs~~, and residential areas of MPDs, a special exception is may be required.

DIVISION 10. SPECIAL PURPOSE DISTRICTS SUBDIVISION III. AIRPORT COMPATIBILITY DISTRICT

Sec. 34-1001. Applicability.

The provisions set forth in Sections 34-1001 through 34-1013 of this subdivision are only applicable to lands encompassing and surrounding facilities operated by the Lee County Port Authority including the Southwest Florida International Airport (SWFIA), and the Page Field General Aviation Airport, comprising the related height and land use protections necessary to the viability of the airports. These provisions are applicable only in the unincorporated portions of Lee County unless an interlocal agreement providing otherwise is in effect.

Sec. 34-1004 Airport Noise Zones

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

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

~~(1) Airport Noise Zone A.~~

~~a. Location. Airport Noise Zone A is the land within the SWFIA boundary as identified in Appendix C.~~

~~b. Restrictions. Airport Noise Zone A is restricted to uses that are compatible with airports and air commerce, including but not limited to those necessary to provide services and convenience goods principally to airline passengers, and those uses generally associated with the airport operations, including aircraft and aircraft parts manufacturers, air freight terminals, aviation and airline schools, aircraft repair shops, aerial survey offices, aircraft sales, equipment and parts storage, aviation research and testing laboratories, airline catering services, governmental facilities and, other compatible non aviation uses such as light industrial/warehouses, offices, hotels, and gas stations.~~

~~(2) Airport Noise Zone B.~~

~~a. Location. Airport Noise Zone B consists of that area of land located between Airport Noise Zone A and the 2020 Composite 60 DNL contour line as determined in the adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.~~

~~b. Restrictions. This zone allows any use permitted by this chapter, provided that no residential living units, places of worship, libraries, schools, hospitals, correctional institutions or nursing homes are permitted. However, residential units, including mobile homes that are lawfully existing as of June 27, 2000 will be treated as legally permitted uses and not as nonconforming uses. Lawfully existing mobile or manufactured homes may be replaced with new mobile or~~

~~manufactured homes or conventional single family construction and existing conventional single family homes may be replaced with new conventional homes so long as such replacement would be otherwise allowed by this Code. However, an existing conventional home may not be replaced with a new mobile or manufactured home. One conventional single family home is permitted on each lot in a plat properly recorded before June 27, 2000 if such use would have been permitted on the lot prior to June 27, 2000. This zone requires formal notification in accord with section 34-1004.~~

~~(3) Airport Noise Zone C.~~

~~a. Location. Airport Noise Zone C consists of that area of land located between the Airport Noise Zone B and the 2020 Composite 55 DNL contour line as determined in the adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.~~

~~b. Restrictions. This zone allows any use permitted by this chapter. This zone requires formal notification in accord with section 34-1004.~~

~~(4) Airport Noise Zone D.~~

~~a. Location. Airport Noise Zone D consists of that area of land located southeast of Airport Noise Zone C and represented the area designated for Flight Training associated with the planned south parallel runway. This zone comprises the area within a half mile of the expected centerline of the training pattern depicted in the adopted FAR Part 150 Study for SWFIA (2006) and identified in Appendix C.~~

~~b. Restrictions. This zone allows any use permitted by this chapter. This zone requires formal notification in accord with section 34-1004.~~

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

(a) Purpose. The purpose of this section is to identify areas subject to varying levels of aircraft-related noise associated with the normal operation of SWFIA. This section establishes noise zones applicable in the vicinity of SWFIA, and the corresponding permitted land uses within the noise zones. This section also sets forth provisions for notification that property within an Airport Noise Zone may be subject to aircraft-related noise.

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

airport noise zones that is designed, arranged or intended to be used or occupied for any purpose unless consistent with the following:

(1) Airport Noise Zone A/Airport Property.

- a. Location. Airport Noise Zone A/Airport Property is the land as identified in Appendix C.
- b. Restrictions. The permitted uses for property located within Airport Noise Zone A/Airport Property are limited to those uses that are compatible with airports and air commerce and listed in the Airport Operations Planned Development (AOPD) Zoning District use regulation table.

(2) Airport Noise Zone B.

- a. Location. Airport Noise Zone B consists of that area of land within the 60 DNL contour line (as determined in the FAR Part 150 Study in effect), exclusive of Airport Noise Zone A/Airport Property. .
- b. Restrictions. This zone allows any use permitted by this chapter, provided that no residential living units, places of worship, libraries, schools, hospitals, correctional institutions or nursing homes are permitted. However, residential units, including mobile homes that are lawfully existing as of June 27, 2000 will be treated as legally permitted uses and not as nonconforming uses. Lawfully existing mobile or manufactured homes may be replaced with new mobile or manufactured homes or conventional single-family construction and existing conventional single-family homes may be replaced with new conventional homes so long as such replacement would be otherwise allowed by this Code. However, an existing conventional home may not be replaced with a new mobile or manufactured home. One conventional single-family home is permitted on each lot in a plat properly recorded before June 27, 2000 if such use would have been permitted on the lot prior to June 27, 2000. This zone requires notification in accord with section 34-1004(c).

(3) Airport Noise Zone C.

- a. Location. Airport Noise Zone C consists of that area of land located between the Airport Noise Zone B and the 55 DNL contour line (as determined in the FAR Part 150 Study in effect, exclusive of Airport Noise Zone A/Airport Property. .
- b. Restrictions. This zone allows any use permitted by this chapter. This zone requires notification in accord with section 34-1004(c).

(4) Airport Noise Zone D.

- a. Location. Airport Noise Zone D is located southeast of Airport Noise Zone C encompassing the area designated for Flight Training associated with the planned south parallel runway per the FAR Part 150 Study in effect. This zone comprises the area within a half mile of the expected centerline of the training pattern depicted in the FAR Part 150 Study in effect.
- b. Restrictions. This zone allows any use permitted by this chapter. This zone requires notification in accord with section 34-1004(c).

- (c) Notification of potential noise impact. Noise Zones B, C and D require notification that the property may be subject to noises created by and incidental to the operation of the airport. Notification is provided by public notice and by disclosure, as follow:

(1) Public notice. The Airport Noise Zones are identified as Zoning Overlay Districts on Lee County Zoning Map available online at leegis.leegov.com/LeeSplnS/ and shall be available for public inquiry at Lee County Port Authority offices.

(2) Disclosure. For property within Noise Zones B, C and D, disclosure is accomplished by including a statement identifying the potential for airport related noise as a condition of approval through the public hearing process, and as a statement on plats and in association documents:

a. For approval of a rezoning to Planned Development, Special Exception, or Variance, the following must be included as a condition of approval:

“The developer, successor or assign acknowledges the property’s proximity to Southwest Florida International Airport and the potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1004. The developer, successor or assign acknowledges that a disclosure statement is required on plats, and in association documents for condominium, property owner and homeowner associations as outlined in Land Development Code Section 34-1004(c).”

b. For approval of a plat, re-plat or lot split, the following disclosure statement must be included on the recorded plat, and in association documents for condominium, property owner and homeowner associations:

“The Southwest Florida International Airport is in proximity to this (insert plat/condominium/development, as appropriate). There is potential for noises created by and incidental to the operation of the airport as outlined in Land Development Code Section 34-1004.”

Sec. 34-1014. Applicability

(a) Applicability. The provisions set forth in Sections 34-1014 through 34-1016 of this subdivision are applicable to lands encompassing and surrounding the facility known as the Buckingham Airport and those certain heliport facilities recognized by the Florida Department of Transportation (“FDOT”). Additional airports which are not operated by the Lee County Port Authority and heliport facilities recognized in the future by the FDOT will also be governed by these subsections and will be added to Appendix D. The provisions of Sections 34-1014 through 34-1016 are applicable only in the unincorporated portions of Lee County unless an interlocal agreement providing otherwise is in effect.

(b) Findings. The Lee County Board of County Commissioners finds as follows:

(1) Heliports and the Buckingham Airport (hereinafter, “air facilities”) operated by governmental, quasi-governmental and private entities provide important health, safety, and welfare functions within the County;

(2) The location of buildings and other land uses in close proximity to such air facilities may produce hazards that may inhibit the safe operation of flights into and out of these air facilities;

(3) Hazards reduce the size of the area available for the landing, take off and maneuvering of aircraft, which impairs the viability of the air facility for its intended purposes;

(4) These air facilities may produce noise levels and other impacts that are incompatible with residential uses and certain commercial and industrial uses; and

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

(c) *Purpose and intent.* The purpose of Sections 34-1014 through 34-1016 is to establish protection around certain designated privately operated airports and those heliport facilities recognized by the FDOT within unincorporated Lee County. These provisions are intended to supplement state and federal regulations regarding heliport and airfield protection and specifically to:

(1) Promote maximum safety of aircraft arriving at and departing from identified air facilities;

(2) Promote the safety of residents and property within areas surrounding designated air facilities;

(3) Provide administrative procedures for the review of development proposals within the Airport and Heliport Review zones, as defined in Section 34-1015, for designated air facilities; and

(4) Prevent the creation of hazards and incompatible land uses proximate to designated air facilities.

Sec. 34-1015. Definitions.

The definitions provided in Section 34-1003 are incorporated herein by reference. In addition, the following words, terms and phrases when used below, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Airport Review Zone means an imaginary surface extending outward and upward from any point of the Buckingham Airport runway and those certain private facilities listed in Appendix D, as amended, at a slope of 125 to 1 (one foot vertically for every 125 feet horizontally) for a distance up to a height of 125 feet above mean sea level.

Heliport means any landing or takeoff area intended for use by helicopters or other rotary wing type aircraft capable of vertical takeoff and landing profiles, as recognized by the FDOT and listed, either now or in the future, in Appendix D.

Heliport approach surface means that area established pursuant to 14 CFR Part 77, Section 77.23(b).

Heliport primary surface means that area established pursuant to 14 CFR Part 77, Section 77.23(a).

Heliport Review Zone means that property within or under the heliport primary surface, heliport approach surface, and heliport transitional surface for each heliport.

Heliport transitional surface means that area established pursuant to 14 CFR Part 77, Section 77.23(c).

Sec. 34-1016. Heliport/Airport Review Zones.

(a) *Purpose of zone.* As used in this section, the purpose of the Heliport Review Zone and Airport Review Zone is to require review and regulate the height of structures and equipment proposed for development or use in proximity to the air facilities identified in Appendix D.

(b) Location of zone. A Heliport Review Zone is established around each heliport identified in Appendix D. Each Heliport Review Zone will be established in accordance with the definition contained in Section 34-1015. The Airport Review Zone is established for the Buckingham Airport consistent with the definition contained in Section 34-1015.

(c) Development review. All applications for development submitted to the Department will be reviewed to determine whether the property for which the application is submitted lies within the Airport Review Zone or Heliport Review Zone established by this section.

1. If it is determined that the property lies within the Airport Review Zone or Heliport Review Zone, the Department will submit the application to the operating entity for the affected air facility for review and comment.

2. The operator for the affected air facility will review the application and submit any comments and recommendations to the Department that address:

i. encroachment into air space that may pose a risk for safe take-offs, landings, and other operations at the air facility;

ii. visibility issues associated with approaching or departing aircraft including, but not limited to, building height, lighting, and reflective surfaces associated with the development; and

iii. noise mitigation measures that may be taken by the development for noise impacts that may be generated by the air facility and aircraft associated with it.

3. If no comments or objections are received from the operator for the air facility within ten (10) days of submittal, the Department will proceed with review of the application.

4. If comments or objections are received from the operator within ten (10) days of submittal, such comments and objections will be considered by the Department and appropriate conditions or restrictions may be attached to any development or building permit as necessary to accomplish the purposes and intent set forth above.

ARTICLE VI. DISTRICT REGULATIONS
DIVISION 11. REDEVELOPMENT OVERLAY DISTRICTS
SUBDIVISION VI. THE SAN CARLOS ISLAND REDEVELOPMENT OVERLAY DISTRICT

Subdivision VI, Secs. 34-1141 through 34-1168, concerning The San Carlos Island Redevelopment Overlay District is hereby deleted and removed from Chapter 34, Article VI, Division 11 of the LDC.

**ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS
DIVISION 2. ACCESSORY USES, BUILDINGS
AND STRUCTURES**

Sec. 34-1177. Accessory apartments.

No change (a).

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

**ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS
DIVISION 5. ALCOHOLIC BEVERAGES**

Sec. 34-1261. Definitions.

For purposes of this division and when referred to elsewhere in this chapter, certain terms or phrases shall have the following meaning:

Noise means sound or vibrations which are defined as either noise or noise disturbance in the Lee County Noise Control Ordinance, Ordinance No. 82-32, as amended by Ordinance No. 83-22-14-18 and as subsequently amended.

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

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

No change a. and b.

- c. Bowling alleys and movie theaters provided the standards set forth in subsections (b)(2)a and (b)(3) of this section are met;

DIVISION 6. ANIMALS

Sec. 34-1292. Horses and other equines.

The keeping, raising or breeding of horses or other equines is a permitted use or special exception in the AG, RS-4, RS-5 and MH-4 districts and in the RPD, MHPD, and MPD districts when approved as part of the master concept plan, as follows:

No change (1) and (2).

- (3) Commercial stables. Commercial stables are permitted by special exception, as specified in zoning district regulations, provided that there is compliance with this division. Commercial stables may allow horse shows and exhibitions, which may include riding exhibitions, riding lessons, dressage, roping and cutting, as ancillary uses subject to the following:

No change a. through d.

- e. Music and noise audible at the property line must be measured and restricted as provided in the Lee County Noise Control Ordinance, Ordinance No. 82-32, 14-18 as subsequently amended.

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

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

No change (a) though (d).

- (e) ~~Storage areas~~ 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 section 34-3005(b) and 10-416(d)).

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

No change (a) through (f).

(g) Canopies.

- (1) Flat-roof canopies are ~~prohibited~~ 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 ~~of one color~~, consistent with the predominant color of the principal structure.

- (h) *Accent banding*: Color accent banding ~~on all structures, including canopies, is prohibited and raised architectural features are permitted unless prohibited by conditions in a Planned Development.~~

Sec. 34-1354. Variances or deviations.

The provisions of this section apply to all new development, including redevelopment.

No change (1) and (2).

- (3) ~~Project rendered nonconforming by the adoption of section 34-1352 and 34-1353~~ Commercial or Industrial-zoned properties less than 3 acres in size may obtain administrative relief from section 34-1352 and/or 34-1353 to facilitate new development or redevelopment of the site. Development of these nonconforming projects sites will be limited to development that will bring the site more into greater compliance with sections 34-1352 and 34-1353 given the existing site constraints such as location and configuration of existing buildings, parking areas, drainage, easements and/or other conditions. Commercial or industrial zoned properties 3 acres or greater in size may utilize the public hearing process for deviations or variances from section 34-1352 and/or 34-1353.

DIVISION 10. CARE FACILITIES AND CENTERS

Sec. 34-1414. Continuing care facilities.

No change (a) and (b).

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

- (1) Where health care, social service, adult living facilities (ALF), continuing care facilities, or other "group quarters" (df) are provided in dwelling units, wherein each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.
- (2) 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" (df) 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 four 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) 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.

Also see Sec. 34-1494 Density equivalents.

DIVISION 12. DENSITY

SUBDIVISION II. RESIDENTIAL DEVELOPMENT

Sec. 34-1494. Density equivalents.

No change (a).

(b) Equivalency factors:

(See Sec. 34-1414(c) for assisted living facility units and nursing beds, independent living units, health care, social service, adult living facilities (ALF), continuing care facilities (CCF), or other "group quarters")

~~(1) Where health care, social service, adult living facilities (ALF), continuing care facilities, or other "group quarters" (df) are provided in dwelling units, wherein each unit has its own cooking facilities, density equivalents will be calculated on a 1:1 ratio.~~

~~(2) 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" (df) 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 four 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 a minor administrative amendment that will be deemed to not increase density and may be approved pursuant to section 34-380(b) 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.~~

~~(3) 1) Notwithstanding subsection (b)(2) above Sec. 34-1414(c)(2), no density equivalency calculation is required for a bed and breakfast (df) in an owner-occupied conventional single-family residence (df) accommodating four or less lodgers. If the bed and breakfast will accommodate more than four lodgers, then the equivalency will be calculated as four lodgers equals one dwelling unit.~~

~~(4) 2) Notwithstanding subsection (b)(2) above Sec. 34-1414(c)(2), no density calculation is required for hospital, prison, jail, boot camp, detention center, or other similar type facility owned or operated by a County, state or federal agency.~~

~~(5) 3) Where dwelling or living units have "lock-off accommodations," density will be calculated as follows:~~

DIVISION 26. PARKING

Sec. 34-2019. Other use of parking lots.

Except as provided in this section, required off-street parking areas may not be utilized for the sale, display or storage of merchandise, or for repair, dismantling or servicing of vehicles or equipment.

No change (1) and (2).

~~(3) Carnivals, fairs and amusement attractions and devices.~~

- ~~a. If the uses are located in an existing parking lot, the parking lot must have enough spaces to comply with the minimum requirements for the principal use and the carnival, fair or amusement attraction or device (see section 34-2020(b)). Prior to obtaining a temporary use permit (see division 37 of this article) for the temporary use of a parking lot, the applicant must submit a site plan showing there will be no net loss or reduction in the number of parking spaces required for any existing principal use that relies on the parking lot.~~
- ~~b. The temporary uses may not be located in a parking lot that is nonconforming as to the number of spaces needed for the existing uses.~~

Sec. 34-2020. Required parking spaces.

All uses are required to provide off-street parking based on the single-use development requirement unless the use is located in a development that qualifies as a multiple-use development, in which case, the minimum required spaces for multiple-use developments may be used. Use of the multiple-use development minimum parking regulations is optional.

Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested.

- (a) Residential uses. Residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(a). REQUIRED PARKING SPACES FOR RESIDENTIAL USES

	Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
1.	Single-family, duplex, two-family attached and mobile home units.		2 spaces per unit	—
2.	Townhouses.	Note (1)	2 spaces per unit	—
3.	Multiple-family and timeshare units.	Note (1) & (3)	2 spaces per unit	—
4.	Assisted living facilities.	Note (2), <u>34-1414(c) et seq. & 34-1494 et seq.</u>	0.54 spaces per unit	0.41 spaces per unit

	Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
5.	Continuing care facilities.	Note (2), <u>34-1414(c) et seq. & 34-1494 et seq.</u>	1.12 spaces per unit	1 space per unit
6.	Independent (self-care) living facilities, including group quarters, health care (grps I & II), social services (grps III & IV) and other similar uses.	Note (2), <u>34-1414(c) et seq. & 34-1494 et seq.</u>	1 space per unit	0.59 spaces per unit
7.	<u>Clubhouse and Ancillary Uses within a Residential Community without a Golf Course</u>	<u>Note 4.</u>	<u>4 spaces per 1000 square feet of total floor area</u>	<u>3.5 spaces per 1000 square feet of total floor area</u>

Notes:

No change Note (1), (2) and (3).

(4). May include administrative office or other ancillary uses to the clubhouse such as a gyms and/or meeting rooms.

- (b) Non-residential uses. Non-residential uses permitted under this chapter are subject to the following minimum requirements:

TABLE 34-2020(b). REQUIRED PARKING SPACES FOR NON-RESIDENTIAL USES

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Airports, landing strips and heliports.		Determined by the Director	—
Animal clinics.		5 spaces per veterinarian plus 1 space per employee	—
Animal kennels.		5 spaces	—
Automotive drive-in oil change establishments.	34-2021(c)	1.5 spaces per service bay	—
Automotive repair and service (excluding drive-in oil change establishments); automotive service stations.		4 spaces per service bay plus 1 space per employee	—
Banks and financial establishments.	34-2021(a)	3 spaces per 1,000 square feet of total floor area	2.5 spaces per 1000 square feet of total floor area
Bars and cocktail lounges, nightclubs.	Note (1)	21 spaces per 1,000 square feet of total floor area	14 spaces per 1,000 square feet of total floor area

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Barbershops, beauty shops, massage parlors, etc. (personal services group II)		3 spaces per operator (chair) or 1 space per 100 square feet, whichever is greater, with a minimum of 5 spaces	—
Bed and breakfast.	34-1494(b)(3) <u>1</u>)	1.2 spaces per rental unit	—
Bowling alleys.	Note (1)	4 spaces for each lane	—
Carnivals, fairs and amusement attractions and devices.	34-2019(3) 34-3042(b)	10 spaces per amusement device	—
Car washes.	34-2021(b)	1.5 spaces per car stall	—
Convenience food and beverage stores.	Notes (1) & (15)	1 space per 200 square feet of total floor area (one parking space per four fuel pumps will be credited against the required parking), with a minimum of 5 spaces	—
Day care centers.	Note (2)	2 spaces per employee	—
Educational institutions:			
a. Public schools.		Parking must be provided in compliance with state law	—
b. Private or parochial schools:		—	—
1. Elementary or middle schools.		1 space per employee plus 1 space per 40 students	—
2. High schools.		1 space per employee plus 1 space per 10 students	—
3. Colleges, universities and trade and vocational institutions.	Note (3)	1 space per employee plus student parking as the Director deems necessary	—
Essential service facilities.		1 space per employee on the largest shift	—
Flea market, Indoor.		1 space per 100 square feet of total floor area	—
Flea market, Open.		5 spaces per rental space or booth	—
Funeral homes.	Note (14)	1 space per 4 seats or 4 spaces per 250 square feet of chapel area, whichever is greater	—
Golf courses.	Note (4)	6 spaces per hole	—

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Health and Fitness Clubs.	34-2020(b)	7 spaces per 1,000 square feet of total floor area	5 spaces per 1,000 square feet of total floor area
Hospitals (health care facilities, group IV).		1 space per bed, excluding bassinets and gurneys, plus 1 space per employee on the largest shift	—
Hotels and motels.	Note (1), 34-1801 et seq.	1.2 spaces per rental unit	—
Marinas and other water-oriented uses.	Note (1)	—	—
a. Boat slips.		1 space for every 2 slips	—
b. Boat ramps.	Note (5)	10 spaces per boat ramp	—
c. Multi-slip docking facility.		Determined by Director	—
d. Dry storage.		1 space per 5 unit stalls	—
e. Charter or party fishing boat.	Note (6)	1 space per 3 people	—
f. Local cruise ships.	Note (6)	1 space per 2 people	—
g. International cruise ships.	Note (6)	1 space per 3 people	—
h. Live-aboards.		2 spaces per 3 live-aboards	—
Manufacturing and light industrial.	Note (1)	1.75 spaces per 1,500 square feet of total floor area	1.5 spaces per 1,500 square feet of total floor area
Meeting halls, clubs (fraternal and membership) and other places for group assembly not otherwise listed.	Notes (7) & (14)	1 space per 100 square feet of total floor area	—
Miniature golf.	Note (1)	1.5 spaces per hole	—
Multiple-occupancy complex with total floor area of 350,000 square feet or more.	Note (16)	—	4.5 spaces per 1,000 square feet of total floor area
Museums, art galleries, libraries, studios and other similar uses not covered elsewhere.		3 spaces per 1,000 square feet of total floor area	—
Offices, excluding medical. (Including but not limited to: business services group I, contractors and builders, insurance companies, nonstore retailers, personal services group IV, social services group I, and other similar offices.)		1 space per 300 square feet of total floor area	1 space per 350 square feet of total floor area
Offices, medical and health care facilities group III.		4.5 spaces per 1000 square feet of total floor area	4 spaces per 1000 square feet of total floor area

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Places of worship.	Note (14); 34-2051 et seq.	1 space per 3 seats	1 space per 5 seats
Recreation facilities, indoor.	Note (1)	4 spaces per 1000 square feet of total floor area	3.5 spaces per 1000 square feet of total floor area
Recreation facilities, outdoor, commercial.		Determined by the Director.	—
Religious facility.	Notes (1) & (14); 34-2051 et seq.	1 space per 3 seats	—
Restaurants.	Notes (8), (9) & (10)	14 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate	12.5 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate
Restaurants, fast food.	Note (9)	13 spaces per 1000 square feet of total floor area; outdoor seating area is calculated at same rate	—
Retail or business establishments.			
a. Small products or commodities: Auto and boat parts; clothing stores; department stores; drugstores; food stores; hardware stores; hobby, toy and game shops; package stores; household/office furnishings, group, II; personal services group I (excluding barbershops, beauty shops & massage establishments); specialty retail shops groups I, II and III; used merchandise stores group I; variety stores; and other similar type establishments.	34-2021 et seq.	1 space per 250 square feet of total floor area, with a minimum of 5 spaces; dead storage is calculated at same rate	1 space per 350 square feet of total floor area; dead storage is calculated at same rate
b. Large products or commodities: Used merchandise stores groups II and III; vehicle and equipment dealers group II; and other similar type establishments.	Note (1); 34-2021 et seq.	2.5 spaces per 1,000 square feet of total floor area, with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,000 square feet	2.5 spaces per 1,000 square feet of total floor area; no parking is required for areas of the building used only as dead storage and not available to the public
c. Very large products or commodities: Household/office furnishings groups I & III; mobile home dealers; specialty retail stores group IV; used merchandise stores	<u>Note (1); 34-2021 et seq.</u>	1 space per 700 square feet, with a minimum of 5 spaces; dead storage is calculated at 1 space per 1,500 square feet	1 space per 700 square feet of total floor area; no parking is required for areas of the

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
group IV; vehicle and equipment dealers groups I, III, IV and V; and other similar type establishments.			building used only as dead storage and not available to the public
Schools, commercial.		2 spaces per 100 square feet of total classroom floor area	1 space per 100 square feet of total classroom floor area
Tennis courts, commercial.	Note (14)	3 spaces per court plus one space per 3 spectator seats	—
Theaters, auditoriums, stadiums, arenas and other similar places of public assembly.	Notes (1) & (14)	1 space per 4 seats	1 space per 4 seats
Warehouse, high-cube.	Note (1)		
a. Passenger car parking		1 space per 1,000 square feet of total floor area for the first 20,000 square feet, plus 1 space per 2,000 square feet for the second 20,000 square feet to 99,999 square feet, plus 1 space per 5,000 square feet for that portion over 100,000 square feet	—
b. Truck and trailer parking	Notes (12) & (13)	1 space for every 5,000 square feet of total floor area	—
Warehouse, mini-warehouse.		1 space per 25 storage units, with a minimum of 5 spaces	—
Wholesale, processing and warehousing establishments.	Note (1)	1.25 spaces per 1,500 square feet of total floor area	0.75 spaces per 1,500 square feet of total floor area

Notes:

- (1) Accessory or ancillary uses must be calculated separately and in compliance with this division.

DIVISION 35. SPORTS/AMUSEMENT PARKS AND RECREATIONAL FACILITIES

Sec. 34-2479. Sound systems.

Sound systems for sports/amusement parks and recreational facilities shall meet the requirements of the Lee County Noise Control Ordinance, Ordinance Nos. 82-32 and 83-22-14-18 as subsequently amended.

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

Sec. 34-3042. Carnivals, fairs, circuses and amusement devices.

No change (a).

- (b) Off-street parking. If the uses are located in an existing parking lot, the parking lot must have enough spaces to comply with the minimum requirements for the principal use and the carnival, fair or amusement attraction or device (see section 34-2020(b)). Prior to obtaining a temporary use permit for the temporary use of a parking lot, the applicant must submit a site plan showing there will be no net loss or reduction in the number of parking spaces required for any existing principal use that relies on the parking lot.

The temporary uses may not be located in a parking lot that is nonconforming as to the number of spaces needed for the existing uses.

~~Refer to sections 34-2019(3) and 34-2020(b).~~

Sec. 34-3050. Temporary storage facilities.

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 located in an AG zoning district, or to contractor's office and equipment storage sheds (see section 34-3044).

No change (a).

- (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 non residential district upon application and issuance of a temporary use permit (see section 34-210) so long as:
- (1) The vehicles, truck trailers, or shipping containers used for storage comply with all setback requirements for accessory structures.
 - (2) No more than two vehicles, truck trailers, or shipping containers are permitted at one time, and they cannot be stacked on top of one another.
 - (3) The maximum length of time for use of a vehicle, truck trailer or shipping container for storage of merchandise, produce, or commodities is 60 days. One extension, not to exceed 60 days, maybe approved at the Director's discretion.

Sec. 34-3051. Temporary use of RV(s).

(a) Temporary housing on commercial or industrial-zoned property.

- (1) The temporary use of RV(s) located on commercial or industrial-zoned property may be permitted subject to the regulations set out in this section; and
- (2) A temporary use permit is required for the placement of each RV; and

- (3) Temporary use of RVs is limited to developed or improved property owned or operated by a tax-exempt charitable organization approved by the U.S. Internal Revenue Service as a 501(c) (3) organization. For purposes of this section, "charitable" is defined as being established for purposes that are religious, educational, charitable, scientific, literary, testing for public safety, fostering of national or international amateur sports, or prevention of cruelty to animals and children.
- (4) The RV(s) may be occupied by volunteers of the nonprofit charitable organization; and
- (5) The duration of the temporary use permit issued is limited to no more than 6 months in one calendar year; and
- (6) The RV must be removed from the property upon expiration of the temporary use permit; and
- (7) The number of RVs may not exceed 6 at any given time. Staff may reduce the number of units permitted based on Land Development Code requirements or site constraints; and
- (8) The temporary use of RVs per this Section is an accessory use as defined by LDC Sec. 34-2. Temporary use of RVs per this Section may not be the principal use of the property.

(b) Conditions for use.

- (1) Required water and electrical facilities must be provided.
- (2) Sewage and other waste material produced must be disposed of in a lawful manner.
- (3) The site and the temporary RV locations must otherwise be able to meet Land Development Code requirements including but not limited to minimum setbacks, maximum lot coverage, access parking, and conditions of the applicable Zoning Resolution.

DIVISION 39. USE, OCCUPANCY AND CONSTRUCTION REGULATIONS

Sec. 34-3105. Use of vehicles, truck trailers, or shipping containers for storage ~~for non-agricultural purposes.~~

Except for a bonafide agricultural use 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 Sec. 34-3005 "Storage Facilities".

ARTICLE VIII. NONCONFORMITIES
DIVISION 4. NONCONFORMING LOTS

Sec. 34-3272. Lot of record defined; general development standards.

No changes (1) through (3) b.

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

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

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

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APPENDIX C

Proposed Changes to:
MAP 1 - SWFIA Airport Noise Zone Notification Map



APPENDIX D

Lee County Land Development Code Appendix is hereby amended to add Appendix D- 2016 Airport/Heliport Review Zones as follows:

Appendix D **2016 Airport/Heliport Review Zones**

Name	Location
Boca Grande Helistop	26-44.538N, 82-15.522W
Bokeelia Helistop	26-40.238N, 82-08.156W
Bowman's Beach Helistop	26-27.755N, 82-09.406W
Buckingham Field	26-38.604N, 81-42.622W
Cape Coral Hospital Heliport	26-38.304N, 81-56.489W
Captiva Helistop	26-32.505N, 82-11.522W
Gulf Coast Medical Center	30-11.233N, 85-39.767W
Healthpark of Florida Helistop	26-30.400N, 81-54.633W
Lee Memorial Hospital Heliport	26-38.504N, 81-52.039W
Pine Island Helistop	26-36.383N, 82-06.667W
St. James Helistop	26-30.688N, 82-05.306W
Williams Road Helistop	26-25.055N, 81-49.455W
Winkler Helistop	26-28.867N, 81-53.683W

APPENDIX I

Lee County Land Development Code Appendix is hereby amended to delete and remove Map 1 and Map 2, relating to the Estero Planning Community, of Appendix I- Planning Community and Redevelopment Overlay District Boundaries and Legal Descriptions.

APPENDIX K

Lee County Land Development Code Appendix K, Road Impact Fee Benefit District Descriptions, is hereby amended to delete and remove Map 2, along with its associated legal descriptions for Districts 1 through 8.

SECTION TWELVE: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION THIRTEEN: SEVERABILITY

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent

jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION FOURTEEN: CODIFICATION AND SCRIVENER'S ERRORS

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

SECTION FIFTEEN: MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION SIXTEEN: EFFECTIVE DATE

This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State. The provisions of this ordinance will apply to all projects or applications subject to the LDC unless the development order application for such project is complete or the zoning request is found sufficient before the effective date.

Commissioner Hamman made a motion to adopt the foregoing ordinance, seconded by Commissioner Kiker. The vote was as follows:

John Manning	Aye
Cecil L Pendergrass	Aye
Larry Kiker	Aye
Brian Hamman	Aye
Frank Mann	Aye

DULY PASSED AND ADOPTED this 15th day of November, 2016.

ATTEST:
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
John Manning, Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

By: _____
Office of the County Attorney