

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 21 – 08

AN ORDINANCE OF THE CITY OF BONITA SPRINGS AMENDING THE BONITA SPRINGS LAND DEVELOPMENT CODE; CHAPTER 7 - ENVIRONMENT, NATURAL RESOURCES AND MARINE FACILITIES, STRUCTURES AND EQUIPMENT - ARTICLE XII - DOCK AND SHORELINE STRUCTURES; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING AND AN EFFECTIVE DATE.

WHEREAS, the City Council is the governing body of the City of Bonita Springs, Florida; and

WHEREAS, the City of Bonita Springs desires to streamline, clarify, and otherwise update provisions of the City's Land Development Code; and

WHEREAS, pursuant to the Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Amending Land Development Code

The Bonita Springs City Code is hereby amending Chapter 7 of the City's Land Development Code, with deletions depicted with ~~strikethroughs~~ and underlined language as additions, as provided and further depicted in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any court of competent jurisdiction shall hold any of the provisions of this Ordinance unconstitutional, the decision of such

court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would be adopted had such unconstitutional provision not been included therein.

Section 4. **CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted City of Bonita Springs ordinance or Florida Statutes, the more restrictive shall apply.

Section 5. **CODIFICATION AND SCRIVENER'S ERRORS**

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

Section 6. **EFFECTIVE DATE**

This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ADOPTED BY THE CITY COUNCIL of the City of Bonita Springs, Florida this 20th day of October, 2021.

Attest:

CITY OF BONITA SPRINGS, FLORIDA

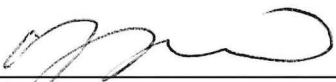
By: 

City Clerk

By: 

Mayor

Reviewed for legal sufficiency:

By: 

City Attorney

Vote:

Carr Aye
Purdon Aye
Forbes Aye
Corrie Aye

Gibson Aye
Quaremba Aye
Steinmeyer Aye

Date filed with City Clerk: 11/22/2021

Sec. 9-27. Definitions.

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

AASHTO means American Association of State and Highway Transportation Officials.

Abutting means any property that shares a common border with another property, or is separated from a common border by a right-of-way, alley or easement.

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

Access street and *access road* mean a street or road that runs generally parallel to an arterial or collector street and is the primary access to properties that abut the arterial or collector street. An access street is intended only to provide access to parcels existing when it is constructed and does not provide frontage for newly created parcels as would a local street. See also *Frontage street*.

Access walkway means the portion of a structure that allows access from land to the mooring area of a docking facility or from land to a fishing pier or from land to a kayak launch.

Accessway means land that is used or intended to be used for ingress or egress to abutting parcels of land and is not dedicated to the public. Accessways include access points to commercial, industrial and other types of developments, except a single parcel of land containing two or fewer dwelling units in a single structure.

Acre means a horizontal area of land containing 43,560 square feet of surface area.

Agriculture means the growing and harvesting, primarily for sale, of vegetation, crops or plants, or the feeding and raising, primarily for sale, of livestock, and timber production. The term "agriculture" includes any normal accessory structures thereto; provided, however, the following shall not be included in this definition: commercially owned or operated citrus plants, livestock sales facilities, packing plants and other similar commercial or industrial type facilities.

Amenity zone is defined as the area internal to the site and within 50 feet of the public right-of-way, which is intended for pedestrian-oriented uses that are visually attractive, take into consideration the human scale and proportion, and provide for multi-modal connections between the right-of-way and development.

Applicant means any individual, firm, association, syndicate, copartnership, corporation, trust or other legal entity, or their duly authorized representative, conducting activities under this Code.

Application and *appeal* means any matter lying within the jurisdiction of the zoning board and any application for rezoning which will be or is scheduled to be heard by the city council, or designee.

Application for a development order means the submission of the documents as required in this Code to the city manager and/or his designated representative for review.

Arcade means a roof, similar to an overhang or canopy, but where the outer edge is supported by a line of pillars or columns.

Architect means a professional architect duly registered and licensed by the state.

Arterial roadway means streets primarily intended to carry large volumes of through traffic connecting major activity centers to other major traffic generators. Access to abutting properties is a secondary function.

Awning, continuous, means a cover of lightweight material such as canvas, plastic, or aluminum, extending over two or more doorways, windows or combinations thereof, and regardless of whether it is affixed to the wall or parapets or extends above the roofline of the wall or parapet.

Awning, single, means a cover of lightweight material such as canvas, plastic, or aluminum, extending over a single doorway or window, providing protection from the elements.

Benthic Species Survey Assessment means an assessment of the animals and plants that live on or in the bottom of a body of water and that is performed during spawning season. Supporting data are in the form of but are not limited to: benthic habitat species maps that depict the topography, photos, acoustic surveys, and an analysis of sedimentary samples beneath the body of water that provide data sufficient to determine the presence of shellfish and seagrass beds necessary for the habitat of benthic species to reproduce or feed.

Bicycle (bike) facilities means general accommodation to encourage bicycling, including but not limited to pathways, multi-use trails, bike lanes, bicycle storage facilities, refuge areas, and repair facilities.

Bike lane, separated, means an exclusive facility for bicyclists that is located directly adjacent to the travel lane(s), and that is separated from motor vehicle traffic by a horizontal or vertical element.

Bike lane, shared, means a travel lane within a street with signs and pavement markings that indicate to drivers that they are to share the roadway with bicyclists.

Block means a group of lots, including a tier of lots, existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name by which it may be identified.

Boat means a vehicle designed for operation in water propelled by sail or one or more electric or internal combustion engines. Boats include motorized personal watercraft. Personal, manually powered watercraft such as canoes and kayaks are not considered boats.

Boat canopy means a non-permanent roofed structure installed over or adjacent to water to provide a covered mooring or storage place for boats.

Boat ramp means a structure, manmade or altered natural feature, or an inclined and stabilized surface extending into the water from the shore, which facilitates the launching and landing of boats or manually powered watercraft into a waterbody or from which trailered boats can be launched and retrieved.

Boathouse means a roofed structure constructed over or adjacent to water to provide a covered mooring or storage place for boats.

Bonita Beach Road Corridor means all property located within the City of Bonita Springs fronting on Bonita Beach Road from the south end of Little Hickory Boulevard to the terminus of the city limits east of I-75 or as designated on the map in the Bonita Beach Road Corridor study, attached in Appendix I of chapter 4.

Building means any construction, erection, alteration, demolition, or improvement of, or in addition to, any structure for which permitting by local enforcement agency is required. The term "building" shall be construed as if followed by the words "or part thereof."

Building official means the person appointed by the city council to oversee the issuance of building permits for the city.

Building permit means an official document or certification issued by the building official and authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of a building or structure. In the case of a change in use or occupancy of an existing building or structure, the term "building permit" specifically includes certificates of occupancy and occupancy permits, as those permits are defined or required by city ordinance.

Building with mixed uses means a building that contains more than one principal use.

Bus pull-off area means a branch from or widening of a road that permits buses to stop, without obstructing traffic in the travel lane(s).

Bus stop means a designated location along a bus route(s) for passengers to board or transfer to transit vehicles.

Canopy, attached, means a permanent structural cover affixed to and extending from the wall of a building, protecting a doorway or walkway from the elements.

Canopy, detached, means a freestanding structure which covers a walkway or service area.

Capital improvement means land acquisition and related costs and expenses, site improvements, off-site improvements associated with new or expanded facilities, buildings and equipment, including communications equipment, with an average useful life of at least three years, but excludes maintenance and operations.

City means the City of Bonita Springs, acting through its city council, the city manager or designee, or through the division.

City attorney means the legal counsel for the city council or his designee.

City council means the City Council of the City of Bonita Springs.

City highway system means all existing roads maintained by the city department of transportation.

City manager means the city manager or the municipal officials that he may designate to administer the various provisions of this Code.

Class 1 road means an approved road shown on Map 3A of the transportation element of the comprehensive plan that is included as a city-funded road construction or improvement project on the five-year schedule of improvements within the comprehensive plan's capital improvements element adopted and amended from time to time in accordance with F.S. §§ 163.3177(3)(b) and 163.3187. Class 1 roads include access roads shown on the access road location map if the city requires their construction as a condition of development order approval or a specific written condition of the zoning approval. The term "Class 1 road" also means any arterial or collector road included in the road network established in the transportation element of the comprehensive plan of any participating municipality, if the road construction or improvement project is also included in the annual capital improvement program of the municipality to be funded through the use of roads impact fees. Notwithstanding their inclusion on the access road location map, Class 1 roads do not include site-related improvements such as access roads constructed to achieve site location standards for commercial development or to provide for internal circulation when such roads would not otherwise be required by the city pursuant to criteria in chapter 3.

Class 2 road means an approved road shown on Map 3A of the comprehensive plan transportation element that is scheduled for construction as a city-funded project in any ten-year capital improvement, but which is not included on the five-year schedule of improvements within the capital improvements element of the comprehensive plan.

Class 3 road means an approved road shown on Map 3A of the comprehensive plan transportation element that is not included for construction or improvement within the capital improvements element of the comprehensive plan or any ten-year capital improvement plan of the city. The term "Class 3 road" also means an approved road not on the five-year schedule of improvements within the comprehensive plan's capital improvement element, not in any ten-year capital improvement plan of the city, and not on Map 3A of the comprehensive plan transportation element, but which provides a reasonable alternative route for traffic that otherwise would travel a specific road shown on Map 3A of the comprehensive plan transportation element.

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

Collector roadway means streets having the primary purpose of collecting traffic from intersecting local streets and distributing this volume to the nearest arterial. A secondary purpose is to carry moderate volumes of through traffic. Access to abutting lands is a secondary function.

Commercial development means a planned commercial center providing building areas, parking areas, service areas, buffering, and adjacent roadway improvements. The term "commercial development" includes retail facilities, hospitals, shopping centers, office buildings, and multi-unit residential developments.

Community park means a tract of land designated and used by the public primarily for active recreation but also used for educational and social purposes and passive recreation. The term "community parks" also includes bikeways along the city road network that are designed and used primarily for active recreation. A community park generally serves a specific community composed of at least several neighborhoods. The comprehensive plan's

community park standards are based upon several subclassifications of community parks: standard community parks, community recreation centers, community pools and school parks. The term "community park" specifically includes school sites and municipally owned parks where they are used as community parks.

Complete streets means roadways planned, designed, and constructed to provide appropriate access to all legal users in a manner that promotes safe and efficient movement of people and goods whether by car, truck, transit, assistive device, foot, or bicycle.

Comprehensive plan means the City of Bonita Springs Comprehensive Plan adopted pursuant to F.S. ch. 163.

Concurrency certificate means a certificate of concurrency compliance, a certificate of concurrency exemption, a concurrency variance certificate or a conditional certificate of concurrency compliance.

Concurrency management system means a financially feasible system to ensure that existing deficiencies are corrected within a specified time frame and to establish priorities for addressing backlogged facilities in special concurrency districts or areas.

Concurrency variance certificate means the certification issued by the city manager and/or his designee pursuant to section 2-34. This certification means that the director has determined that a variance from the strict concurrency requirements of the comprehensive plan must be granted with respect to a specific development permit to avoid the unconstitutional taking of property without due process of law.

Conditional certificate of concurrency compliance means a certificate issued by the city manager and/or his designee pursuant to section 2-30(j). This certification means that the city manager and/or his designee has determined that:

- (1) A development permit which otherwise would violate the minimum concurrency requirements of the comprehensive plan can be issued consistent with the comprehensive plan if certain conditions are attached to the permit; or
- (2) The application for concurrency review is complete but for a particular document that can be submitted prior to the issuance of a building permit or certificate of occupancy.

Connection means a driveway, street, access road or other means of providing access to or from the city highway system. Two one-way driveways separated by no more than 50 feet will be considered one connection.

Conservation easement, as applied to the protected species requirements of this Code, means a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open or wooded condition; retaining such areas as suitable habitat for fish, plants or wildlife; or maintaining existing land uses; and which prohibits or limits the activities described in F.S. § 704.06, as such provisions now exist or may be amended.

Constrained roads means those roadway segments that cannot or will not be widened due to community scenic, historic, aesthetic, right-of-way or environmental constraints.

Consultant means an architect, attorney, engineer, environmentalist, landscape architect, planner, surveyor or other person engaged by the developer or applicant.

Contiguous means property that is in contact, adjoining, or touching other property. See also *Abutting*.

Controlled water depth means the vertical distance measured from the waterbody control elevation to the deepest point of the proposed waterbody.

Crosswalk means that part of a roadway at an intersection that is included within the extensions of the lateral lines of the sidewalks on opposite sides of the roadway, measured from the curb line, or in the absence of curbs from the edges of the roadway. Also, any portion of a roadway at an intersection or elsewhere that is distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Cul-de-sac means a dead-end local street with a turnaround at one end.

Current pertains to the regulations in effect at the time an application for a development order is presented for acceptance or approval.

Dead-end street means a street having only one end open for vehicular access and closed at the other end.

Delegation of authority. A provision requiring the head of a department or some other city officer or employee to do some act or perform some duty is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty.

Density means an existing or projected relationship between numbers of dwelling units and land area. Refer to chapter 4, article VII, division 12, subdivision II, and division 19 of this Code.

Density bonus means an increase in the density of development that can be carried out on a parcel of land over and above the standard density range permitted by the comprehensive plan for the land use category in which it is located.

Department means that department charged with the planning and administration of zoning and development review for the incorporated area of the city. As used in this Code, the terms "department" and "division" are synonymous.

Developer means any individual, firm, association, syndicate, copartnership, corporation, trust or other legal entity commencing development.

Development means the carrying out of building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels. It is intended to have the same meaning given in F.S. § 380.04.

Development agreement means either a home rule development agreement or a statutory development agreement.

Development area means the total horizontal area of the development property less any area within any existing public street right-of-way or easement.

Development order means any order granting or granting with conditions an application for a development permit.

Development permit means a building permit, subdivision approval, certification or variance or other official action of local government having the effect of permitting the development of land. This definition conforms to that set forth in F.S. § 163.3164(7), except that it does not include zoning permits, zoning variances, rezoning, special exceptions, preliminary plan approvals, and special permits which, by themselves, do not permit the development of land.

Development review director means the city manager or designee assigned to oversee the development review process. He shall oversee the intake of applications for completeness, oversee the review of plans for compliance with this Code, and issue notifications to applicants. The term "development review director" is synonymous with the terms "development review coordinator" and "city engineer" as they are used in this Code.

Development right means any specific right to use real property which inures to an owner of real property through the common law, statutory law of real property, the United States and state constitutions and as further defined and delineated in this Code.

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

Division and dividing of land means:

- (1) The act of describing, by metes and bounds, platting or otherwise, one or more parcels of land which are lesser parcels of the original parcel or a recombination of lesser parcels or original parcels with another parcel for the purpose of conveying any interest in a parcel of land;

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- (2) The act of describing, by metes and bounds, platting or otherwise, an easement or fee for accessway or right-of-way purposes;
 - (3) The act of conveying any of the interests in land described in subsection (1) or (2) of this definition; or
 - (4) The commencement of construction of a street, or a portion thereof, which is not platted.

Docking facility means a water-oriented structure(s) designed for the launching, retrieval, storage or mooring of boats. A docking facility may consist of an access walkway, finger pier, marginal dock, terminal platform, boat lift, boat ramp, floating dock, or any combination of these structures where permitted.

Drainage system includes the roadside swales, curb and gutter, valley gutter, inlet piping, lateral swales and related structures used to collect and transmit stormwater runoff from streets and lots to the detention or retention areas and percolation areas.

Driveway means a type of access point which provides vehicle access from a street to a single parcel of land containing two or fewer dwelling units in a single structure and from which vehicles may legally enter or leave the street in a forward or backward motion.

Duplex means a single, freestanding, conventional building on a single lot, designed for two dwelling units under single ownership, or wherein each dwelling unit is separately owned or leased but the lot is held under common ownership.

Dwelling unit means a room or rooms connected together, constituting a separate, independent housekeeping establishment for a family, for owner occupancy, or for rental or lease on a weekly, monthly or longer basis, which is physically separated from any other rooms or dwelling units which may be in the same structure, and which contains sleeping and sanitary facilities and one kitchen. The term "dwelling unit" does not include rooms in hotels, motels or institutional facilities. Types of dwelling units are further defined in chapter 4 of the Land Development Code.

Easement means a grant of a right to use land for specified purposes. It is a nonpossessory interest in land granted for limited use purposes. Where the term "easement" is preceded by the term "street" or any other adjective, the preceding term describes the easement's purpose.

Engineer means a professional engineer duly registered and licensed by the state.

Equivalent residential connections means the total number of meter equivalents using the methodology of the state public service commission. The term "equivalent residential connections" is synonymous with the term "equivalent residential units" as used by the state public service commission.

Excavation depth means the vertical distance measured from the lowest existing natural grade along the bank of the proposed excavation to the deepest point of the proposed excavation.

Expressway means an arterial highway, usually divided, designed for the safe and relatively unimpeded movement of large volumes of through traffic, with full or partial control of access and grade separations at most intersections.

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

F.A.C. The abbreviation "F.A.C." refers to the Florida Administrative Code.

FDOT means the Florida Department of Transportation.

FLUCCS, as applied to the protected species requirements of this Code, means the Florida Land Use, Cover and Forms Classification System, published by the state department of transportation.

Facade means the exterior faces of a building.

Facade, primary. See section 3-489.

Fast food restaurant means an establishment whose principal business is the sale of food or beverages in a ready-to-consume state, for consumption either within the restaurant building, or off the premises, and which may contain drive-through facilities.

Feepayer means a person applying to the city, or to its authorized representative, for the issuance of a building permit, mobile home move-on permit or recreational vehicle development order for a type of land development activity specified in section 2-386(a), regardless of whether the person owns the land that is to be developed.

Final development order means a development order issued pursuant to chapter 3 of this Code.

Finger pier means a dock landing that branches from an access walkway or terminal platform to form a boat slip and provide direct access to the boat moored in the slip.

Fish and wildlife conservation commission, as applied to the protected species requirements of this Code, means the state game and fresh water fish commission, or its successor.

Fishing Pier includes observation deck.

Frontage street means a type of access street which runs parallel to the adjacent arterial or collector street right-of-way and which separates the abutting properties from the right-of-way.

Furnishing zone means that portion of the right-of-way adjacent to the sidewalk used for street trees, street furniture, landscaping, transit stops, street lights and site furnishings.

Furniture, street. See *Street furniture*.

Glazing means the fitting of a building with glass, usually for windows or door covers.

Habitable floor means any floor area usable for living purposes, including working, sleeping, eating, cooking or recreation, or any combination thereof. Bathrooms, toilet compartments, closets, halls, storage or utility space and similar areas are not considered habitable space.

Habitat, as applied to the protected species requirements of this Code, means the place or type of site where a species naturally or normally nests, feeds, resides or migrates, including, for example, characteristic topography, soils and vegetative covering.

Habitat, occupied, as applied to the protected species requirements of this Code, means property that provides critical habitat and which is documented to be actively utilized by a listed species.

Habitat, significantly altered, as applied to the protected species requirements of this Code, means critical or occupied habitat which has been altered due to natural or manmade events.

Hazard to navigation means a boat or structure erected, under construction or moored that obstructs the navigation of boat(s) proceeding along a navigable channel or obstructs reasonable riparian access to adjacent properties.

Health department and county health department means the county public health unit organized pursuant to F.S. § 154.001 et seq.

Herbaceous plant means a plant with little or no woody tissue, primarily consisting of grasses, rushes and sedges. Trees and shrubs are not herbaceous plants.

Impervious surface means those surfaces which do not absorb water, and includes all water bodies, structures, driveways, streets, sidewalks, other areas of concrete, asphalt, compacted layers of limerock or shell, and certain parking areas. In the case of storage yards, areas of stored materials constitute impervious surfaces.

Improvement to land means any change to land or to any structure on the land, and shall include any movement or grading of land, except grading which is incidental to the removal of exotic vegetation and which is not prohibited by chapter 5; clearing of indigenous vegetation; and the construction, reconstruction, conversion,

structural alteration, relocation or enlargement of any structure; provided, however, that any change to a building which does not involve a change in the building floor area shall not be deemed an improvement to land.

Individual sewage disposal system or facility means those sewage systems which include a septic tank, a system of piping, and a soil absorption bed or drainfield, as further defined and regulated by F.S. ch. 381 and F.A.C. ch. 10D-6.

Industrial means the use of a building or structure primarily for the storage, packaging or distribution of goods; the assembly, fabrication or manufacture of goods, either from raw materials or other goods; and the basic processing of foodstuffs.

Intensity of use means the extent to which nonresidential land is used as measured in terms of square footage of buildings, impervious surfaces, traffic generation, water consumption and sewage created.

Interior completion permit means any permit issued by the building official, which permits completion of a shell building or unit within a shell building, by authorizing work to finish interior units so that the building may receive a certificate of occupancy.

Intersection means the general area where two or more roads, streets, access ways or access points join or cross.

Joint authority. Words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Kayak Launch means a structure that may be used for storing and/or launching kayaks, canoes, paddle boards or other non-motorized vessels.

Keeper and proprietor. The terms "keeper" and "proprietor" include any person, firm, association, corporation, club or co-partnership, whether acting alone or through a servant, agent or employee.

LBR means limerock bearing ratio, for purposes of sections 3-302 and 3-532.

Land development activity means any change in land use, or any construction of buildings or structures, or any change in the use of any building or structure that attracts or produces vehicular trips.

Land Development Code means the City of Bonita Springs, Florida, Land Development Code, as designated in section 1-1.

Land use map means the map adopted by the city council, which delineates land use categories of the comprehensive plan.

Landscape architect means a professional landscape architect duly registered and licensed by the state.

Large development means a project of ten acres or more in land area or two acres or more in impervious area.

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

Living unit means any temporary or permanent unit used for human habitation.

Local roadway means streets with primary function being to serve adjacent properties. As such, it provides the linkage from adjacent land uses to the collector street system. Through volume service is not a function of local streets.

Lot means a parcel of land considered as a unit.

Lot area means the total horizontal area within the lot lines.

Lot, corner, means:

- (1) A lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the two streets is 135 degrees or less.

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- (2) A lot abutting a curved street if straight lines drawn between the intersections of the side lot lines and the street right-of-way or easement to the foremost point of the lot form an interior angle of less than 135 degrees. (See section 3-524.)

Lot depth means the distance between the midpoints of the front lot line and the rear lot line. The midpoint of a curved front or rear lot line shall be considered to be the midpoint of a straight line connecting the points of its intersection with the side lot lines. (See section 3-525.)

Lot, double-frontage, means any lot, not a corner lot or through lot, having two or more property lines abutting a street right-of-way or easement. (See section 3-526.)

Lot, flag, means a lot not fronting on or abutting a street, and where access to the street is by a narrow private easement; or an L-shaped lot or other irregularly shaped lot which abuts and has access to a street but does not comply with the minimum frontage requirements of chapter 4. (See section 3-526.)

Lot, frontage, means the distance measured along a straight line between the points of intersection of the side lot lines with the street right-of-way or easement. (See section 3-526.)

Lot, interior, means any lot not defined as a corner, double-frontage or through lot. (See section 3-526.)

Lot line means a line which delineates the boundary of a lot.

Lot line, front, means the lot line which divides the lot from a street right-of-way or easement. (See section 3-526.)

Lot line, rear, means that lot line which is parallel to or concentric with and most distant from the front lot line of the lot. In the case of an irregular or triangular lot, a line 20 feet in length, entirely within the lot, parallel to or concentric with and at the maximum possible distance from the front lot line shall be considered to be the rear lot line. In the case of a through lot, there shall be no rear lot line. In the case of a through frontage lot, the line directly opposite from the front line shall be designated as either a rear line or a side line depending upon the designation of the adjacent property. In the case of corner lots, the rear lot line shall be the line most nearly parallel to or concentric with and most distant from the front line most prevalent along the block. (See section 3-526.)

Lot line, side, means any lot line other than a front or rear lot line. (See section 3-526.)

Lot, L-shape, means an irregular lot shape, such as one in the shape of an "L" or "T," which meets the minimum frontage requirements of chapter 4. (See section 4-704.)

Lot of record means a lot which is part of a plat which has been lawfully recorded in the plat books in the office of the clerk of the circuit court and is in compliance with F.S. ch. 177, or a parcel of land, the deed of which was lawfully recorded in the office of the clerk of the circuit court on or before January 28, 1983.

Lot, through, means any lot having two opposite lot lines abutting a street right-of-way or easement. (See section 3-526.)

Lot width means the distance between the side lot lines, or a front and side lot line for corner lots, as measured along the minimum required street setback line. (See section 3-526.)

Luminaire means any one of a variety of lighting units including, but not limited to, florescent light fixtures, flood lights, spot lights, parking lights, and security lights.

Management, as applied to the protected species requirements of this Code, means a series of techniques applied to maintain the viability of species in a location. These techniques include, but are not limited to, controlled burning, planting or removal of vegetation, exotic species control, maintaining hydrologic regimes, and monitoring.

Management plan, as applied to the protected species requirements of this Code, means a plan prepared to address conservation and management of listed species and their habitat, which is approved by the director, following recommendations from the fish and wildlife conservation commission.

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

Mangrove means any specimen of the species black mangrove (*Avicennia germinans*), white mangrove (*Laguncularia racemosa*), or red mangrove (*Rhizophora mangle*).

Mansard roof is a roof with two slopes, the lower almost vertical to allow extra roof space for the attic rooms.

Marginal dock means a dock that runs immediately parallel and adjacent to the shoreline or shoreline vegetation and is used for mooring boats.

Marine resources means natural resources found in brackish and salt water areas such as mangroves, seagrasses, oyster beds and other hard-bottom habitats.

Mean high water means the average height of the high waters over a 19-year period. For shorter periods of observation, the term "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

Mean high water line means the intersection of the tidal plane of mean high water with the shore.

Mean low water means the average height of the low waters over a 19-year period. For shorter periods of observation, the term "mean low water" means the average height of the low waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.

Medical office means standard office space for the dispensing of medical and health-related services, including outpatient clinics incidental to such offices. Users may include medical doctors, osteopaths, chiropractors, naturopaths, nurse practitioners, health maintenance organizations and similar group practices, psychiatrists, clinical psychologists, counselors of all sorts and other similar licensed or professional practitioners, but shall not include small animal hospitals or other veterinary clinics.

Mobile home means a building, manufactured off the site in conformance with the Federal Mobile Home Construction and Safety Standards (24 CFR 3280 et seq.), subsequently transported to a site complete or in sections where it is emplaced and tied down in accordance with F.A.C. ch. 15C-1, with the distinct possibility of being relocated at a later date. Mobile homes not located within an established mobile home park will be treated as a single-family residence for impact fee calculation purposes.

Mobile home move-on permit means an official document or certification authorizing any purchaser, owner, mover, installer or dealer to move a mobile home onto a particular site. The term "mobile home move-on permit" also includes a permit authorizing the tie down of a park trailer in a mobile home zoning district.

Month means a calendar month.

Mooring area means the portion of a docking facility used for the mooring of boats.

Multi-modal means more than one travel mode, including vehicles/automobiles, bicycle, bus/transit, and pedestrian.

Multi-use path means a facility that is physically separated from the roadway and typically accommodates bi-directional travel by alternate modalities such as bicyclists and pedestrians. A multi-use path must be 11 feet or wider. Also known as a shared use path.

Multifamily means multiple-family building, duplex, two-family attached, townhouse and timeshare, as those terms are defined in this section.

Multiple-family building means a group of three or more dwelling units within a single conventional building, attached side by side, or one above another, or both, and wherein each dwelling unit may be individually owned or leased but the land on which the building is located is under common or single ownership. Dwelling units, other than caretaker's quarters, which are included in a building which also contains permitted commercial uses shall also be deemed to be multiple-family dwelling units.

Navigable channel means the area within a natural waterbody that has a minimum of three feet of water depth at mean low water. In artificial waterbodies, the navigable channel is measured from mean high waterline to mean high waterline.

Nonresidential means all commercial development excluding all residential development, and including multi-unit residential development.

Notary, notarize(d). Whenever the terms "notarize" or "notarized" appear, they expressly include and contemplate the use of the written declaration set forth under F.S. § 92.525 so long as the cited statutory requirements are met, except that written declarations may not include the words "to the best of my knowledge and belief" as this limitation is not permitted by the provisions of this Code.

Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath; and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Occupied habitat buffer area, as applied to the protected species requirements of this Code, means occupied habitat, the dimensions of which coincide with the recommended buffer guidelines established in section 3-536 and section 3-456(b).

Office means the use of a building or structure primarily for the sale of professional, medical, financial or other services, as opposed to the sale or manufacture and storage of goods.

Officer and official. Whenever reference is made to any officer or official, the reference shall be taken to be to such officer or official of the city.

On-road bike facilities or bike lane means a portion of a roadway which has been specifically designated for the use of bicyclists. See also *Bike lane, shared*.

Open space means:

- (1) Areas of preserved indigenous native vegetation and areas replanted with vegetation after construction, such as natural systems, lawns, landscaped areas and greenways, which comply with the minimum dimensional requirements of section 3-417(d).
- (2) The outdoor recreational facilities as listed in section 3-417(d)(2)d.
- (3) That portion of bodies of water, existing or proposed, that are within the proposed development area and subject to the restrictions and limitations in section 3-417(d)(2)c.
- (4) Archaeological sites, including any area that contains evidence of past human activity ranging from large mound and midden complexes to a group of artifacts, the boundary and extent of which is determined by a survey by a professional archaeologist.
- (5) Plazas, atriiums, courtyards and other similar public spaces as specified in section 3-417(d)(2)e.

Ordinary High Water Line means the intersection of the tidal plane of ordinary high water with the shore as applied to artificial water bodies.

Overhang means:

- (1) The structural projection of an upper story or roof beyond the story immediately below;
- (2) The portion of a vehicle extending beyond the wheel stops or curb.

Owner, as applied to a building or land, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

PCP (permanent control point) means a marker as defined in F.S. § 177.031(13).

PRM (permanent reference monument) means a monument as defined in F.S. § 177.031(15).

Parapet means the part of an exterior wall that extends above the roof.

Parcel. See Lot.

Parking areas means all areas, paved or unpaved, designed, used or intended to be used for the parking or display of vehicles, excluding:

- (1) Areas used for parking or vehicle display that are under or within buildings;
- (2) Parking areas serving a single structure of two dwelling units or less; and
- (3) Areas used for the temporary storage of construction equipment.

Parking lot access means an accessway which provides vehicle access from a street to a parking lot containing five or more parking spaces, but from which vehicles are restricted to entering or leaving the street in a forward motion only.

Parking lot aisle means the portions (lanes) of a parking lot which provide direct access to individual parking spaces.

Pedestrian means a person on foot or in a wheelchair.

Pedestrian-scale means the use of human-proportioned architectural features and site design elements clearly oriented to pedestrian activity. Such elements are typically smaller in scale and more proportional to the human body, rather than monumental or large-scale, and include surface texture and patterns, lighting, colors, materials, and architectural details.

Permanent traffic means the traffic that a development can reasonably be expected to generate on a continuing basis upon completion of the development. The term "permanent traffic" does not mean the temporary construction traffic.

Permit means any official document or certificate required or issued by the city authorizing performance of a specified activity.

Permit, interior completion, means any permit issued by the building official that will permit completion of a shell building, or unit within a shell building, by authorizing work to finish interior units so that the building may receive a certificate of occupancy.

Planned development means a development that is designed and developed as a cohesive, integrated unit under single ownership or unified control which permits flexibility in building siting, mixture of housing types or land uses, clustering, common functional open space, the sharing of services, facilities and utilities and protection of environmental and natural resources. Planned developments are those zoning districts designated in chapter 4 as PUD, RPD, MHPD, RVPD, CFPD, IPD, AOPD, CPD, or MPD.

Planned development rezoning means any rezoning to a planned development zoning district pursuant to chapter 4.

Plat means a plat as defined by F.S. § 177.031(14), as amended.

Portico means an architectural entry feature structurally supported by columns or arches and protecting a doorway or walkway from the elements.

Preliminary development order means any development order other than a final development order.

Primary public hurricane shelter means a structure designated by the division as a place for shelter during a hurricane event. Only those structures located outside of the coastal high hazard area that have been designated by the city or the American Red Cross as primary shelters meet this definition.

Private street means a street that:

- (1) Is not dedicated to the public; or
- (2) Has been dedicated to the public but the offer has not been accepted by the board through express action at a public hearing.

Private water system means a water system that is supplied by a well, spring or other similar source of water, that is used for human consumption by four dwelling units or less and is regulated by F.S. ch. 381 and F.A.C. ch. 10D-4, as amended.

Property means:

- (1) Real and personal property; and
- (2) As applied to the protected species requirements of this Code, means the land which is the subject of the specific development application.

Public health, safety and welfare includes, but is not limited to, comfort, good order, appearance, convenience, law enforcement and fire protection, prevention of overcrowding of land, avoidance of undue concentration of population, facilitation of the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreation facilities, housing and other requirements and services; and conservation development, utilization and protection of natural resources.

Public or institutional use means a land use that cannot be classified in any other land use category included in the fee schedules on file in the city clerk's office.

Public or private warehouse means indoor terminal facilities, either available to the general public at a fee for the dead storage of farm products, furniture and other household goods or commercial or private goods of any nature or operated primarily for a specific commercial establishment or group of establishments in a particular industrial or economic field, such as moving companies, transfer companies, freight delivery, specific retail store storage or beverage distribution, but not generally accessible to the public.

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

Public sewage system means a sewage system that contains a wastewater treatment plant, is not an individual sewage disposal system, and is not regulated by the state.

Public street means a street that has been dedicated to the public and where the public, through use of the street, or the city council, through express action at a public hearing, has accepted the offer of dedication. Regardless of the council's acceptance of the offer of public dedication, the council may or may not have accepted the street for maintenance purposes.

Public water system means a water system that is not a private water system, and includes those water systems regulated by the state and defined as public water systems by the state.

Receiver parcel means a parcel of land on which a development right is used.

Recreation facilities.

- (1) *Recreation facilities, commercial*, means recreation equipment or facilities not classified as a park (section 4-408(c)(32)), or as personal, private-on-site, or private-off-site facility, but instead operated as a business and open to the public for a fee. See section 4-408(c)(38).
- (2) *Recreation facilities, personal*, means recreation equipment or facilities such as swimming pools, tennis, shuffleboard, handball or racquetball courts, swings, slides and other playground equipment provided as an accessory use on the same premises and in the same zoning district as the principal permitted use and designed to be used primarily by the owners, tenants, or employees of the principal use and their guests.
- (3) *Recreation facilities, private on-site*, means recreation equipment or facilities such as swimming pools, tennis, shuffleboard, handball or racquetball courts, swings, slides and other playground equipment which are owned, leased or operated by a homeowners', co-op, or condominium association and located in the development or neighborhood controlled by the association.

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- (4) *Recreation facilities, private off-site*, means recreation equipment or facilities such as, but not limited to, swimming pools, tennis, shuffleboard, handball or racquetball courts, picnic facilities, swings, slides and other playground equipment owned, leased or operated by a homeowners', co-op, or condominium association for use by the association's members and guests, but which are not located in the development or neighborhood controlled by the association.

Recreational vehicle means a recreational vehicle type unit which is so defined in F.S. § 320.01(b).

Recreational vehicle development order means a final development order, as that term is used in chapter 3, permitting the placement of recreational vehicles on any area of land.

Redevelopment means construction of new buildings, typically after demolishing the existing buildings.

Regulatory standards means the minimum acceptable level of service as set forth in the comprehensive plan or this Code, whichever is more restrictive.

Rehabilitation means the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions of features of the property which are significant to its historical architectural and cultural values.

Retail means the use of a building or structure primarily for the sale of goods or foods that have not been made, assembled or otherwise changed in a way generally associated with manufacturing or basic food processing in the same building or structure.

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

Reverse frontage street means a local street or accessway that functions as an access street but which is not located adjacent to the arterial or collector street right-of-way.

Road has the same meaning given it in F.S. § 334.03(23).

Road capital improvement includes transportation planning, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any road construction project, including but not limited to:

- (1) Construction of new through lanes;
- (2) Construction of new turn lanes;
- (3) Construction of new bridges;
- (4) Construction of new drainage facilities in conjunction with new roadway construction;
- (5) Purchase and installation of traffic signalization, including new signalization and upgrading signalization;
- (6) Construction of curbs, medians and shoulders;
- (7) Construction of on-road bikeways and bikepaths; and
- (8) Relocating utilities to accommodate new roadway construction.

Road expansion means all road and intersection capacity enhancements, and includes, but is not limited to, extension, widening, intersection improvements, upgrading signalization and improving pavement conditions.

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

Service area means:

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- (1) The area subject to a fire control and rescue district's taxing authority by virtue of a valid special act establishing the fire district's boundaries within the city, as its boundaries may change from time to time. The term "service area" also includes an area the district provides fire and emergency medical services to by virtue of a valid interlocal or contractual agreement; or
 - (2) The geographical region consisting of the lots being served or being proposed to be served by a public facility, including, but not limited to, public water or sewage systems.

Setback line, front or street, means a line drawn parallel to or concentric with the front lot line at a distance from the lot line equal to the setback required by chapter 4 for the classification of street upon which the lot abuts. If the front line is curved, the setback line shall be a curved line drawn an equal distance back from the intersections of the side lot lines with the street right-of-way line, and with the required setback measured at the point where the setback line is closest to the front lot line. (See section 3-526.)

Sever means the removal or separation of some specified right or use from the bundle of rights possessed by an owner of real property. The term "sever" connotes a removal or separation in perpetuity as distinguished from a restriction or limitation which may be overridden, deleted or subject to a time limitation.

Sewage system means a system of pipes, pumps, tanks or wastewater treatment plants and all other appurtenances or equipment needed to treat, transport and dispose of sewage.

Shell building means any commercial or industrial building, or portion of a building, so constructed to consist exclusively of exterior walls and unfurnished interior units with rough staged utilities, so as to preclude occupancy. The term "shell building" does not include agricultural or residential buildings.

Shopping center means an integrated group of commercial establishments planned, developed, owned or managed as a unit. A shopping center consists primarily of retail establishments, but may also contain some other uses, such as restaurants, medical or general offices. Shopping center out parcels will be treated as separate uses.

Sidewalk means any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

Sidewalk, off-site, means a pedestrian facility which is exterior to a parcel being improved and located in the right-of-way of the arterial or collector road adjacent to that parcel or within an easement dedicated to the public.

Sidewalk, on-site, means a pedestrian facility which is located within the boundaries of the parcel being improved.

Single-family residence means a single, freestanding, conventional building designed for one dwelling unit and which could be used for occupancy by one family.

Site-related improvements means capital improvements and right-of-way dedications for direct access improvements to the development in question. Direct access improvements include, but are not limited to, the following:

- (1) Site driveways and roads;
- (2) Median cuts made necessary by those driveways or roads;
- (3) Right turn, left turn, and deceleration or acceleration lanes leading to or from those driveways or roads;
- (4) Traffic control measures for those driveways or roads;
- (5) Access or frontage roads that are not shown as planned county or city-built or publicly owned roads on the county or city's access road location map, as amended;
- (6) Roads or intersection improvements whose primary purpose at the time of construction is to provide access to or within the development;

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- (7) Unless required by the county or city pursuant to the criteria in section 3-283, access or frontage roads that enable a parcel to achieve site location standards for commercial development; and
 - (8) Unless required by the county or city pursuant to the criteria in section 3-283, roads that provide frontage for newly created lots that would not normally have frontage.

Slip means a space designed for the mooring or storage of a single boat, regardless of size, which includes wet or dry slips, anchorage, beached or blocked, hoist, parked on trailers, open or covered racks, seawall or the number of parking spaces for boat ramps. Fishing piers are not considered wet slips.

Small development means a project of less than ten acres in land area and less than two acres in impervious area.

Soils classification means those categories and types of soils identified by the United States Department of Agriculture soil survey of the city.

State means the State of Florida.

Statutory development agreement means any agreement made specifically pursuant to the Florida Local Government Development Agreement Act. All other terms which are used in any statutory development agreement made by the city pursuant to the Florida Local Government Development Agreement Act, as such act may be amended from time to time, shall be defined as set forth in F.S. § 163.3221, unless otherwise specifically defined in a particular statutory development agreement. Terms not so defined shall be given their ordinary and customary meanings.

Stormwater management system includes the detention or retention areas, percolation trenches, discharge structures and outfall channels provided to control the rate of stormwater runoff within and from a development.

Street.

- (1) The term "street" means:
 - a. An accessway which affords the principal means of ingress or egress for two or more parcels of land; or
 - b. A right-of-way or roadway which affords the principal means of ingress or egress for a parcel of land.
- (2) The term "street" is synonymous with the term "avenue," "boulevard," "drive," "lane," "place," "road" or "way," or similar terms.

Street furniture means benches, lighting, bike racks and shelters, newsstands, informational signs, kiosks, waste receptacles, and other related infrastructure used to support the use of the street as public space.

Street right-of-way is a general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to transportation purposes, which has been dedicated to the public and accepted by the board.

Street stub means a street having one end open for vehicular traffic and the other terminated without a turnaround for vehicles.

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

Subdivider means a person who creates a subdivision.

Subdivision.

- (1) A subdivision is a type of development. The term "subdivision" means the following:
 - a. The division of a lot wherein the new lot, or any remaining portion of the original lot, is less than ten acres in size;

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- b. The division of a lot, the result of which is the extension of an existing street or the establishment of a new street;
 - c. Creation of a condominium as defined in F.S. chs. 718 and 721, except that condominium developments are exempt from the provisions of this Code that require platting under F.S. ch. 177.
- (2) The combination or recombination of up to three lots of record is not a subdivision provided that all resulting lots comply with chapter 4, the comprehensive plan and all other applicable provisions of this Code. Specific provisions relating to the recombination of up to three lots are contained in section 3-231.
 - (3) The term "subdivision" includes resubdivision or redivision and, when appropriate to the context, also means the process of subdivision or the land subdivided.

Submerged aquatic vegetation means fresh, saline or brackish submerged vegetation, not to include macroalgae, that may be used by manatees for food.

Surveyor means a professional land surveyor duly registered and licensed by the state.

TDR means transfer of development rights.

TDR unit means one dwelling unit or its equivalent density.

Tenant or occupant, as applied to a building or land, include any person holding a written or oral lease or who occupies the whole or part of such building or land, either alone or with others.

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

Timeshare means any arrangement, plan, scheme or similar device, other than an exchange program, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement by any other means, whereby a purchaser, for consideration, receives ownership rights in or a right to use accommodations, and facilities, if any, for a period of time less than a full year during any given year, but not necessarily for consecutive years, as defined in F.S. § 721.05.

Timeshare unit means:

- (1) Any dwelling unit or rooming unit for which a timesharing plan, as defined in F.S. ch. 721, has been established and documented.
- (2) A type of ownership that complies with the provisions of F.S. ch. 721, where a purchaser, in exchange for consideration, receives ownership rights to occupy a unit for a period of time less than a full year for the duration stated in the instrument of conveyance.

Townhouse means a group of three or more dwelling units attached to each other by a common wall or roof wherein each unit has direct exterior access and no unit is located above another, and each unit is completely separated from any others by a rated firewall or a fire and sound resistant enclosed separation or space, and wherein each dwelling unit is on a separate lot under separate ownership.

Trafficway means an existing or planned public right-of-way, the primary, though not necessarily the sole, purpose or use of which is to facilitate through movement of direct access to abutting properties. A trafficway may represent a freeway, expressway, arterial or collector street.

Transportation concurrency exception areas means areas designated under the comprehensive plan that allow exceptions to the transportation concurrency management requirement to promote urban infill development, urban redevelopment, or downtown revitalization.

Transportation concurrency management areas means compact geographic areas designated under the comprehensive plan with existing or proposed multiple, viable alternative travel paths or modes for common trips, which employ the use of an area-wide level of service standard and an accommodation and management of traffic

congestion for the purpose of promoting infill development or redevelopment in a manner that supports more efficient mobility alternatives.

Turn lane means a width of pavement required to protect the health, safety and welfare of the public and reduce adverse traffic impacts from turning movements generated by a development on to and off of a street. Turn lanes shall include and enhance turning, acceleration, deceleration or storage movements of vehicles as required by this Code.

Two family as used in this Code, includes the term "duplex" as defined in chapter 4 of the Land Development Code.

Unified control means that a single property owner or entity has been authorized by all owners of the property to represent them and to encumber the parcel with covenants and restrictions applicable to development of the property as approved by the city.

Unified control document means a notarized statement evidencing a property owner's or entity's right and authority to impose covenants and restrictions on the parcel or otherwise bind the property with respect to conditions necessary to secure the approval requested. A notarized statement submitted to the city establishing a property owner's or entity's right and authority to impose covenants and restrictions on a parcel as a result of the issuance of development approval in accordance with this Code. The unified control document also constitutes an agreement that the property owner will not transfer, convey, sell or subdivide the subject parcel unencumbered by the covenants and restrictions imposed as part of the development order permitting process.

Used for includes the terms "arranged for," "designed for," "maintained for" or "occupied for."

Vehicle use area means all ground level impervious surfaces, including impervious parking areas, that may be used by vehicles for parking, circulation, and similar activities within the development. Street right-of-way, roadway easement, and those areas excluded from the definition of parking area are exempted.

Volume to capacity ratio means the ratio of traffic volume to the adopted level of service threshold (i.e., capacity) for a road.

Wall, front, means the wall closest to, and running roughly parallel to, the front lot line. On a corner lot, there are two front walls.

Water detention/retention area means a water storage area with a bottom elevation lower than one foot above the control elevation of the area.

Water system means a system of pipes, pumps, water treatment plants or water sources, and all other appurtenances or equipment needed to treat, transport and distribute water.

Week means seven consecutive days.

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

Written or in writing includes any representation of words, letters or figures, whether by printing or otherwise.

Year means a calendar year.

Zoning board means the city board that hears requests for zoning variances and performs the duties set forth in section 4-124.

Zoning ordinance means that document as adopted, and as may be amended by the city council for the purpose of dividing the incorporated area of the city into zoning districts and providing for the regulation of uses, land and structures within such districts, as set out in chapter 4.

(Ord. No. 05-04, § 2(9-5), 4-6-2005; Ord. No. 18-06, § 1, 5-16-2018)

****** Editor's Note: This definition is meant for work relating to dock and shoreline only. The term work can be found elsewhere in the Land Development Code.

ARTICLE XII. DOCK AND SHORELINE STRUCTURES

DIVISION 1. GENERALLY

Sec. 7-354. Definitions--Intent, Purpose, and Applicability.

It is the intent and purpose of this article to provide for the adequate securing of moored vessels, other riparian rights, and to provide safe access to boats and structures by users for routine maintenance and use while minimizing the impact on the navigability of the waterway, native marine habitat, listed species, and the use and view of the waterway by surrounding property owners and the public. It is further the intent of this article to provide reasonable access for boat and structure maintenance. The terms and provisions of this article apply to the city's corporate area.

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

~~*Access walkway* means the portion of a structure that allows access to a docking facility or terminal platform.~~

~~*Areas of special concern (ASC)* means those areas as identified and described in the Lee County Manatee Protection Plan.~~

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

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

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

~~*Boathouse* means a roofed structure constructed over or adjacent to water to provide a covered mooring or storage place for watercraft.~~

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

~~*Ditch* means a manmade trench or canal that was built for a non-navigational purpose. (See 33 CFR 329.24 for definition of navigable waterways.)~~

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

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

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

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

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

~~*Invasive exotic vegetation* means the category 1 invasive plant list as amended by the Florida Exotic Pest Plant Council. Major plant species from this list include Australian pine (*Casuarina* spp.), Brazilian pepper (*Schinus terebinthifolius*), paper or punk tree (*Melaleuca quinquenervia*), beach naupaka (*Scaevola frutescens* or *Scaevola taccada*) and earleaf acacia (*Acacia auriculiformis*).~~

~~*Lawfully* has the same meaning as set forth in section 4-2.~~

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

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

~~*Manatee Protection Plan* means the Lee County Manatee Protection Plan, dated June 17, 2004, approved by the board of county commissioners on June 29, 2004, as it may be amended from time to time.~~

~~*Mangrove* means any specimen of the species black mangrove (*Avicennia germinans*), white mangrove (*Laguncularia racemosa*), or red mangrove (*Rhizophora mangle*).~~

~~*Marginal dock* means a dock that runs parallel and adjacent to the shoreline. The term "marginal dock" includes docks with a maximum access walkway length of 25 feet to a dock running parallel to the shoreline and adjacent to wetland vegetation.~~

~~*Marina* has the meaning provided in section 4-2.~~

~~*Mean high water* means the average height of the high waters over a 19-year period. For shorter periods of observation, the term "mean high water" means the average height of the high waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.~~

~~*Mean high water line* means the intersection of the tidal plane of mean high water with the shore.~~

~~*Mean low water* means the average height of the low waters over a 19-year period. For shorter periods of observation, the term "mean low water" means the average height of the low waters after corrections are applied to eliminate known variations and to reduce the result to the equivalent of a mean 19-year value.~~

~~*Mean low water line* means the intersection of the tidal plane of mean low water with the shore.~~

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

~~*Mooring area* means the portion of a docking facility used for the mooring of watercraft.~~

~~*Multi-slip docking facility* has the meaning provided in section 4-2.~~

~~*Navigable channel* means the area within a natural waterbody that has a minimum of three feet of water depth at mean low water.~~

~~*Open water* means, for the purposes of the Manatee Protection Plan, wide water bodies or water adjacent to passes and gulf passes within the city, to include Big Hickory Pass, the southern portion of Big Carlos Pass and New Pass.~~

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

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

~~*Single family dock* means a fixed or floating structure, including moorings, used for berthing buoyant vessels, that is an accessory use to an existing or proposed single family residence, with no more than two boat slips per residence when located in a natural waterbody. A shared single family dock approved in accordance with this LDC may contain up to four boat slips.~~

~~*Slip or watercraft slip* means a space designed for the mooring or storage of a single watercraft, regardless of size, which includes wet or dry slips, anchorage, beached or blocked,~~

hoist, parked on trailers, open or covered racks, seawall or the number of parking spaces for boat ramps. Piers authorized only for fishing or observation are not considered wet slips.

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

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

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

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

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

Waterbody means all artificial and natural bodies of water, as those terms are defined in section 4-2, and all adjacent wetlands, as defined in section 7-190.

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

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

{Ord. No. 14-02, § 7-41, 2-19-2014}

Sec. 7-355. Violations and penalty.

- (a) Any person doing work in violation of this article or any approval or permit issued in accordance with this article is subject to prosecution through the city code enforcement process described in chapter 2. Any affected party, including the city, may seek a civil injunction to enjoin work on a structure conducted in violation of this article, in addition to or in lieu of initiating or pursuing code enforcement action.
- (b) Each day work continues on any structure without the appropriate permits constitutes a separate offense.

{Ord. No. 14-02, § 7-42, 2-19-2014}

~~Sec. 7-356. Applicability of article.~~

~~The terms and provisions of this article apply to the city's corporate area.~~

~~{Ord. No. 14-02, § 7-43, 2-19-2014}~~

~~Sec. 7-357. Compliance with applicable regulations.~~

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

~~{Ord. No. 14-02, § 7-44, 2-19-2014}~~

Sec. 7-3558. Permits and variances required.

- (a) A permit is required prior to starting any work addressed by this article. Any repairs of greater than 50 percent of the structural components of existing structures or the proposed expansion of or addition to a structure as addressed in this article, shall require the entire structure to be brought into conformance with the requirements of this article.
- (b) Permit applications must be submitted in writing on an appropriate form to the department of community development, and contain the following:
 - (1) ~~The names, addresses, and telephone numbers of the property owners~~ Information required on the application;
 - (2) ~~The name, address and telephone number of the property owner's agent, if applicable;~~ A fee, as established by the City; and
 - (3) ~~Written authorization from the property owner to the agent, if applicable;~~ All necessary state and federal agency permits which shall be obtained prior to commencement of development; and
 - (4) ~~The property street address;~~ Any other information necessary to meet the criteria of this article.
 - (5) ~~The property STRAP number;~~
 - (6) ~~A site plan, showing the following:~~
 - a. ~~The proposed location of the work relative to riparian property lines; and~~
 - b. ~~Dimensions and side setbacks of all proposed structures or work;~~
 - (7) ~~All necessary state and federal agency permits shall be obtained prior to commencement of development, unless a submerged lands lease is required from the state department of environmental protection, in which case city approval is required first; and~~

~~(8) A fee, as established by the city.~~

- (c) Work relating to industrial, commercial or multifamily projects may require a development order in accordance with chapter 3 and construction drawings sealed by a professional engineer (P.E.) or registered architect. All development order applications will be reviewed for compliance with this article.
- (d) The director has the discretion to require:
 - (1) Construction drawings sealed by an appropriately qualified professional engineer, or registered architect; and/or
 - (2) A boundary or record survey, including labeled delineation of riparian lines, sealed by a professional surveyor and mapper (PSM) identifying the property boundary, and ~~or~~ riparian extensions into the waterbody in relation to construction or work. Lots at the canal terminus or at a bend of a canal must show the radius of the waterway. See Figure 7-1. The survey submitted to meet this- these criteria must be certified to the City of Bonita Springs; and/or
 - (3) A post-construction as-built survey, sealed by a PSM and certified to the city, prior to issuance of a certificate of completion for any permit under this section.
- (e) The director may conduct on-site inspections to determine if the proposed work or structure meets the required minimum standards.
- (f) A permit is required to repair or replace an existing structure. The director has the discretionary authority to exempt minor repairs such as decking.
- (g) The director can authorize minor design alteration necessary to comply with the Americans with Disabilities Act such as handrails.
- (h) Permit approvals granted under this section will be based upon the information submitted by the applicant. An approval under this section does not constitute a legal opinion regarding the riparian rights boundaries of the subject property or adjacent property, and may not be used to substantiate a claim of right to encroach into another property owner's riparian rights area.
- (i) ~~Issuance of a permit for new construction, reconfiguration, or the repair of an existing structure that changes the configuration in a manner not consistent with the terms and conditions of the Manatee Protection Plan is prohibited.~~ Variances or special exceptions from the requirements of this article may be requested in accordance with section 4-131(b) and (c) respectively as long as the variance or special exception requested is consistent with the Manatee Protection Plan. Application for special exceptions may be requested only as referenced in this article.

~~{Ord. No. 14-02, § 7-45, 2-19-2014}~~

~~Sec. 7-359. Variances.~~

- ~~(a) Variances from the requirements of this article may be requested in accordance with section 4-124(2). City council may grant a variance from the provisions of this article only upon finding the following criteria have been met:~~
- ~~(1) The granting of a variance will not threaten or create an undue burden upon the health, safety and welfare of abutting property owners or the general public;~~
 - ~~(2) The requested variance is necessary to relieve an unreasonable burden placed upon the applicant by applying the regulations in question to his property;~~
 - ~~(3) The variance requested is consistent with the Bonita Plan and the Manatee Protection Plan.~~
- ~~(b) Requests for variances involving historic resources, as defined in chapter 5, may be obtained in accordance with sections 5-150 and 5-151.~~

~~{Ord. No. 14-02, § 7-46, 2-19-2014}~~

~~Sec. 7-360. Exemption from setback requirement.~~

~~Any structure permitted under this article will not be subject to the 25-foot setback requirements from a bay, canal or other waterbody set out in chapter 4.~~

~~{Ord. No. 14-02, § 7-47, 2-19-2014}~~

~~Sec. 7-361. Nonconforming structures.~~

~~A nonconforming structure may be repaired, replaced or altered if the size, dimensions and location of the structure are and will remain in compliance with existing regulations, including the Manatee Protection Plan and section 7-385(b)(4), regarding seawalls. Nonconforming structures may be altered if, in the opinion of the director, the proposed work will not cause an increase in the nonconformity.~~

~~{Ord. No. 14-02, § 7-48, 2-19-2014}~~

~~Secs. 7-362—7-380. Reserved.~~

DIVISION 2. LOCATION AND DESIGN

~~Sec. 7-35681. Docking facilities and boat ramps.~~ Docking facilities Work in this division will be permitted in accordance with the following regulations:

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

~~(1) Number of slips.~~

- ~~a. No more than one private single family watercraft mooring dock with two slips is permitted in natural waterbodies.~~
- ~~b. A shared property line dock can be permitted for up to four slips with a joint use agreement in compliance with subsection (8) of this section.~~
- ~~c. Handrails may be required to prohibit the mooring of watercraft in any area not designated as a watercraft slip. Handrails must be permanently maintained.~~

~~(2) Length of docks. No private single family dock, including mooring area, may be permitted or constructed in a natural or artificial waterbody to exceed any of the following lengths as measured from the mean high water line seaward:~~

- ~~a. 200 feet;~~
- ~~b. 25 percent of the navigable channel width. In artificial waterbodies, the navigable channel is measured from mean high waterline to mean high waterline. Watercraft mooring areas that are waterward of the dock will be deemed ten feet in width; or~~
- ~~c. Up to 300 feet, if the director, in his sole discretion, finds that:~~
 - ~~1. The proposed dock has been approved by all applicable state and federal agencies;~~
 - ~~2. The increased length will not result in a hazard to navigation;~~
 - ~~3. The proposed dock is compatible with docks or other structures and uses on adjoining lots; and~~
 - ~~4. The increase in length will lessen the dock's impacts on seagrass beds or other marine resources.~~

~~(3) Maximum dimensions.~~

- ~~a. Docking facilities in natural waterbodies must comply with the following maximum dimensional requirements:~~

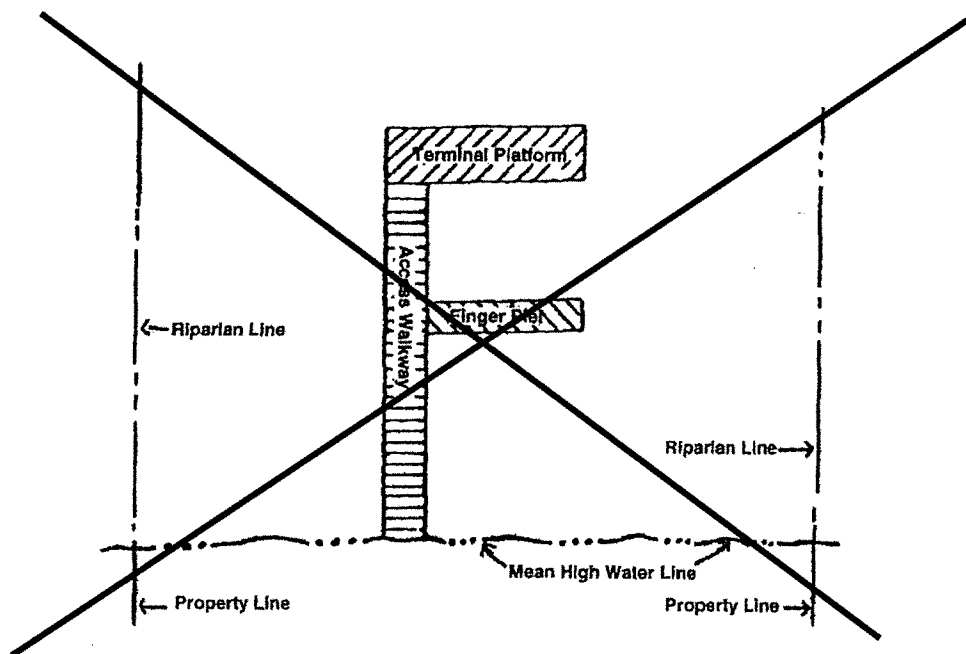


Figure 7-1. Private Single Family Structure Plan View

PRIVATE SINGLE FAMILY STRUCTURE

Access walkway	4 feet wide
Terminal platform	160 square feet
Finger piers	3 feet wide

The application of these regulations is illustrated in Figure 7-1, Private Single-Family Structure Plan View.

- b. The director has the discretion to permit a dock of greater dimensions than allowed by this subsection if:
 - 1. The primary access to the property is by watercraft;
 - 2. No reasonable alternative access exists; and
 - 3. The increase in the dock dimensions is the minimum necessary to meet the needs of the property owner.
- c. Single family residential boat ramps cannot exceed 15 feet in width.

(4) Setbacks.

- a. All multi-slip and marina docking facilities, except boat davits, in or adjacent to natural waterbodies must be set back a minimum of 25 feet from all adjoining side lot lines.
- b. All private single family docking facilities in natural waterbodies must be set back from all adjoining side lot and side riparian lines as follows:

-
1. ~~Marginal docks—No less than ten feet.~~
 2. ~~All other docks—No less than 25 feet.~~
 3. ~~Boat lifts and mooring pilings—No less than ten feet.~~
- c. ~~Side setback requirements can be reduced if:~~
1. ~~Adjoining property owners execute a written agreement in recordable form, agreeing to a setback less than that required or to a zero setback; and~~
 2. ~~Placement of the dock in accordance with the setback agreement will not result in greater environmental impacts than compliance with the regulations set forth in this subsection (4).~~
- d. ~~The director, in his discretion, may permit administrative deviations from the setbacks required by this subsection (4) if the facility is located as close to the required setback as possible and:~~
1. ~~The width of the subject parcel is not wide enough to permit construction of a docking facility, perpendicular to the shoreline at the midpoint of the shoreline property line, without a deviation; or~~
 2. ~~Construction of the structure outside the setback area will not cause or will minimize damage to wetland vegetation or other environmental resources or will not cause greater damage than will occur if the deviation is not granted.~~

~~The director's decision under this subsection can be appealed through the procedure set forth in section 4-124(1) or the applicant may seek a variance in accordance with section 7-359.~~

- e. ~~All boat ramps must be set back ten feet from all adjoining side lot and side riparian lines.~~

~~(5) Location.~~

- a. ~~Docking structures in natural or artificial waterbodies that create a hazard to navigation are prohibited.~~
- b. ~~Boat ramps located in a manner that will result in a change in the mean high-water line are prohibited.~~
- c. ~~Docks located at the end of a canal may require a survey sealed by a PSM depicting the riparian area. The dock must be designed to allow for adequate ingress/egress and mooring within the subject property's riparian area.~~

~~(6) Minimum water depths.~~

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

b. ~~Multi-slip docking facilities or marinas.~~ Except when a reduced water depth for a public service marina has been approved by variance, there must be a minimum depth of one foot clearance between the deepest draft of a vessel (with the engine in the down position) and an unvegetated bottom or the top of submerged aquatic vegetation (e.g., seagrasses) at mean low water, with a minimum water depth of at least four feet within mooring areas, turning basins, and ingress and egress pathways. The hearing examiner may grant a variance to the minimum water depth for a public service marina in accordance with section 4-124(2), only upon finding the request is consistent with the provisions of Lee County Manatee Protection Plan.

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

- a. ~~A deed describing the residential lot with at least one boundary being the waterway along which the dock facility is proposed. The lot described must be a buildable lot with sufficient square footage to meet city requirements, except as provided in section 4-925(b)(2)d; or~~
- b. ~~A recorded easement granting access to the waterbody for purposes of constructing and using a dock/facility meeting the following criteria:~~
 - 1. ~~The easement must be over land contiguous to the residential lot such that an extension of the side lot lines will allow access to the water beyond the rear lot line;~~
 - 2. ~~The easement must be for the benefit of a residential lot that is a buildable lot under city regulations; and~~
 - 3. ~~The easement must be necessary to gain access to the waterbody over and through waterway buffer and maintenance areas required for development approval under chapter 3.~~

(8) ~~Joint use agreements.~~ Adjacent property owners seeking approval for a shared docking facility must submit a draft joint use agreement to environmental sciences. The agreement must be approved by the city attorney's office prior to permit issuance, and must:

- a. ~~Identify each party by name, including mailing address. The parties must be the owners of the property abutting each other that will benefit from the dock facility.~~
 - b. ~~Identify the physical location of the subject parcels, including STRAP numbers, a legal description and accompanying sketch.~~
 - c. ~~Identify the specific location of the docking facilities, including the name of the waterbody, the dimensions of the facilities, and the dimensions of the land that will be used in conjunction with the facilities.~~
-

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- d. ~~Provide, as an attachment to the agreement, a detailed sketch of the facility identifying the various docking facilities, subject property boundaries and the upland area intended to be encumbered by the normal use of these facilities. This sketch must be consistent with the statements made to comply with subsection (8)c of this section.~~
 - e. ~~Specifically identify those areas that will be the subject of access easements to provide access (ingress/egress) to the docking facilities from each of the benefitted parcels. Depending on the facilities and parties involved, these easements may be reciprocal in nature. The easements must be specifically granted to each party named in the agreement and must run with the land (i.e., be part of the title to the primary residential parcel) in perpetuity. Grant of dock easement rights to parcels that do not abut the docking facility parcel is prohibited.~~
 - f. ~~Provide, as an attachment, a sketch prepared by a registered PSM, based on the legal description and identifying the access easements granted.~~
 - g. ~~Indicate who will be responsible for the cost of construction and maintaining the facilities. This can be accomplished by inclusion of cost sharing provisions.~~
 - h. ~~Indicate that the parties understand and agree to abide by all applicable federal, state and local regulations pertaining to the construction, maintenance and use of the facilities.~~
 - i. ~~Be submitted as a draft to environmental sciences for review by staff and the city attorney's office prior to recording.~~
 - j. ~~Be recorded in the public records at the applicant's cost. In order to satisfy the minimum recording requirements imposed by the Florida Statutes, there must be two witnesses to each party's signature and each party must acknowledge the agreement before a notary public. Additional requirements can be found in F.S. § 695.26. A copy of the recorded agreement or a document identifying the recording information must be submitted to the city prior to permit issuance.~~

~~(9) *Wood pilings to be wrapped.* All wood pilings that are located within one foot of the mean high water line must be wrapped in PVC so as to reduce the leaching of wood preservation materials.~~

~~(10) *Approved materials.* Plastic or marine resistant materials shall be used on all docks in the tidal range. Except for pilings in the tidal range, wood should not be used for construction of any dock or related facility.~~

~~(Ord. No. 14-02, § 7-71, 2-19-2014)~~

Sec. 7-357. – MULTI-SLIP COMMERCIAL AND RESIDENTIAL FACILITIES (greater than 4 slips)

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- (a) The general screening process in the Manatee Protection Plan will be used to identify desirable locations for new marine facilities, as well as to evaluate the redesign and expansion of existing sites. The results of the screening process will also result in a determination of the maximum number of slips that may be approved at a requested location. The screening, design, and location criteria are set forth in chapter 4, the Manatee Protection Plan and Bonita Plan Objective 22.3 and 22.4, with its associated policies.
 - (b) In order to reduce the pollution from copper bottom paint and bilge water, all new or modified multifamily or commercial docking facilities shall be required to install one boat lift per slip. Slips that contain boats with a gross weight of over 10,000 pounds are not required to have boat lifts and boats are required to be stored on boat lifts when not in use. Slips used to moor boats less than 24 hours are not required to install boat lifts.
 - (c) Except when a reduced water depth for a public service marina has been approved by variance, there must be a minimum depth of one foot clearance between the deepest draft of a boat (with the engine in the down position) and an unvegetated bottom or the top of submerged aquatic vegetation (e.g., seagrasses) at mean low water, with a minimum water depth of at least four feet within mooring areas, turning basins, and ingress and egress pathways.
 - (d) Transfer of (boat) slip credits (TSC).
 - (1) The Manatee Protection Plan provides for the transfer of boat slips when certain requirements are satisfied.
 - (2) Credits from shorelines with legally existing docks. The Manatee Protection Plan contains provisions that may give credit for the removal of legally existing docks.
 - (3) Procedural rules for creating transfer watercraft slip credit under the Lee County Manatee Protection Plan. Until such time the city finds it necessary to adopt its own regulations, it will use Lee County regulations to guide credit issuance. The city may also consider transfer of slips outside of its jurisdiction by interlocal agreement with another government.
 - (e) All multi-slip and marina docking facilities, except boat davits, in or adjacent to natural waterbodies must be set back a minimum of 25 feet from all adjoining side lot lines.

Sec. 7-358. - PRIMARY STRUCTURES Single/Two Family Docks, Fishing Piers, Kayak/Canoe Launch, Boat Ramps; Boardwalks.

(a) Number of slips.

- (1) No more than one boat mooring dock with two wet slips is permitted per single-family lot, and no more than two boat mooring docks with up to four wet slips is permitted

per two-family unit on a single lot. If a parcel abuts both a natural waterbody and an artificial waterbody, one slip may be allowed on each waterbody.

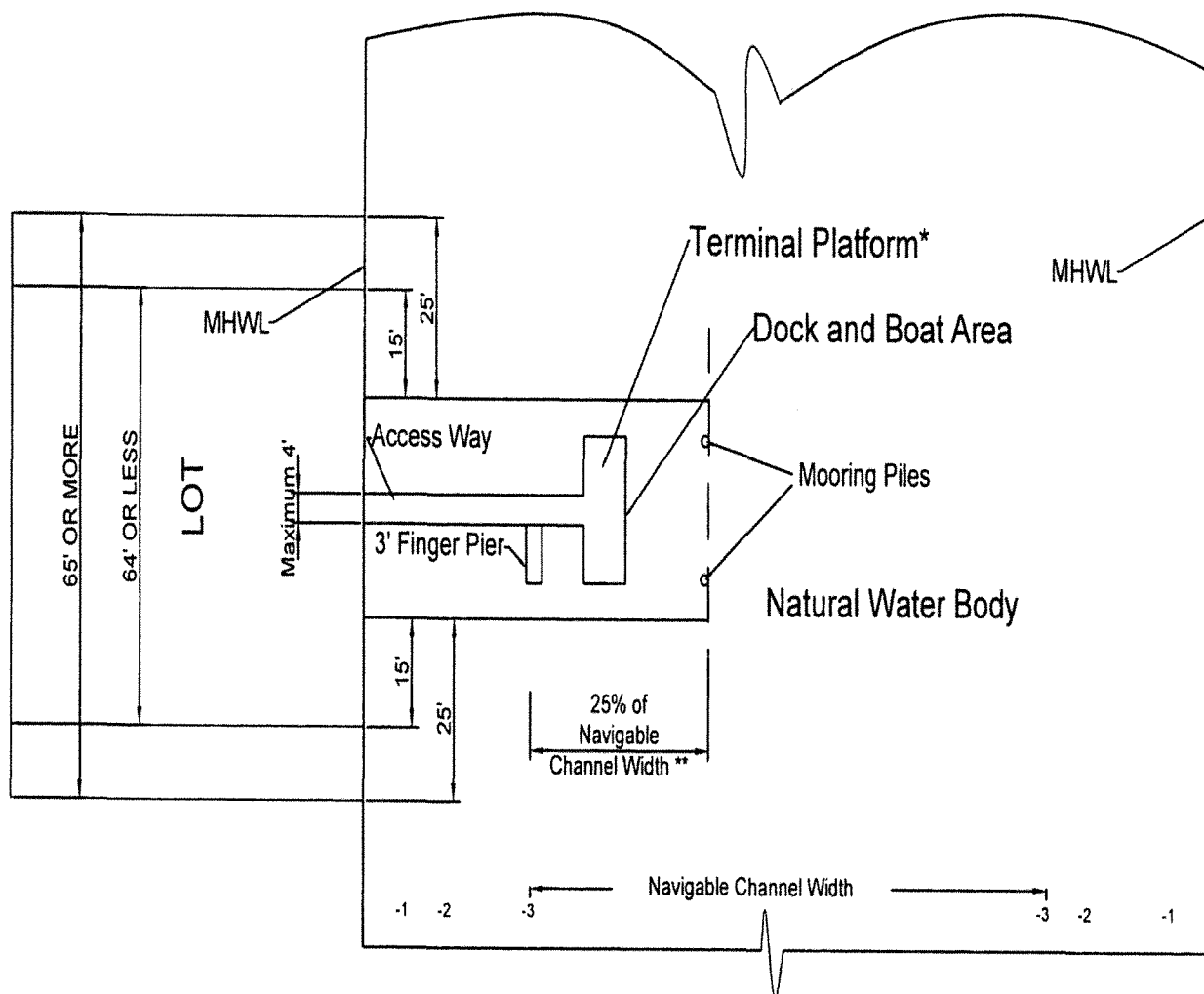
- (2) A shared property line dock can be permitted for up to four wet slips with a joint use agreement.
- (3) More than two slips may be approved with a special exception in accordance with section 4- 131(c).

(b) Length of docks.

- (1) No structure, including mooring area, may be permitted or constructed to exceed 25 percent of the navigable channel width. Boat mooring areas that are waterward of the dock will be deemed ten feet in width.
- (2) Docks and their associated watercraft mooring areas in the Estero Bay Aquatic Preserve shall not exceed 20 percent of the waterway width measured from Mean High Water Line to Mean High Water Line.
- (3) No structure addressed by this section shall extend further into a closed waterbody, such as a lake, than where a reasonable water depth for a single boat mooring is achieved, and in no event shall such depth exceed five (5) feet during normal hydrological conditions unless existing natural conditions of the waterbody necessitate a greater water depth to allow safe mooring conditions.
- (4) The director may permit administrative deviations from the length allowed by this subsection (2) based upon the following criteria:
 - a. The proposed dock has been approved by all applicable state and federal agencies; and
 - b. The increased length will not result in a hazard to navigation; and
 - c. The proposed dock is compatible with docks or other structures and uses on adjoining lots; and, except for closed waterbodies.
 - d. If the increase in length results in an area over water of 500 square feet or greater, a benthic species survey assessment conducted between June 1 and September 30 shall be provided demonstrating the increase in length will lessen the dock's impacts on seagrass beds or other marine resources.

(c) Design and Maximum dimensions.

- (1) Structures permitted by this section must comply with the following maximum dimensional requirements. The application of these regulations is illustrated in Figures 7-1 through 7-3, Dock Structure Plan View.



* Terminal Platforms limited to 160sf.

** 20% in Aquatic Preserve.

Figure 7-2

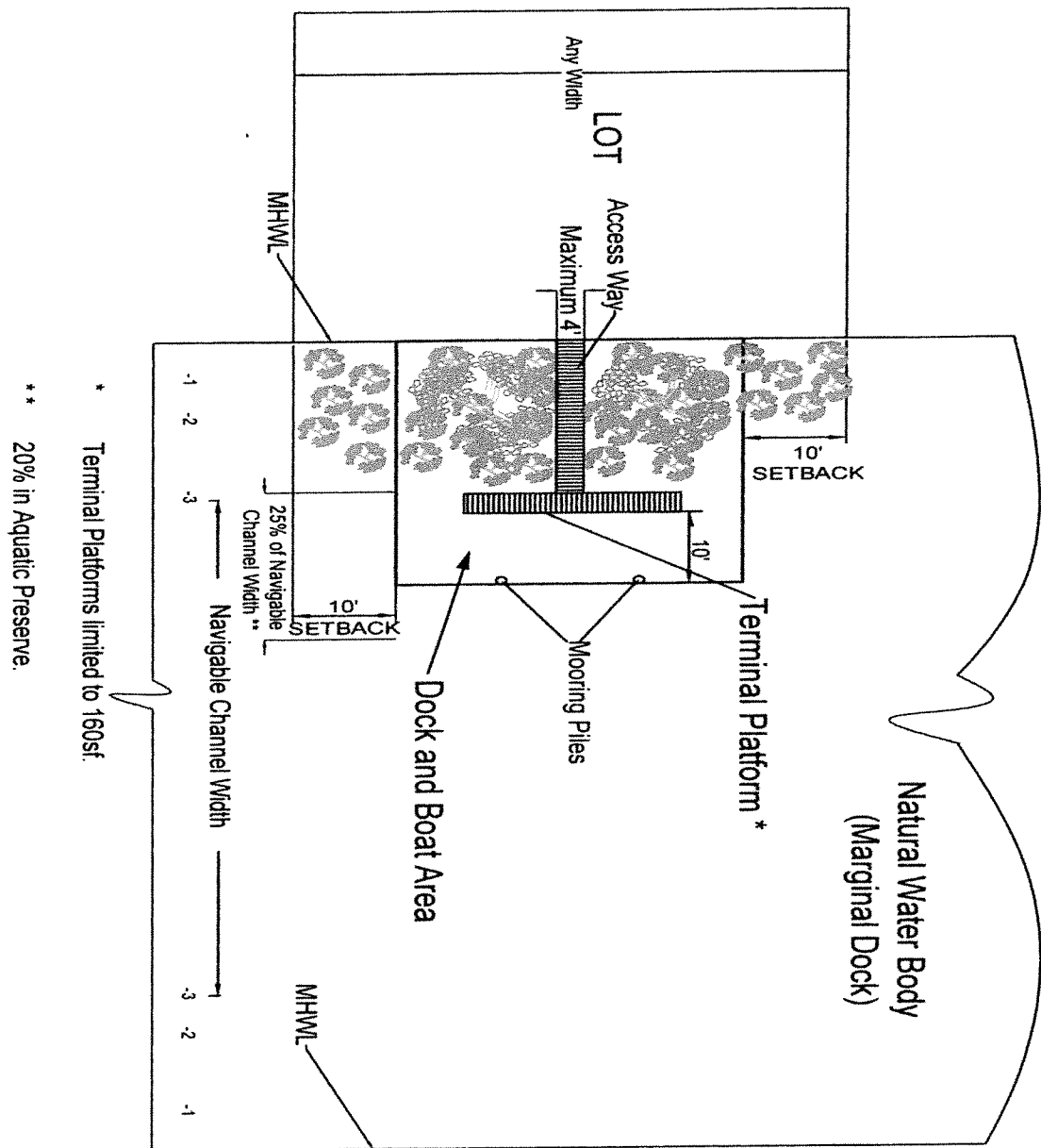


Figure 7-3

- a. The access walkway to the docking facility, fishing pier, or kayak launch shall not exceed 4 feet in width and finger piers extending from docking facilities shall not exceed 3 feet in width.
- b. In natural water bodies the terminal platform shall not exceed 160 square feet.
- c. Marginal docks may have a maximum access walkway length of 25 feet to a dock running parallel to the shoreline and immediately adjacent to any existing wetland vegetation.

-
- d. Docks and other water-oriented structures permitted by this section may protrude up to 10 feet landward of the mean high water line to provide access to the structure and allowed uses. The landward portion of the structure shall not be higher in elevation than the adjacent land. Docks and other structures permitted in this section may connect to additional accessory structures via stairway or access walkways as long as said structures are in compliance with other code sections.
 - e. Boat ramps cannot exceed 15 feet in width.
 - f. In natural waterbodies, the design of fishing piers or kayak launches must not exceed 260 square feet for fishing piers and must not exceed 160 square feet for kayak launch.
 - g. Boardwalks over or adjacent to waterbodies shall meet all of the following criteria:
 - 1. Shall be ADA compliant.
 - 2. Shall have hardened handrails.
 - 3. If part of a development, may require architectural review and shall be compliant with any other part of the City's regulations and applicable Zoning ordinances or resolutions.
 - 4. Shall be designed, constructed, and maintained to avoid adverse effects to the water body.
 - 5. Shall be no higher than five feet above the ordinary high water line or MHWL except and only where necessary to make a connection to the upland shore.
 - 6. Vertical elements such as pilings and railings shall extend no higher than 4 feet above the boardwalk surface and shall not include or accommodate screen houses or other enclosed structures.
- (2) Except for a kayak launch that is normally built closer to the water line, only one structure as permitted in this section shall be allowed per lot unless the lot abuts both a natural and artificial waterbody or the lot has a shoreline greater than 150 linear feet. Docks, fishing piers, and kayak launches may be combined and built at the same height so long as State and Federal permits can be obtained as applicable.
 - (3) Dock facilities, fishing piers, kayak launch structures, boardwalks, or any combination thereof with 500 square feet or greater over water shall provide a benthic species survey assessment. If the assessment shows resources will be impacted, adjustment to the site plan or a mitigation plan will be required. An assessment will not be required for closed waterbodies such as lakes.
 - (4) All wood pilings shall be wrapped from one foot above of the mean highwater line to one foot below the sediment line with PVC so as to reduce the leaching of wood preservation materials.
-

(5) Plastic or marine-resistant materials shall be used on all docks in the tidal range. Except for pilings in the tidal range, wood should not be used for construction of any dock or related facility.

(6) Deviations from this section that do not result in an increase to the size of the structure may be approved with a special exception in accordance with section 4-131(c).

(d) Setbacks.

(1) All structures in natural waterbodies must be set back from all adjoining side lot and side riparian lines as follows:

a. Marginal docks, boat lifts, and mooring pilings—No less than ten feet.

b. All other boat mooring docks, fishing piers, boardwalks, or combination thereof—No less than 25 feet for lots with a water frontage of 65 feet or more and no less than 15 feet for lots with a water frontage of less than 65 feet.

(2) Except for lots abutting the end or corner of a canal, all boat slips in artificial waterbodies shall have a side setback requirement of 10 feet.

(3) All boat ramps must be set back ten feet from all adjoining side lot and side riparian lines.

(4) The director, in his discretion, may permit administrative deviations from the setbacks required by this subsection (d) subject to the following:

a. Construction of the structure outside the setback area will not cause or will minimize damage to wetland vegetation or other environmental resources or will not cause greater damage than will occur if the deviation is not granted; and

b. The decreased setback will not create a hazard to navigation; and

c. Adjoining property owners execute a written agreement in recordable form, agreeing to a setback less than that required or to a zero setback.

(e) Location.

(1) Docking structures in natural or artificial waterbodies that create a hazard to navigation are prohibited.

(2) Boat ramps located in a manner that will result in a change in the mean high-water line are prohibited.

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

(4) A minimum canal width of 40' is required for docking facilities including boat lifts unless the boat lift is of diagonal style to pull the boat completely over land or davits are used.

-
- (5) Docking facilities will be placed at the most impacted area of the property as long as the other criteria of this section can be met. If impacts to natural resources such as mangroves cannot be avoided, replacement may be required as described in Section 7-362.

(f) Minimum water depths.

Boat slips shall project into natural waterbodies no less than necessary:

- (1) To reach a minimum depth of minus three feet mean low water; or
- (2) So as to maintain, from the lowest point of the keel or propeller, whichever is lower, of the boat to be berthed at the dock, a minimum clearance over any submerged bottom lands or the top of submerged aquatic vegetation or other marine resources (e.g., seagrasses) of one foot as measured at mean low water.

~~Sec. 7-382. Dock boxes.~~

~~Dock boxes on private single family docking facilities may not exceed three feet in height and 100 cubic feet in size. Dock boxes do not require building or marine facility permits.~~

~~{Ord. No. 14-02, § 7-72, 2-19-2014}~~

~~Sec. 7-383. Fishing piers or observation decks.~~

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

~~(1) *Design.* The design and construction must:~~

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

~~(2) *Dimensions.* The design and construction:~~

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

~~{Ord. No. 14-02, § 7-73, 2-19-2014}~~

~~Sec. 7-384. Boathouses.~~

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

~~(1) Location.~~

- ~~a. Boathouses must be constructed adjacent to or over a waterway. Any boathouse constructed over land must be located, in its entirety, within 25 feet of the mean high water line.~~
- ~~b. Boathouses over submerged bottoms containing areas of dense seagrasses or shellfish beds are prohibited.~~
- ~~c. Boathouses, boat lifts and davits designed with mooring inside the structure may not extend beyond 25 percent of the width of a navigable channel.~~

~~(2) Setbacks. The minimum setbacks for boathouses measured from side lot lines and riparian lot lines to the nearest point of the structural beam of the boathouse roof are as follows:~~

- ~~a. Natural waterbodies—25 feet.~~
- ~~b. Artificial waterbodies—Ten feet.~~

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

~~(3) Design criteria.~~

- ~~a. Maximum area. A boathouse may not encompass more than 500 square feet of roofed area.~~
 - ~~b. Height. The maximum height of a boathouse is 20 feet above mean high water, as measured from mean high water to the highest point of the boathouse.~~
-

c. ~~Permitted uses.~~

1. ~~Use of a boathouse for living or fueling facilities is prohibited.~~
2. ~~Up to 25 percent of the total roofed area of a boathouse can be used for storage of items that relate directly to the use and maintenance of watercraft. Items that do not relate directly to the use and maintenance of watercraft may not be stored in a boathouse.~~

d. ~~Decking.~~ Access walkways not exceeding four feet in width are permitted in the area under the roof of a boathouse located over water. Additional decking in the area under the roof of a boathouse is prohibited.

e. ~~Enclosure.~~

1. ~~Boathouses located over a waterbody or adjacent to a natural waterbody must be open-sided. Safety rails that are 42 inches or less are permitted.~~
2. ~~Boathouses located adjacent to an artificial waterbody must meet the following requirements:~~
 - (i) ~~The boathouse must be open-sided if the proposed side setback is between ten and 25 feet.~~
 - (ii) ~~The boathouse may be open-sided or enclosed with wood lattice, chainlink fencing or other fencing materials if the side setback is 25 feet or more.~~

(4) ~~Wind load standards.~~ All boathouses must comply with the building code wind load standards as adopted in chapter 3.

(b) ~~The application of the regulations is illustrated in Figure 7-2, Boathouse Plan Review.~~

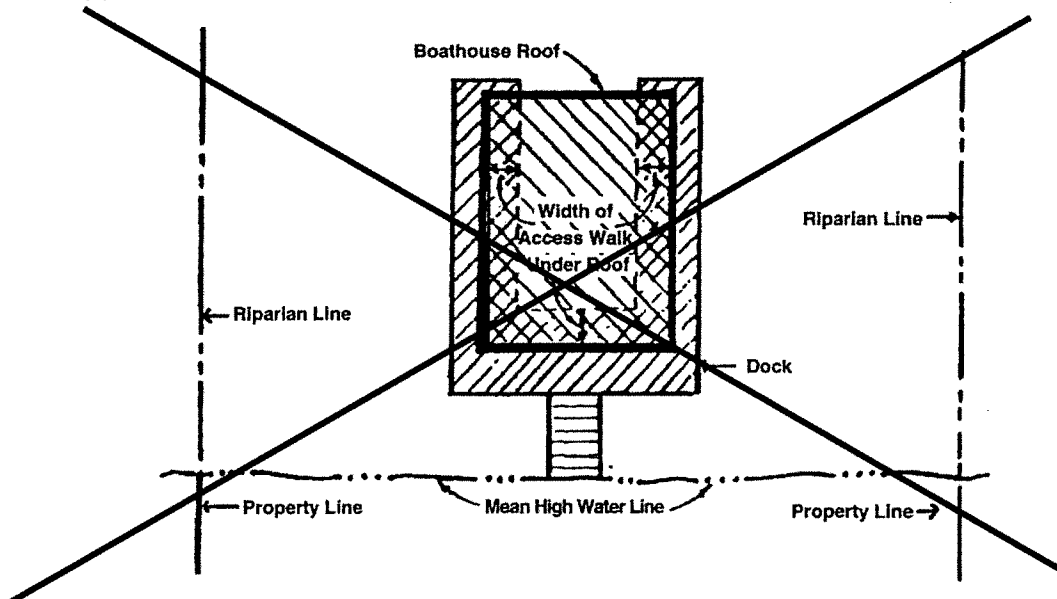


Figure 7-2. Boathouse Plan Review

Sec. 7-3859. Seawalls, retaining walls and riprap revetment.

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

(b) Seawalls on artificial waterbodies and retaining walls.

(1) New Sseawalls may be permitted in an artificial canals except for V Flood Zones, with a minimum of 50 percent of the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls. A new or replacement seawall must be installed in line with the existing seawall(s) and new or replacement seawalls may be constructed at no more than a maximum of two feet above the adjacent seawall(s), vertically transitioning at no greater than a forty-five-degree angle or a return wall is used to sufficiently provide for the break in grade at the property line, as required by the drainage plan per subsection (e) within this section. Replacement seawalls may be installed alignment or adjoining seawalls and placed no greater than one foot waterward of an existing seawall. Until the backfill area is stabilized, silt fence or sod must be placed immediately landward of the seawall cap to minimize erosion into the water.

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

(b) Seawalls on natural waterbodies.

(1) ~~The Bonita Plan, through policy 14.2.1, allows for environmentally compatible shoreline stabilizing systems along the gulf beaches where necessary to protect shoreline from erosion. The Bonita Plan, through policy 5.1.9, does not permit seawalls for new development.~~

~~(2) New or expanded seawalls are not allowed along natural waterbodies, including the Gulf of Mexico, however.~~

~~(3) Hardened structures, including, but not limited to, geotextiles tubes, groin, fencing and other similar structures, may be permitted along natural waterbodies, if emergency situations exist, as determined by the local building official. Hardened structures are also subject to state and/or federal determination, and the project~~

~~must be acceptable to the state department of environmental protection and the U.S. Army Corps of Engineers.~~

- (42) Lawfully existing seawalls along natural waterbodies may be maintained or repaired and may be replaced ~~with the same type structure, built no more than a maximum of two feet above the existing seawall height, vertically transitioning at no greater than a forty-five-degree angle when adjacent to existing seawalls at a lower height or a return wall is used to sufficiently provide for the break in grade at the property line, as required by the drainage plan per subsection (e) within this section.~~ to the same dimensions and in the same location as the previously existing structure. Replacement seawalls may be placed no greater than one foot waterward of an existing seawall if the seawall will not be waterward of the existing seawall alignment on adjacent shorelines. Until the backfill area is stabilized, silt fence or sod must be placed immediately landward of the seawall cap to minimize erosion into the water. Seawalls must be maintained or replaced with another seawall or different method of shoreline protection.
- (ed) ~~Retaining walls must be setback a minimum of five feet from the mean high water line or landward of any wetland vegetation.~~
- (1) A retaining wall may be built as an alternative to a vertical seawall, provided that all activities, including dredging, filling, slope grading, or equipment access and similar activities and all portions of the wall are located at one of the following distances, whichever is further:
- a. Five feet landward of the mean high water line, or
 - b. Landward of any wetland vegetation, or
 - c. Landward of a wetland area adjacent to surface water as depicted in the image below.

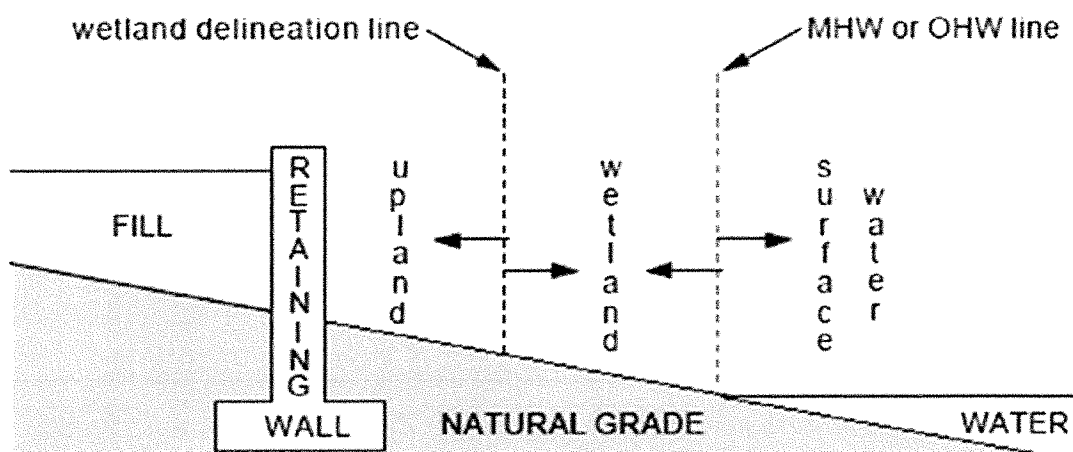


Figure 7-4 Cross-section of retaining wall

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- (e) Seawalls, retaining walls, and riprap revetments shall be designed and installed to prevent erosion adjacent to the ends of the wall and to fully contain added fill so as to have no adverse impact to adjacent properties. Any addition, or removal, of material used to alter the elevation of the property, as measured from the top of the bank (TOB) landward, will be required to meet the drainage requirements as outlined in LDC Sec. 4-2224.
- (f) Drainage systems. French drains or other drainage systems that divert water from going over the retaining wall and/or seawall are required on all new or replacement seawalls and retaining walls and must be approved by the city. See example in Figure 7-5. The drainage system must run the entire length of the seawall or retaining wall.

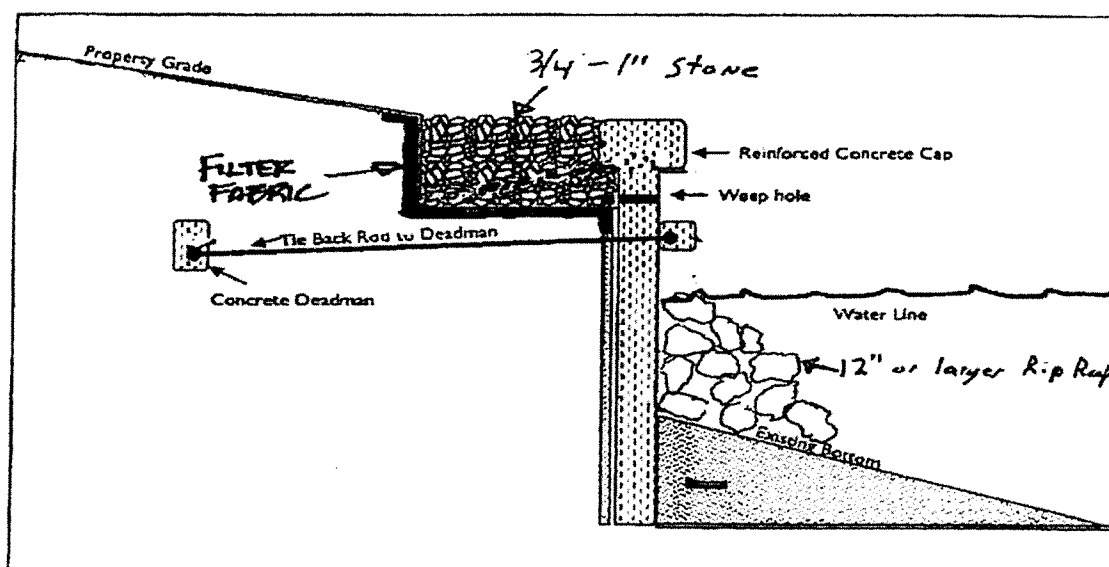


Figure 7-5. Drainage System

(dg) Riprap revetment.

- (1) Riprap must be located and placed so as not to damage or interfere with the growth of wetland vegetation.
- (2) Material used for riprap should be sized properly for intended use, be a minimum average of 12 inches in diameter, and installed at a 45-degree angle or less on top of filter fabric or equivalent material to prevent erosion of subgrade. Riprap must be clean and free of debris deemed harmful to the environment and public safety. Riprap shall not be cemented together.
- ~~(3) Mangroves or other approved wetland vegetation must be planted three feet on center in compliance with section 7-387(b)(2) for added shoreline stabilization and ecological benefit within the riprap. Other wetland mitigation techniques may be considered in lieu of vegetation planting. No vegetation planting is required for riprap revetments constructed in artificial upland canals with a minimum of 50 percent of~~

the bank having seawalls, or for a linear distance less than 300 feet where both adjoining properties have seawalls.

- (e) ~~Drainage systems.~~ French drains or other drainage systems that divert water from going over the retaining wall and/or seawall are required on all new or replacement seawalls and retaining walls, and must be approved by the city. See Figure 7-3. The drainage system must run the entire length of the seawall or retaining wall.

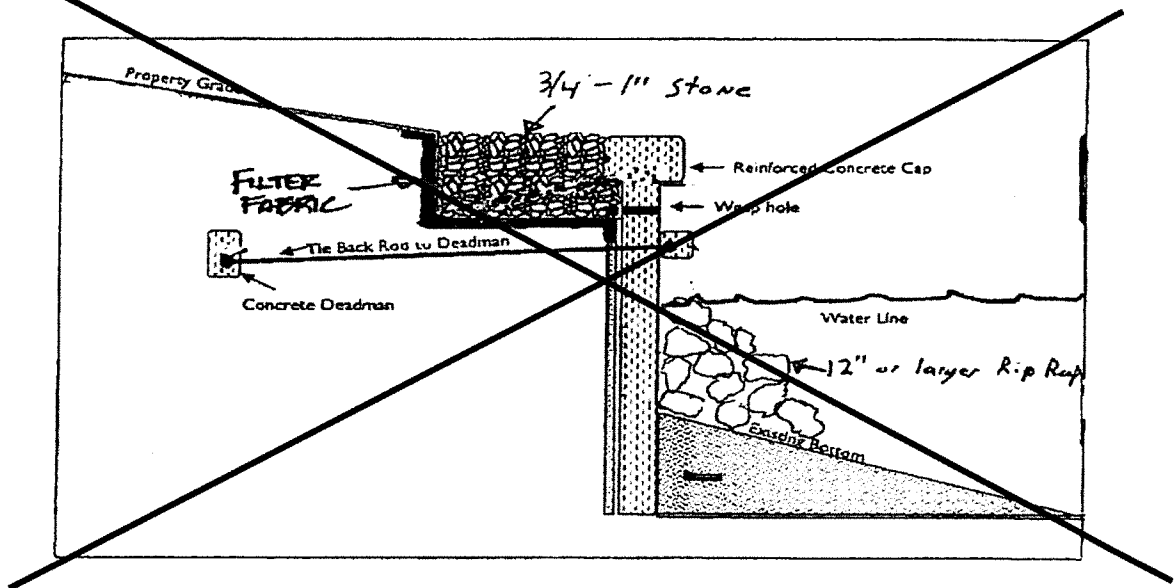


Figure 7-3. Drainage System

(Ord. No. 14-02, § 7-75, 2-19-2014)

Sec. 7-360. – ACCESSORY STRUCTURES – Boathouses, boat canopies, and dock boxes.

- (a) The following regulations apply to all boathouses and boat canopies associated with single-family and two-family residential uses, except where specifically superseded by other provisions of this article. No new multi-family or commercial boathouses/canopies will be permitted. The term boathouse within this section shall include boat canopies except where specifically distinguished.

(1) Location.

- a. Must be constructed adjacent to or over a waterway. Any boathouse constructed over land must be located, in its entirety, within 25 feet of the mean high-water line.
- b. Must not be constructed over submerged bottoms containing areas of dense submerged aquatic vegetation or other marine resources. A benthic species survey assessment shall be required for all boathouses or boat canopies, with an area of 500 square feet over water or when the combined square footage of the

docking facility and boathouse or boat canopy exceeds 500 square feet over water.

c. Must not extend beyond 25 percent of the width of a navigable channel.

(2) Setbacks.

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

1. Natural waterbodies—no less than 25 feet for lots with a water frontage of 65 feet or more and no less than 15 feet for lots with a water frontage of less than 65 feet.

2. Artificial waterbodies—Ten feet except for lots abutting the end or corner of a canal.

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

c. Side setbacks may be reduced according to the administrative deviation process outlined in 7-357(b)(4)d.

(3) Design, Dimensions, and Use.

a. Up to 1000 square feet of boathouse or boat canopy roofed area is allowed per lot in artificial waterbodies and up to 500 square feet in natural waterbodies.

b. The maximum height of a boathouse may not exceed 20 feet above mean high water, as measured from mean high water to the highest point of the boathouse.

c. The height of a boat canopy shall not exceed 12 feet measured from the highest point of the canopy to the height of the dock walkway.

d. Use of a boathouse for living or fueling facilities is prohibited.

e. Up to 25 percent of the total roofed area of a boathouse can be used for storage of items that relate directly to the use and maintenance of boats. Items that do not relate directly to the use and maintenance of boats may not be stored in a boathouse.

f. Decking may be provided under the roofed area of a boathouse or boat canopy as long as the area does not exceed 25 percent of the total roofed area.

g. Enclosure.

1. Boathouses located over or adjacent to a waterbody must be open-sided. Safety rails that are 42 inches or less are permitted.

2. The sides of a boat canopy cover shall remain open on all sides, except that a drop curtain, not to exceed 18 inches shall be permitted on the sides.

-
- h. Fishing piers shall not be covered by a boathouse or boat canopy.
 - (4) Wind load standards. All boathouses must comply with the building code wind load standards as adopted in chapter 10 of the Code of Ordinances.
 - (5) Boat canopies shall meet the requirements of Awnings and Canopies in the Florida Building Code.
- (b) An example of the application of the regulations is illustrated in Figure 7-6, Boathouse Plan Review.

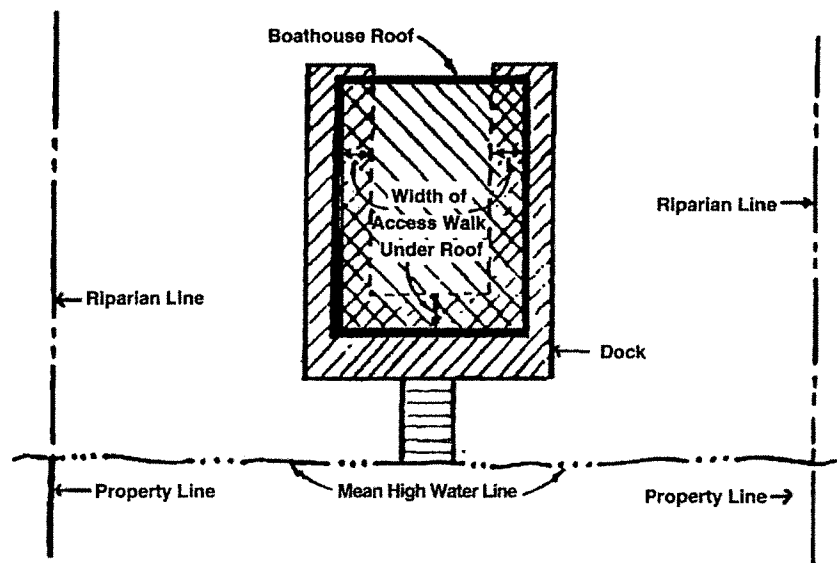


Figure 7-6. Boathouse Plan Review

- (c) Dock boxes on single-family and two-family residential docking facilities may not exceed three feet in height and 100 cubic feet in size. Dock boxes do not require building or marine facility permits.

Sec. 7-3861. Dredging; ~~new and maintenance.~~

- (a) ~~All dredging limits must be clearly defined. No further channelization of natural watercourses for boat access will be permitted.~~
- (b) ~~Methods to control turbidity and dispose of dredging spoil must be indicated. All dredging of existing navigational channels shall meet the following standards:~~
 - (1) ~~In natural waterbodies, no additional dredging is to be performed than is necessary to restore the channel to original design specifications.~~

-
- (2) There shall be in no case any dredging seaward of the mean high water line for the sole and primary purpose of providing fill for any area landward of the mean high water line.
 - (3) There shall be no drilling for oil or gas wells, excavation for minerals, except the dredging of dead oyster shells as approved by the department of environmental protection, and no erection of any structures unless such activity is associated with activity authorized by this article.
 - (4) No dredge material is allowed to be deposited on a single-family residential lot except in conjunction with an approved building permit utilizing the fill material. In no case will hydraulic pumping of dredge material onto residential lots be allowed. Erosion control measures shall be provided to contain the dredge material.
 - (5) Dredging must be confined to the area adjacent to existing or proposed docks that would be occupied by a boat approaching, departing, or moored to the dock.
 - (6) A benthic species survey assessment shall be provided. If the assessment shows resources will be impacted, a mitigation plan will be required.
 - (7) Dredging will not be permitted adjacent to a proposed or newly constructed dock if the dock could have been designed to avoid the need for dredging. Such design measures include positioning the dock appropriately along the shoreline, as well as bridging near shore shoal areas.
 - (8) If spoil material will be transported, a self-contained truck must be used.
 - (9) The maximum depth of maintenance dredging shall not exceed below five feet mean low water.
 - (e10) Dredging that is permitted for commercial or multifamily projects must provide a bathymetric grid/survey of post dredging depth at no less than ten-foot intervals and be prepared, signed and sealed by a PSM or professional engineer prior to final inspection.

(d c) Public beach renourishment projects will not require a city dredging permit.

{Ord. No. 14-02, § 7-76, 2-19-2014}

Sec. 7-36287. ~~Turbidity; protection of v~~Vegetation Protection, Removal, and Mitigation.

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

-
- (1) ~~Permit conditions.~~ Conditions for the protection of shoreline vegetation can be placed on permits issued in accordance with this article. The conditions can include the method of designating and protecting mangroves to remain after construction and replacement planting for mangroves removed due to construction. Mangrove removal in conjunction with construction of riprap revetments, seawalls, or retaining walls along natural waterbodies is prohibited.
- (2) ~~Mangrove replacement and plantings.~~ Native wetland vegetation removal necessary for construction of docking facilities is limited to the minimum extent necessary. To the greatest extent possible, the docking facility including access walkway must be located to:
- a. ~~For each mangrove removed due to construction, three mangroves must be replanted at an alternate location on the subject property. If planting on the subject property is not appropriate, alternative forms of mitigation, such as payment into a mitigation bank, may be allowed. Use existing natural openings;~~
 - b. ~~Mangrove plantings must be container grown, no less than one year old, eight inches in height and have a guaranteed 80 percent survivability rate for at least a five-year period. Mangrove plantings must be planted three feet on center. Mangrove replanting is required if the 80 percent survivability rate is not attained. Use areas infested with invasive exotic vegetation identified as a Category 1 invasive plant list as amended by the Florida Invasive Species Council;~~
 - c. ~~Mangroves shall be planted in two rows on staggered three-foot centers. The first row should be located six inches below the mean high water line, and the second row shall be located six inches above the mean high water line. Avoid larger native wetland vegetation; and~~
 - d. ~~Provide a maximum width of four feet and a maximum height of eight feet above the level of the walkway base.~~
- (3) ~~Mangrove removal.~~ Submerged aquatic vegetation and other marine resources. Seagrass and other marine resources shall be protected through the following standards:
- a. ~~Mangrove removal in conjunction with construction of riprap revetments, seawalls, or retaining walls along natural waterbodies is prohibited. Where marine resources are likely to be found in the vicinity of proposed structures covered under this article, a benthic species survey assessment shall be required prior to issuance of any project approval or permit. The petitioner shall be required to demonstrate how negative impacts to seagrass beds will be minimized and how negative impacts to hard bottom communities will be mitigated. Appropriate mitigation shall be provided such as relocating oysters and providing a substitute growth medium in the project area for loss of substrate.~~
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- b. ~~Mangrove removal necessary for access walkway construction is limited to the minimum extent necessary to gain access to the dock facility. To the greatest extent possible, the access must be located to:~~ All proposed dock facilities shall be located and aligned to stay at least 10 feet from any existing seagrass beds, except where a continuous bed of seagrasses exists on the shore of the property and adjacent to the property.
- ~~1. Use existing natural openings;~~
 - ~~2. Use areas infested with invasive exotic vegetation;~~
 - ~~3. Avoid larger mangroves; and~~
 - ~~4. Provide a maximum width of four feet and a maximum height of eight feet above the level of the walkway base.~~
- c. Where docking facilities are within 10 feet of seagrass beds such docks shall comply with the following conditions:
1. Access walkways must be elevated at least 5 feet above mean high water; and
 2. Planking is limited to a maximum width of 8 inches, minimum spacing of 1/2 inch between planks after shrinkage, or be designed using alternative materials that provide equal or better light penetration to the bottom of the waterbody.

(b) Vegetation removal and mitigation.

- (1) For each native shrub or tree removed due to construction, replacement shall be required at a 3:1 ratio for mangroves and 1:1 ratio for other wetland vegetation along the shoreline or at an alternate location on the subject property in accordance with the requirements below. If replanting on the subject property is not appropriate, alternative forms of mitigation, such as payment into a mitigation bank, may be allowed.
- (2) For rip rap installation projects, mangroves or native wetland shrubs or trees will be planted for every three feet of open shoreline in accordance with the requirements below.
- (3) Plantings shall have an 80 percent survivability rate for at least a five-year period. Annual replanting is required if the 80 percent survivability rate is not attained for the first five years. After five years, an 80 percent coverage of the planting area is required.

<u>Project Site Location/Type</u>	<u>Type of Plant</u>	<u>Size</u>	<u>Spacing</u>	<u>Location</u>
<u>East of Old 41</u>	<u>Native wetland shrub</u>	<u>1 gallon</u>	<u>2' o.c.</u>	<u>At MHWL</u>
	<u>Native wetland shrub</u>	<u>3 gallon</u>	<u>3' o.c.</u>	<u>At MHWL</u>

<u>All Permits with Vegetation Removal other than Mangroves</u>	<u>Native wetland tree</u>	<u>4'/10-15 gallon</u>	<u>10' o.c.</u>	<u>Site Dependent</u>
<u>West of Old 41</u>	<u>Mangrove</u>	<u>8" Container grown</u>	<u>2 rows Staggered 3' o.c.</u>	<u>6" below MHWL At MHWL</u>

~~{Ord. No. 14-02, § 7-77, 2-19-2014}~~

~~Sec. 7-388. Marina design and location.~~

- ~~(a) Community development will use Bonita Plan Objective 22.4 and its associated policies for marina design criteria, and will coordinate with Lee County for the Manatee Protection Plan. The City may, by interlocal agreement, provide for the transfer of any watercraft slip credits pursuant to Lee County Administrative Code 13-21.~~
- ~~(b) In order to reduce the pollution from copper bottom paint and bilge water, all new or modified multifamily or commercial docking facilities shall be required to install one boat lift per slip, when the slip is put in use to moor boats. Slips that contain boats with a gross weight of over 10,000 pounds are not required to have boat lifts. Additionally, slips used to moor boats less than 24 hours are not required to install boat lifts. Boats are required to be stored on boat lifts when not in use.~~

~~{Ord. No. 14-02, § 7-78, 2-19-2014}~~

~~Sec. 7-389. Facility siting criteria.~~

~~The general screening process in the Manatee Protection Plan will be used to identify desirable locations for new marine facilities, as well as to evaluate the redesign and expansion of existing sites. The results of the screening process will also result in a determination of the maximum number of slips that may be approved at a requested location. The screening criteria is set forth in chapter 4, the Manatee Protection Plan and Bonita Plan Objective 22.4, with its associated policies.~~

~~{Ord. No. 14-02, § 7-79, 2-19-2014}~~

~~Sec. 7-390. Transfer of (watercraft) slip credits (TSC).~~

- ~~(a) *Transfer of slips.* The Manatee Protection Plan provides for the transfer of watercraft slips when certain requirements are satisfied.~~
- ~~(b) *Credits from shorelines with legally existing docks.* The Manatee Protection Plan contains provisions that may give credit for the removal of legally existing docks.~~
- ~~(c) *Procedural rules for creating transfer watercraft slip credit under the Lee County Manatee Protection Plan.* Until such time the city finds it necessary to adopt its own regulations, it~~

~~will use Lee County Administrative Code Section 13-21 to guide credit issuance. The city may also consider transfer of slips outside of its jurisdiction by interlocal agreement with another government.~~

~~{Ord. No. 14-02, § 7-80, 2-19-2014}~~

Sec. 7-39163. Beach/dune walkovers.

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

~~(1a)~~ *Florida Department of Environmental Protection (FDEP).*

- ~~a1.~~ Prior to issuance of a county permit, the applicant must provide a copy of the FDEP permit approval for the walkover.
- ~~b2.~~ The conditions and requirements set forth in this section are in addition to and supplement the FDEP permit guidelines.

~~(2b)~~ *General design.*

- ~~a1.~~ The walkover must be constructed and located in existing natural openings, if available. The walkover must extend to the seaward edge of the existing line of vegetation and the terminal end must be perpendicular to the shoreline to prevent possible sea turtle entrapment.
- ~~b2.~~ Decks, platforms or lights are not permitted on beach/dune walkovers.

~~(3c)~~ *Design criteria for single-family developments.*

- ~~a1.~~ The maximum width of the walkover structure is four feet. Railings are limited to a handrail with no more than two center guard rails.
- ~~b2.~~ The posts for the walkover structure must be a maximum of four inches in diameter and may not be encased in concrete.

~~(4d)~~ *Design criteria for multifamily and commercial developments.*

- ~~a1.~~ The maximum width of the walkover is six feet. If more than one walkover is permitted, they must be spaced a minimum of 100 feet apart.
- ~~b2.~~ The pilings for the walkover must be a maximum of six inches in diameter.

~~{Ord. No. 14-02, § 7-81, 2-19-2014}~~

~~Secs. 7-392—7-410. Reserved.~~