

**CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS**

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150

151 **CHAPTER 1. GENERAL REQUIREMENTS FOR ALL DEVELOPMENT**

152

153 **Section 5.1.1. Purpose and Intent**

154

155 The purpose of this article is to provide standards for all development in the City of Cape Coral.

156

157 **Section 5.1.2. Connection to utilities.**

158

159 All development is required to connect to public or private utilities, as required as by the City of Cape
160 Coral Code of Ordinances, Chapter 19 Water and Sewer Utilities.

161

162 **Section. 5.1.3. Requirements for underground utilities.**

163

164 A. In new residential subdivisions, all utility lines (including electrical power distribution, telephone,
165 communication, street lighting, and cable television signal service) shall be installed underground.
166 This Section shall apply to all cable, conduits, or wires forming part of an electrical distribution system,
167 including service lines to individual properties.

168

169 However, this Section shall not apply to wires, conductors, or associated apparatus and supporting
170 structures whose exclusive function is in transmission of electrical energy between generating
171 stations, substations, transmission lines of other utility systems, and main distribution feeder electric
172 lines delivering power to local distribution systems. Appurtenances such as transformer boxes,
173 pedestal-mounted terminal boxes, and meter cabinets may be placed above ground and in such a
174 manner as to minimize noise effects upon the surrounding residential properties.

175

176 B. The developer shall provide for the necessary costs and other arrangements for such underground
177 utility installation.

178

179 C. For all new buildings in the Commercial Corridor, South Cape, and PUD zoning districts all onsite
180 utilities including telephone, electricity, cable television, and other wires of all kinds shall be placed
181 underground. However, appurtenances to these systems that require aboveground installation,
182 including utility panel boxes, are exempt from this requirement if the appurtenances are not placed
183 in front yards. When such appurtenances are placed in utility easements abutting a platted alley,
184 they shall be placed at least ten and one-half feet from the centerline of the platted alley. These

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185 underground requirements also apply to those improvements to non-conforming structures that
186 exceed the 50% thresholds as described in Article 8, Nonconformities. All utility infrastructure,
187 including electric utility poles and power lines, shall be concealed from public view wherever
188 possible. All new electric distribution lines shall be located in utility easements abutting platted
189 alleys and the utility poles shall be positioned so that a minimum clearance of ten and one-half feet
190 from the centerline of any platted alley is maintained. For properties that do not have a rear platted
191 alley, the electric distribution lines and utility poles shall be placed in the rear utility easement
192 wherever possible.

193
194 D. In the South Cape zoning district where overhead or underground utility lines have been placed in
195 the six-foot PUE, a property owner shall choose one of the following options:

- 196
197 1. Relocate the utility lines to the alley or other acceptable location, at the property owner's sole
198 expense, and subject to approval by the affected utility provider(s) and the City of Cape Coral;
199 or
200
201 2. Place a concrete sidewalk or architectural elements on the front six-foot property setback. If
202 overhead electric lines are in place, no awnings, canopies, balconies, colonnades, arcades, or
203 front porches may be constructed forward of this line even if otherwise required by this code.
204 If underground lines of any type are in place, the property owner is solely responsible for
205 repairing any damage to lawful encroachments into the six-foot easement resulting from
206 maintenance or improvements to utility lines.

207
208 **Section 5.1.4. Access required.**

209
210 Except as otherwise provided, all building sites shall have access on a street or a road shown on an
211 approved and recorded final plat. One or more buildings may have no direct access to a street provided
212 that the approving authority finds that such building site(s) have adequate indirect access to a street such
213 as a recorded easement or right-of-way through or over another parcel. The city may prohibit direct access
214 from a parcel or building site to a street when the approving authority finds that prohibition of direct
215 access would promote the public health, safety, and welfare based on factors including traffic or
216 transportation safety and when the parcel or building site could be afforded indirect access to a street or
217 other road via another parcel or building site.

218
219 **Section 5.1.5. Protection of underground pipelines and utilities.**

220
221 A. Intent. It is the intent of the City Council to protect underground pipelines and utilities from
222 destruction or damage to prevent:

- 223
224 1. Death or injury to persons;
225
226 2. Property damage to private and public property; and
227
228 3. Loss of essential pipeline or utility services to the general public.
229

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230 B. All excavation on public property, rights-of-way, or dedicated easements shall comply with the
231 requirements of F.S. 556. Underground Facility Damage Prevention and Safety.

232
233 C. Penalties for violation. Any person violating this section shall be punished as provided in the Code
234 of Ordinances of the City of Cape Coral.

235
236 **Section 5.1.6. Protection of easements.**

237

238 A. In the R-1, RML, RE, and A zoning districts, the six-foot easement around the perimeter of sites shall
239 be preserved and nothing shall be placed or constructed on such easements other than a paved
240 driveway, walkway, sidewalk, fences, or well. In addition, for non-residential uses lawfully located
241 in residential zoning districts, paved off-street parking areas may be placed or constructed on the
242 six-foot easement around the perimeter of the site.

243
244 B. In the RMM zoning district, where lot depth is greater than 131 feet, the six-foot easement around
245 the perimeter of the sites shall be preserved and nothing shall be placed or constructed on such
246 easement other than a paved driveway, walkway, sidewalk, paved off-street parking areas, or a well
247 when site conditions make it impractical to locate elsewhere. On sites with a depth of less than 131
248 feet, paving of the front easement for parking purposes shall be permitted.

249
250 C. Lawn sprinkler systems and landscaping may be placed in the 6' PUE easements as permitted by the
251 Code of Ordinances or the Land Development Code.

252
253 D. In the C, CC, I, INST, MXB, MX7, NC, P, and SC zoning districts, paved off-street parking areas, paved
254 driveways, sidewalks, wells, walkways at ground level, lawn sprinkler systems, or landscaping may
255 be placed in an easement provided that all other requirements of the Code of Ordinances or the
256 Land Development Code are met.

257
258 E. Nothing in this section shall prohibit the construction of seawalls, davits, docks, or other structures
259 as permitted by the Cape Coral Code of Ordinances.

260
261 F. If a utility removes, damages, or disturbs the construction or other material within an easement as
262 allowed by this section, the property owner shall be responsible for the cost of its removal,
263 relocation, repair, or replacement. If any plant material in an easement required by Chapter 5 of
264 this Article of the Land Development Code is removed or damaged, the property owner shall replace
265 all such material within 30 days of the completion of the utility work. These requirements also
266 include repair or replacement of sod within the right-of-way. In addition, prior to issuing a permit
267 to locate, place, construct, or install any structure, construction, driveway, or other material in an
268 easement, the city may require the property owner to agree to indemnify and to hold the city
269 harmless from any or all costs or expenses incurred as a result of such location, placement,
270 construction, or installation in the easement.

271
272 G. The city may deny applications to place wells, fences, walls, or other materials in an easement if
273 such would conflict with existing or proposed utilities or drainage functions.

274
275 **Section. 5.1.7. Required visibility triangles.**

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276
277 As an aid to allow for safe operation of vehicles, pedestrians, and cyclists in the proximity of intersecting
278 streets, driveways, alleys, and bicycle paths, there shall be limitations on the height of fences, walls,
279 gateways, ornamental structures, signs, hedges, shrubbery, and other fixtures as visually depicted in
280 the Cape Coral Engineering and Design Standards and as follows:

- 281
282 A. All landscaping and signs within the visibility triangle shall provide unobstructed visibility between
283 30 inches and eight feet, with the exception of tree trunks that do not create a traffic hazard.
284
285 B. The property owner shall be responsible for maintaining all landscaping within the visibility triangle
286 to provide the unobstructed visibility.
287
288 C. The Community Development Director shall make the final determination regarding visibility
289 triangles.

290
291 **Section 5.1.8. Sidewalks and alleys.**

- 292
293 A. Non-Residential Zoning Districts. As part of construction of each building erected in non-residential
294 or mixed-use zoning districts (C, CC, I, INST, MXB, MX7, NC, P, and SC) right-of-way improvements
295 (including sidewalks) shall be installed prior to the issuance of a certificate of occupancy pursuant
296 to the standards and specifications set forth in the City of Cape Coral Engineering Design Standards.
297
298 B. All sidewalks shall be constructed in accordance with the City of Cape Coral Engineering Design
299 Standards, except where a sidewalk has been installed and the established width is less than five
300 feet, the minimum width of the sidewalk to be installed shall be the width of the existing sidewalk.
301
302 C. Lot owners who develop property, erect buildings, or change the use on only a portion of a lot must
303 provide the curbs, sidewalks, gutters, and lane widening for the entirety of the property, as required
304 by this subsection, which shall be at the expense of the lot owner.
305
306 D. As part of property development and construction of each building erected in the C, CC, I, INST,
307 MXB, MX7, NC, P, and SC zoning districts adjacent to a platted alley the alley shall be improved prior
308 to the issuance of a certificate of occupancy. Such alley portion shall be constructed in accordance
309 with the Engineering Design Standards along the length of the property line of the site lying adjacent
310 to the platted alley. In addition to new construction in the C, CC, I, INST, MXB, MX7, NC, P, and SC
311 zoning districts, alterations to existing sites lying adjacent to a platted alley shall be required to
312 make the alley improvements required by this section if the value of such alterations exceeds 50%
313 of the replacement value of the site improvements. These improvements include parking areas,
314 internal curbing, and retention areas but exclude internal, previously existing modifications to the
315 building.
316
317 E. Payment in Lieu of Construction. At the discretion of the City, the City may accept payment in lieu of
318 construction for all or part of the off-site improvements required by the City. For projects where
319 payment in lieu of construction will be employed, the developer shall submit to the City 110% of the
320 estimated cost of the improvements as prepared by a professional engineer licensed in the state of

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321 Florida, which shall be reviewed and approved by the City. The developer shall provide the City with
322 payment for all construction costs prior to the issuance of a development permit for the site.
323

324 F. Right-of-way improvements shall be constructed only if the city has developed construction designs
325 for that roadway segment. In areas without city approved construction designs for a roadway
326 segment, construction of improvements shall be done through a city established special assessment
327 district.

328
329 G. Residential. New residential subdivisions and Planned Unit Developments of 20 or more lots or units
330 and multi-family development of 50 or more units shall install sidewalks along all street frontages
331 abutting and within the development. This does not apply to existing structures that are being
332 remodeled or repaired.
333

334 **Section 5.1.9. Work in the Public Right-of-Way and Public Utility Easements.**
335

336 A. General. Except as provided below, no construction, change, modification, or alteration of any
337 type or nature whatsoever, including the addition or removal of fill, vegetation, or other
338 materials, or the placement, installation, or erection of any object or vegetation, shall be allowed
339 within a city-owned right-of-way or swale, except as provided in Chapter 1 of this Article.
340

341 B. No permit required. The following work or activities shall be allowed in the public right-of-way or
342 roadway easement areas without the necessity of a city permit:

343
344 1. Trimming, cutting, or maintenance of trees, shrubs, and other vegetation existing as of the
345 effective date of this ordinance in the public rights-of-way or swales;

346
347 2. Markers, commonly known as buttons, turtles, or half-moons, may be placed 18 inches from
348 the edge of the pavement in residential zoning districts provided that such markers shall not
349 exceed a height of four inches. However, no markers shall be placed within any public right-
350 of-way which is adjacent to a roadway with four or more lanes;

351
352 3. Mailboxes may be placed in the public rights-of-way or swales so long as they are in
353 accordance with the City of Cape Coral Engineering Design Standards. The mailbox may be
354 immediately surrounded by a small bed consisting of landscape edging materials or concrete
355 curbing, bedding plants or groundcover, and mulch or decorative rock provided that such
356 decorative rock shall not exceed four inches when measured in any direction, pursuant to
357 Chapter 5 of this Article. In no event shall the diameter of the plant bed exceed two feet
358 when measured from the outer-most edges of any landscape edging material or concrete
359 curbing utilized. and

360
361 4. A Registration Certificate is required to install landscaping material in the lateral right-of-way
362 areas between the roadway pavement and the private property line in accordance with
363 Section 5.5.19 of this Article.
364

365 C. Permit required. The following work or activities shall be allowed in the public right-of-way or
366 roadway easement areas provided that the property owner first obtains a permit from the city:

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- 367
368 1. Culvert installation and appurtenant work;
369
370 2. Sod installation and appurtenant work;
371
372 3. Driveway installation and appurtenant work;
373
374 4. Curb, gutter, sidewalk, sod, and paving;
375
376 5. Alley improvements;
377
378 6. Installation of sprinkler systems. However, if the sprinkler system is disturbed, damaged, or
379 destroyed by the City performing work in the public right-of-way, the owner shall be solely
380 responsible for any cost resulting from such disturbance, damage to, or destruction of the
381 sprinkler system in the right-of-way; and
382
383 7. Planting in medians, cul-de-sacs, and roundabouts as permitted in Section 5.5.17 of this
384 Article.
385
386 D. Under no circumstances shall any of the activities permitted above result in any change,
387 modification, or alteration of any type whatsoever, to the established grade, slope, or contour of
388 the public swale or right-of-way not specifically addressed by the City of Cape Coral Engineering
389 Design Standards.
390
391 E. None of the prohibitions contained in this ordinance shall apply to any construction, change,
392 modification, or alteration within a public right-of-way or swale which is performed by or
393 required by a governmental entity or public utility.
394
395 F. Public Utilities. No public utility including electric, phone, cable tv, internet, cellular, or gas
396 company will be allowed to install or maintain facilities, begin construction, change, modify, or
397 alter in any way whatsoever the public right-of-way, swale, or adjacent public utility easements,
398 including the addition or removal of fill, vegetation, or other materials, without a permit as
399 required by the City of Cape Coral Code of Ordinances.

400
401 **Section 5.1.10. Maintenance of city rights-of-way.**
402

403 All property owners shall be responsible to either maintain or construct the city-owned right-of-way
404 lying between their property boundaries and the city pavement, to include the following standards.
405

- 406 A. Prior to preparation of a building lot for construction, the building permit holder shall obtain the
407 correct swale flow line elevations from the City and proceed immediately to create the required
408 swale needed to allow continuous uninterrupted flow of stormwater throughout the construction
409 process.
410

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- 411 B. During construction or reconstruction approved erosion control devices shall be placed in the swale
412 adjacent to both property lines to impede all foreign matter from entering the stormwater system.
413 The erosion control devices shall remain in place until placement of final sod in the right-of-way.
414
- 415 C. No excavated material or construction material shall restrict stormwater flow within the swale area.
416
- 417 D. Upon issuance of the certificate of occupancy, the owner shall maintain the swale indefinitely to
418 the same standard that is applied to privately-owned property.
419
- 420 E. All pavement damage must be repaired to meet or exceed the City of Cape Coral Engineering Design
421 Standards.
422

423 **Section 5.1.11. Building numbers and addresses.**
424

425 All buildings in the City of Cape Coral shall display a proper building number at least four feet from the
426 ground level. All building numbers shall be visible from the public right-of-way which the front of the
427 building faces. Building numbers of sufficient size which are affixed to both sides of mail boxes on such
428 right-of-way or building numbers which are affixed to lawful signs not attached to the building may be
429 substituted for number affixed to buildings.
430

431 **Section 5.1.12. General regulations for lots, yards, and setbacks.**
432

- 433 A. Double frontage other than corner lots. Double frontage other than corner lots shall meet front
434 setback regulations on all adjacent streets.
435
- 436 B. Corner lots. In the SC and MXB zoning district(s), corner lots shall be deemed to have front lot lines
437 abutting all street right-of-way lines. For corner lots in all other zoning districts, the following shall
438 apply:
439
- 440 1. The front of any building site shall be determined by the lesser dimension of a single lot (not
441 building site). This frontage shall have the established setback for the particular zoning district,
442 but in no instance be less than 25 feet.
443
 - 444 2. The remaining street frontage shall have a setback of no less than ten feet in all zoning districts.
445 The remaining street frontage shall be maintained as a front yard and the regulations for fences,
446 shrubbery, and walls of this ordinance shall apply.
447
 - 448 3. On sites bounded by three streets, one lot line shall be designated by the Director as the rear
449 and maintained as the rear setback of that zoning district. For purposes of this section, all but
450 the rear yard shall be maintained as a front yard and the regulations for fences, shrubbery, and
451 walls of this ordinance shall apply.
452
 - 453 4. The front of a single-family residential building shall not be offset from the front property line
454 by an angle greater than 45 degrees.
455

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- 456 C. No parcel shall be reduced below the minimum dimensional requirements in the zoning district.
457 This provision shall not apply when a portion of a parcel is acquired for a public purpose.
458

459 **Section 5.1.13. Single-family residential standards.**
460

461 In addition to all other provisions of this Code, single-family residential uses shall be subject to the
462 following requirements.
463

- 464 A. In the A, R1, and RE zoning districts only one single family residence shall be permitted per parcel.
465
466 B. Ornamental walls. Ornamental walls attached to the principal building shall have the following
467 requirements
468
469 1. Ornamental walls shall not be higher than four feet at any point where they extend beyond the
470 roof overhang and into the side setback.
471
472 2. Ornamental walls may extend into the side setback but shall not extend into the six-foot
473 perimeter easements.
474
475 3. An ornamental wall not to exceed 30 inches in height may be installed in the front yard.
476
477 4. Ornamental walls may be in the form of a planter.
478
479 4. A planter may be incorporated into the construction of a wingwall.
480
481 C. Water discharge. All gutter downspouts or similar water discharge devices shall direct the discharge
482 to the front or rear property lines. Refer to the City of Cape Coral Engineering Design Standards,
483 Section L, Drainage Design Standards for lot grading and drainage information.
484
485 D. For single-family or duplex construction activities on any site in a Special Flood Hazard Area, the
486 maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the
487 Building Official.
488

489 **Section 5.1.14. Multi-family residential.**
490

491 In addition to other provisions of this ordinance, single-family attached structures, duplexes, and multi-
492 family residential uses shall be subject to the following requirements.
493

- 494 A. Distance between buildings.
495
496 1. Clustered buildings. Buildings may be constructed on proper building sites in cluster style
497 providing a minimum of 20 feet is maintained between the buildings up to a height of 38 feet.
498
499 a. One foot shall be added to the 20-foot distance for every foot of height increase over 38
500 feet.
501

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502 b. Carports will not be considered in determining the 20-foot distance between buildings.

503

504 B. Water discharge.

505

506 1. All gutter downspouts or roof drains from multi-family buildings shall be directed to the water
507 management system.

508

509 2. All gutter downspouts or similar water discharge devices from duplexes shall direct the
510 discharge to the front or rear property lines. Refer to the City of Cape Coral Engineering Design
511 Standards, Section L, Drainage Design Standards for lot grading and drainage information.

512

513 C. Maximum Fill. For duplex construction activities on any site in a Special Flood Hazard Area, the
514 maximum amount of fill on-site shall be limited to 12 inches, unless otherwise approved by the
515 Building Official.

516

517 **Section 5.1.15. Dumpster Enclosures.**

518

519 Except where noted below, all sites with uses other than single-family residences and duplexes, shall
520 provide commercial trash receptacles in accordance with the regulations in this section.

521

522 A. Screening.

523

524 1. Except for the SC and MXB Districts, when commercial trash receptacles are in a rear yard that
525 abuts an alley, all commercial trash receptacles shall be enclosed from view on at least three sides
526 by an opaque visual barrier.

527

528 2. When a commercial trash receptacle is visible from an adjacent property or an adjacent street, at
529 ground level, then the commercial trash receptacle shall be enclosed on the fourth side by an
530 opaque gate that shall be the same height as the opaque visual barrier on the other three sides.

531

532 3. The principal structure may be used as the opaque visual barrier on one or more sides provided
533 the commercial trash receptacle is completely concealed from view.

534

535 B. Materials.

536

537 1. The following materials, either singly or in any combination, are the only materials that may be
538 used for the opaque visual barrier and gate:

539

540 a. Wood fencing;

541

542 b. Plastic or vinyl fencing;

543

544 c. Concrete block and stucco wall;

545

546 d. Brick wall; or

547

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- 548 e. Formed, decorative, or precast concrete.
549
- 550 2. Chain link fencing, whether singly, or combination with other materials, including plastic slats,
551 shall be prohibited.
552
- 553 3. Gates shall be constructed of a durable, opaque material, consistent or complimentary in color
554 with the enclosure and of a height to screen the container.
555
- 556 C. Location.
557
- 558 1. Commercial trash receptacles shall not be located on unimproved sites.
559
- 560 2. Commercial trash receptacles and accompanying visual barriers, are subject to the following
561 minimum setbacks:
562
- 563 a. Six feet from the front property lines in the SC and MXB Districts.
564
- 565 b. Three feet from alley rights-of-way.
566
- 567 3. When located in a public utility or drainage easement, the property owner shall be solely
568 responsible for removal of the commercial trash receptacle as well as for any cost resulting from
569 disturbance, damage, destruction, or restoration of the receptacle resulting from work associated
570 with utilities in such easement. Prior to issuing a permit, the City may require the property owner
571 to agree, in writing, to indemnify and to hold the city harmless from any costs or expenses
572 resulting from placing a commercial trash receptacle in an easement.
573
- 574 4. A commercial trash receptacle may be placed on an adjoining property provided that the premises
575 are adjacent to or directly behind the development and written consent of the adjoining property
576 owner is submitted to and approved by the Director. The adjoining property owner may revoke
577 this consent upon written notice to the development and the Director. The development shall
578 have 30 days from revocation to relocate the commercial trash receptacle and to comply with all
579 requirements of this section.
580
- 581 5. Developments within 25 feet of a City-owned parking lot may, upon approval by the Director,
582 locate enclosures on the City-owned parking lot. Approval may be revoked at any time, upon
583 reasonable notification, by the City.
584
- 585 D. Dimensions. The dumpster enclosure shall have a minimum interior dimension of ten feet by ten feet
586 and a height at least six inches higher than the enclosed commercial trash receptacle. Neither the
587 dumpster enclosure or the gate providing access to the commercial trash receptacle shall be
588 considered a fence or a wall pursuant to the City Code of Ordinances or Land Development Code.
589
- 590 E. All dumpster enclosures shall be located so that a sanitation vehicle has physical access to the
591 commercial trash receptacle that is adequate for safely servicing the facility.
592
- 593 F. Each commercial trash receptacle shall be located on a concrete pad.

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- 594
595 G. All solid waste or other refuse, including recycling materials stored in commercial trash receptacles,
596 shall be concealed by a lid attached that shall remain in the closed position unless materials are being
597 placed into the receptacle or the receptacle is being serviced. No material shall be permitted to
598 overflow the receptacle.
599
600 H. In the event a commercial trash receptacle is in a dumpster enclosure that includes a gate, regardless
601 of whether such a gate would have been required pursuant to this section, the gate shall be of a type
602 that opens sufficiently to allow unimpeded access to the trash receptacle by the sanitation vehicle
603 and shall have drop pins, hooks, or other devices installed to hold the gate open while the receptacle
604 is being serviced. All gates shall remain closed unless the receptacle is being serviced.
605
606 I. Deviations. In the event an owner is unable to comply with the requirements of this section, the owner
607 may request an administrative deviation from the Director. In determining whether to approve an
608 administrative deviation, the Director shall consider factors such as dimensions of the property, site
609 constraints such as existing development, or other location factors that may make compliance with
610 this section impossible or impractical. The determination to approve an administrative deviation shall
611 be at the sole discretion of the Director.
612
613 J. Maintenance. Commercial trash containers shall be maintained in a manner which is not a nuisance
614 to surrounding uses.
615
616 1. The receptacle shall be stored in the enclosure and the gate(s) to the enclosure shall remain closed
617 at all times unless it is being accessed at that time.
618
619 2. Refuse may not be left outside of the enclosure or on the ground within the enclosure.
620

621 **Section 5.1.16. Outdoor dining.**

622
623 Outdoor dining may be permitted as an accessory use to a restaurant, hotel, bar, or fraternal organization
624 provided the following conditions are met:

- 625
626 A. All outdoor dining:
627
628 1. Music may be permitted to be performed or amplified in outdoor dining areas, in accordance with
629 Section 12-22 of the City's Code of Ordinances, or in accordance with a permit per Chapter 9 of
630 this Article.
631
632 2. Parking shall be provided at a rate of 1 parking space per 4 seats of outdoor dining are, except in
633 the SC, MX7, or MXB zoning districts, where no additional parking is required.
634
635 3. Outdoor dining in common areas, such as shopping centers, must have written authorization from
636 the property owner.
637
638 B. Outdoor dining on public rights-of-way.
639

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1. Stanchions, planters, or other features approved by the City may be used to delineate outdoor dining areas.
 2. The number of outdoor seats and tables shall be limited to that number that can be reasonably accommodated according to the available widths of the associated storefront and sidewalk or patio area. Only the area(s) adjacent to the associated storefront and with 50' may be used for outdoor dining. No fixtures or furniture may be attached to the right-of-way or public property.
 3. Clear pedestrian access shall be maintained at all times, and no seating or tables shall interfere with ingress and egress to buildings or create an unsafe situation with street traffic.
 4. The owner or operator of the outdoor dining area shall remove any seating or tables when necessary for special events or when an authorized agent of the City makes such a request.
 5. Public sidewalks adjacent to any approved outdoor dining area shall be properly maintained for safety and cleanliness by the owner or operator on a daily basis. Litter, dirt, grime, grease, and food shall not be permitted to accumulate at any time. The sidewalk must be cleaned by pressure washing on a regular basis or when an authorized agent of the city makes such a request. The Public Works Department must approve the method and equipment used for pressure washing.
 6. Portable lighting may be used in the outdoor dining area. Extension cords may not be run from any nearby buildings. The use of generators is prohibited. City light poles may not be used for electrical connections. Portable heaters may be used if approved by the Fire Department.
 7. An indemnity agreement, provided by the City shall be signed and provided by the outdoor dining owner or operator, along with proof of public liability insurance as approved by the city attorney.
 8. The use of glass table tops or furniture is prohibited. The use of plastic or PVC furniture, wooden picnic tables, or couches and chairs intended for indoor use is prohibited. All furniture and fixtures to be used shall be specified in the outdoor dining permit and approved by the City.
 9. The City Manager may revoke an outdoor dining permit for locations on the public right-of-way for noncompliance with these regulations.

675 **Section 5.1.17 Mixed-use Buildings.**
676

- 677 A. The minimum dwelling unit size in mixed-use buildings shall be 500 square feet provided all
678 requirements of the Florida Building Code are met.
679
680 (2) The non-residential design standards set forth in Article 5, Chapter 8 shall apply to all mixed-use
681 buildings.
682

683 **Section 5.1.18 Abandoned Vehicles or Watercraft.**
684

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685 In addition to all other provisions of this ordinance, automotive and watercraft uses are subject to the
686 following regulations.

- 687
- 688 A. Abandoned vehicles and watercraft are prohibited from being parked or stored on any
689 property in the City of Cape Coral including in driveways, carports, or on unimproved lots.
690
- 691 B. For locations where abandoned vehicles are prohibited, if an abandoned vehicle or watercraft
692 is not removed from the premises within five days from date of written notice to do so, the
693 vehicle or watercraft shall be deemed a nuisance and shall be in violation of this ordinance.
694
- 695 C. Vehicles that are in garages on improved property shall not be deemed to be "abandoned"
696 under this ordinance.
- 697 D. Repairs may be made on the premises if an emergency exists or if performed on an occasional
698 basis. In all cases, repairs must be performed in such a manner as to not cause unsightliness,
699 noise, or obnoxious odors.
700

701 **Section 5.1.19. Newspaper Racks.**

- 702
- 703 A. Purpose. To establish standards and criteria for the placement of newsracks and newspaper
704 vending machines. It is the purpose of this section to establish reasonable time, place, and
705 manner restrictions to further the city's objective in public safety and aesthetics.
706
- 707 B. Standards.
- 708
- 709 1. No person shall place, install, or maintain any newsrack that projects or rests onto,
710 into, or over any part of the roadway of any public street.
711
- 712 2. No person shall place, install, use or maintain a newsrack that endangers the safety of
713 persons or property when such site interferes with public utility uses or other
714 governmental use; when such newsrack impedes the flow of pedestrian or vehicular
715 traffic, the ingress into or egress from any residence or place of business or any legally
716 parked or stopped vehicle, or the use of light poles, posts, traffic signs or signals,
717 hydrants, mailboxes, or any other objects permitted at or near such location; when
718 such newsrack interferes with the cleaning of any sidewalk by use of any sidewalk
719 cleaning machinery or the mowing of grass by mechanical mowing machinery or when
720 such newsrack interferes with the ordinary use of public property.
721
- 722 3. Newsracks are prohibited in any median within a public right-of-way, roadway, or
723 street.
724
- 725 4. All newsracks shall comply with the following standards:
726
- 727 i. The newsracks shall be anchored, set, and maintained on a concrete pad.
728
- 729 b. Newsracks shall not be placed, installed, used, or maintained:

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- 730 i. Within 10 feet of any marked crosswalk.
731 ii. Within 15 feet of the curb return of an unmarked crosswalk.
732 iii. Within 10 feet of any fire hydrant.
733 iv. Within 10 feet of any driveway.
734 v. Within 15 feet of any designated mass transit bus stop.
735 vi. Within 15 feet of a "No Parking" sign or zone.
736
737 5. Newsracks shall not be used for the display of signs or placement of placards, other
738 than to promote the newspaper, periodical, or other publications contained therein.
739
740 6. Every person who places or maintains a newsrack in the city shall affix on the rear of the
741 newsrack a weather resistant decal no larger than five inches x seven inches that states the
742 distributor's name, address, and telephone number.
743
744 C. Indemnification. All distributors of publications utilizing newsracks within the city shall execute an
745 indemnification, in a form approved by the City Attorney, which will hold the city, its officers,
746 employees and agents harmless from any claim, demand or judgment in favor of any person or
747 entity arising out or resulting from the placement of any newsrack in or over a public right-of-way.
748
749 (3) Enforcement. Removal of any and all newsracks shall be determined by the following criteria:
750
751 1. Upon determination by a code enforcement officer (as specified in [§ 2-82.1](#) of the
752 Code of Ordinances) that a newsrack has been installed or maintained in violation of
753 the provisions of this section, a citation shall be issued, in a form prescribed by the
754 city, and shall state:
755
756 2. The time and date of issuance;
757
758 3. The name and address of the distributor and in the case of a newspaper vending machine, the
759 publisher of the respective newspaper, to whom the citation shall be issued to and served
760 upon;
761
762 4. The time and date of the violation;
763
764 5. A brief description of the violation and the facts constituting reasonable cause;
765
766 6. The number or section of this code violated;
767
768 7. The name of the code enforcement officer;
769
770 8. Shall specify a reasonable time, not to exceed ten days, in which corrective action should be
771 taken;
772
773 9. The procedure for the person cited to follow in order to pay the civil penalty or to contest the
774 citation;
775

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- 776 10. The applicable minimum (\$25) and maximum (\$200) civil penalty if the person elects to contest
777 the citation;
778
- 779 11. The applicable civil penalty if the person elects not to contest the citation;
780
- 781 12. A conspicuous statement that if the person fails to pay the civil penalty within the time
782 allowed, or fails to appear in court, as the case may be, to contest the citation, the person will
783 be deemed to have waived his right to contest the citation and that in such case, judgment
784 may be entered against the person for the amount stated in the citation;
785
- 786 13. A copy of the citation shall be affixed on the respective newsrack.
787
- 788 (4) Any aggrieved party may appeal a final order to the Circuit Court. Such an appeal shall not be
789 a hearing *de novo*, but shall be limited to appellate review of the record created before the
790 County Court. An appeal must be filed within 30 days of the execution of the order to be
791 appealed.
792
- 793 F. Should any newsrack constitute a threat to public health or safety, or is in violation of this section
794 after notice and hearing on said violation, the newsrack shall be subject to removal by the city
795 within 48 hours, unless conditions warrant a shorter time period, following the issuance and
796 service of a citation accompanied by a notice of intent to remove the newsrack. Upon removal,
797 the code enforcement officer shall deliver a notice of removal to the distributor and, in the case
798 of a newspaper vending machine, to the newspaper publisher such notice to describe the location
799 from which the newsrack was removed, the address of the location where the newsrack is being
800 stored and a brief explanation of the procedures by which the publisher or distributor may obtain
801 a release of the newsrack.
802
- 803 G. A newsrack removed hereunder shall be stored in a secure location for a period not to exceed 30
804 days. The newsrack shall be released to its distributor, upon proof of ownership and payment of
805 reasonable and actual storage charges. A \$25 pick-up and collection charge will be assessed in
806 addition to the actual and reasonable storage charge for any newsrack not picked up within 48
807 hours. If any newsrack is not claimed within 30 days, the newsrack shall be deemed abandoned
808 and shall become the property of the city, and thereafter be sold at public auction. Approximately
809 ten days prior to the auction, the City Clerk shall furnish a description of the newsrack, the location
810 from which it was removed and a notice of the auction in a newspaper of general circulation within
811 Lee County. The proceeds of the sale shall be applied first to storage charges and then paid to the
812 General Fund of the City of Cape Coral. The city may otherwise dispose of the newsrack in
813 accordance with Florida law, as the city deems appropriate.
814
- 815 H. Amortization period. Each newsrack legally located and placed on the adoption date of this section
816 shall have 90 days from the adoption date of this section to comply with the provisions of this
817 section to recoup any investment from that newsrack and to have sufficient time to transition
818 nonconforming units out of locations throughout the city and to provide conforming newsracks
819 for placement within city limits. Any newsrack not in compliance with this section following the
820 90-day amortization period may be removed by the city in accordance with this section.
821

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822 **CHAPTER 2 ACCESSORY STRUCTURES**

823

824 **Section. 5.2.1. General Requirements.**

825

826 A. This chapter shall pertain to residential properties unless otherwise specifically stated herein.
827 Accessory structures on non-residential properties shall be reviewed per the standards of that zoning
828 district. Agriculturally zoned properties shall not be considered residential for purposes of this section.

829

830 B. Accessory buildings shall be constructed to conform to the minimum building requirements and shall
831 meet all other regulations applicable to the district.

832

833 C. Residential accessory buildings shall be in the rear yard, other than those listed in Section 5.2.1, and
834 shall comply with all of the requirements found in this Section.

835

836 D. Accessory structures, such as pergolas, arbors, trellises, and flag poles may be in the rear, side, or
837 front yard of the primary structure. Fences and sheds may be permitted in the rear or side yard of the
838 primary structure.

839

840 E. No accessory structure, including fences, shall be constructed on any residential parcel not containing
841 a primary structure.

842

843 F. Accessory buildings shall be elevated above the base flood elevation (BFE) or provide hydrostatic
844 vents consistent with FEMA regulations.

845

846 G. All nonconforming accessory structures shall be subject to the requirements of Article 8
847 Nonconformities.

848

849 H. Any accessory structure not listed in this chapter may be reviewed and considered for approval
850 through a similar use determination process.

851

852 I. In non-residential districts, all accessory structures shall be reviewed and held to the same standard
853 as a non-residential structure.

854

855 J. Setbacks shall be measured from the property line and must be considered in addition to all other
856 locational requirements.

857

858

859 **Table 5.2.1.A. Setback Requirements for Accessory Structures.**

Residential Accessory	Setback – measured from property line			Maximum Building Height	Separation Distance
	Front Yard	Side Yard	Rear Yard		
Arbors, trellises, pergolas	Sec 5.17	7.5 ft.	10 ft.	14 ft.	N/A
Courts and Playing Surfaces	X	7.5 ft.	10 ft.	N/A	N/A
Decks, unenclosed	X	7.5 ft.	10 ft.	30 inches	N/A
Detached Garage	X	SAP	10 ft.	14 ft.	5 ft.
Fences and Walls	Per Sec 5.1.12				N/A
Flagpoles	15 ft.	7.5 ft.	10 ft.	35 ft.	N/A

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Fountains and Sculptures	15 ft.	10 ft.	10 ft.	Per sec 5.1.15	N/A
Gazebo	X	7.5 ft.	10 ft.	10 ft.	5 ft.
Greenhouse	X	SAP	SAP	15 ft.	5 ft.
Detached guesthouse	X	SAP	SAP	14 ft.	5 ft.
Swing sets and similar play structures	X	7.5 ft.	6 ft.	8 ft.	N/A
Solar Photovoltaic (PV) Arrays, at grade	X	7.5 ft.	10 ft.	9 ft.	N/A
Sheds	X	7.5 ft.	10 ft.	14 ft.	5 ft.
Sunshelter	X	7.5 ft.	6 ft. or over a dock	14 ft.	5 ft.
Swimming pools and reflecting pools	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	30 inches	N/A
Swimming Pool Screen enclosure	X, RE≥3 acres SAP	7.5 ft., RE≥3 acres SAP	10 ft., RE≥3 acres SAP	SAP	N/A

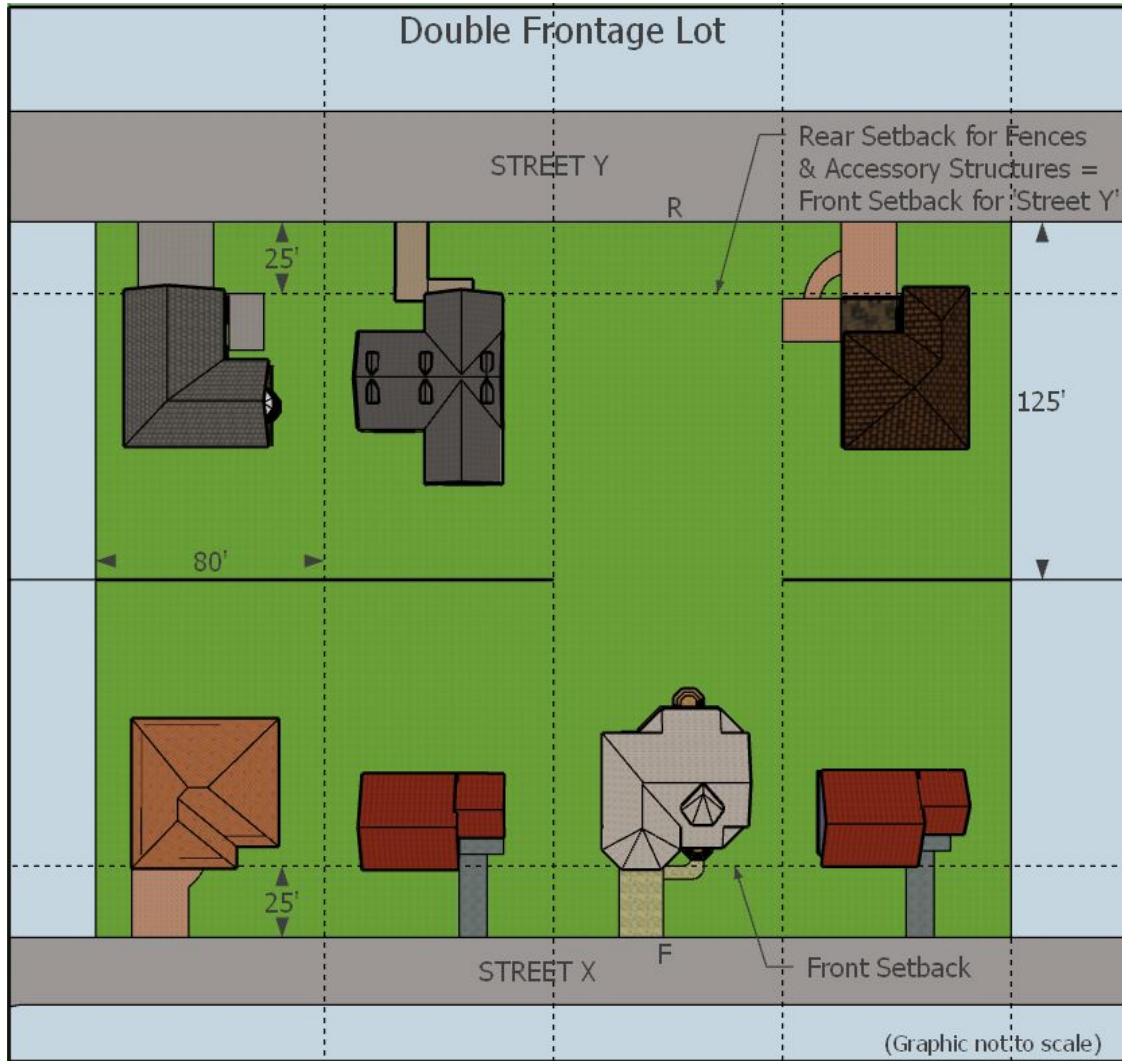
860 X Not permitted
861 SAP Same as Principle Structure
862 N/A Not Applicable

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Diagram 5.2.1.B Double Frontage Lot Fence and Accessory Structure Requirements.



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Section 5.2.2. Reserved

Section. 5.2.3. Arbors, trellises, and pergolas.

- A. Arbors, trellises, and pergolas shall be allowed as freestanding or attached structures. There is no limit on the number of attached pergolas, arbors, and trellises per primary structure.

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- 909 B. Freestanding pergolas and arbors are limited to 200 square feet of coverage per single-family
910 detached residential property. Freestanding pergolas and arbors are limited to 100 square feet per
911 unit of a duplex property.
912
- 913 C. The amount of freestanding square footage coverage for multi-family residential developments may
914 be determined by the Community Development Director. The criteria for this determination include:
915
- 916 1. Design, size, location, and number of proposed arbors, trellises, and pergolas;
 - 917
 - 918 2. Design, size of property, location, and number of units of the multi-family residential
919 development; and
 - 920
 - 921 3. Whether the structure will be contrary to the public interest.
922
- 923 D. Attached pergolas.
924
- 925 1. Attached pergolas may be placed over the front entrance or walkway into a residence and must
926 not extend beyond the most forward portion of the primary structure.
927
 - 928 2. A pergola is considered attached if a minimum of 20% of the pergola’s perimeter is attached to
929 the primary structure.
930
 - 931 3. A pergola that is attached to a previously-attached pergola is considered to be an extension of
932 the original attached pergola; the enlarged pergola must abide by the setback requirements listed
933 in Table 5.2.1.A.
934
- 935 E. Pergolas, generally.
936
- 937 1. Pergolas must conform to all zoning requirements in terms of height and setbacks.
938
 - 939 2. The only exception to the prohibition of the placement of a pergola in the rear setback is for
940 pergolas on docks.
941
 - 942 3. If placed in the rear yard of a waterfront property, or on a dock, pergolas must not unreasonably
943 restrict or block the view of the canal or waterway of an adjoining lot.
944

945 **Section. 5.2.4. Attached and detached garages.**
946

- 947 A. All single-family detached and each unit of a duplex structures shall include a garage with minimum
948 dimensions of 14 feet by 20 feet. Carports are prohibited on single-family detached and duplex
949 residential properties requiring a garage.
950
- 951 B. For attached garages, the following shall apply:
952
- 953 1. A garage shall be considered attached if it shares at least a five-foot length of common wall with
954 the principal structure. The common wall shall include an internal access door to the principal

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955 structure. Attachment through a roof or breezeway structure only shall not be adequate to
956 consider the garage attached.

957

958 2. For purposes of this LDC, an attached garage shall be considered to be a part of the principal
959 structure and shall comply with all district regulations for the zoning district in which it is located.

960

961 3. An operable garage door capable of providing access to the garage by a motor vehicle is required.

962

963 4. A driveway providing vehicular access to the garage is required and shall be constructed and
964 maintained in a condition that is safe and free of potholes, and in accordance with the City of
965 Cape Coral Engineering Design Standards.

966

967 5. The garage shall not be included in determining the living area.

968

969 6. No garage or storage area shall be used as living quarters unless another garage is constructed
970 prior to conversion.

971

972 7. The exterior building materials of an attached garage shall conform to the exterior building
973 materials of the principal structure.

974

975 C. For detached garages, the following shall apply:

976

977 1. A detached garage shall meet all of the setback requirements of the principal structure.

978

979 2. A detached garage shall be on the same parcel as the principal structure.

980

981 3. A detached garage shall not exceed 1,000 square feet in area.

982

983 4. The height of a detached garage shall not exceed 14 feet in height when measured according to
984 the definition of "building height" in the Land Development Code.

985

986 5. An operable garage door capable of providing access to the garage by a motor vehicle is required.

987

988 6. The maximum size and height restrictions shall not apply in the RE district.

989

990 7. No plumbing shall be allowed in a detached garage except that a single one-compartment sink
991 shall be allowed.

992

993 8. The exterior building materials of a detached garage shall conform to the exterior building
994 materials of the principal structure.

995

996 9. A parcel may contain both an attached and detached garage, but only one detached garage shall
997 be permitted.

998

999 **Section. 5.2.5. Courts and playing surfaces.**

1000

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- 1001 A. Requirements in the R1, RE, RML, and A districts.
1002
1003 1. Lighting is prohibited on all outdoor recreation facilities on all properties containing single-family
1004 detached and duplex dwellings.
1005
1006 2. An opaque landscape hedge shall be planted between a recreational facility and a side or rear
1007 property line of different ownership. The landscaping shall be maintained at a minimum of four
1008 feet in height and shall be provided along the entire length of the recreational facility.
1009
- 1010 B. Requirements in the RMM or other districts with permitted multi-family uses.
1011
1012 1. Lighting may be installed to allow evening use of the facility. All outdoor lighting shall be installed
1013 and maintained in such a manner that the light falls substantially within the perimeter of the
1014 property through the use of shielding and limitations on intensity. In no instance shall the facility
1015 lighting create glare off of the property exceeding 0.3 foot candles which impacts any roadway.
1016 Directional lighting may not be installed which shines directly into any dwelling unit.
1017
1018 2. An opaque landscape buffer, a minimum of four feet in height, shall be installed which shields the
1019 recreational facility from any adjacent right-of-way. Fencing may be installed to a maximum
1020 height of ten feet.
1021

1022 **Section. 5.2.6. Decks.**
1023

- 1024 A. Decks extending into rear or side yard may not exceed a height of 30 inches above grade. Decks over
1025 30 inches in height shall meet all setbacks.
1026
1027 B. Deck height shall be measured from the walking surface of the deck, not the railing.
1028
1029 C. Railing shall be spaced in such a way as to allow air and light to pass through.
1030

1031 **Section. 5.2.7. Fences and walls.**
1032

- 1033 A. General Requirements.
1034
1035 1. All fences shall be of sound construction and not detract from the surrounding area.
1036
1037 2. No barbed wire, spire tips, sharp objects, or electrically charged fences shall be erected, except
1038 as otherwise provided herein. This shall not be interpreted to mean that bona fide agricultural
1039 users cannot use barbed wire or electrically charged fences to control livestock when located in
1040 districts permitting the raising, keeping, or breeding of livestock.
1041
1042 3. No fences shall be placed within the visibility triangle.
1043
1044 4. If a fence or wall is located in a public utility or drainage easement, the property owner shall be
1045 solely responsible for removal of the fence or wall as well as for any cost resulting from
1046 disturbance, damage, or destruction of the fence or wall resulting from work associated with

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- 1047 utilities or drainage facilities, including those related to alley improvements within such
1048 easement.
1049
- 1050 5. Unless the posts or other supports used in connection with the fence or wall are visible from
1051 and identical in appearance from both sides of the fence, all posts or other supports used in
1052 connection with the fence or wall shall be on the side of the fence or wall that faces the property
1053 on which it is to be erected. If a fence or wall is constructed in such a way that only one side of
1054 the fence is "finished", then the "finished" side of the fence shall face outward toward the street
1055 or adjoining property (facing away from the property on which it is erected). The "finished" side
1056 of the fence shall be the side that is painted, coated, or smoothed so as to be more decorative
1057 in appearance.
1058
- 1059 6. Fencing for critical public utilities infrastructure, including water and wastewater facilities and
1060 electric and natural gas facilities, which may enclose either an entire site or only an area
1061 containing equipment, may be maintained at a height of eight feet. Barbed wire, spire tips,
1062 sharp objects, or electrically charged fencing are permitted on the top of fencing around critical
1063 infrastructure sites or equipment, however, the height of the fencing together with any barbed
1064 wire, spire tips, sharp objects, or electrically charged fencing may not exceed eight feet, and
1065 only the top two feet may contain barbed wire, spire tips, sharp objects, or electrically charged
1066 fencing.
1067
- 1068 8. Fences are not permitted on any unimproved property in a residential zoning district.
1069
- 1070 9. Fences may be installed on unimproved sites in non-residential or mixed-use zoning districts,
1071 when the Director determines that such fence is necessary for:
1072
- 1073 a. Site security or safety reasons;
1074
- 1075 b. To secure temporary utility infrastructure storage areas; and
1076
- 1077 c. Temporary fencing for demolition sites or sites with pending building permit or site
1078 development applications.
1079
- 1080 9. No wall or fence of any kind whatsoever shall be constructed on any lot until after the height,
1081 type, design, and location has been approved in writing and proper permit issued by the
1082 Director.
1083
- 1084 10. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
1085 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
1086 increased to a maximum height of 28 feet. For sports other than diamond sports, backstops
1087 may be increased to a height of 12 feet. All fencing at recreational facilities must be constructed
1088 of at least nine-gauge fence fabric and schedule 40 tubing.
1089
- 1090 11. A may be maintained at a height greater than otherwise allowed herein if a higher fence height
1091 is required by the city for the purpose of screening a special exception use.
1092

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- 1093 12. A fence or wall shall be constructed of one or more of the following materials or finishes:
1094
1095 a. Wood (decay resistant or pressure treated only), shall be painted or stained;
1096
1097 b. Concrete block with stucco (CBS);
1098
1099 c. Reinforced concrete with stucco;
1100
1101 d. Stone or brick, including cast (simulated) stone or brick;
1102
1103 e. Concrete;
1104
1105 f. Wrought iron;
1106
1107 g. Aluminum;
1108
1109 h. Plastic or vinyl;
1110
1111 i. Galvanized steel privacy panels painted with alkali-resistant coatings. Alkali-resistant coatings
1112 include heavy-bodied bituminous paint or methacrylate lacquer; or
1113
1114 j. Chain-link without slats
1115
1116 All other finishes and materials are prohibited.
1117
1118 14. For fences or walls located in a public utility or drainage easement, only the following materials
1119 or finishes are permitted:
1120
1121 a. Wood (decay resistant or pressure treated only);
1122
1123 b. Aluminum;
1124
1125 c. Chain-link without slats;
1126
1127 d. Plastic or vinyl; or
1128
1129 e. Galvanized steel privacy panels painted with alkali-resistant coatings. Alkali-resistant coatings
1130 include heavy-bodied bituminous paint or methacrylate lacquer.
1131
1132 14. Multi-family developments over 1 acre in size may construct a fence or wall around the entire
1133 perimeter of the property or in a location not otherwise allowed by this subsection.
1134
1135 15. Maintenance. All fences shall be properly maintained, in accordance with the International
1136 Property Management Code Sec. 304.2 Protective Treatment, as referenced by Article 12,
1137 Section 12.1.C of this code.
1138

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1139 B. Residential Zoning Districts.

1140

1141 1. A No fence shall be maintained at a height greater than six feet, and no wall or fence shall be
1142 erected or placed within the front setback lines of any residential lot, except if a residential use
1143 abuts property used for commercial or professional purposes, a fence may be maintained at a
1144 height up to eight feet along the side(s) of the property which abut(s) the property or properties
1145 containing commercial or professional uses. For purposes of this section, a property shall be
1146 deemed to abut another property if the two properties are either immediately adjacent to each
1147 other or separated only by an alley. Properties separated by a street, canal, lake, or other body
1148 of water shall not be deemed to be abutting properties.

1149

1150 2. Any fencing within 20 feet of the rear property line on waterfront sites must be open mesh
1151 above a height of three feet. The Director may, in his or her discretion, approve minor
1152 projections above the restricted heights for architectural features.

1153

1154 3. No part of a fence shall be located forward of the forward-most part of the side of the principal
1155 structure to which the fence is closest. In no instance shall a fence enclose any portion of the
1156 front facade of the principal structure.

1157

1158 4. No fence, hedge, or other growth shall be erected on any residential property within the city
1159 which shall unreasonably restrict or block the view of a canal or other waterway from an
1160 adjoining lot, or except as required to screen a special exception use. No fence or hedge or
1161 other growth shall be erected on property which would obstruct the view of either a pedestrian
1162 or driver of a moving vehicle so as to create a hazard to the health and welfare of its citizens.

1163

1164 C. Non-Residential and Mixed-Use Zoning Districts.

1165

1166 1. Construction of fences must meet the following restrictions:

1167

1168 a. Maximum height: six feet (except that property in a commercial, professional, or mixed-use
1169 zoning district, which contains a non-residential use, and which abuts a a residential use,
1170 whether such use is in a residential zoning district or mixed-use zoning district, may erect a
1171 fence up to eight feet in height along the side(s) of the property which abut(s) a residential
1172 use. A property shall be deemed to abut another property if the two properties are
1173 immediately adjacent to each other or separated by only an alley. Properties separated by
1174 a street, canal, lake, or other body of water shall not be deemed to be abutting properties.

1175

1176 b. Required setbacks:

1177

Front	No part of a fence shall be located forward of the forward-most part of the side of the principal structure to which the fence is closest. In no instance shall a fence enclose any portion of the front facade of the principal structure.
Side (not on a corner site)	None
Side (corner site)	None for free-standing residential uses in mixed-use zoning districts; 7 feet for non-residential and compound uses in Marketplace Residential zoning district; 10 feet for non-residential and compound uses in all other commercial, professional, and mixed-use zoning districts

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Rear (not on alley)	None
Rear (on alley)	10 feet

- 1178
1179 D. Multi-family developments over 1 acre in size may construct a fence or wall around the entire
1180 perimeter of the property or in a location not otherwise allowed by this subsection.
1181
1182 E. Industrial zoning district:
1183
1184 1. Maximum height: eight feet.
1185
1186 2. Required setbacks: none, except that fences shall be setback 10' from alleys.
1187
1188 3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to
1189 applicable codes, to conceal storage areas.
1190
1191 F. Agricultural zoning district:
1192
1193 1. Maximum height: eight feet.
1194
1195 2. Required setbacks: none.
1196
1197 G. Institutional zoning district:
1198
1199 1. Maximum height: eight feet.
1200
1201 2. Required setbacks: none, except that fences shall be setback 10' from alleys.
1202
1203 3. Fencing shall provide an opaque visual barrier, constructed of materials which conform to
1204 applicable codes, to conceal storage areas.
1205
1206 H. Preservation zoning district:
1207
1208 1. Maximum height: eight feet.
1209
1210 2. Required setbacks: none.
1211
1212 I. South Cape and MXB zoning district(s):
1213
1214 1. Maximum height.
1215
1216 a. When placed in front yards, 42 inches.
1217
1218 b. When not placed in front yards, six feet (except that a property which contains a non-
1219 residential use, and which abuts a property containing a residential use, whether such use
1220 is in a residential zoning district or mixed-use zoning district, may erect a fence up to eight
1221 feet in height along the side(s) of the property which abut(s) a property containing a

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1222 residential use). For purposes of this subsection, a property shall be deemed to abut
1223 another property if the two properties are either immediately adjacent to each other or
1224 separated by only an alley. Properties which are separated by a street, canal, lake, or other
1225 body of water shall not be deemed to be abutting properties.

1226
1227 c. Fences, walls, and hedges may be maintained at a height greater than otherwise allowed
1228 herein if a higher height is required by the city for the purpose of screening a special
1229 exception use.

1230
1231 d. Fencing for recreational facilities may be increased in height to ten feet. Such fencing must
1232 immediately enclose the recreational facility. Hooded backstops for diamond sports may be
1233 increased to a maximum height of 28 feet.

1234
1235 e. Required setbacks:

1236

Front	None
Side or rear (not on alley)	None
Side or rear (on an alley)	15 feet from the alley centerline
Abutting a navigable waterway	10 feet

1237

1238 **Section.5.2.8. Flags and Flagpoles.**

1239

1240 A. Residential zoning districts or sites with residential uses shall be limited to no more than two flagpoles.

1241

1242 B. In non-residential zoning districts, in mixed use zoning districts, and on sites containing non-
1243 residential uses in residential zoning districts, no more than three flagpoles are allowed on a site.

1244

1245 C. Flagpoles shall not exceed 35 feet in height other than those on non-residential properties abutting
1246 Pine Island Road which shall not exceed 80 feet in height.

1247

1248 D. The installation of a flag standard on a site does not require a permit. The number of flags that may
1249 be displayed on a flagpole or on a single flag standard is not limited.

1250

1251 E. For the purposes of this article, flags on non-residential, private property which contain a symbol
1252 other than that of a nation, government, political subdivision, or other entity shall be presumed
1253 commercial; however, it shall be considered a rebuttable presumption, which may be overturned by
1254 the Director if the evidence contradicting it is true or if a reasonable person of average intelligence
1255 could logically conclude from the evidence that the presumption is not valid.

1256

1257 **Section. 5.2.9. Fountains, reflecting pools, and sculptures.**

1258

1259 A. Fountains and sculptures shall not to exceed 12 feet in height.

1260

1261 B. Reflecting pools greater than 24 inches in depth deep shall be fenced for safety.

1262

1263 **Section. 5.2.10. Gazebos, sun shelters, and similar structures.**

1264

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- 1265 A. Gazebos, sun shelters, and similar structures on residential single-family detached or duplex parcels
1266 may not exceed 150 square feet in roof coverage. The total area of all such structures shall not exceed
1267 300 square feet.
1268
- 1269 B. All structures in all other zoning districts may not exceed 300 square feet.
1270
- 1271 C. The maximum height shall not exceed 14 feet above grade from the lowest point of the grade under
1272 the shelter, including overhangs.
1273
- 1274 C. These structures shall not be constructed within six feet of any rear lot line except on waterfront lots
1275 where sun shelters are permitted to be constructed on docks. These structures shall not overhang the
1276 edges of the dock or be constructed over an easement.
1277

Section. 5.2.11. Guest houses.

- 1278
1279
- 1280 A. Detached structures serving as a guest house shall only be permitted in the Residential Estate (RE)
1281 zoning district and must comply with the following:
1282
- 1283 1. Guest Houses shall only be on constructed on sites with a principal residential dwelling unit.
1284
 - 1285 2. May not exceed one story.
1286
 - 1287 3. Maximum building height shall not exceed 14 ft.
1288
 - 1289 4. May not exceed 30% of the area of the primary structure or 800 square feet, whichever is less.
1290
- 1291 B. A guest house is not a dwelling unit to be rented, it provides only guest accommodations and shall
1292 meet the following requirements:
1293
- 1294 1. A guesthouse may not contain more than two bedrooms.
1295
 - 1296 2. A guesthouse may not contain a kitchen or the electrical or gas connections to install a stove or
1297 oven.
1298
 - 1299 3. An additional parking space must be provided for a guesthouse.
1300

Section. 5.2.12. Play or recreation equipment.

- 1301
1302
- 1303 A. On residential single-family detached and duplex properties, the City shall not be responsible for
1304 permitting and inspection of play equipment.
1305
- 1306 B. Play equipment for other than single-family detached and duplex properties must be permitted and
1307 inspected prior to any use.
1308

Section. 5.2.13. Sheds and greenhouses.

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1310

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- 1311 A. The maximum height of a shed or greenhouse shall not exceed 15 feet in overall height.
1312
1313 B. The maximum floor area shall not exceed 200 square feet.
1314
1315 C. Sheds and greenhouses are allowed in the R1, RML, RE, and A districts.
1316
1317 D. A lot may contain no more than one shed and one greenhouse.
1318
1319 E. Sheds and greenhouses may be within the side yard of a parcel so long as the shed or greenhouse is
1320 screened. Screening is required for that portion of the wall of the shed or greenhouse that is visible
1321 from the right-of-way and the nearest adjoining residential property. A wall, fence, shrubs, or a
1322 combination thereof may be used to meet screening requirements as follows:
1323
1324 1. If an opaque wall or fence is used for screening, the wall or fence shall be six-feet in height. The
1325 wall or fence may be constructed of wood, vinyl, or a material that has the appearance of wood
1326 or vinyl, or the wall may be masonry, but not be unfinished concrete block. All other materials are
1327 prohibited. A screening wall with a continuous foundation may not encroach into any easement.
1328
1329 2. Alternatively, sheds or greenhouses may be screened with shrubs that meet the following
1330 requirements:
1331
1332 a. A row of shrubs planted along both sides of the shed and extend at least five feet beyond the
1333 walls of the shed or greenhouse.
1334
1335 b. All shrubs required for screening within this subsection shall be a minimum of 32 inches in
1336 height and be in at least a seven-gallon container size at the time of planting. All shrubs shall
1337 be planted no more three feet apart as measured on center.
1338
1339 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
1340 maintained in good condition as long as the shed requires screening pursuant to this
1341 subsection.
1342
1343 3. A shed or greenhouse that would be visible from the right-of-way or from the nearest adjoining
1344 property, but for an existing fence, wall, or landscaping that shields the shed or greenhouse is
1345 exempt from additional screening requirements. In the event the screening is removed or altered
1346 to cause the shed or greenhouse to be visible from the right-of-way or nearest adjoining property,
1347 the shed or greenhouse shall be screened in accordance with those requirements outlined above
1348 or moved to fully comply with this Section.
1349
1350 4. On a double frontage lot, sheds or greenhouses shall be screened from view from rights-of-way
1351 and adjoining properties. See Diagram 5.2.1.B. Double frontage lot fence and accessory structure
1352 requirements.
1353
1354 5. On double frontage lots, sheds or greenhouses in the rear yard shall be setback to a distance
1355 equivalent to the front setback of any adjacent lots that are not double frontage lots.
1356

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1357 **Section. 5.2.14. Solar Photovoltaic (PV) Arrays.**

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A. General requirements.

1. Permitted accessory equipment. Rooftop photovoltaic solar systems shall be deemed permitted accessory equipment for all buildings in all zoning categories. Nothing contained in this chapter shall be deemed to prohibit the installation of rooftop photovoltaic solar systems on buildings containing legally nonconforming uses.
2. Maintenance. The photovoltaic system shall be properly maintained and be kept free from hazards, including faulty wiring, loose fastenings, or being maintained in a condition that is unsafe or detrimental to public health, safety, or general welfare.
3. Abandonment. Abandoned or unused freestanding solar energy systems not in use for a period of 18 months shall be removed at the owner's expense.

B. Building-mounted PV systems.

1. Roof mounted:

- a. Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof, for structures with gable, hip, or gambrel roofs and shall not extend higher than 10 feet above the surface of the roof when installed on flat or shed roof.
- b. The solar collector surface and mounting devices shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the roof surface on which the system is mounted. Solar energy systems that extend less than one foot above the roof surface shall be exempt from this provision.

2. Wall mounted or flush to a building or structure:

- a. PV arrays are allowed on the walls or sides of any building or structure but shall not encroach into the required front yard setback and may not encroach into side and rear yard setback by more than three feet and shall not extend into or over an easement.
- b. A minimum of nine feet vertical distance shall be maintained under the PV array where needed to provide adequate clearance for pedestrians.
- c. To the maximum extent possible, wall mounted PV arrays shall be designed as compatible to the structure and surface to which it is attached.

C. At-grade PV systems.

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- 1401 1. Exemptions. The restrictions of this Subsection with respect to height, location, and setbacks are
1402 not applicable to any accessory component to a freestanding outdoor lighting fixture, telephone
1403 pole, parking meter, or any other similar structure, as determined by the city.
1404
- 1405 2. Height. The maximum height of any at-grade PV array shall not exceed twelve feet, except for
1406 residential locations, as established in subsection 3., below.
1407
- 1408 3. Residential location. For PV arrays in or abutting residential zoning districts, the following
1409 requirements apply:
1410
- 1411 a. PV arrays up to six feet in height are allowed;
1412
- 1413 b. PV arrays shall be setback at least seven and one-half feet from interior side property lines
1414 and 10' from rear property lines;
1415
- 1416 c. PV arrays are not allowed within the front setback or front yard of a residentially zoned
1417 property; and
1418
- 1419 d. The area of the solar collector surface of freestanding solar energy systems shall not exceed
1420 five percent of the lot area.
1421
- 1422 4. Commercial location. For PV arrays in non-residential zoning districts and not adjacent to
1423 residentially zoned property, at-grade PV systems must meet all setback requirements for a
1424 structure within the zoning district.
1425
- 1426 5. The supporting framework for freestanding solar energy systems shall not include unfinished
1427 lumber.
1428

1429 **Section. 5.2.15. Swimming Pools.**

- 1430
- 1431 A. Location of pools; fencing, safety rails; solar screens.
1432
- 1433 1. The construction of a swimming pool, spa, or hot tub is prohibited in the front or side of any
1434 single-family or duplex residential structure, except as permitted in the RE district on parcels of
1435 3 acres or larger. All residential swimming pools, spas, or hot tubs shall be enclosed by
1436 screening. The pool area or the entire back yard shall be enclosed with a minimum four-foot
1437 high fence. When fencing a waterfront yard, the fence shall extend to and no further than the
1438 water side of the seawall cap, otherwise the fence shall extend across the back yard to the rear
1439 of the swimming pool. This fencing or enclosure must be completed before the pool is filled
1440 with water over 24 inches in height and before a final inspection.
1441
- 1442 2. Swimming pools, unroofed pools, enclosed pools, or screen enclosures only with open-mesh
1443 screening shall be placed at the rear of the principal structure only, and not less than ten feet
1444 from the rear property line of any residential parcel. Pools, enclosed pools, or screen enclosures
1445 may not extend more than ten feet beyond the side of the structure or into required side setbacks.
1446 Any part of a pool or screen enclosure covered by a roof or enclosed by side walls over six feet in

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1447 height shall be subject to the limitations regarding location of the structure. The minimum
1448 distance requirement from a lot line shall be measured from the exterior of the screen enclosure
1449 for a screen enclosure or an enclosed pool and from the waterline of an unenclosed pool. In no
1450 instance shall any pool, pool enclosure, or screen enclosure, be placed within a utility or drainage
1451 easement.

1452

1453 B. In the event that the swimming pool, spa, or hot tub is secured by a screened enclosure or
1454 permanent fence and the screened enclosure or permanent fence is damaged by a fire, accident,
1455 or severe weather event such as a hurricane, to the extent that the screened enclosure or
1456 permanent fence is no longer securing the swimming pool, spa, or hot tub, then a temporary mesh
1457 safety barrier that meets the minimum requirements set forth in subsection .1B.2. above shall be
1458 installed to secure the swimming pool, spa, or hot tub.

1459

1460 The temporary mesh safety barrier shall be installed as soon as practical but in no event more than
1461 ten days after such fire, accident, or severe weather event.

1462

1463 The temporary mesh barrier may remain in place for a period not to exceed 90 days after the fire,
1464 accident, or severe weather event. The Director of the Department of Community Development,
1465 may extend the time period stated herein upon satisfactory evidence that the property owner has
1466 contracted with a licensed contractor to replace the screened enclosure or permanent fence that
1467 was damaged by the fire, accident, or severe weather event.

1468

1469 C. All swimming pools shall have adequate safety rails. When swimming pools are constructed in front
1470 or at the side of a single-family attached or multi-family dwelling of three or more units, an opaque
1471 or semi-opaque screen not less than four feet nor more than six feet in height shall be erected in
1472 addition to the fence or screening requirements of § 3.10.1A.

1473

1474 1. Parallel to and toward the street lot line no less than the length of the pool when the pool is on
1475 the street side of the building; and

1476

1477 2. Parallel to the side and front lot lines no less than the length and width of the pool when the
1478 pool is on the side or end of the building.

1479

1480 D. Pools, hot tubs, and pool decks in rear or side yards may not exceed a height of 30 inches above grade.

1481

1482 E. All swimming pools and enclosures constructed or erected on any parcel, other than accessory to a
1483 single-family detached or duplex residence, shall meet the minimum yard requirements specified for
1484 buildings or structures in the zoning district the construction occurs.

1485

1486 F. Portable swimming pools. Portable swimming pools are prohibited in the front or the side of any
1487 residential lot. Portable swimming pools capable of holding 24 inches in depth or more of water shall
1488 be anchored into the ground sufficiently to prohibit movement during a hurricane. Portable pools
1489 shall be enclosed by a fence or other protective material, or otherwise shall be covered, when not in
1490 use, by a protective cover so that a child cannot accidentally enter the pool. Drainage of pools so as
1491 to permit the water to run onto property of other people is prohibited. Wading or splash pools not
1492 capable of holding 12 inches or more of water are exempt from the provisions of this subsection.

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Section. 5.2.16. Unattended donation bins.

- A. Unattended donation bins are prohibited except within commercial developments and subject to the following requirements:
- B. Unattended donation bins are permitted only on sites with a minimum of 125 parking spaces;
- C. Bins may not be in a required parking space or a drive aisle;
- D. Bins may not be placed in required landscape buffers and trees may not be removed in order to locate a bin;
- E. Bins shall be maintained in good condition and appearance with no structural damage, holes, or visible rust and shall be free of graffiti;
- F. Bins shall be locked or otherwise secured;
- G. Bins shall contain contact information in accordance with F.S. Chapter 496.4121; and
- H. Bins shall be serviced and emptied as needed, but at least once per month, or within five business days of a request by the City. Boxes, garbage, and donation goods shall not be permitted to accumulate around unattended donation bins.

CHAPTER 3. Land Clearing, Filling, Extraction, and Construction Sites.

Section 5.3.1. Borrow pits; regulation of removal or extraction of dirt, soil, sand, rock, oil, gas, etc.; procedures.

- A. Removal or extraction of dirt, soil, and sand.
 - 1. All borrow pits from which dirt, sand or soil has been removed shall be completely enclosed by a fence or earth berm at least six feet in height.
 - 2. Prior to any such removal or excavation, the following shall be submitted to the Department of Community Development: drainage plans, aerial photo of the site, a plan for development of the total site when the removal is completed, the estimated costs of restoring the site to a safe and developable condition, and a deposit of funds or other financial instruments payable to the City of Cape Coral is required equal to the estimated cost of restoring the site. The estimated cost for restoring the site shall include fence or berm removal, lake bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the site is restored to a safe and usable condition. The plans shall be reviewed by the Hearing Examiner and written recommendation made to the Council prior to application for an excavation permit.

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- 1538 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1539 subject to final approval of the City Council.
1540
- 1541 B. Removal or extraction of rock, gravel, shell, aggregate, or marl.
1542
- 1543 1. All such excavations and extractions shall be sealed by fencing or grading or other device from
1544 general public access. All entrances to said excavation shall be fenced and locked during
1545 nonbusiness hours.
1546
- 1547 2. Prior to any such removal or excavation, the following shall be submitted to the Department of
1548 Community Development: drainage plans, aerial photograph of the site, a plan for development
1549 of the total site when the removal is completed, the estimated costs of restoring the site to a
1550 safe and developable condition, and a deposit of funds or other financial instruments payable
1551 to the City of Cape Coral is required equal to the estimated cost of restoring the site. The
1552 estimated cost for restoring the site shall include fence or berm removal, lake, bank sloping and
1553 stabilization, site grading, seeding or mulching, drainage, and any other items that the
1554 Department, HEX, or Council deems appropriate to ensure that the site is restored to a safe and
1555 usable condition. The plans shall be reviewed by the HEX and written recommendation made
1556 to the Council prior to application for an excavation permit.
1557
- 1558 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1559 subject to final approval by the City Council.
1560
- 1561 4. No excavation or extraction may be made with explosives without express permission of the
1562 Council. Excavation or borrow pit permits involving explosives must be renewed every 90 days.
1563
- 1564 C. Excavations, removal, or extraction for purposes of oil or gas exploration or production.
1565
- 1566 1. All such excavations, removals, or extractions shall be sealed by fencing or grading or other
1567 device from general public access. All entrances shall be fenced and locked during nonbusiness
1568 hours.
1569
- 1570 2. Prior to any such excavation, removal, or extraction the following shall be submitted to the
1571 Department of Community Development: drainage plans, aerial photograph of the site, a plan
1572 for development of the total site when the removal is completed, the estimated costs of
1573 restoring the site to a safe and developable condition, and a deposit of funds or other financial
1574 instruments payable to the City of Cape Coral is required equal to the estimated cost of
1575 restoring the site. The estimated cost for restoring the site shall include fence or berm removal,
1576 lake, bank sloping and stabilization, site grading, seeding or mulching, drainage, and any other
1577 items that the Department, Hearing Examiner, or Council deems appropriate to ensure that the
1578 site is restored to a safe and usable condition. The plans shall be reviewed by the HEX and
1579 written recommendation made to the Council prior to application for an excavation permit. No
1580 permit to drill a gas or oil well shall be issued unless City Council approves the application for
1581 such permit by resolution.
1582

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- 1583 3. Determination of the size of buffer strip necessary shall be made by the Hearing Examiner
1584 subject to final approval by the City Council.
1585
- 1586 4. No excavation or extraction may be made with explosives without express permission of the
1587 Council. Excavation permits involving explosives must be renewed every 90 days.
1588
- 1589 5. No person or entity may engage in any oil and gas exploration or production that utilizes well
1590 stimulation within the corporate boundaries of the City of Cape Coral or, consistent with F.S.
1591 §377.24(6), within the tidal waters of the state abutting or immediately adjacent to the
1592 corporate limits of the municipality, or within three miles of the City's corporate limits
1593 extending from the line of the mean high tide. As used in this section, the term "well
1594 stimulation" shall mean a well intervention, exploration, operation, or maintenance procedure
1595 performed by injecting fluid into a rock formation in order to increase production at an oil or
1596 gas well by improving the flow of hydrocarbons from the formation into the wellbore. Well
1597 stimulation does not include routine well cleaning that does not affect the integrity of the well
1598 or the formation.
1599

1600 **D. Procedures.**
1601

- 1602 1. The applicant shall meet with the Director and other city staff deemed appropriate by the
1603 Director prior to a public hearing with the Hearing Examiner to review staff concerns and to
1604 establish the basis for determining cost estimates as required.
1605
- 1606 2. All excavation or borrow pit requests shall be reviewed by the city staff, the Lee County Health
1607 Department, and the Hearing Examiner. After their review and recommendation, the City
1608 Council shall call for a public hearing on the application and shall determine whether or not said
1609 application shall be granted.
1610
- 1611 3. If the conceptual plan as presented by the applicant will require a zoning amendment for
1612 development, the applicant must prepare and submit a planned development project for the
1613 entire project prior to approval of the excavation.
1614
- 1615 4. If the excavation or borrow pit application is approved, the applicant may then apply for an
1616 excavation or borrow pit permit.
1617

1618 **Section. 5.3.2. Land Clearing, Filling, and, Excavation.**
1619

- 1620 A. Proposed alterations to ground elevation or vegetative cover not associated with an approved Site
1621 Development Plan, Final Subdivision Plan, or building permit shall be submitted to the Director with
1622 an application for a permit for Land Clearing and Fill containing the required plans and documentation.
1623 The director may require certification by a registered professional engineer that site improvements
1624 have been made in accordance with permits issued pursuant to this Section.
1625
- 1626 B. The following activities shall require a site improvement permit:
1627
- 1628 1. Clearing of trees and vegetation without disturbing the soil surface;

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- 1629
- 1630 2. Clearing including stump removal and grubbing of top soils; and
- 1631
- 1632 3. Filling.
- 1633
- 1634 C. Maintenance:
- 1635
- 1636 1. The applicant shall be responsible for the maintenance, repair, and replacement of all existing
- 1637 vegetation as may be required by the provisions of Chapter 8.
- 1638
- 1639 2. In buffer areas and areas outside the impervious cover, plant material shall be tended and
- 1640 maintained in a healthy growing condition and free from refuse and debris. Plant materials
- 1641 required by Chapter 8 of this article which is unhealthy, dying, or dead shall be replaced during
- 1642 the next planting season.
- 1643
- 1644 D. Excavation involving more than surface contouring for erosion control is only permitted with approval
- 1645 of a Site Development Plan or Subdivision Construction Plan.
- 1646
- 1647 E. In all districts, other than agriculture zoning, the city shall not permit any new borrow pits or mining
- 1648 activities, however, reshaping or restoration of existing borrow pits may only be permitted incidental
- 1649 to an approved Site Development Plan or Subdivision Construction Plan. Agriculturally zoned lands
- 1650 may propose new borrow pits as a Special Exception.
- 1651
- 1652 F. The following land clearing activities shall not require a permit:
- 1653
- 1654 1. Removal of invasive plants without disturbance of the soil; or
- 1655
- 1656 2. Land clearing for agricultural uses.
- 1657

1658 **Section. 5.3.3. Construction Site Maintenance.**

1659

1660 Construction sites shall be maintained in a manner which is non-deleterious to nearby properties. The

1661 requirements of this Section set minimum standards for the operation of the project site to eliminate or

1662 minimize impacts to the site and to the neighborhood to include vehicle parking and loading area, traffic

1663 control, fencing, placement of materials, safety, neatness, and cleanliness.

1664

- 1665 A. Construction site management plan required. All development and building permit applications must
- 1666 be accompanied by a construction site management plan, unless waived by the building official or
- 1667 development services manager.
- 1668
- 1669 1. Parking plan shall include:
- 1670
- 1671 a. Location of on-site and adjacent unpaved portion of the right-of-way parking and the
- 1672 maximum number of vehicles that will be parked along the unpaved portion of the right-of-
- 1673 way.
- 1674

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- 1675 b. Parking plan for worker vehicles and machinery on the site.
1676
1677 c. A single access with dimensions.
1678
1679 2. A temporary fence location, height, and type shall comply with the following:
1680
1681 a. For the purposes of construction site screening only, chain link fencing is permitted and shall
1682 be faced with a screen mesh.
1683
1684 b. A maximum height of six feet in residential zoned properties and eight feet in commercially
1685 zoned properties.
1686
1687 c. Fencing may not be required in agriculture or preservation zoned properties, upon a
1688 determination by the Director.
1689
1690 3. Construction trailers, loading and unloading areas, and material storage areas shall not be stored
1691 in areas intended for stormwater retention or rain gardens.
1692
1693 4. Traffic control plans shall include:
1694
1695 a. Access points with dimensions;
1696
1697 b. Area to be stabilized and a written plan on staging of construction related traffic including
1698 adequate parking (both on and off-site); and
1699
1700 c. Plan for delivery of materials.
1701
1702 B. Approval of plan and waivers. The building official or development services manager shall review,
1703 approve, or deny the construction site management plan and is authorized to grant waivers from
1704 submittal requirements:
1705
1706 1. If the requirement is unrelated to proposed development;
1707
1708 2. If the impact of the proposed development is negligible in that submittal requirement area; or
1709
1710 3. If unusual site conditions do not allow full compliance with this Section.
1711

CHAPTER 4. MARINE IMPROVEMENTS.

Section. 5.4.1. Purpose and Intent

In order to allow all waterfront property the same ability to utilize and access adjacent waterways, the development of docks, wharves, mooring piles, and watercraft moorings must be accomplished in a standard and unified manner. Boat slips and docks may be constructed by the owner of a waterfront lot, with adequate water frontage, where a principal building exists.

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1721 **Section. 5.4.2. General Requirements.**
1722

- 1723 A. An applicant who disagrees with the measurement of the calculated waterway width by the city's
1724 Geographic Information System (GIS) may submit a survey of the waterway width, prepared by a
1725 professional surveyor licensed in the state of Florida, to support the applicant's contention that the
1726 calculated waterway width is inaccurate.
1727
- 1728 B. No dock or piling shall be permitted that interferes with the right to navigate safely within the
1729 waterways of the city. In no event shall the navigable area be reduced to less than 50% of the
1730 calculated waterway width.
1731
- 1732 C. The elevation of pilings shall not exceed 10 feet above the seawall cap or, if no seawall exists, 13 feet
1733 above mean water level.
1734
- 1735 D. The elevation of the decking of a marine improvement shall not exceed two feet above the seawall
1736 cap, or if no seawall exists, five feet above mean water level. For marine improvements in the
1737 Caloosahatchee River, and for marine improvements in canals within 300 feet of the platted shoreline
1738 of the Caloosahatchee River, the elevation of the decking shall not exceed four feet above the seawall
1739 cap, or if no seawall exists, seven feet above mean water level.
1740
- 1741 E. All pilings or mooring posts shall be offset a minimum of two and one-half feet from any storm drain
1742 outfall pipe. Such measurement shall be made from the outside edge of the outfall pipe to the center
1743 of the piling or mooring post.
1744
- 1745 F. All docks permitted under this Section that project from a parcel with a seawall shall have a ladder
1746 extending from the dock into the waterway. No ladder extending from a dock into a waterway shall
1747 be made of wood.
1748
- 1749 G. The property owner shall be solely responsible for compliance with all applicable provisions of the Lee
1750 County Manatee Protection Plan.
1751
- 1752 H. Prior to the final inspection by the City, the owner shall submit a final signed and sealed survey
1753 showing that all construction is in compliance with the requirements of this Code.
1754

1755 **Section. 5.4.3. Dimensional Standards**
1756

- 1757 A. Protrusions into waterway.
1758
- 1759 1. Marine improvements may extend 25% of the calculated waterway width or 40 feet, whichever
1760 is less, as measured from the water frontage line, provided the marine improvements are setback
1761 12 feet from each extended side property line.
1762
- 1763 2. Marine improvements which extend six feet or less into a waterway such as captains' walks, as
1764 measured from the water frontage line, may extend the full length of the water frontage of the
1765 parcel.
1766

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3. Marine improvements in the Caloosahatchee River shall be subject to state and federal regulations.
 4. Marine improvements for outside corner parcels, excluding a "T" intersection, of two canals, may extend into the waterways as follows:
 - a. Extend the two waterfrontage lines (Diagram 5.4.3.A.) of the property to a point equal to 25% of the canal width or 40 feet, whichever is less.
 - b. Then, in each intersecting canal, the extended waterfrontage lines shall run parallel to the waterfrontage lines and shall be setback 12 feet from the extended side property line.
 - c. The area formed by the aforesaid lines and area of intersection, shall be the area permitted for marine improvements.
 5. Marine improvements for end parcels. Parcels at or adjacent to canal ends or parcels on lakes and basins (excluding outside corner parcels) are subject to the following:
 - a. Except for parcels governed by Section 5.4.3.A, end parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet. Adjacent parcels shall be permitted to have marine improvements projecting into the waterway up to a maximum of 30 feet or 25% of the calculated canal width, whichever is less.
 - b. With respect to end parcels with at least 80 feet of water frontage line, no part of a marine improvement which extends more than six feet in to a canal shall be located less than 12 feet from the ends of the water frontage line of the parcel. See Diagrams 5.4.3.A. & J
 - c. With respect to end parcels with more than 40 feet, but less than 80 feet, of water frontage line, any part of a marine improvement which extends more than six feet into a canal shall be set back from the ends of the water frontage line of the parcel in accordance with the following formula: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side boundary of the adjacent parcel's marine improvement area, as determined pursuant to paragraph 10.b below. See Diagram 5.4.3.H
 - d. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine improvement shall extend more than six feet into the canal except in accordance with the following: $(\text{Parcel Waterfrontage} - 40 \text{ feet}) \times 0.3$. The foregoing restrictions shall apply to marine improvements projecting from adjacent parcels (based on the length of their waterfrontage lines) in the same manner as end parcels, except that on the side of the adjacent parcel that abuts an end parcel, a marine improvement may be built up to the side boundary of the adjacent parcel's marine improvement area, as determined pursuant to paragraph 10.b below.

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- 1813 e. With respect to end and adjacent parcels with 40 feet or less of water frontage, no marine
1814 improvement shall extend more than six feet into the canal except in accordance with the
1815 following:
- 1816 i. Such a parcel may have either a platform dock not more than ten feet wide and extending
1817 not more than 16 feet into the canal or not more than two finger piers (with or without a
1818 boat lift) that together total no more than six feet in deck width and that extend not more
1819 than 30 feet into the canal.
 - 1820 ii. No marine improvement that projects more than six feet into the canal shall extend more
1821 than ten feet either side of the center point of the water frontage line of the parcel.
1822 Furthermore, no marine improvement shall extend beyond the ends of the water
1823 frontage line of the parcel. All marine improvements shall be centered on the centerline
1824 of the waterfront parcel's marine improvement area. See Diagram 5.4.3.F
1825
- 1826 7. When a parcel is at the corner of a waterway so as to include water frontage (all under the same
1827 ownership) on both the side and end of a waterway, the property owner may install or erect a
1828 marine improvement that extends from the side of the waterway to a maximum distance of 25%
1829 of the calculated width of the waterway or 30 feet, whichever is less, and from the end of the
1830 waterway a distance of 30 feet into the waterway.
1831
- 1832 8. Except as otherwise provided herein for joint marine improvements, no marine vessel (or any part
1833 thereof) when secured in any way to a marine improvement projecting from an end parcel, an
1834 adjacent parcel, or a parcel on a lake or basin (excluding outside corner parcels) shall extend
1835 beyond the boundaries of the marine improvement area of the parcel unless prior written consent
1836 of the affected property owner is obtained. Such consent shall be revocable by the affected
1837 property owner and shall automatically terminate in the event the ownership of the affected
1838 property changes. In the event ownership changes, the written consent of the new owner must
1839 be obtained if the marine vessel is to continue to extend beyond the ends of the water frontage
1840 of the parcel.
1841
- 1842 9. Marine improvements that do not project more than six feet into a waterway as measured from
1843 the water frontage line may extend the full length of the water frontage of the parcel. However,
1844 where the end of a parcel water frontage line abuts the water frontage line of another parcel, the
1845 angle at which such two water frontage line ends meet shall be bisected and apportioned equally
1846 between the two waterfront parcels. In that event, no marine improvement shall extend beyond
1847 the bisector of the angle.
1848
- 1849 10. No marine improvement that projects more than six feet from the water frontage line of the
1850 property shall be permitted to be outside of the marine improvement area for a waterfront parcel.
1851 The boundaries and dimensions of the marine improvement area shall be determined as follows:
1852
- 1853 a. End parcels.
1854
 - 1855 i. The access width of the waterway shall be calculated by subtracting from the calculated
1856 waterway width twice the maximum distance that a marine improvement along one side
1857 of the waterway could lawfully project as determined pursuant to Section 5.4.4.A.1.

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- ii. The waterway access ratio shall be calculated by dividing the waterway access width by the calculated width of the waterway.
 - iii. The waterway center point (WCP) is a point on the centerline of the canal 30 feet from the water's end. All marine improvement area lines and intersections are calculated and plotted from the WCP. See Diagram 5.4.3.B.
 - iv. Offset points for the parcel are determined as follows: If the parcel has 80 feet or more of water frontage line, then the offset points shall be located 12 feet from each end of the water frontage line of the parcel. If the parcel has more than 40 feet, but less than 80 feet of water frontage line, then the offset points shall be located in from the ends of the water frontage line the distance (in feet) resulting from the following formula: (Feet of Water Frontage Line - 40) x 0.3. If the parcel has 40 feet or less of water frontage line, then the ends of the parcel's water frontage line shall be the offset points. See Diagram 5.4.3.C.
 - v. From the WCP, plot a line having the same relationship to the WCP as the water frontage line has to the center of the canal end, but with all distances reduced in size by the waterway access ratio. This line is the offset line for the parcel. See Diagram 5.4.3.D.
 - vi. The marine improvement area is that area enclosed by the water frontage line, the offset line, and lines connecting the ends of the offset line to corresponding offset points. See Diagram 5.4.3.E.
- b. Adjacent parcels. The marine improvement area for an adjacent parcel shall be calculated in the same manner as that for an end parcel except as follows:
- i. Adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line. On the side of the adjacent parcel that abuts an end parcel with 40 feet or less of water frontage line, the side boundary of the marine improvement area shall constitute the side boundary of such adjacent parcel's marine improvement area. See Diagram 5.4.3.I. & J.
 - ii. Adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line. On the side of the adjacent parcel that abuts an end parcel with more than 40 feet of water frontage line, the side boundary of the adjacent parcel's marine improvement area shall be determined by drawing a line from the end of the subject adjacent parcel's water frontage line (on the same side as the subject end parcel) to the nearest terminus point of the subject end parcel's offset line and passing through the adjacent parcel's offset line. The side boundary shall be that portion of the aforesaid line between the end of the adjacent parcel water frontage line and the parcel's offset line. However, in no event shall the side boundary extend beyond the bisector of the angle formed where the adjacent parcel's water frontage line abuts the end parcel's water frontage line. The bisector shall be extended into the waterway the maximum distance a marine improvement could lawfully project within the marine improvement area. See Diagram 5.4.3.G.
- c. Parcels on lakes and basins (excluding outside corner parcels). A waterfront parcel shall be deemed to be on a lake or a basin if the parcel abuts a body of water identified as a lake or a basin on the officially adopted Future Land Use Map of the City of Cape Coral. Except for outside corner parcels, all waterfront parcels on lakes or basins shall be categorized as corner parcels, adjacent parcels, or end parcels. A corner lake or basin parcel shall be a parcel that either touches or is on both sides of an interior corner of a lake or basin. In other words, a

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1904 corner lake or basin parcel may be one with a water frontage line that is V-shaped because it
1905 physically runs along the edge of the lake or basin, turns at the corner, and continues along
1906 the edge of the lake or basin, or it may be a parcel the water frontage line of which ends at a
1907 corner of the lake or basin where another side of the lake or basin begins, or it may be a parcel
1908 that is angled in such a way that each end of its water frontage line touches a different side
1909 of the lake or basin. Also, an adjacent lake or basin parcel shall be a parcel that is on a lake or
1910 basin and that abuts at least one corner parcel. All other parcels on lakes or basins and that
1911 are neither corner parcels or adjacent parcels shall be treated as end parcels.
1912

- 1913 d. The marine improvement area for parcels on lakes or basins shall be calculated as follows:
1914
- 1915 i. For an end parcel, the side of the lake or basin upon which the parcel is physically located
1916 shall be deemed to be the end of the lake or basin and the sides of the lake or basin shall
1917 be deemed to be the sides of the lake or basin running roughly perpendicular to the end
1918 of the lake or basin and to the left and to the right of the parcel (when facing the lake or
1919 basin). For purposes of this Section, the waterway access ratio for all end lake and basin
1920 parcels shall be one. In addition, the WCP for end lake or basin parcels shall be 40 feet
1921 into the lake or basin as measured perpendicularly to the lake or basin end from the
1922 center of the lake or basin end. All marine improvement area lines and intersections are
1923 calculated and plotted from the WCP. The remainder of the marine improvement area
1924 boundary calculations for end lake or basin parcels shall be the same as those performed
1925 with respect to canal end parcels.
 - 1926 ii. For corner lake or basin parcels, the configuration of the marine improvement area shall
1927 be determined by the physical configuration of the particular corner parcel. With respect
1928 to a corner parcel the water frontage line of which lies entirely on one side or end of a
1929 lake or basin, but terminates at the corner of the lake or basin where the other side of
1930 the lake or basin begins, the marine improvement area shall be calculated in the same
1931 manner as for end lake or basin parcels except that the side boundary of such marine
1932 improvement area (on the side where the corner of the lake or basin is located) shall be
1933 formed by a line bisecting the angle of such corner and extending to the offset line of the
1934 marine improvement area. See Diagram 5.4.3.K.
 - 1935 iii. With respect to a corner parcel that is angled so that each end of its water frontage line
1936 is on a different side of the lake or basin or for a corner parcel with a V-shaped water
1937 frontage line, the marine improvement area configuration shall be determined as follows:
1938 First, calculate the waterway access ratio for each side of the lake or basin in the same
1939 manner as the waterway access ratio for a canal is determined. Then measure the
1940 distance from the center of each side of the lake or basin touched by the corner property
1941 to the end of the water frontage line, or to the offset point, if any, on such side of the lake
1942 or basin. Multiply each of the aforesaid distances by the waterway access ratio for the
1943 relative side of the lake or basin to obtain the length of the waterway line for each side of
1944 the lake or basin. Plot the waterway line from the center of the side of the lake or basin
1945 for which it was calculated to a point that is 30 feet waterward from the water frontage
1946 line. The offset line for a corner parcel marine improvement area is formed by connecting
1947 the two foregoing points. The marine improvement area for the corner parcel is that area
1948 enclosed by the parcel water frontage line, the offset line, and lines connecting the ends

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1949 of the offset line to the corresponding offset points for the parcel, if any, or to the ends
1950 of the water frontage line. See Diagrams 5.4.3.L & M.

1951 iv. For adjacent lake or basin parcels, the marine improvement area shall be calculated in the
1952 same manner as that for end lake or basin parcels except as follows: With respect to an
1953 adjacent lake or basin parcel that abuts a corner parcel with 40 feet or less of water
1954 frontage line, the side boundary of the corner parcel marine improvement area (on the
1955 side where it abuts the adjacent parcel) shall form the side boundary of the adjacent
1956 parcel marine improvement area. With respect to an adjacent lake or basin parcel that
1957 abuts a corner parcel with more than 40 feet of water frontage line, the side boundary of
1958 the adjacent parcel (on the same side as the subject corner parcel) shall be determined
1959 by drawing a line from the end of the adjacent parcel water frontage line to the nearest
1960 terminus point of the subject corner parcel offset line and passing through the adjacent
1961 parcel offset line. The side boundary of the adjacent parcel shall be that portion of the
1962 aforesaid line between the end of the adjacent parcel waterfrontage line and such
1963 parcel's offset line. See Diagram 5.4.3.M

1964 v. Owners of waterfront parcels on a lake or basin aggrieved by the interpretation or
1965 application of this Section to such parcel due to the physical configuration of the
1966 particular lake or basin, then the Director may interpret and apply the provisions of this
1967 Section so as to alleviate the hardship resulting from the configuration of the lake or basin
1968 and so as to enable the waterfront parcel a reasonable marine improvement area.

1969
1970 6. In the event a significant portion of a waterway is not developable on one side due to ecological
1971 or other constraints, a marine improvement on the opposite side of the unnavigable portion
1972 shall be permitted to project into the waterway up to 50% of the calculated waterway width or
1973 40 feet, whichever is less, as measured from the waterfrontage line. See Diagram 5.4.3.N

1974
1975 7. No marine vessel (or any part thereof) when secured in any way to a marine improvement shall
1976 extend beyond the ends of the water frontage of the parcel from which the marine
1977 improvement projects.

1978
1979 8. All properties adjacent to bridges shall be reviewed individually by the city to determine what,
1980 if any, marine improvement may project from that property. Factors to be considered in making
1981 this determination include, but are not limited to, public safety and the impact of a planned
1982 marine improvement on navigability.

1983
1984 B. Maximum dock surface area.

1985
1986 1. For parcels with more than 40 feet of waterfrontage, the maximum deck surface area
1987 coverage shall be calculated as follows: the linear feet of water frontage of the parcel minus
1988 24 feet - times one-half times the linear feet of the maximum projection into the waterway
1989 (25% of the calculated width of the waterway or 40 feet, whichever is less).

1990
1991 Maximum Dock Surface Area = Linear Feet of Waterfrontage – 24 (1/4 Maximum Projection)
1992 Maximum Projection = 25% of width of waterway or 40 feet whichever is less

1993

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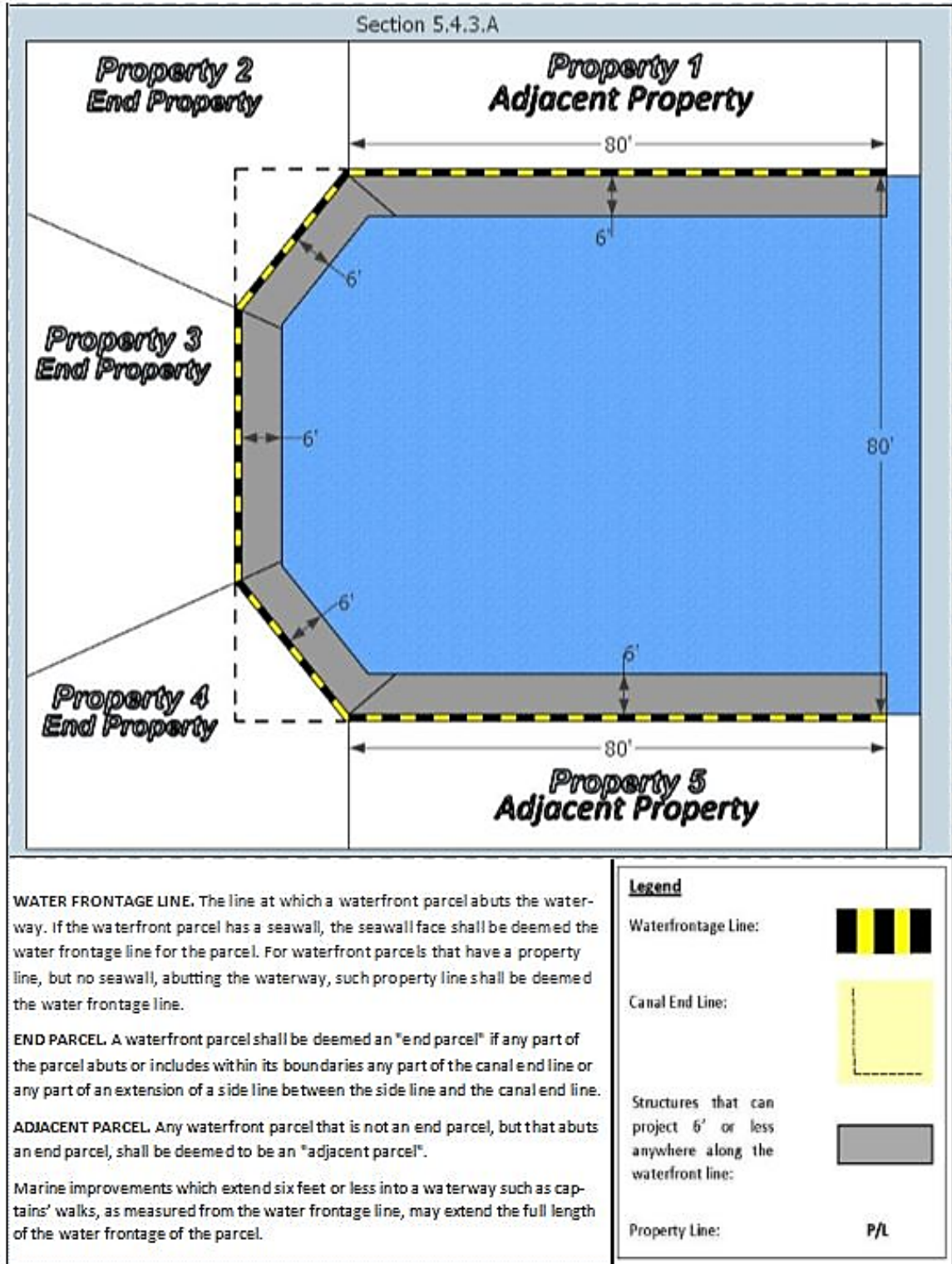
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2. For parcels with 40 feet or less of waterfrontage, the maximum deck surface area shall be calculated as follows: the linear feet of waterfrontage of the parcel times one-quarter times the linear feet of the maximum projection into the waterway (25% of the calculated width of the waterway or 40 feet, whichever is less).

1999
2000
2001
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Maximum Dock Surface Area = Linear Feet of Waterfrontage * 1/4 Maximum Projection
Maximum Projection = 25% of width of waterway or 40 feet whichever is less

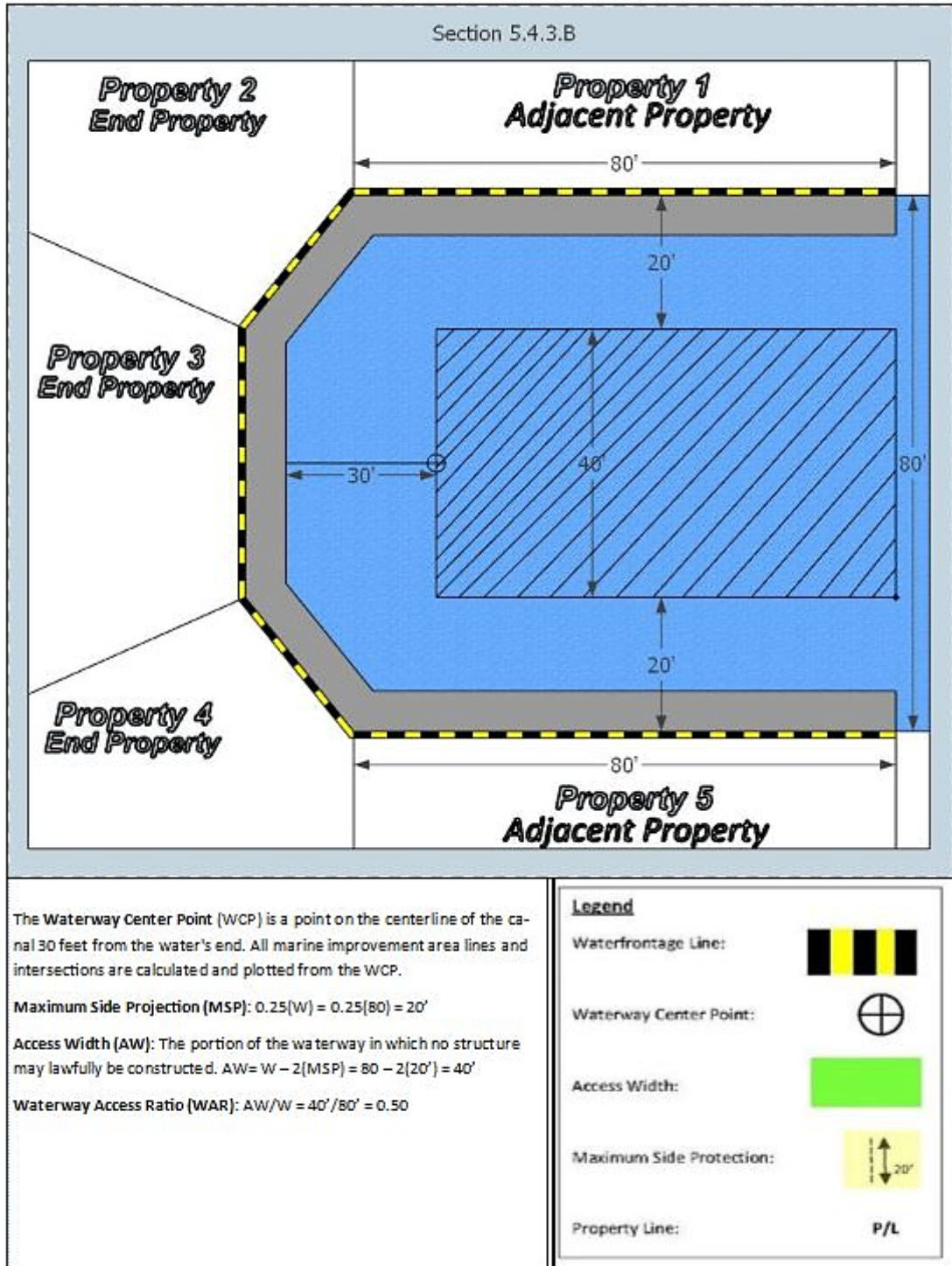
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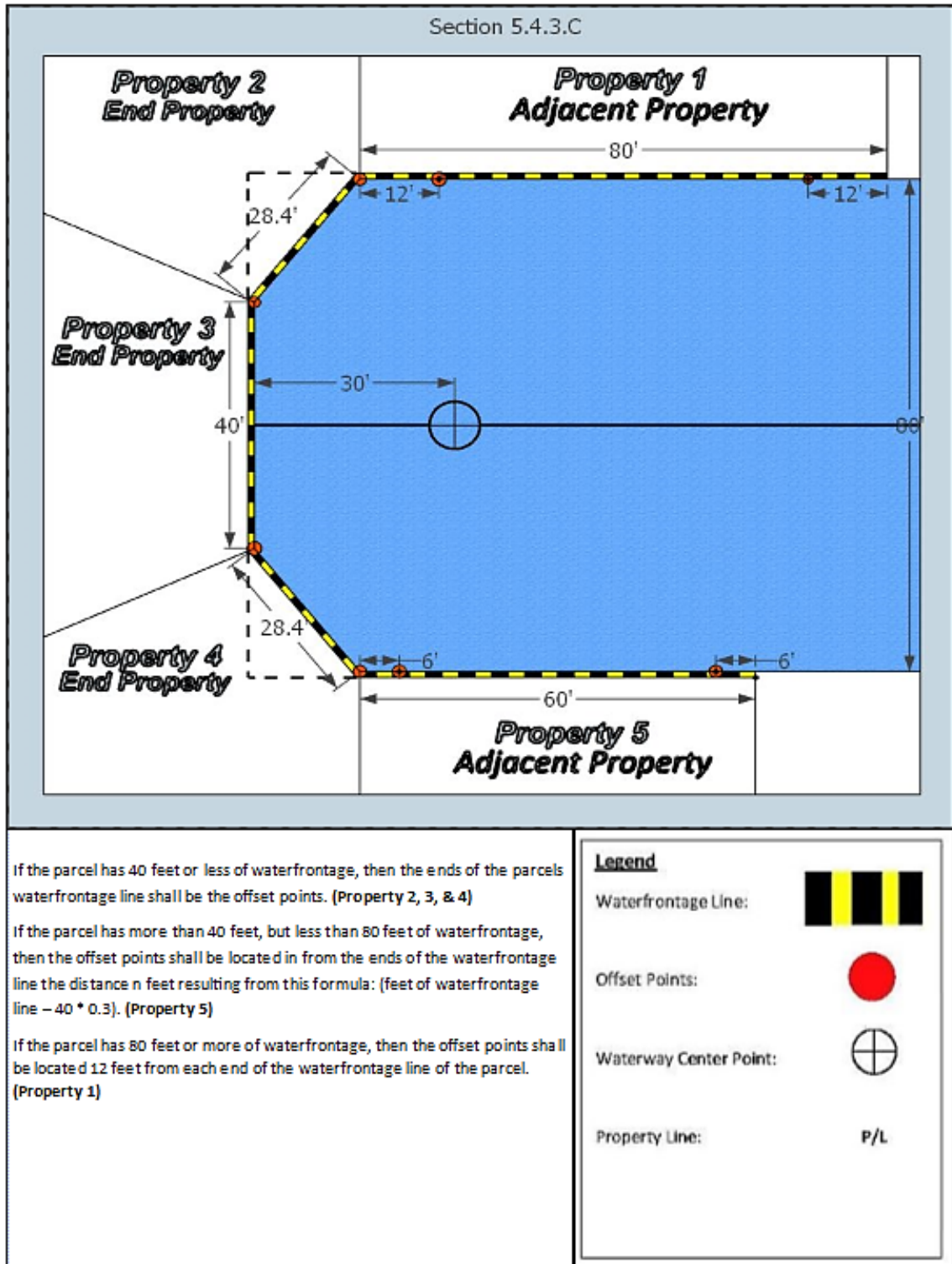
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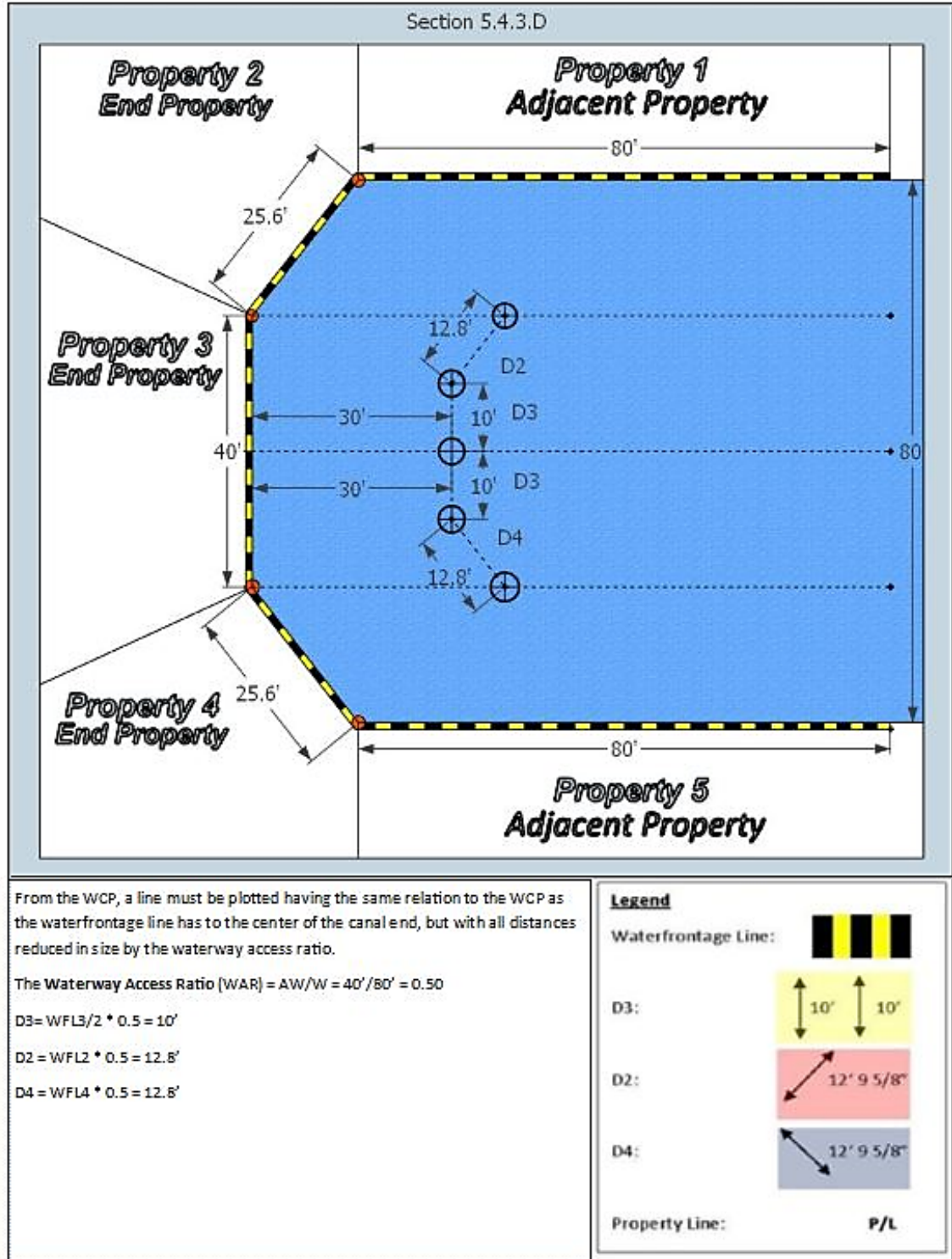
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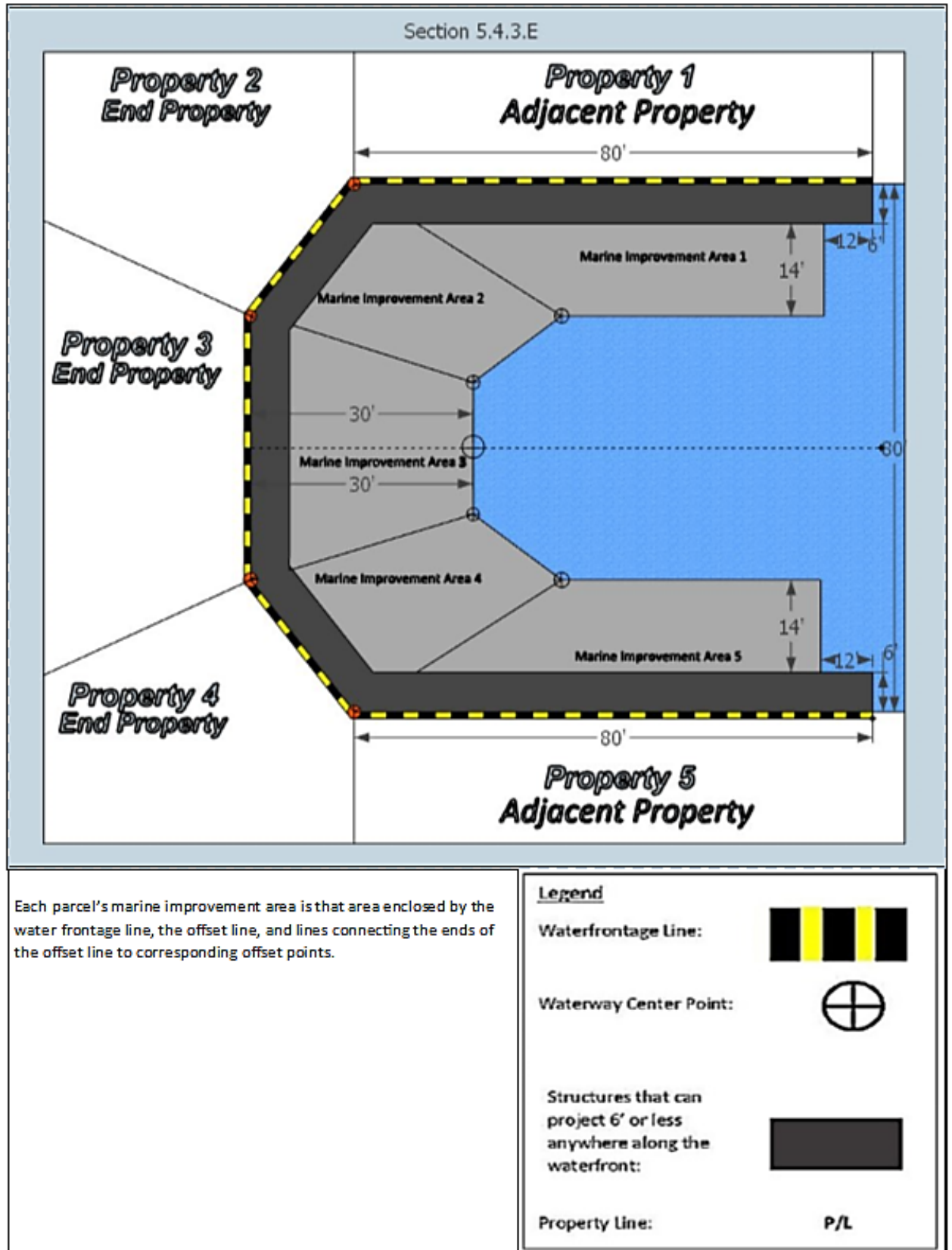
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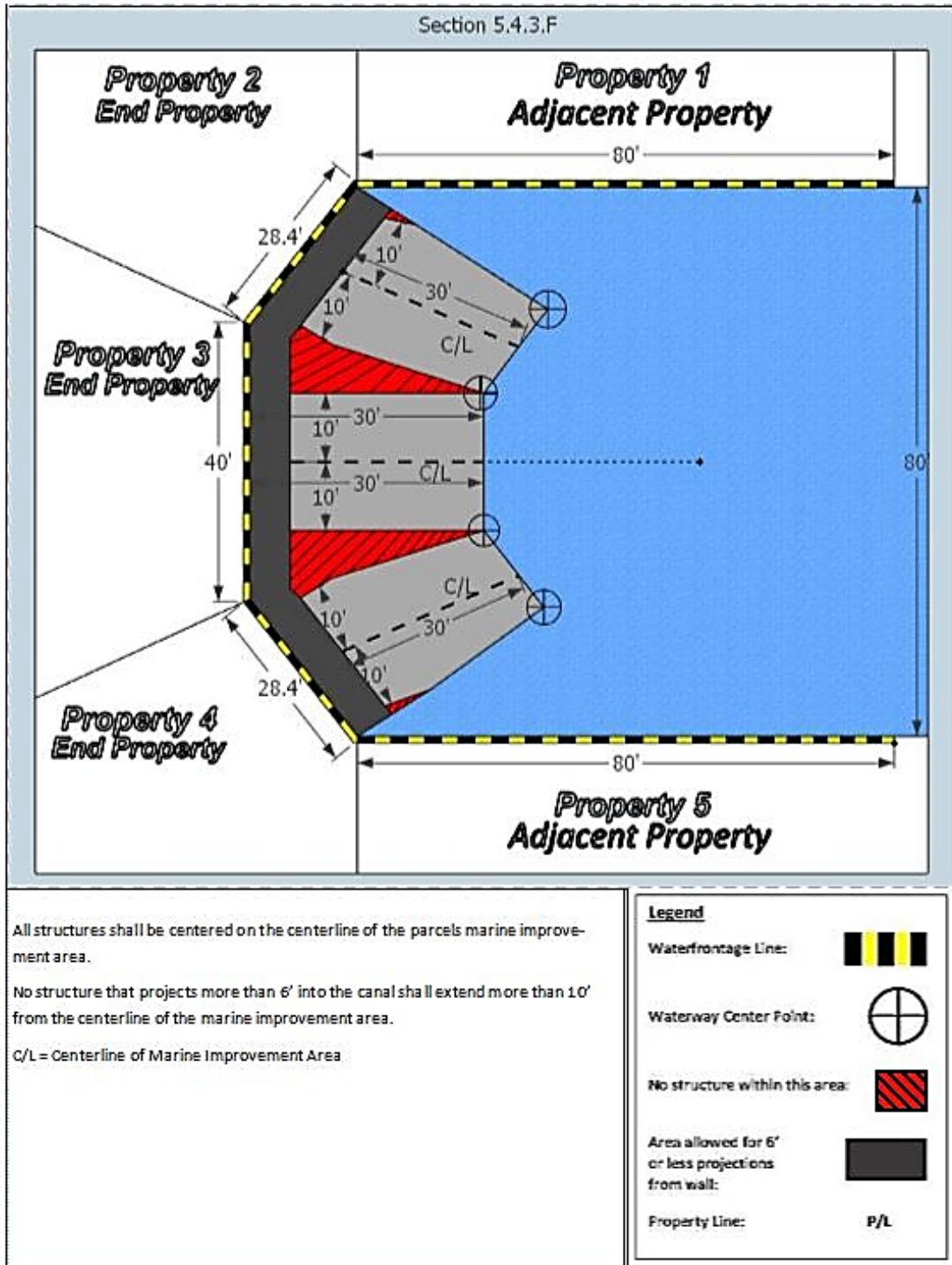


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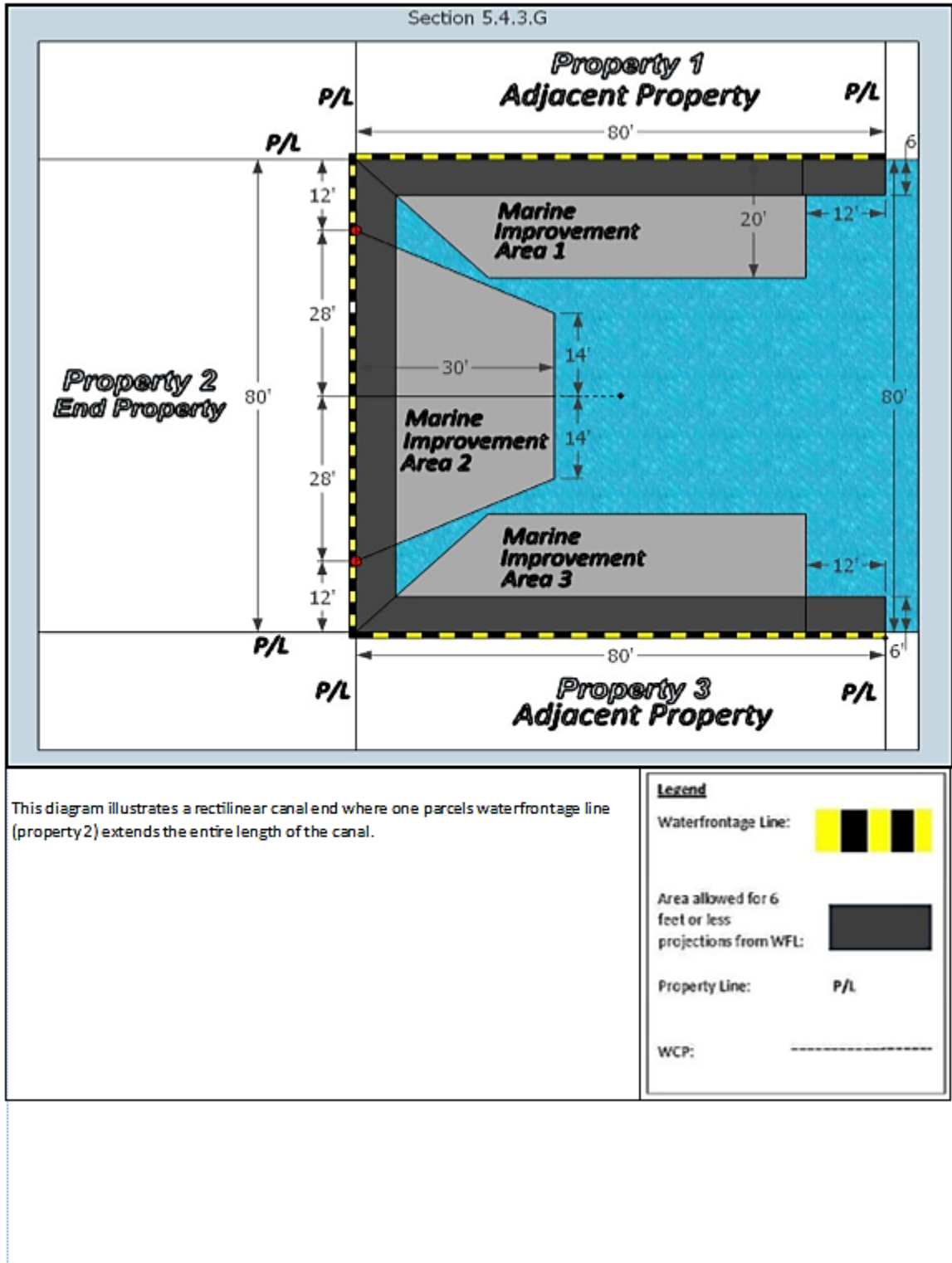
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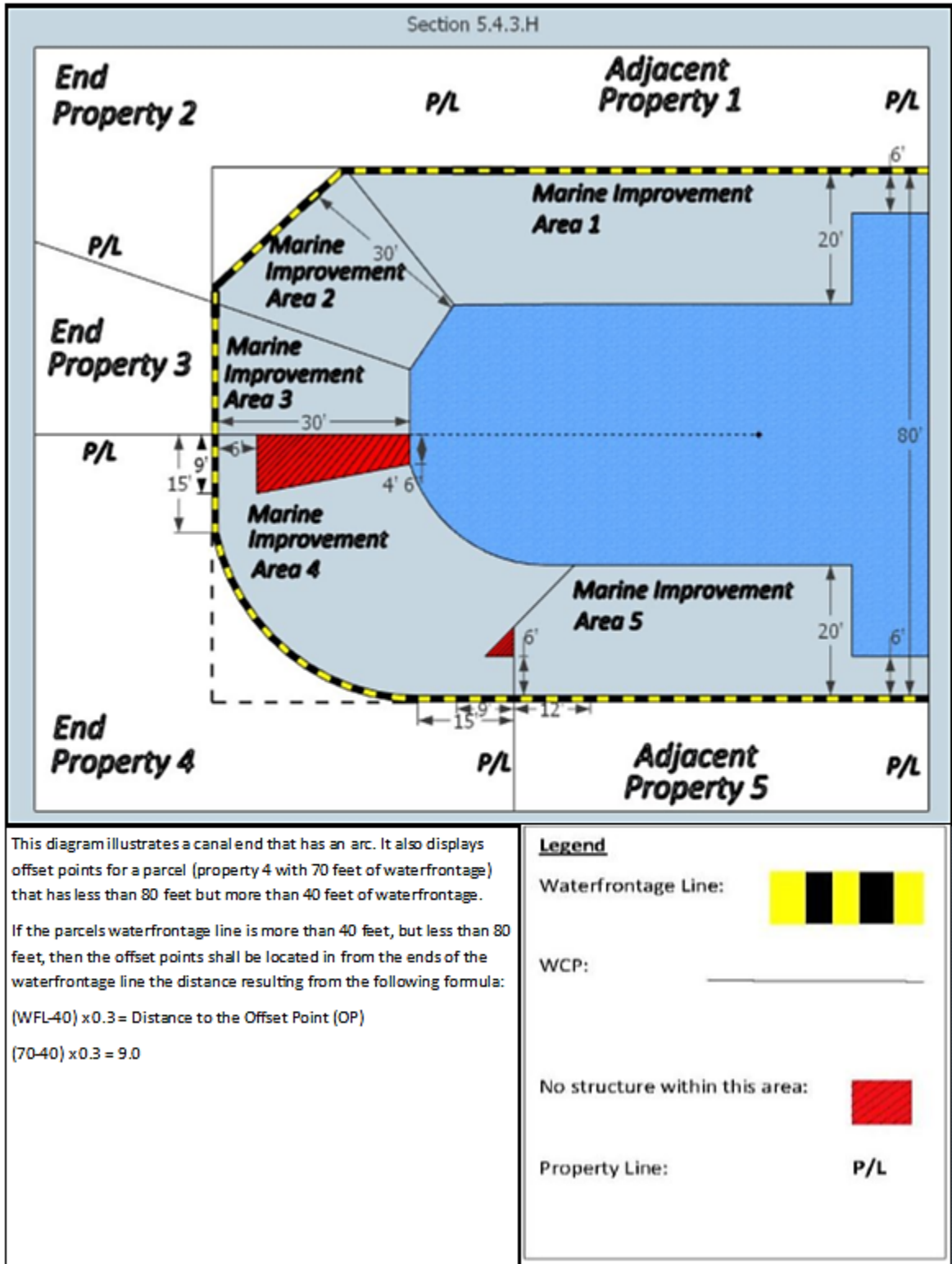
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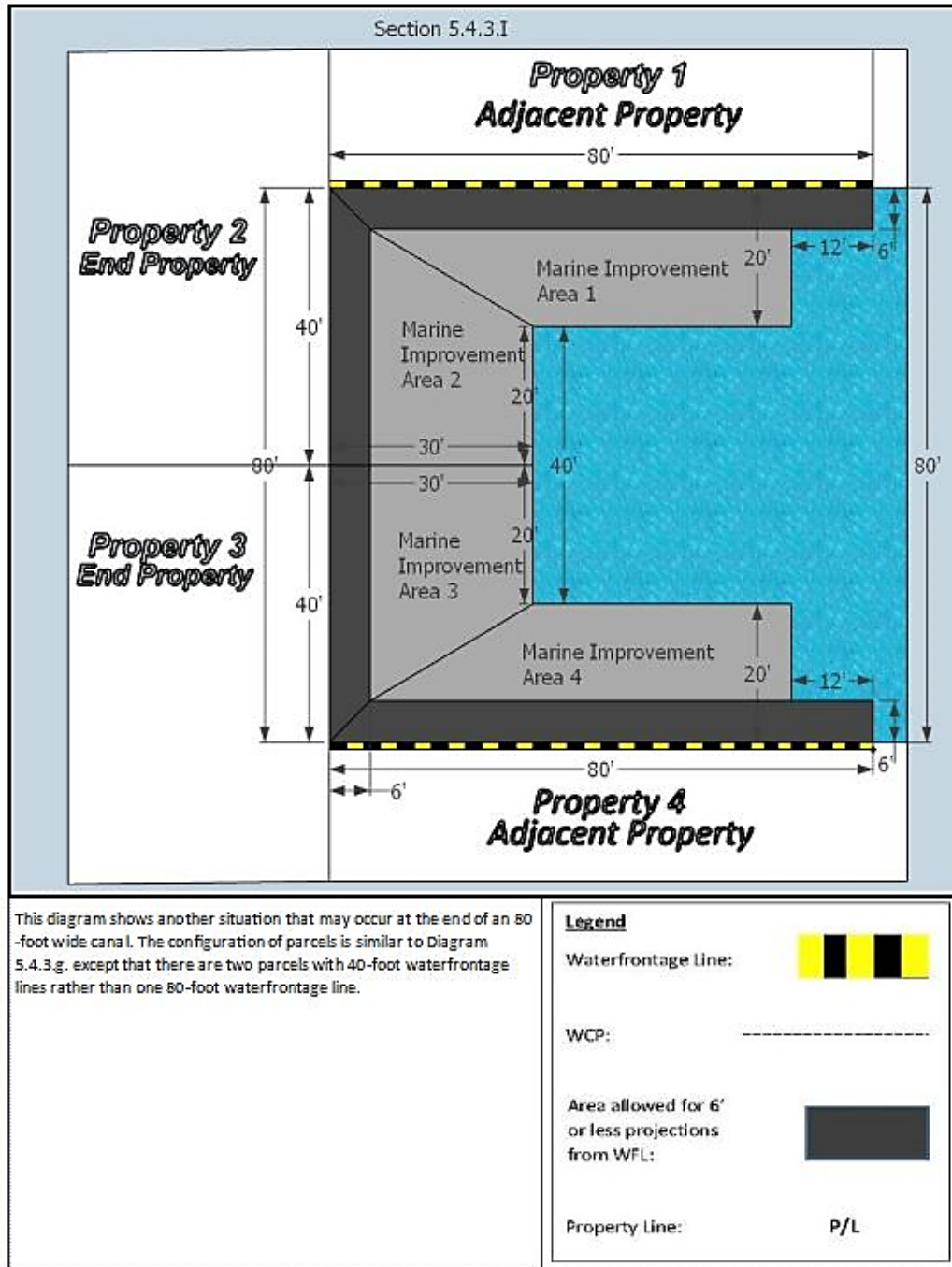
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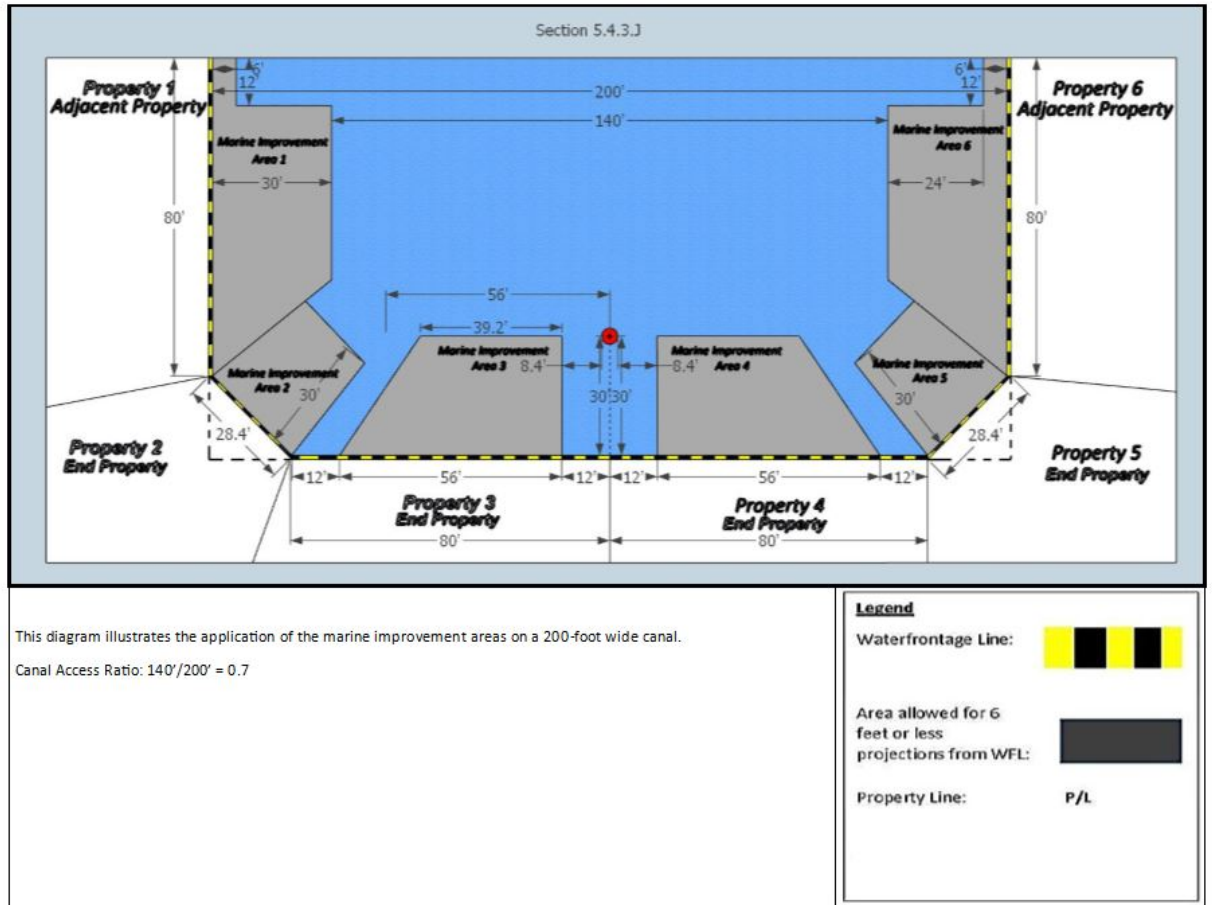
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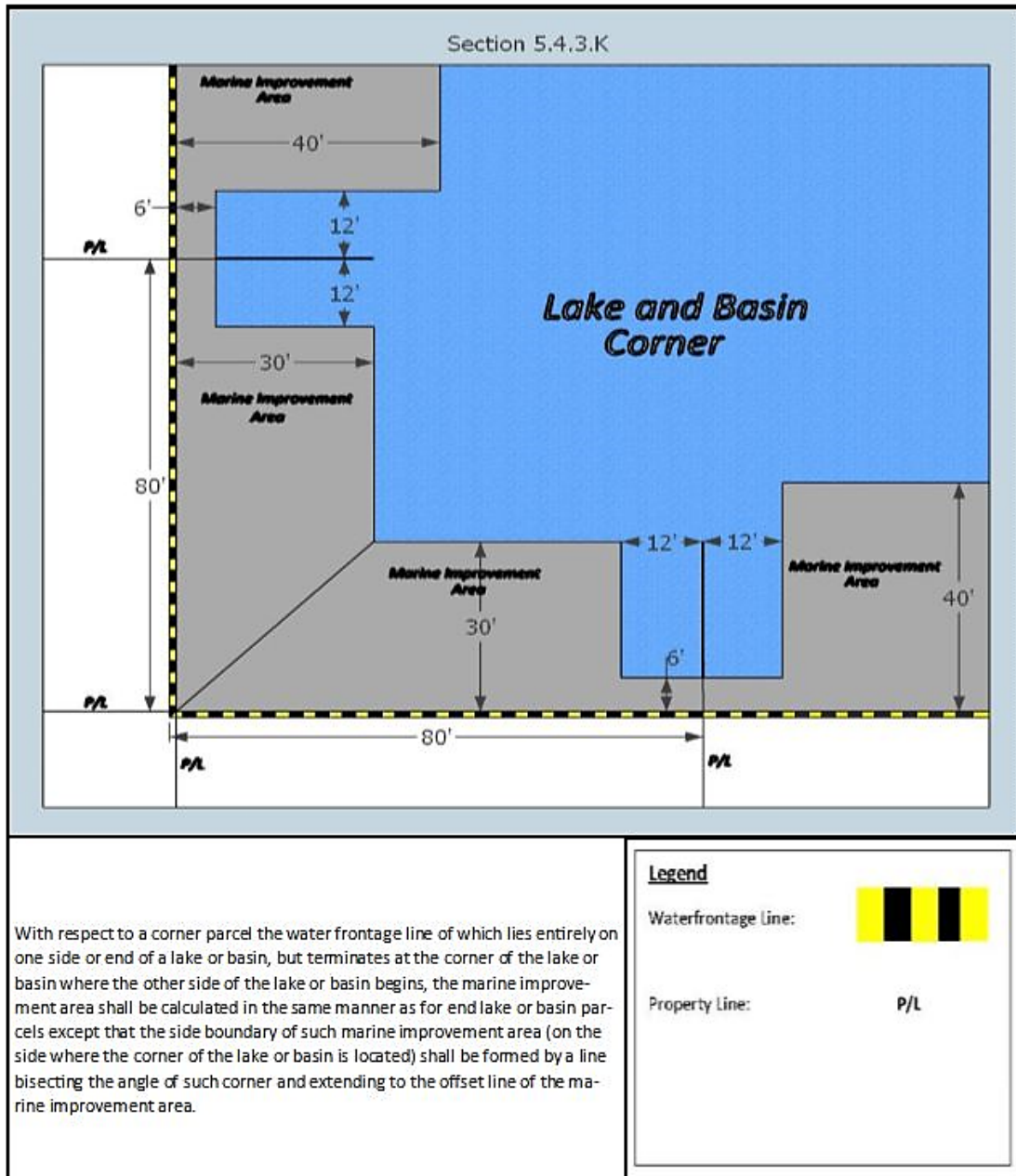
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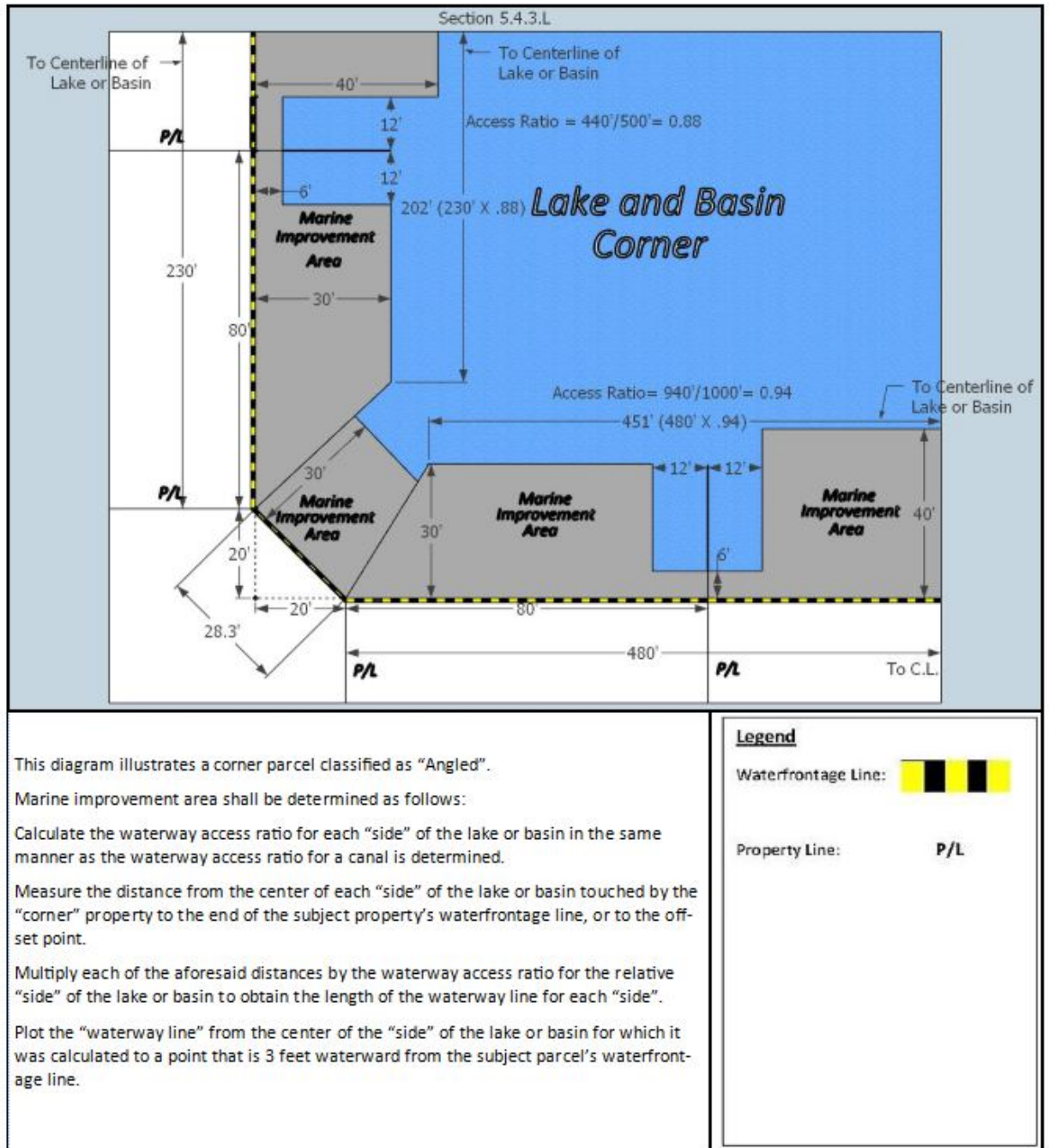
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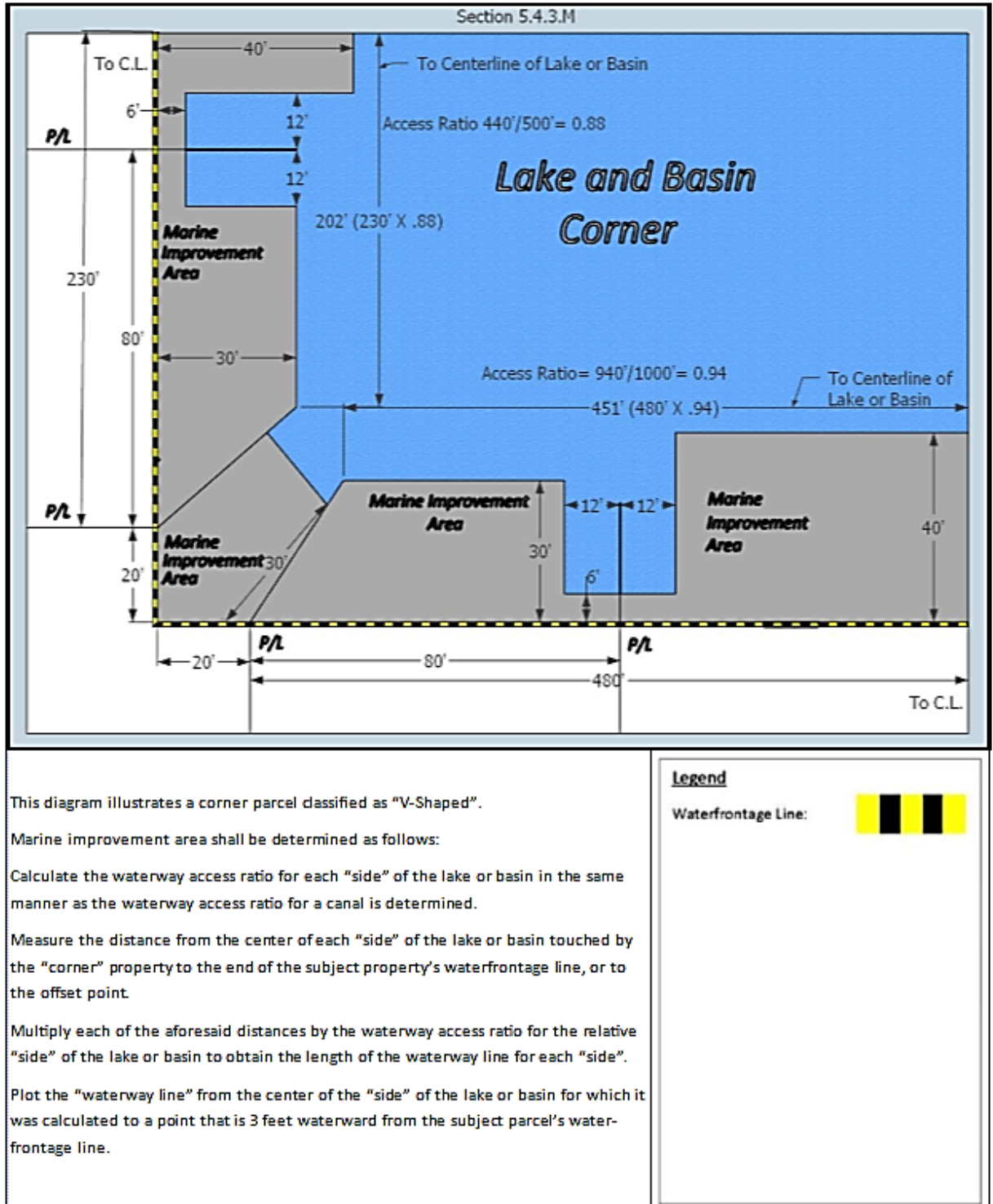
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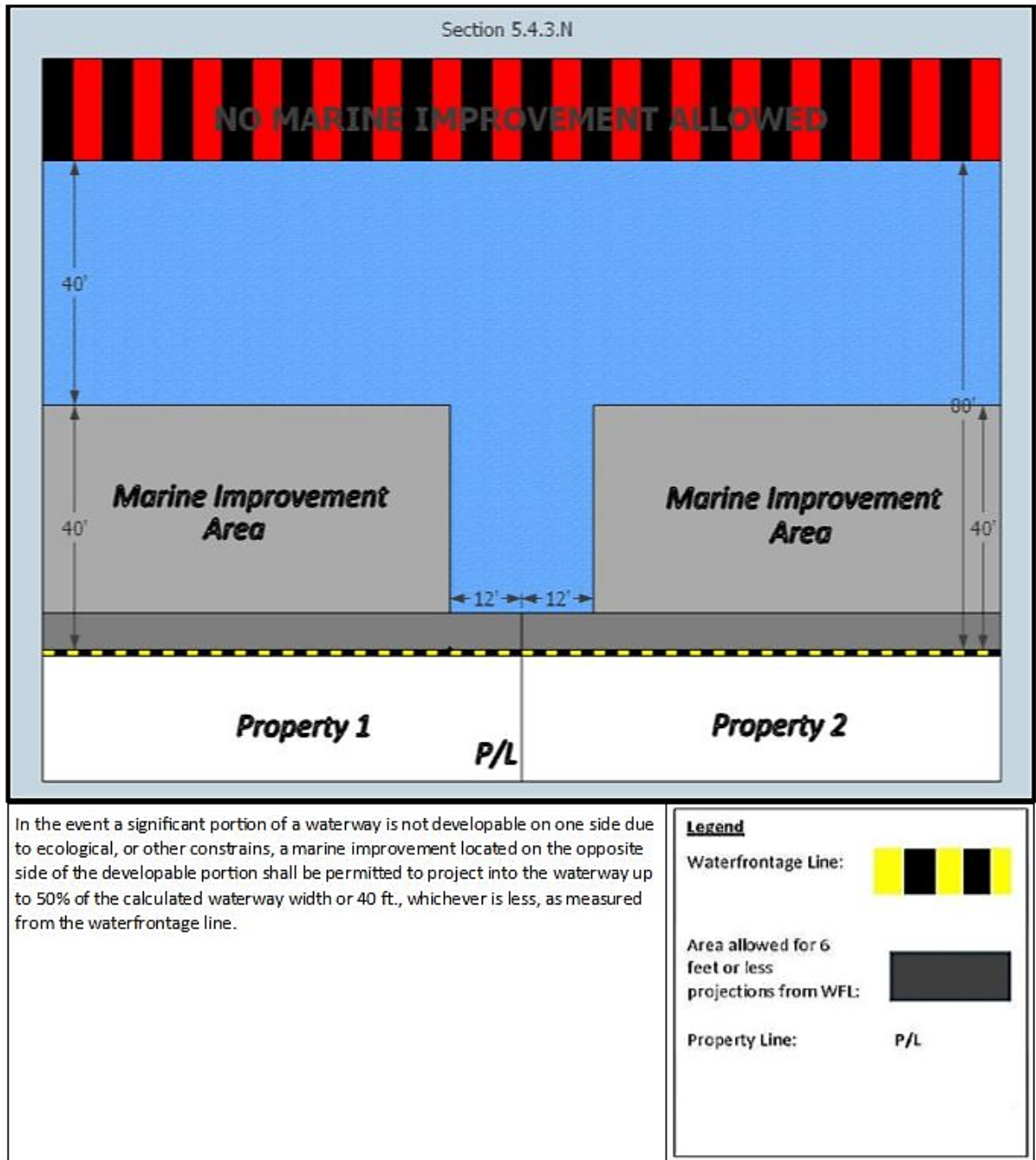
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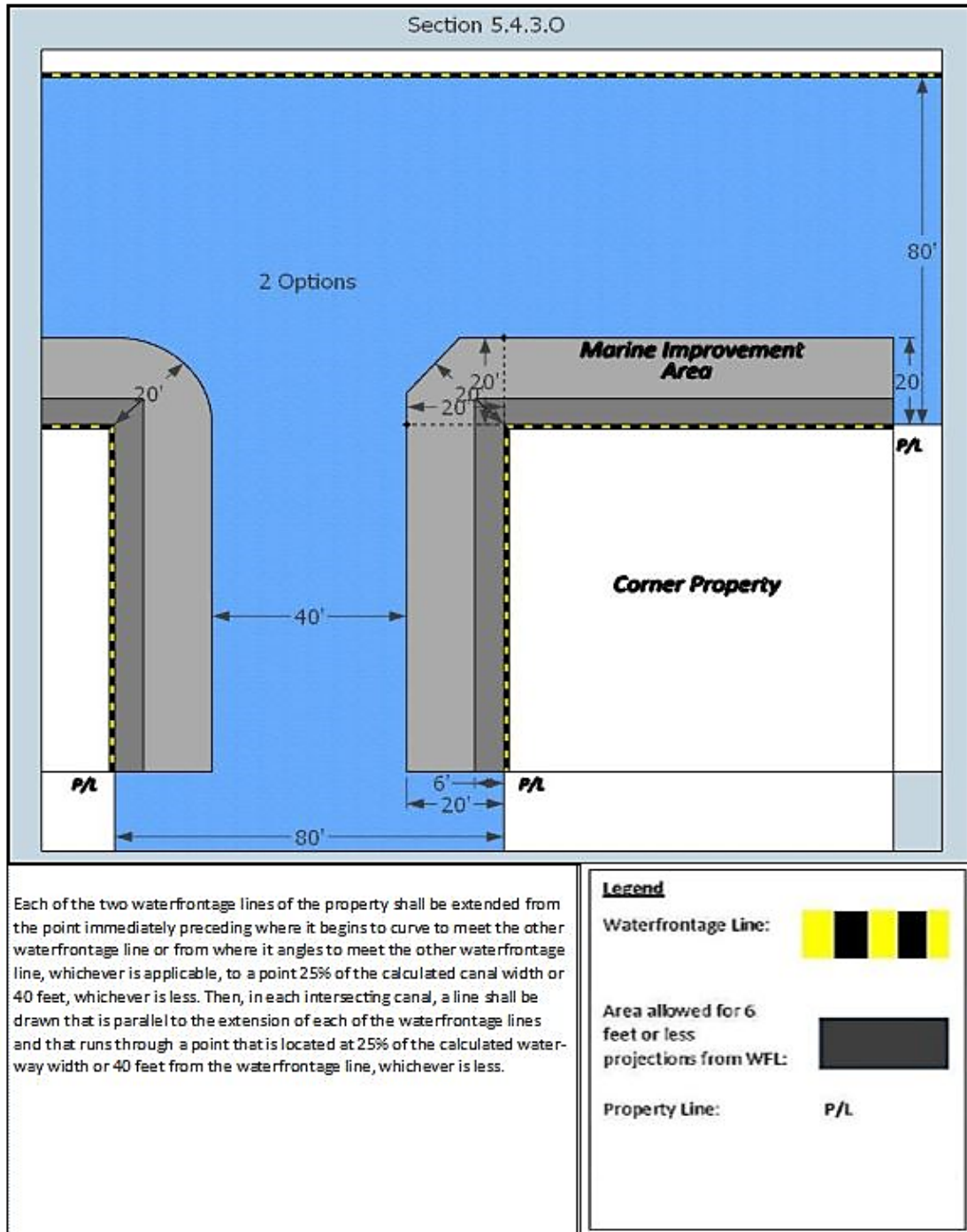
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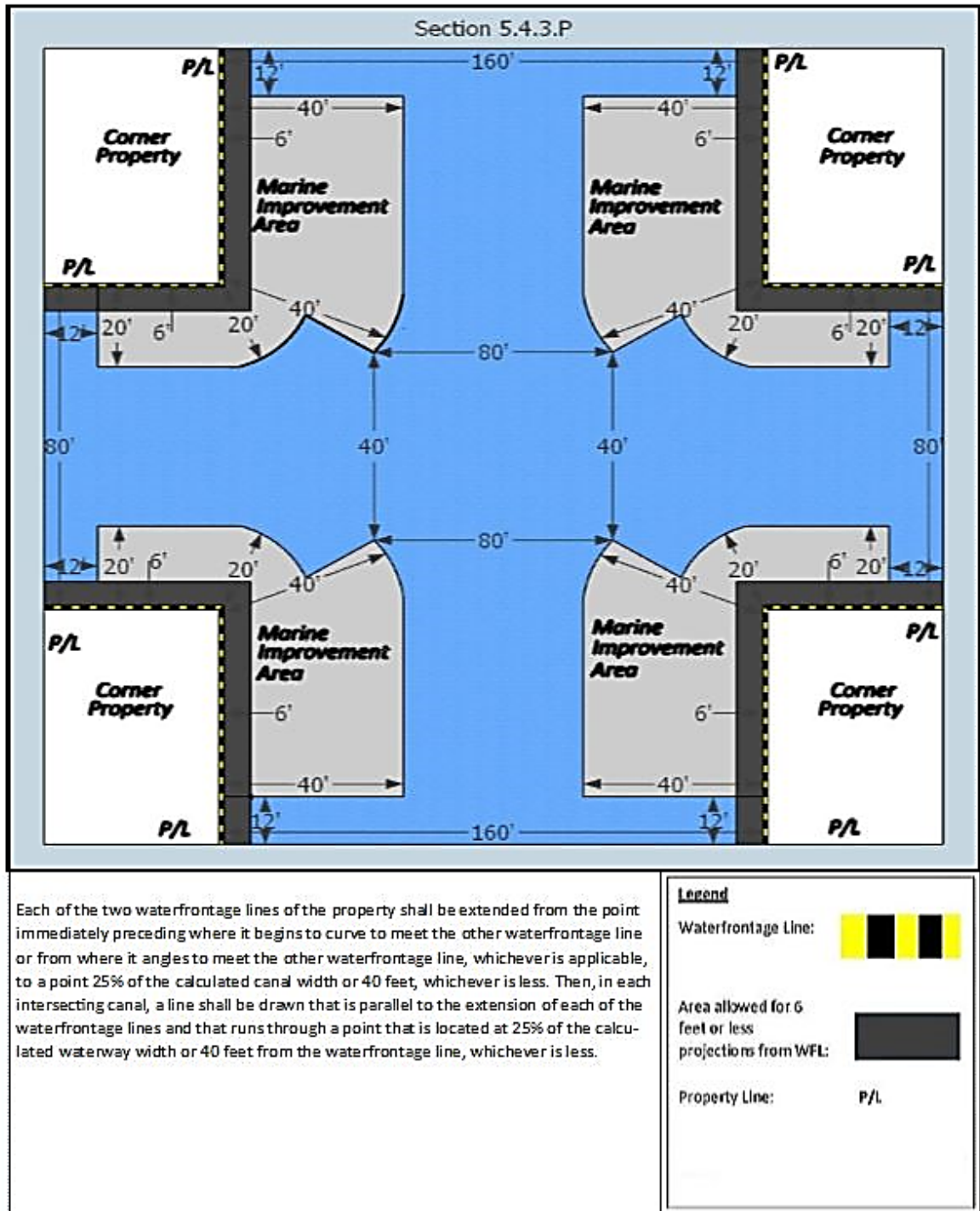
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2033 **Section 5.4.4. Joint Marine Improvements.**
2034

2035 Owners of adjoining waterfront parcels may adjust their abutting marine improvement area boundaries
2036 and offset requirements by entering into a written joint use agreement, provided the marine
2037 improvements are connected. A captain’s walk does not constitute a connection for requiring a joint
2038 marine improvement. All limitations regarding the maximum area of marine improvements shall apply to
2039 each property and the maximum marine improvement area allowed for each parcel shall not be combined
2040 or modified in any way so as to increase the maximum marine improvement area allowed for either parcel.
2041 Marine vessels or boat canopies when secured in any way to a joint marine improvement may extend
2042 beyond the end of one of the waterfront parcels involved at the point where such parcel abuts the other
2043 parcel sharing the marine improvement. However, no marine vessel (or any part thereof) shall extend
2044 beyond the outer ends of the water frontage of the two waterfront parcels except as provided in §
2045 5.4.3.A.8 The joint use agreement shall, at a minimum, comply with the following requirements.

- 2046
2047 A. The agreement shall contain the name(s) and current home address(es) of both property owners.
2048
2049 B. The agreement shall identify the waterway upon which the subject parcels are located and shall
2050 identify the waterfront parcels involved by legal description and by STRAP number. The agreement
2051 shall also include a signed and sealed survey of the subject adjoining parcels.
2052
2053 C. The agreement shall include a drawing of the proposed marine improvement(s) to be constructed,
2054 showing the design and dimensions of the marine improvement(s), and where the marine
2055 improvements will project from the parcels.
2056
2057 D. The agreement shall identify those areas that would be subject to access (ingress and egress)
2058 easements in conjunction with the joint marine improvement. Such easement(s) shall identify by legal
2059 description the property to which the easement attaches and shall be irrevocable except with the
2060 written consent of the city. The rights of each party with respect to such easement(s) shall run with
2061 the title to the respective parcels. A drawing identifying the easements shall also be included with the
2062 agreement.
2063
2064 E. The agreement shall identify the responsibilities of each of the parties for the construction and
2065 maintenance of the facilities. However, identification or division of responsibilities between parties in
2066 the agreement shall not affect the ability of the city to enforce any and all provisions of its Code of
2067 Ordinances or Land Development Codes against the property owner(s) of the joint marine
2068 improvement, jointly and severally.
2069
2070 F. The agreement shall state that the parties understand and agree to abide by all applicable federal,
2071 state, and local regulations pertaining to the construction, maintenance, and use of the facilities.
2072
2073 G. The agreement shall run with the land and be binding upon the parties, their successors, heirs, and
2074 assignees and it shall provide that it may not be rescinded or amended without the written consent
2075 of the city.
2076
2077 H. The parties to the agreement shall record the agreement, at their own expense, in the public records
2078 of Lee County. The agreement shall satisfy all requirements for recording, including those contained

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2079 in the Florida Statutes. No permit for the construction of a joint marine improvement or for the
2080 erection or installation of a boat canopy on a joint marine improvement shall be issued by the city
2081 until the parties have first provided to the city a copy of the fully executed agreement and evidence
2082 of recording that is satisfactory to the city, in its sole discretion.
2083

2084 I. Prior to execution and recording of the agreement, the parties shall submit a draft of the proposed
2085 agreement to the Community Development Director for review and comment.
2086

2087 **Section. 5.4.5. Quays and mooring piles.**
2088

2089 A. A seawall may be altered to accommodate the mooring of a vessel if it is determined that the seawall
2090 is structurally sufficient for that purpose.
2091

2092 B. Mooring piles may be installed directly adjacent to the seawall to allow for the mooring of watercrafts
2093 without a dock.
2094

2095 C. Pilings shall not be higher than eight feet above mean high water.
2096

2097 D. Any watercraft moored at a quay or a pile may not be any closer than 10 feet to the adjacent property
2098 line.
2099

2100 **Section. 5.4.6. Davits, watercraft lifts, and floating docks.**
2101

2102 A. Lifts: An electrical permit is required to install a lift within an existing u-shaped dock.
2103

2104 B. Davits:
2105

2106 1. The minimum side setback for davit installation shall be five feet from the side lot line to the
2107 center of the davit base.
2108

2109 2. Davits, including swinging lifts when extended over the water, may not extend further than 25%
2110 into the waterway or 30 feet whichever is less.
2111

2112 3. Overhead hoists, davits, or machinery shall not exceed eight feet above mean high water when
2113 not in use.
2114

2115 C. Floating docks and lifts:
2116

2117 1. For dimensional requirements refer to Section 5.4.3. above.
2118

2119 2. A floating dock or lift must be anchored in place so as not to impede the use of neighboring
2120 waterfront property.
2121

2122
2123
2124

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2125 **Section. 5.4.7. Boathouses and canopies.**

2126

2127 A. No overhead structure shall be constructed on any dock other than an approved boat canopy or sun
2128 shelter. Sun shelters shall be erected or installed on docks only in accordance with Section 5.2.10. of
2129 this article. Boat canopies are permitted to be erected or installed on marine improvements for the
2130 purpose of protecting a vessel from the elements only in accordance with the following:

2131

2132 B. The support(s) and frame(s) of a boat canopy shall be constructed of a corrosion-resistant material.
2133 Boat canopy supports shall be arranged in an open design so as to allow visibility through the sides
2134 with openings no smaller than four feet in any dimension. No boat canopy support or frame shall be
2135 of a solid or opaque design so as to create a wall. No boat canopy shall have wooden framing or
2136 supports. No shutter roll-up design shall be permitted.

2137

2138 C. The canopy shall be fabric or a material which can be rolled and folded without damage. The canopy
2139 shall be attached to the boat canopy supports or frames in such a manner that it detaches in a wind
2140 load of 70 mph or greater.

2141

2142 D. The boat canopy shall not extend horizontally more than 30 inches over or beyond any dock to which
2143 the canopy is attached, except to the rear of a boat slip where it may extend up to 48 inches past the
2144 end of the structure. Canopies attached to marine improvements that are built to the maximum
2145 projection, may extend up to 30 inches beyond the structure.

2146

2147 E. No boat canopy shall exceed 40 feet in length or 18 feet in width.

2148

2149 F. Boat canopies, their supports, and frames shall be maintained in good repair at all times. No canopy,
2150 canopy support, or frame shall be allowed to fall into disrepair or to become dilapidated, structurally
2151 dangerous, or unsafe. In the event a boat canopy, canopy support, or frame falls into disrepair, it shall
2152 be the responsibility of the owner of the waterfront parcel to remove the offending structure.

2153

2154 G. Only one canopy may be permitted per parcel.

2155

2156 H. No boat canopy, when measured at its highest point, shall extend more than 14 feet above the seawall
2157 cap, or if no seawall exists, above the decking of the marine improvement.

2158

2159 **Section. 5.4.8. Bulkheads, seawalls, and retaining walls.**

2160

2161 A. Mandatory seawalls required; saline or brackish water. All parcels having frontage or direct and
2162 immediate access to frontage on any saline, brackish, or tidally influenced canal or other body of
2163 water within or bordering the boundaries of the city is required to have a seawall bulkheading the
2164 entire frontage exposed to contact with the water.

2165 B. Seawalls; fresh or non-saline water. All parcels having frontage or direct and immediate access to
2166 frontage on any freshwater or non-tidal canal or other body of water within or bordering the
2167 boundaries of the city are required to have a seawall bulkheading the entire frontage exposed to
2168 contact with the water or alternatives to vertical bulkheads as specified in the City of Cape Coral
2169 Engineering Design Standards. Seawalls or their alternative shall be structurally maintained at owner's
2170 expense so as not to cause a nuisance or hazard to safety. The provisions of this Section shall not apply

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2171 to any parcels adjacent to or contiguous with any drainage ditch, canal, pond, or lake within any public
2172 or private golf course or public park.

2173
2174 C. Bulkheads under SFWMD jurisdiction. The construction of bulkheads, in association with water
2175 management system lake construction under jurisdiction of SFWMD, shall be in compliance with
2176 SFWMD criteria.

2177
2178 Single-family residential and duplex parcels. Parcels bounded by bulkheads shall construct an infiltration
2179 trench adjacent to and along the entire length of the bulkhead.

2180
2181 **CHAPTER 5. LANDSCAPING**

2182
2183 **Section 5.5.1. Purpose and intent.**

2184
2185 This section is established to provide general landscape regulations, to improve the appearance of certain
2186 setback and yard areas, including off-street vehicular parking, open lot sales and service areas, and to
2187 protect and preserve the appearance, character, and value of the surrounding neighborhoods. The
2188 principles of the Florida-Friendly Landscaping Program with regard to planning and design, soil
2189 improvement, efficient irrigation, limited turf areas, mulches, drought tolerant plants, and appropriate
2190 maintenance are the basis for the principles in this section and should be used as guidance in all new
2191 construction and landscape renovations so as to provide the most green with the least water and create
2192 a landscape that can survive largely undamaged in case of short term water restrictions.

2193
2194 **Section 5.5.2. Florida-Friendly Landscaping Program principles.**

2195
2196 The city strongly encourages adherence to the Florida-Friendly Landscaping Program that includes the
2197 following principles:

2198
2199 A. Right plant, right place. Plants selected to suit a specific site will require minimal amounts of water,
2200 fertilizer and pesticides.

2201
2202 B. Water efficiently. Irrigate only when lawn and landscape need water.

2203
2204 C. Fertilize appropriately. Less is often better. Over-use of fertilizer can be hazardous to your yard and
2205 the environment.

2206
2207 D. Mulch. Maintaining a layer of mulch will help retain soil moisture, prevent erosion and suppress
2208 weeds.

2209
2210 E. Attract wildlife. Plants in private yards that provide food, water and shelter can conserve Florida's
2211 diverse wildlife.

2212
2213 F. Manage yard pests responsibly. Unwise use of pesticides can harm people, pets, beneficial organisms,
2214 and the environment.

2215

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- 2216 G. Recycle yard waste. Grass clippings, leaves, and yard trimmings recycled onsite provide nutrients to
2217 the soil and reduce waste disposal.
2218
- 2219 H. Reduce stormwater runoff. Water running off from private yards can carry pollutants such as soil,
2220 debris, fertilizer, and pesticides that can adversely impact water quality.
2221
- 2222 I. Protect the waterfront. Waterfront property is very fragile and should be carefully protected to
2223 maintain freshwater and marine ecosystems.
2224

Section 5.5.3. Applicability.

- 2225
- 2226
- 2227 A. Except as provided under Section 5.5.4, Exemption, the landscape standards of this section shall
2228 apply to all new construction of single-family homes and duplexes, and to all other new construction
2229 requiring SDP review under Article 3. The landscape standards of this section are in addition to any
2230 landscape standards for specific land uses as established in Chapter 10, Specific Use Regulations, of
2231 this Article.
2232
- 2233 B. Additionally, all landscape standards of this section shall apply to amendments to a site plan that
2234 would have the effect of:
2235
- 2236 1. Increasing the total square footage of any one building or the total square footage of all buildings
2237 on a site by more than 20%;
2238
- 2239 2. Increasing the number of buildings; or
2240
- 2241 3. Adding any new or expanding any existing off-street parking area.
2242
- 2243 C. The existing portion of an amended or expanded project which is demonstrated to be completely
2244 and fully in compliance with an approved landscape plan at the time of application is not required to
2245 be modified to comply with this section.
2246
- 2247 D. All areas of an existing project affected by an amendment or expansion or those areas that are not
2248 in full compliance with an approved landscape plan are required to comply with this section.
2249
- 2250 E. No certificate of occupancy or certificate of completion shall be issued until the Department of
2251 Community Development (DCD) has determined that the applicant has complied with all the
2252 provisions of this section and has approved the finished landscape product.
2253

Section 5.5.4. Exemption.

2254

2255

2256 These regulations do not apply to projects located where the City Council has established specific
2257 landscape standards for a unique area of the city; unless the specific landscape standards otherwise
2258 expressly state their applicability.
2259

2260
2261

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2262 **Section 5.5.5. Conflicts.**

2263
2264 If any of the landscape standards of this section conflict with any other provision of the City of Cape Coral
2265 Code of Ordinances or the LDC the provision that establishes the more specific standard governs. If neither
2266 conflicting provision establishes a more specific standard, then the more stringent provision governs
2267 unless otherwise expressly provided.

2268
2269 **Section 5.5.6. Landscape plans.**

- 2270
2271 A. Landscape plan required. A landscape plan that meets the requirements below shall be provided as
2272 required by Article 3.
2273
2274 B. Landscape plan standards. Landscape plans for all projects that require a landscape plan, including
2275 Site Development Plans and Subdivision Construction Plans shall be signed and sealed by a landscape
2276 architect, or other licensed professional authorized pursuant to F.S. Chapter 481, Part II, as amended.
2277 All landscape plans shall meet the following requirements and contain the following information:
2278
2279 1. Scale of not less than one-inch equals 30 feet. This requirement shall not preclude the inclusion
2280 of a smaller-scaled drawing such as a key map for the purpose of establishing the orientation of
2281 landscape plans for large sites that, because of their size, cannot be displayed on a single sheet.
2282
2283 2. Zoning district and future land use classification for the subject parcel and all abutting parcels.
2284
2285 3. The approximate location, quantity, diameter/caliper, botanical and common name, and native
2286 status of all heritage trees and other existing trees with a caliper of two inches or greater, and
2287 whether they are proposed to be preserved or removed. Trees to be removed, if any, shall be
2288 indicated on a separate sheet.
2289
2290 4. Location, quantity, spacing, diameter/caliper, overall height (at time of planting) of proposed
2291 trees, palm trees, botanical and common name, and native status. Any existing trees located
2292 within the street right-of-way, between the closest outside edge of pavement and the subject
2293 property shall be shown.
2294
2295 5. Location, quantity, spacing, container size, overall height (at time of planting) of proposed shrubs
2296 and groundcover, botanical and common name, and native status.
2297
2298 6. Types, amounts, and placement of other hardscape materials such as berms and walls required
2299 by this section or Section 5.5.13, or both.
2300
2301 7. A statement or plan describing compliance with the irrigation standards of these regulations.
2302
2303 8. Location and type of existing and proposed utility lines, easements, electrical transformer boxes,
2304 fire hydrants or fire appliances, sidewalks, parking spaces, light poles, and stop signs.
2305
2306 9. Indication of existing and proposed grades if existing vegetation is to be retained on site.
2307

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- 2308 10. Existing or proposed onsite curbing.
2309
2310 11. Calculations, notes, and installation details indicating how the proposed landscaping will be in
2311 compliance with requirements of this section.
2312
2313 12. Vegetation protection barricades to be used during construction, for all trees to be preserved.
2314
2315 13. Safe sight distance triangles.
2316
2317 14. Locations of proposed and existing off-street parking area lighting, if applicable.
2318
2319 15. A note that all existing prohibited vegetation shall be removed.
2320

Section 5.5.7. Planting near utility infrastructure.

2321 Landscaping shall not interfere with or obstruct any existing or proposed pad-mounted transformer,
2322 overhead or underground utility line, utility service, fire hydrant, or fire appurtenance.
2323
2324
2325

- 2326 A. Overhead power lines. Canopy tree branches or palm tree fronds within ten feet of existing overhead
2327 transmission or distribution lines, measured radially from the line, shall be subject to trimming or
2328 removal by the power company as necessary to maintain public overhead utilities in accordance with
2329 the National Electric Safety Code (NESC). No canopy trees or palm trees shall be planted closer to an
2330 overhead transmission or distribution line than as specified by the Minimum Separation Distance
2331 Between Center of Trees and Overhead Transmission or Distribution Lines indicated in Table 1. In
2332 order to avoid conflicts with power lines and avoid the need for removal or pruning that would harm
2333 or distort their natural shape, it is recommended that no canopy trees or palm trees should be planted
2334 closer to an overhead transmission or distribution line than as specified by the Recommended
2335 Separation Distance Between Trees and Overhead Transmission or Distribution Lines indicated in
2336 Table 1. The separation between a tree and an overhead transmission or distribution line shall be the
2337 distance from the center of the tree at ground level to the closest point on the ground that is within
2338 the vertical plane of an overhead transmission or distribution line at rest. A species of canopy tree or
2339 palm tree that is not listed in Tables 5.5.7.A and 5.5.7.B shall not be planted within 20 feet of existing
2340 overhead transmission or distribution lines without the prior written consent of the Department of
2341 Community Development Director.
2342

Table 5.5.7.A: Minimum Separation Distance Between Palm Trees and Overhead Transmission or Distribution Lines			
PALMS			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines
Allexandra Palm	Archontophoenix alexandrae	10	13

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Areca Palm	<i>Chrysalidocarpus lutescens</i> (<i>Dypsis lutescens</i>)	No minimum distance	No minimum distance
Bamboo Palm	<i>Chamedorea</i> spp.	No minimum distance	No minimum distance
Cabbage Palm (Sabal Palm)	<i>Sabal palmetto</i>	8	13
Canary Island Date Palm	<i>Phoenix canariensis</i>	15	21
Chinese Fan Palm	<i>Livistonia chinensis</i>	8	13
Christmas Palm	<i>Adonidia merrillii</i> (<i>Veitchii merrillii</i>)	No minimum distance	No minimum distance
Coconut Palm	<i>Cocos nucifera</i>	10	21
Date Palm	<i>Phoenix dactylifera</i>	10	21
Dwarf Palmetto	<i>Sabal minor</i>	No minimum distance	No minimum distance
European Fan Palm	<i>Chamaerops humilis</i>	No minimum distance	No minimum distance
Fishtale Palm	<i>Caryota mitis</i>	8	14
Foxtail Palm	<i>Wodyetia bifurcata</i>	8	15
Lady Palm	<i>Rhapis excelsa</i>	No minimum distance	No minimum distance
Macarthur Palm	<i>Ptychosperma macarthurii</i>	8	14
Majesty Palm	<i>Ravenea glauca</i>	No minimum distance	No minimum distance
Needle Palm	<i>Rhapidophyllum hystrix</i>	No minimum distance	No minimum distance
Paurotis Palm (Everglades Palm) (may grow to 25 feet)	<i>Acoelorrhaphe wrightii</i>	No minimum distance	13
Pindo Palm	<i>Butia capitata</i>	No minimum distance	No minimum distance
Pygmy Date Palm	<i>Phoenix roebellini</i>	No minimum distance	No minimum distance
Queen Palm	<i>Syagrus romanzoffianum</i>	9	18
Royal Palm	<i>Roystonea</i> spp.	10	21
Saw Palmetto	<i>Serenoa repens</i>	No minimum distance	No minimum distance
Senegal Island Date Palm (Reclinata Palm)	<i>Phoenix reclinata</i>	8	16
Silver Palm	<i>Coccothrinax argentata</i>	No minimum distance	No minimum distance
Solitare (Alexander) Palm	<i>Ptychosperma elegans</i>	8	14
Thatch Palm	<i>Thrinax</i> spp.	No minimum distance	No minimum distance
Washingtonia Palm (Mexican Washington Palm)	<i>Washingtonia robusta</i>	8	13

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2345
2346

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Table 5.5.7.B: Minimum Separation Distance Between Canopy Trees and Overhead Transmission or Distribution Lines			
CANOPY			
Common Name	Botanical Name	Minimum Separation Distance (in feet) Between Center of Trees and Overhead Transmission or Distribution Lines	Recommended Separation Distance (in feet) Between Center of Trees and Overhead Transmission and Distribution Lines
Bald Cypress	Taxodium distichum	15	30
Black Olive (also see Shady Lady Black Olive)	Bucida buceras	20	30
Cassia fistula	Cassia fistula	15	30
Gumbo Limbo	Bursera simaruba	15	30
Jacaranda	Jacaranda mimosfolia	20	30
Laurel Oak	Quercus laurifolia	15	30
Live Oak	Quercus virginiana	20	30
Mahogany	Swietenia macrophylla	15	30
Pigeon Plum	Cocoloba diversifolia	8	10
Slash Pine	Pinus elliottii	15	30
Southern Magnolia	Magnolia grandiflora	15	30
Wild Tamarind	Lysiloma bahamensis	25	35
Yellow Poinciana	Peltophorum pterocarpum	15	20
Drake Elm	Ulmus parvifolia	15	
Red Maple	Acer rubrum	15	30
Satin Leaf	Chrysophyllum oliviforme	12	15
Shady Lady Black Olive	Bucida buceras "Shady Lady"	No minimum distance	15
Tabebuia, pink or yellow	Tabebuia spp.	10	15

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Section 5.5.8. Existing trees.

- A. Generally. Except for trees on the Florida Exotic Pest Plant Council's list of Category I invasive exotics of those trees listed in Table 5.5.9, existing trees may be used to meet the minimum tree requirements for the site if they are indicated on the landscape plan (when a landscape plan is required), have a

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2353 minimum diameter at breast height (DBH) of two inches, and are properly protected during any
2354 clearing or construction on the property.

2355
2356 Developers are encouraged to preserve existing heritage trees. For any site other than a single-family
2357 or duplex site, if during development or any time throughout the life of the development, regardless
2358 of change in ownership or use(s), any heritage tree is removed or damaged, it shall be replaced with
2359 a Florida native tree that meets the quality of materials standards in this article, with a minimum
2360 caliper of six inches measured at a height of 12 inches above the ground, with a height not less than
2361 20 feet; however, this requirement shall not increase the total number of trees otherwise required
2362 for the site by more than 10%.

2363
2364 B. Protection of trees during development activities. Prior to any land preparation or other development
2365 activities, a protective barrier shall be established around all trees that are not to be removed, as
2366 follows:

2367
2368 1. The protective barrier shall enclose at least that area within a radius of one foot for every inch of
2369 caliper DBH around the tree.

2370
2371 2. The protective barrier may encompass more than one tree, and shall be established with a barrier
2372 as follows:

2373
2374 a. Posts shall be implanted in the ground deep enough to be stable and with at least three feet
2375 visible above ground.

2376
2377 b. The protective posts shall be placed not more than six feet apart and shall be linked together
2378 at a height of at least three feet by rope, chain, silt fence fabric, or orange safety fence at least
2379 three feet in height, or any combination thereof.

2380
2381 3. Required protective barriers and perimeter lines shall remain in place until all construction
2382 activity, except landscaping within the protected area, is terminated.

2383
2384 C. Construction activity limitations.

2385
2386 1. No attachment, wires (other than supportive wires), signs or permits may be fastened to any tree
2387 that is not to be removed.

2388
2389 2. Landscaping activities within the area of the protective barrier (before and after it is removed)
2390 shall be accomplished with manual labor or light machinery that, if self-propelled, is not designed
2391 to bear the weight of the operator. Such light machinery may include string trimmers, walk-behind
2392 lawn mowers, or chainsaws. Except as necessary to perform landscaping activities as described
2393 above, no construction personnel shall enter the area within the protective barrier. Further, no
2394 equipment, tools, construction materials, debris of any kind, or more than six inches of soil shall
2395 be placed within the protective barrier.

2396
2397 3. If fill is deposited adjacent to a protective barrier, a suitable temporary or permanent retaining
2398 structure shall be constructed to prevent siltation within the area of the protective barrier.

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2399 4. If it can be reasonably accomplished, water, sewer, and other utility lines should be routed around
2400 the protective barrier of trees that are not to be removed. If a line cannot reasonably be routed
2401 around the protective barrier, the line shall be tunneled beneath the area and shall be offset to
2402 one side of the trunk to prevent damage to the main tap roots.
2403

2404 D. Exempt trees. This subsection shall not apply to trees grown at commercial nurseries, as part of their
2405 stock.
2406

Section 5.5.9. Prohibited vegetation.

2407 A. The following invasive exotic plants are prohibited and shall be removed from the development site,
2408 in its entirety. For projects developed in phases, all invasive exotic plants shall be removed from areas
2409 to be developed under future phases at the time the first or any subsequent phase is developed.
2410 Methods to remove and control invasive exotic plants must be included on required landscape plans,
2411 for projects that require a landscape plan. Methods of removal and control that would damage native
2412 vegetation to be preserved are prohibited. The development sites shall be maintained free from
2413 invasive exotic plants in perpetuity. For purposes of this subsection, invasive exotic plants include the
2414 following listed plants, or those plants currently listed as a Category I invasive by the Florida Exotic
2415 Pest Plant Council (FLEPPC) at the time of development:
2416
2417
2418
2419

Table 5.5.9: PROHIBITED INVASIVE EXOTICS	
Common Name	Scientific Name
Earleaf Acacia	acacia auriculiformis
Woman's Tongue	Albizia lebeck
Bishopwood	Bischofia javanica
Australian Pines	All Casuarina species
Carrotwood	Cupianopsis anacardioide
Rosewood	Dalbergia sissoo
Air Potato	Dioscorea alata
Murray Red Gum	Eucalyptus camaldulensis
Cuban Laurel Fig	Ficus microcarpa
Japanese Climbing Fern	Lygodium japonicum
Old World Climbing Fern	Lygodium microphyllum
Melaleuca, Paper Tree	Melaleuca quinquenervia
Downy Rose Myrtle	Rhodomyrtus tomentosus
Chinese Tallow	Sapium sebiferum
Brazilian Pepper, Florida Holly	Schirus terebinthifolius
Tropical Soda Apple	Solanum viarum
Java Plum	Syzygium viarum
Rose Apple	Syzygium jambos
Cork Tree	Thespesia populnea
Wedelia	Wedelia trilobata

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2420
2421 B. The Weeping Fig (*Ficus benjamina*) is prohibited due to aggressive root systems unless it is maintained
2422 as a hedge with a maximum height of eight feet.

2423
2424 C. City of Cape Coral and state-prohibited vegetation shall be removed from all sites prior to issuance of
2425 certificate of occupancy or certificate of completion.

2426
2427 **Section 5.5.10. Quality, size, spacing, and species mix.**

2428
2429 All plant materials required by this section shall conform to the following at the time of planting:

2430
2431 A. Plant installation standards. Plant materials shall be installed in soil conditions that are conducive to
2432 the proper growth of the plant material. Soil in planting areas shall be loose, permeable, friable, and
2433 free of limestone and other construction materials, off-street parking area base material, rocks,
2434 noxious weeds, grasses, hard pan, clay, or other debris. For purposes of this section, noxious weeds
2435 are those plants listed in Section 5B-57.007, F.A.C, State Noxious Weed List, by the Florida Department
2436 of Agriculture and Consumer Services. It is recommended that such materials be removed to a depth
2437 of two and one-half feet for the well-being of plant materials. Required canopy trees, accent trees,
2438 palm trees, and shrubs shall be planted on grades not exceeding 3:1.

2439
2440 B. Plant species and grade. A minimum of 50% of all required canopy trees and accent trees and a
2441 minimum of 30% of all required shrubs and groundcovers, excluding turf grass areas, shall be Florida
2442 native as defined by this section. Any plant material on the Florida Exotic Pest Plant Council's list of
2443 Category I or 2 invasive exotics, as may be amended, shall not be counted toward the required
2444 plantings in this section. The City of Cape Coral prohibits the use of any plant material on the Florida
2445 Exotic Pest Plant Council's list of Category I invasive exotics, which are not expressly prohibited by
2446 Section 5.5.9. Plant materials used in conformance with the provisions of this section shall meet or
2447 exceed the Standards for Florida No. 1, as set forth in the latest edition of "Grades and Standards for
2448 Nursery Plants" published by the State Department of Agriculture and Consumer Services, including
2449 minimum crown spread diameter, root-ball sizes, and container volumes.

2450
2451 C. Tree standards.

2452
2453 1. Canopy tree size. Except in the South Cape Downtown District, all canopy trees required to meet
2454 minimum requirements shall have a minimum height of ten feet and shall have a minimum caliper
2455 of two inches measured at a height of 12 inches above the ground. In the South Cape Downtown
2456 District, all canopy trees required to meet minimum requirements shall have a minimum height
2457 of 12 feet and a minimum caliper of three inches measured at a height of 12 inches above the
2458 ground at planting.

2459
2460 2. Palm tree size. Palm trees required to meet minimum requirements shall have a minimum size of
2461 16 feet overall, unless located within ten feet of a walkway, in which case they shall have a
2462 minimum of ten feet of clear trunk at planting.

2463

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- 2464 3. Accent tree size. Accent trees required to meet minimum requirements shall have a minimum
2465 height of eight feet and have a minimum caliper of one and one-half inches measured at a height
2466 of six inches above the ground at planting.
2467
- 2468 4. Tree species mix. A mix of species shall be provided according to the overall number of trees
2469 required to be planted. Species shall be planted in proportion to the required mix. The minimum
2470 number of species to be planted is indicated in Table 2.
2471

Table 5.5.10: Required Species Mix	
Required Number of Trees	Minimum Number of Species
1 - 4	1
5 - 10	2
11 - 20	3
21 - 30	4
31+	5

- 2472
- 2473 5. Shrub standards. Except as otherwise provided herein, shrubs planted in residential development
2474 shall be a minimum of 18 inches in height and be in at least a three-gallon container size at time
2475 of planting. Shrubs planted in all non-residential and mixed-use development must be a minimum
2476 of 24 inches in height and be in at least a seven-gallon container size at time of planting. Shrubs
2477 required for buffer yard plantings must be a minimum of 32 inches in height and be in at least a
2478 seven-gallon container size at time of planting. Ornamental grasses may be used in lieu of 20% of
2479 shrubs required. Saw palmettos (*Serenoa repens*) and coonties (*Zamia floridana*) may be used as
2480 shrubs, provided they are 12 inches in height at time of planting.
2481
- 2482 6. Groundcovers and sod.
2483
- 2484 a. Groundcovers shall be planted no more than 24 inches apart for one-gallon pots or 12 inches
2485 apart for four-inch pots.
2486
- 2487 b. Wherever used, sod shall be installed with no gaps or overlaps, so as to present a finished
2488 appearance and prohibit erosion of the planted area.
2489
- 2490 7. Firewise landscaping. Landscaping within areas subject to wildfire hazard and should incorporate
2491 firewise landscaping techniques promulgated by the Florida Department of Economic
2492 Opportunity and the Department of Agriculture and Consumer Services.
2493

Section 5.5.11. Planting in public drainage or utility easements.

2494 No canopy trees, accent trees, palm trees, or shrubs required by this section shall be planted within a
2495 public drainage or utility easement without approval of the city. The city may deny approval to place
2496 landscaping materials in an easement if such would conflict with existing or proposed utilities or drainage
2497 functions. If the city approves the placement of any plant material installed to meet the requirements of
2498 this section within a public drainage or utility easement and the landscape material is removed or
2499
2500

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2501 damaged by construction or maintenance of drainage facilities or utilities, the property owner shall
2502 replace all such plant material within 30 days of the completion of the drainage or utility work, in
2503 accordance with the following criteria:

2504

2505 A. Canopy trees.

2506

2507 1. If planted back in the public drainage or utility easement, the property owner shall replace the
2508 canopy tree with a tree having a minimum caliper as the removed or damaged tree; however, if
2509 the removed or damaged tree is greater than four inches in caliper (measured at a height of 12
2510 inches above the ground), the replacement tree shall be required to be a minimum of four inches
2511 in caliper.

2512

2513 2. If planted in an alternate location that is not within a public drainage or utility easement, the
2514 property owner shall replace the canopy tree with one meeting the minimum size required within
2515 this Chapter and that is subject to all other requirements of this section. For sites required to have
2516 a site plan, such alternate plant location shall be indicated on a revised landscape plan and is
2517 subject to approval by the city.

2518

2519 B. Palm trees.

2520

2521 1. If planted back in the public drainage or utility easement, the property owner shall replace the
2522 palm tree with a palm tree having a minimum caliper as the removed or damaged palm tree;
2523 however, if the removed or damaged palm tree is greater than nine inches in caliper (measured
2524 at a height of 12 inches above the ground), the replacement palm tree shall be required to be a
2525 minimum of nine inches in caliper.

2526

2527 2. If planted in an alternate location that is not within a public drainage or utility easement, the
2528 property owner shall replace the palm tree with one meeting the minimum size required within
2529 this Chapter and that is subject to all other requirements of this section. For sites required to have
2530 a site plan, such alternate plant location shall be indicated on a revised landscape plan and is
2531 subject to approval by the city.

2532

2533 C. Shrubs. Regardless of whether the shrub is located in a public drainage or utility easement, the
2534 property owner shall replace the shrub with a shrub meeting the minimum size required within this
2535 chapter.

2536

2537 The property owner shall notify the city when the replacement planting required by this subsection
2538 have been installed and are ready for re-inspection.

2539

2540 **Section 5.5.12. Single-family homes and duplexes.**

2541

2542 The following landscape requirements shall be met for all single-family and duplex units.

2543

2544 A. Trees required for single-family homes. All newly constructed single-family homes shall have a
2545 minimum number of trees per building site in accordance with Table 5.5.12.A: Trees Required for

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2546 Single-Family Homes. Where a home site includes a septic tank between the structure and the street,
2547 trees shall be planted a minimum of six feet from the septic tank or its drain field.
2548

Table 5.5.12.A: Trees Required for Single-Family Homes			
	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

2549
2550 B. Trees required for Duplexes. All newly constructed duplexes shall have a minimum number of trees
2551 per side in accordance with Table 5.5.12.B Trees Required for Duplexes. Where a site includes a septic
2552 tank between the structure and the street, trees shall be planted a minimum of six feet from the septic
2553 tank or its drain field.
2554

Table 5.5.12.B: Trees Required for Duplexes (PER SIDE)			
	Canopy Trees	Accent Trees	Palm Trees
Option A:	3	—	—
Option B:	2	—	3
Option C:	2	2	—
Option D:	1	2	3

2555
2556 C. Credit for larger, canopy trees. The required number of canopy trees may be reduced by one tree if
2557 an existing or proposed canopy tree is at least two inches of increased caliper above the minimum
2558 planting size specified in this Chapter. Single-family homes and duplexes are not eligible for the Tree
2559 Credit Program provided by Section 5.5.15.
2560

2561 D. Shrubs required. Each single-family home and duplex shall be landscaped with a minimum of 20 three-
2562 gallon shrubs of which a minimum of ten shall be planted at any location in the front yard.
2563

2564 E. Mulch, groundcover, and planting beds.
2565

2566 1. The soil surface of the land area not covered by structures or hardscape features shall be covered
2567 with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs, groundcover,
2568 or any combination thereof. When shrubs are used in planting beds, shall be planted not more
2569 than 48 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used
2570 to cover more than 20% of the total land area not covered by structures or hardscape features
2571 and is not within a front yard or right-of-way.
2572

2573 2. A two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and
2574 maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. A two-
2575 inch minimum layer of organic mulch, measured after watering-in, shall be placed around all

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2576 newly installed groundcover plants so that bare areas of sod are not exposed; however, the mulch
2577 around groundcover plants is not required to be maintained after the groundcover becomes
2578 established. Except as otherwise provided in these regulations, each canopy tree, accent tree, and
2579 palm tree shall have organic mulch no less than 36 inches beyond its trunk in all directions;
2580 however, the mulch shall be kept away from the trunks and stems of plants so as to avoid
2581 conditions that may be conducive to collar rot, basal canker, or other fungi. The use of cypress or
2582 cedar mulch is strongly discouraged.

2583
2584 3. The use of any inorganic mulch, including pebbles or shells to cover the soil surface is not
2585 recommended. Inorganic mulch should only be used to frame the outside of beds or to control
2586 erosion and should not be used to cover the root ball of newly planted trees or shrubs. Inorganic
2587 mulch shall not exceed 10% of the total land area not covered by hardscape features.

2588
2589 4. The right-of-way from the edge of the street pavement to the property line shall be planted with
2590 sod or other approved groundcovers, except as otherwise provided in the City of Cape Coral Code
2591 of Ordinances or Land Development Code.

2592
2593 F. Irrigation systems. Irrigation systems are encouraged but not required; however, where they are
2594 installed, they shall meet the standards of Section 5.5.14.

2595
2596 **Section 5.5.13. Landscaping for all development other than single-family homes and duplexes.**

2597
2598 The provisions of this section shall not apply to single-family homes and duplexes unless otherwise
2599 specifically stated herein. The soil surface of the land area not covered by structures or hardscape features
2600 shall be covered with sod or planting beds containing canopy trees, accent trees, palm trees, shrubs,
2601 groundcover, or any combination thereof. Shrubs in planting beds shall be planted not more than 48
2602 inches apart. Permeable synthetic turf may be used in lieu of sod, so long as it is not used to cover more
2603 than 20% of the total land area not covered by structures or hardscape features and is not within a front
2604 yard or right-of-way. The right-of-way from the edge of the street pavement to the property line shall be
2605 planted in accordance with the requirements of subsection B. below.

2606
2607 A. Tree planting requirements.

2608
2609 1. Except in the South Cape District, all sites, exclusive of buffer areas, shall have at least one canopy
2610 tree for each 1,000 square feet of gross land area, except that accent trees or palm trees may be
2611 substituted for a required canopy tree as indicated below. Trees required for buffers may be used
2612 for meeting the minimum number of trees required for a site. In the South Cape District, all sites
2613 shall have at least one canopy tree for each 3,500 square feet of gross land area, except that
2614 accent trees or palm trees may be substituted for a required canopy tree as indicated below. For
2615 all districts, in the event the calculation of required number of canopy trees yields a fractional
2616 number, that number shall be rounded up to the next highest whole number prior to any
2617 calculation of the quantity of substituted accent trees or palm trees. Trees planted to meet the
2618 other requirements of this section can be included in the calculation of total number of trees
2619 required by this section. Such trees may be planted singularly or grouped together. Required
2620 canopy trees shall not be spaced less than 20 feet on center. Except in the South Cape District,
2621 each canopy tree shall be planted in a minimum planting area of 100 square feet with a minimum

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2622 dimension of seven feet in width unless an alternative minimum planting area or dimensions are
2623 approved by the Director, based on planting details that ensure reasonable soil surface and
2624 planting medium volumes.

2625
2626 2. In the South Cape District, each canopy tree shall be planted a minimum planting area of 24 square
2627 feet with a minimum dimension of four feet in width unless an alternative minimum planting area
2628 or dimensions are approved by the Director, based on planting details that ensure reasonable soil
2629 surface and planting medium volumes. Except in the South Cape District not more than 50% of
2630 the required canopy trees may be substituted with accent trees or palm trees in accordance with
2631 Section 5.5.13. In the South Cape District, not more than 25% of the required canopy trees may
2632 be substituted with accent trees or palm trees, in accordance with Section 5.5.13., as follows:

2633
2634 a. Accent trees may be substituted for required canopy trees at a rate of two accent trees for
2635 each canopy tree required; however, no canopy tree required for a landscape buffer yard shall
2636 be substituted with an accent tree, unless the minimum width of available buffer yard options
2637 would preclude compliance with the minimum separation distance between trees and
2638 overhead power lines.

2639 b. The following palms shall not be substituted for required canopy trees:
2640
2641

Table 5.5.13.A: PROHIBITED SUBSTITUTIONS FOR CANOPY TREES	
Common Name	Botanical Name
Areca Palm	Chrysalidocarpus lutescens (Dypsis lutescens)
Bamboo Palm	Chamedorea spp.
Christmas Palm	Adonidia merrillii (Veitchii merrillii)
Dwarf Palmetto	Sabal minor
European Fan Palm	Chamaerops humilis
Lady Palm	Rhapis excelsa
Majesty Palm	Ravenea glauca
Needle Palm	Rhapidophyllum hystrix
Pygmy Date Palm	Phoenix roebellini
Saw Palmetto	Serenoa repens
Silver Palm	Coccothrinax argentata
Thatch Palm	Thrinax spp.

2642
2643 To meet tree planting requirements in a landscape buffer yard or in off-street parking and
2644 vehicle use areas, palm trees, other than those listed above, may be substituted for canopy
2645 trees at a rate of three palm trees per each canopy tree substituted, regardless of the palm
2646 tree species. Except in the South Cape Downtown District, to meet tree planting requirements
2647 for areas other than a landscape buffer or off-street parking and vehicle use areas, palm trees
2648 may be substituted for required canopy trees at a rate of one palm tree per each canopy tree
2649 substituted. In the South Cape Downtown District, to meet tree planting requirements for
2650 areas other than a landscape buffer yard, palm trees may be substituted for required canopy
2651 trees at a rate of two palm trees per each canopy tree substituted.

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2696
- c. Except for plantings in or near surface water management areas, a two-inch minimum layer of organic mulch, measured after watering-in, shall be placed and maintained around all newly installed canopy trees, accent trees, palm trees, and shrubs. Except in the South Cape District, each tree shall have organic mulch no less than 36 inches beyond its trunk in all directions. In the South Cape District, each tree shall have organic mulch no less than 18 inches beyond its trunk in all directions. All mulch shall be kept away from the trunks and stems of plants so as to avoid conditions that may be conducive to collar rot, basal canker, or other fungi.

The use of cypress or cedar mulch is strongly discouraged.
 - d. The use of any inorganic mulch, including pebbles or shells to cover the soil surface shall only be used to frame the outside of beds or to control erosion. Inorganic mulch shall not exceed 10% of the total land area not covered by structures, pools, accent boulders, driveways, sidewalks, or other paving. It be used to cover the root ball of newly planted trees or shrubs. The balance of the soil surface shall be covered with planting beds with a two-inch minimum layer of organic mulch.
 - e. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or public utility unless an acceptable root barrier material is installed between the tree and the roadway, sidewalk, or public utility. Acceptable root barrier material shall consist of one of the following: a manufactured root barrier material, installed in accordance with manufacturer's directions, reinforced concrete with a minimum depth of 16 inches, or a continuous sheet of aluminum with a minimum depth of 16 inches and a minimum thickness of 0.024 inches. Where a root barrier is required, it shall be installed for a minimum distance of 20 linear feet.
 - f. In the event a property owner installs a public sidewalk closer than seven feet to any extant canopy tree, the property owner shall install an acceptable root barrier material in accordance with manufacturer's directions, such as herbicide impregnated materials or reinforced concrete of sufficient width and length, which will prevent the encroachment or undermining by the tree's root system, prior to the installation of the sidewalk.
 - g. In the South Cape District, in the event that the tree requirements in this section cannot be met due to site constraints, the property owner may pay an in lieu of fee to the Downtown CRA Tree Fund. Such site constraints shall include size of site, access or circulation requirement making trees impracticable, or extant site layout. The City Council shall establish a fee based on the average cost of the aforementioned trees. The city will use the funds in the Downtown CRA Tree Fund to provide or enhance the landscaping and vegetation in public areas of the Downtown CRA. To qualify to pay an in lieu of tree fee, a property owner must apply for approval by the Director of the Department of Community Development. If the Director approves the application, then the property owner may pay an in lieu of tree fee meeting planting requirements. This provision does not preclude applicants from applying for deviations in accordance with Section 5.5.20.

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- 2697 B. Right-of-way. The right-of-way from the edge of the street pavement to the property line shall be
2698 planted with sod or other approved groundcovers, except as otherwise provided in the City of Cape
2699 Coral Code of Ordinances or Land Development Code.
2700
- 2701 C. Landscape design features. Six types of landscaping may be required on a site, depending on the site
2702 location and the specific elements of the development: foundation landscaping, landscaping adjacent
2703 to roads, off-street parking and vehicle use areas, retention/detention areas, and buffers. Trees
2704 planted to meet the requirements of these landscape design features can be included in the
2705 calculation of total number of trees required by this section under tree planting requirements.
2706
- 2707 1. Foundation Landscaping. To provide aesthetic relief between a building and off-street parking or
2708 vehicular use areas, all new development, except development in the Industrial District and South
2709 Cape District, must provide foundation landscaped areas equal to 10% of the proposed building
2710 gross ground level floor area. These foundation landscaped areas must be between the off-street
2711 parking area and the building, between public streets and the building, or between vehicular
2712 access ways and the building, or any combination thereof, with emphasis on the side(s) most
2713 visible to the public. Foundation landscaping may consist of surface level landscaped areas, raised
2714 planters, planter boxes, or any combination thereof. The width of the foundation landscaped
2715 areas shall be five feet, except for sites less than one acre with an average depth less than or equal
2716 to 135 feet, in which case the width shall be three feet. Foundation landscaped areas may be
2717 planted with trees, but must be planted with shrubs spaced a maximum of three feet on centers.
2718
- 2719 2. Landscaping Adjacent to Roads. Where a development site abuts a public right-of-way, excluding
2720 a dedicated alley, the following shall apply except within Mixed-Use Districts:
2721
- 2722 a. Except as otherwise provided herein, a strip of land, a minimum of ten feet in width, shall be
2723 provided between the abutting right-of-way and any structure or off-street parking area. For
2724 sites or portions of sites that are 135 feet or less in depth, the width may be reduced to five
2725 feet.
2726
- 2727 b. At a minimum, perimeter landscaping in this area shall consist of the following:
2728
- 2729 i. One shrub for every three linear feet of landscaped area, planted separately or grouped,
2730 except where a carport or an off-street parking or vehicular use area abuts the strip of
2731 land that is required adjacent to roads. Where a carport or an off-street parking or
2732 vehicular use area abuts the strip of land required adjacent to roads, a continuous hedge,
2733 consisting of shrubs spaced no greater than three feet on center is required.
2734
- 2735 ii. The requirement for canopy trees or accent trees depends on the presence of overhead
2736 electric distribution or transmission lines. Shade or accent trees shall be provided as
2737 follows:
2738
- 2739 (a) Except as provided below, one canopy tree for each 30 linear feet of frontage is
2740 required. If the calculations yield a fractional number, that number shall be rounded
2741 up to the next highest whole number. Trees may be placed in any arrangement within

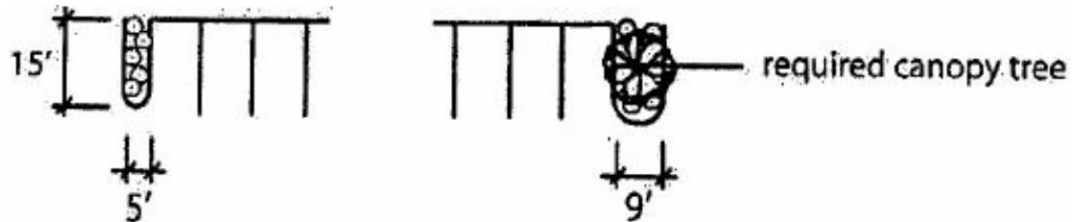
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- 2742 the landscape strip provided that the spacing between tree trunks is no greater than
2743 60 feet.
- 2744 (b) In locations where an adequate separation distance from overhead distribution or
2745 transmission lines, as specified in Table 1, § 5.2.7., is not available, two accent trees
2746 may be substituted for any shade tree required for each 30 linear feet of frontage.
2747
- 2748 c. Ingress and egress from the public right-of-way through all such landscaping to off-street
2749 parking or other vehicular use areas shall be permitted and may be subtracted from the linear
2750 dimension used to determine the number of trees and shrubs required.
2751
- 2752 d. Visibility triangles. As an aid to allow for safe operation of vehicles, pedestrians, and cyclists
2753 in the proximity of intersecting streets, driveways, alleys, and bicycle paths, there shall be
2754 limitations on the height of fences, walls, gateways, ornamental structures, signs, hedges,
2755 shrubbery, and other fixtures as visually depicted in the Cape Coral Engineering and Design
2756 Standards and as follows:
- 2757 i. All landscaping and signs within the visibility triangle shall provide unobstructed
2758 visibility between 30 inches and eight feet, with the exception of tree trunks that do not
2759 create a traffic hazard.
- 2760 ii. The property owner shall be responsible for maintaining all landscaping within the
2761 visibility triangle to provide the unobstructed visibility.
- 2762 iii. The Community Development Director shall make the final determination regarding
2763 visibility triangles.
2764
- 2765 3. Off-street parking and vehicle use areas. The provisions of this section apply to all new off-street
2766 parking or other vehicular use areas not situated directly beneath a building containing habitable
2767 space.
2768
- 2769 a. Protection of landscaped areas from vehicular encroachment. When a landscaped area abuts
2770 or is within an off-street parking or vehicular use area, wheel stops or curbing shall be used
2771 to protect landscaped areas from encroachment. The placement of shrubs and trees shall be
2772 in accordance with the Parking Lot Standards of the City of Cape Coral Engineering Design
2773 Standards.
2774
- 2775 b. Except in the South Cape District, landscaping for sites with both of the following: 1) an average
2776 depth less than or equal to 135 feet; and 2) an area less than or equal to one acre. All off-
2777 street parking areas shall be landscaped to provide visual relief and cooling effects and to
2778 define logical areas for pedestrian and vehicular circulation, as follows:
- 2779
- 2780 i. Minimum landscaped area. Landscaped areas including, but not limited to, landscaped
2781 islands, foundation landscaping, and landscaping within divider medians shall equal or
2782 exceed a minimum of 5% of the total off-street parking and vehicle use areas.
- 2783 ii. Tree planting. At least one canopy tree shall be provided for every 150 square feet of
2784 required planting area. Palm trees may be substituted for canopy trees in accordance with
2785 this Chapter.
- 2786 iii. Divider medians. Where canopy trees are planted in divider medians, the minimum width
2787 of the divider median shall be nine feet.

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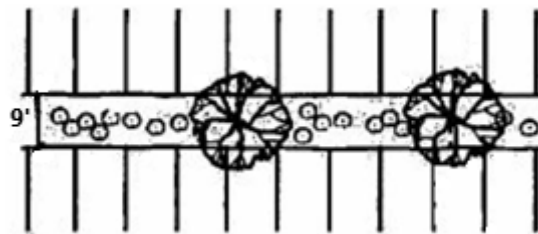
- iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing ten or more parking spaces shall be terminated by a landscaped area at each end that measures not less than five feet in width and not less than 15 feet in length. No required trees shall be planted in landscaped islands less than nine feet in width.



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- c. Except in the South Cape District, landscaping for sites with either of the following: 1) an average depth greater than 135 feet; or 2) an area greater than one acre. All off-street parking areas shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:

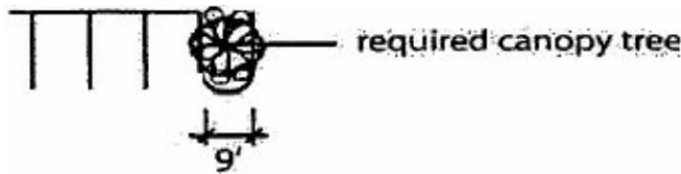
- i. Minimum landscaped area. Landscaped areas including landscaped islands, foundation landscaping, and landscaping within divider medians shall equal or exceed a minimum of 10% of the total paved surface area. Landscaped areas reserved for future parking spaces may not be included in this calculation.
- ii. Tree planting.
 - (1) At least one canopy tree shall be provided for every 150 square feet of required planting area. Palm trees may be substituted for canopy trees in accordance with this Chapter.
 - (2) No parking space may be more than 100 feet from a tree.
- iii. Divider medians. If a divider median is used to meet the landscaping requirements, it shall be a minimum width of nine feet.



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- iv. Landscaping at the end of a row of parking spaces. Each row of parking spaces containing ten or more parking spaces shall be terminated by a landscaped area that measures not less than nine feet in width and not less than 15 feet in length. Each such landscaped area shall be planted with at least one canopy tree. Palm trees may be substituted for canopy trees in accordance with this Chapter.

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- v. Landscape materials. All interior landscaped areas not dedicated to trees or to preservation of existing vegetation shall be landscaped with grass, groundcover, shrubs or other approved landscaping materials and this shall be noted on the landscape plans.

- d. Landscaping for sites in the South Cape District. Except within city dedicated parking areas, all off-street parking areas and applicable off-street parking area setbacks shall be landscaped to provide visual relief and cooling effects and to define logical areas for pedestrian and vehicular circulation, as follows:
 - i. Minimum landscaped area.
 - i. Unless otherwise provided herein, all required landscape areas shall be planted with trees, shrubs, groundcover, sod, or any combination thereof. At a minimum, the landscape area(s) shall include low-lying shrubs or ground cover plants with a minimum 50% coverage of the landscape area at time of planting. When utilized, shrubs shall be planted at no more than three feet on center.
 - ii. All applicable minimum off-street parking area setbacks required by Article 4, Chapter 5, except rear when abutting an alley, shall be landscaped unless otherwise provided herein. This provision shall not apply to portions of setbacks areas utilized for shared curb cuts, joint driveways and shared off-street parking areas across lot lines.
 - iii. Ingress and egress from the right-of-way through any setback area is permitted and the width of the ingress and egress may be subtracted from required landscape areas.

 - ii. Landscaping for lots with a lot frontage greater than or equal to 125 feet. Off-street parking areas containing 24 or more parking spaces shall provide a landscaped area that measures not less than nine feet in width and not less than 15 feet in length for every 12 parking spaces. Such landscaped area(s) shall be located as intermediate within or terminal islands to parking space rows. Each such landscaped area shall be planted with at least one canopy tree and groundcovers or sod.

- 4. Retention or detention areas.
 - a. Planting of trees, palm trees, shrubs, and groundcovers in retention or detention areas is encouraged, provided that the placement does not conflict with the volume of storage required for the retention or detention areas and does not significantly interfere with or impede the flow of runoff in the retention or detention area.

 - b. All retention or detention areas shall be stabilized with sod or other groundcover capable of stabilizing the soil. Organic mulch is not allowed.

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5. Buffers.

- a. Determination of required buffer. Landscape buffer and screening shall be required to separate uses of differing zoning districts from each other. The type and width of buffer required shall be determined by using Table 5.5.13.B: Table of Minimum Buffer Requirements. If the developing property contains a non-residential use in a Residential District, the buffer shall be as indicated along the row labeled "Non-Residential Uses in Residential Districts"; otherwise, the buffer required shall be as indicated along the row of the developing property's zoning district under the applicable column. The buffer that is required along any segment of property line, if any, is dependent on the zoning of the abutting property and property separated by only a street containing not more than two lanes for motor vehicle traffic. A bicycle "lane" shall not be considered to be a lane for motor vehicle traffic. The specifications for each type of buffer are provided in Table 5.5.13.B.

TABLE 5.5.13.B MINIMUM BUFFER WIDTH With wall/Without wall										
DEVELOPING PROPERTY	ZONING	ZONING OF ABUTTING PROPERTY OR PROPERTY SEPARATED BY ONLY A STREET CONTAINING NOT MORE THAN TWO LANES FOR MOTOR VEHICLE TRAFFIC								
		R1, RE	RML	RMM	C	CC	P	I	INST	SC, MXB
	R-1, RE	X	X	X	X	X	X	X	X	X
	RML	5	X	X	X	X	X	X	X	X
	RMM	10 / 20	5	X	X	X	X	X	X	X
	C	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	CC	10 / 20	10 / 15	10 / 15	X	X	X	X	X	X
	P	5	5	5	X	X	X	X	X	X
	I	40 wall	40	40	10 / 20	10 / 20	30	X	X	X
	INST	10 / 20	10 / 20	10 / 20	X	X	X	X	X	X
	SC, MXB	5	5	5	X	X	X	X	X	X

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b. Buffer specifications.

- i. The standards for minimum width, plant types and quantities, and opaque features shall be in accordance with Table 5.5.13.B: Minimum Buffer Width and Table 5.5.13 C, Buffer Plantings. All plants provided within a buffer are specific to, and must be located within the buffer area. The buffer landscaping is in addition to other landscaping required by this Chapter and this landscaping must be within the buffer area. For buffer options that include a wall, the wall must conform to the standards of Article 5, Chapter 2, including the setback requirements.
- ii. The buffer width shall be measured along a line perpendicular or radial to the property line.
- iii. The number of each type of plant required shall be determined by dividing the length of each side of the property requiring a given type of buffer by 100 and multiplied by the

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- 2894 number of plants per 100 feet indicated for a selected option. If the calculations yield a
2895 fractional number, that number shall be rounded up to the next highest whole number.
2896 iv. If a wall is required, the wall shall extend the entire length of the property line, or until it
2897 connects to another wall.
2898 v. Ingress and egress from the right-of-way through any buffer shall be avoided; however,
2899 where it is determined by the city that avoidance is impractical or not preferable due to
2900 traffic flow or safety considerations, penetration through a buffer to ingress and egress
2901 from the right-of-way may be permitted and the width of the ingress and egress can be
2902 subtracted from the length of the buffer for the calculation of the number of plants
2903 required.
2904 vi. Plants, berms, or walls required for buffers within required sight triangles shall be in
2905 accordance with standards provided in Article 5, Section 1. Further, no fence, wall, or
2906 plant material shall be placed within a buffer that would impede the movement of or
2907 obstruct the view of either a pedestrian or driver of a vehicle that would create a potential
2908 safety hazard.
2909

TABLE 5.5.13 C: - BUFFER PLANTINGS Plants per 100 Linear Feet - Canopy/Accent/Shrub										
DEVELOPING PROPERTY	ZONING	<u>ABUTTING PROPERTY</u>								
		R-1, RE	RML	RMM	C	CC	P	INST	I	SC, MXB
	R-1, RE	X	X	X	X	X	X		X	
	RML	4/0/33	X	X	X	X	X		X	
	RMM	5/5/66	4/0/33	X	X	X	X		X	
		5/3/33 w/ wall								
	C	5/5/66	5/5/66	5/5/66	X	X	X		X	
		5/3/33 w/ wall	3/2/33 w/ wall	3/2/33 w/ wall						
	CC	5/5/66	5/4/33	5/2/66						
		5/3/33 w/ wall	3/2/66 w/ wall	5/4/32	X	X	X		X	
	P	3/2/33	4/0/33	4/0/33	X	X	X		X	
	I	9/4/80 w/ wall	8/6/48	8/6/48	5/5/66	5/5/66	10/8/ 64		X	
			5/3/66 w/ wall	5/3/66 w/ wall	5/3/33 w/ wall	5/3/33 w/ wall				
	INST	5/5/66	5/5/66	5/5/66	X	X	X		X	
		5/3/33	5/3/33	5/3/33						
	SC, MX	4/0/33	4/0/33	4/0/33						

- 2910
2911 c. Buffer requirements. No development within required buffer. Required buffer shall not
2912 contain any development other than drainage facilities, sidewalks, plants, walls, or berms.
2913 Driveways shall only be allowed in the required buffer if the buffer runs along a street. No
2914 grading, development, or land-disturbing activities shall occur within the buffer unless as part
2915 of an approved development or landscape plan.

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- d. Buffer maintenance.
 - i. Any landscape buffer required pursuant to this section shall be maintained in order to preserve such buffer.
 - ii. The plantings, walls, and berms that constitute screening for any buffer required pursuant to this section shall be maintained for the life of the development. Such maintenance shall include all actions necessary to keep the buffer free of litter and debris, and to keep plantings, walls, and berms in good repair and neat appearance.
 - iii. In the event that any buffer screening or any element thereof, is damaged or fails to live so that it no longer furthers the purpose and intent of this section, it shall be replanted or replaced, whichever is applicable, with the type and size of material specified on the landscape plan.

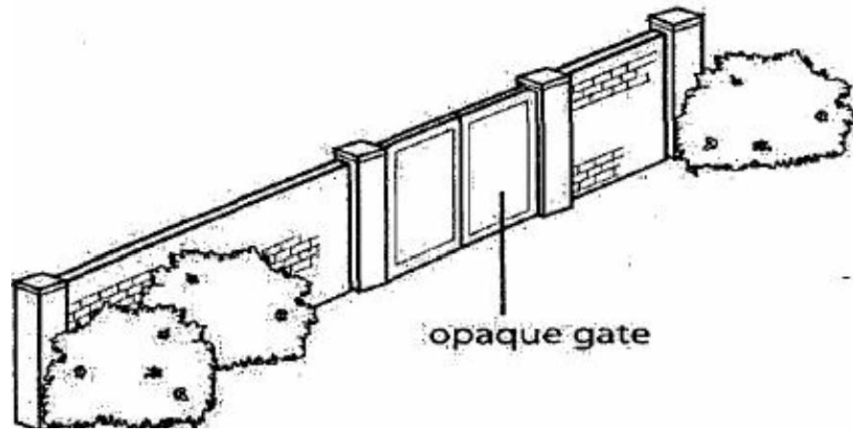
 - e. Plant and tree arrangement. Required plants and trees shall be distributed in a manner to meet the intent of screening incompatible uses. In the event that plant materials are prohibited in a public drainage or utility easement which abuts or is coincident with a buffer, no new plant materials shall be centered closer than two feet from such easement.

 - f. Existing vegetation.
 - i. Retaining existing Florida native trees and other vegetation within a buffer is strongly encouraged.
 - ii. If existing plants do not fully meet the standards for the type of buffer required, additional plant materials shall be installed.

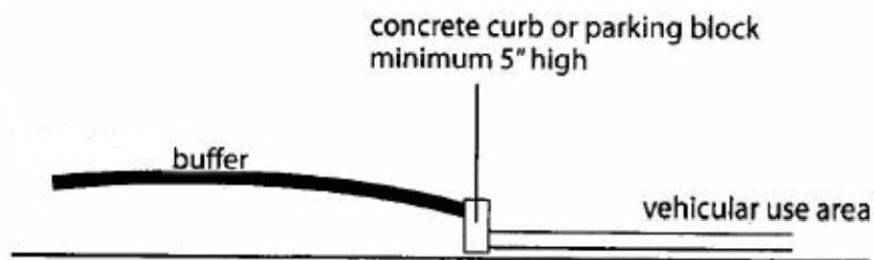
 - g. Buffer walls and berms.
 - i. Whenever a wall is required within a buffer, it is shown in Table 5.5.13.B.
 - ii. Where the buffer requires a berm, the berm shall be graded to appear smooth, rounded, and natural. Slopes shall not exceed a 3:1 grade.
 - iii. Whenever a wall is required within a buffer, the wall shall conform to all requirements of Article 5 Section 2, and the requirements herein, and all other requirements for a wall. The wall may be placed anywhere in the buffer, provided at least 75% of the required trees and 100% of the required shrubs are on the side facing outward toward the right-of-way or abutting property (facing away from the property on which the wall is erected). Bare concrete block, even if painted, is prohibited. The following materials, either singly or in any combination, are the only materials that may be used to form the wall:
 - (a) Concrete block coated with stucco;
 - (b) Textured concrete block;
 - (c) Stone;
 - (d) Brick; or
 - (e) Formed, decorative, or precast concrete.

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- 2961 iv. Whenever a wall is required within a buffer, it shall be 100% opaque and shall be the
2962 maximum height allowed for the use and the location of the wall.
2963
2964 h. Gates. A gate may be allowed in a buffer wall, provided such gate is opaque, unless spanning
2965 a vehicular entrance, and meets the intent and purpose of this section. Gates shall be
2966 maintained in accordance with the maintenance standards for screening contained in this
2967 section.



- 2968
2969
2970 i. Staggered walls. Whenever a wall is required within a buffer, it may be divided along the
2971 length of a buffer so that a wall consists of a series of wall segments instead of a continuous
2972 line. Such a divided wall shall be allowed only if it meets the intent and purpose of this section
2973 and if the wall segments overlap by a minimum of one-half of the distance between the two
2974 wall segments.
2975
2976 j. Vehicular use areas. Concrete curbs or wheel stops at least five inches high shall be provided
2977 between vehicular use areas and buffer areas.
2978



- 2979
2980
2981 3. Location of buffer.
2982
2983 a. The landscape buffer required by this section shall be located along the perimeter of a
2984 property except at approved entrances or exits to the parcel.
2985
2986 b. Buffers shall extend to the lot line or right-of-way line, except where easements, covenants,
2987 visibility triangles, or natural features require the buffer to be set back from the property line.
2988 The presence of an easement, covenant, or natural feature does not necessarily preclude the

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2989 placement of a buffer, unless due to the nature of the easement, covenant, or natural feature
2990 the placement of a buffer would be precluded.

2991
2992 c. Nothing other than open landscaped areas shall be located between the required buffer and
2993 the site perimeter unless the presence of an easement, covenant, or natural feature, which
2994 due to its nature, would preclude open landscaped areas.

2995
2996 d. Buffers may not be located on any portion of an existing or dedicated street right-of-way or
2997 roadway easement.

2998

2999 **Section 5.5.14. Irrigation.**

3000

3001 All landscaping shall contain an automatic irrigation system. All required irrigation systems shall be
3002 designed to minimize the application of water to impervious areas, including roads, drives, and other
3003 vehicle areas. Required irrigation shall also be designed to avoid damage to existing native vegetation
3004 from over watering or from physical conflicts with plant roots. The following standards shall apply to the
3005 design, installation, and maintenance of irrigation systems:

3006
3007 A. The irrigation system shall be properly maintained and operated consistent with watering
3008 schedules established by the South Florida Water Management District or the City of Cape Coral,
3009 whichever is more restrictive.

3010
3011 B. Existing native plants are exempt from this requirement.

3012
3013 C. Automatic control systems shall be equipped with an operable rain sensor or other devices, such
3014 as soil moisture sensors, to prevent unnecessary irrigation.

3015

3016 **Section 5.5.15. Tree credits.**

3017

3018 A. Tree credits for all development other than single-family homes and duplexes are available, to
3019 encourage the planting of larger trees than are otherwise required and to preserve trees existing on
3020 development sites. Based on the gross square feet of land area, each tree credit earned can count
3021 toward the number of trees required, subject to limitations indicated below. If tree credits are used,
3022 the credits shall be shown in the calculations on the landscape plan. Single-family homes and duplexes
3023 are not eligible for the tree credit program provided by this subsection. In no event, shall the number
3024 of trees required in a buffer be reduced.

3025
3026 B. Credit for planting larger canopy trees. One tree credit shall be applied to the overall tree count for
3027 each two inches of increased caliper above the minimum planting size specified in this Chapter. In no
3028 event, however, shall the actual number of trees be less than one-half of the total number required.

3029
3030 C. Credit for preserving existing canopy trees. Existing canopy trees in good health and meeting the
3031 minimum standards provided in this Chapter that are preserved on a site, and that are properly
3032 protected prior to and during the course of development activities, may be used to meet the
3033 requirements of this section for the site where the existing trees are located. For purposes of this
3034 subsection, development activities include land clearing, construction, grading, or placement of fill.

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3035 Canopy trees that exceed the minimum size required by Article 5, Section 15 are credited at the
3036 following ratios for existing canopy trees:
3037

TABLE 5.5.13.D: CREDIT FOR PRESERVING EXISTING CANOPY TREES	
CREDITS	
1.	6" up to 12" caliper = credit for 2 trees
2.	12" up to 18" caliper = credit for 3 trees
3.	18" up to 24" caliper = credit for 4 trees
4.	24" or greater caliper = credit for 5 trees

3038
3039 No credit shall be given to canopy trees on the Florida Exotic Pest Plant Council list of Category I or
3040 Category II invasive exotics.

3041
3042 D. Credit for preserving existing palms. Existing palm trees in good health and having a minimum of ten
3043 feet of clear trunk that are preserved on a site and properly protected prior to and during the course
3044 of development activities, may be used to meet the requirements of this section for the site where
3045 the existing palm trees are located. This credit shall be available for palms preserved in place or
3046 transplanted within a site, using accepted horticultural procedures.

Section 5.5.16. Landscape maintenance.

- 3047
3048
3049 A. General maintenance required. The property owner shall maintain all landscaping in accordance with
3050 the approved landscape plan, if any, and with the standards contained in this section, including:
3051
3052 1. Trees, palm trees, shrubs, and other vegetation shall be trimmed so as to not be an obstruction
3053 to pedestrian or vehicular traffic or traffic visibility;
3054
3055 2. Trees, palm trees, shrubs, and tree bed(s) shall be kept free of refuse, debris, and disease;
3056
3057 3. Nonliving materials shall be maintained in good condition at all times.; and
3058
3059 4. Shrubs planted in non-residential and mixed-use developments shall grow and be maintained at
3060 all times according to the minimum size specified on the approved landscape plan or to a
3061 minimum height of 36 inches, if not specified on the approved landscape plan. Shrubs that do not
3062 meet the minimum height specified or the alternate minimum height of 36 inches shall be
3063 replaced with like kind species and be maintained at a height of 36 inches.
3064
3065

3066 This requirement shall not preclude the placement of additional plant materials or other landscape
3067 features that comply with other requirements of these regulations.
3068

3069 B. Compliance required. For any development for which a landscape plan was submitted, the city shall
3070 not issue a certificate of occupancy or certificate of completion until the landscape architect or other
3071 licensed professional authorized pursuant to F.S. Chapter 481, Part II, who prepared, signed, and
3072 sealed the plan certifies to the city that all elements of the landscape plan have been installed in

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3073 accordance with the approved plan. Each development will be inspected by the City of Cape Coral
3074 within two years after the certificate of occupancy or certificate of completion is issued, and from
3075 time to time thereafter to ensure compliance with the applicable landscape standards and with the
3076 approved landscape plan, if any. Any dead or missing plant, or plant that appears to be dying or unable
3077 to sustain healthy future growth shall be replaced by one that conforms to the requirements of this
3078 section and approved landscape plan, if any. Failure to comply with this requirement shall constitute
3079 a violation of the City of Cape Coral Code of Ordinances, subject to any penalty imposed by law.
3080

3081 C. Changes subsequent to landscape plan approval. The replacement of plants indicated on an approved
3082 landscape plan with plants of the same species, or the placement of hardscape features that comply
3083 with other requirements of these regulations shall not require the submission of an amended
3084 landscape plan. The substitution of plants indicated on an approved landscape plan with plants of an
3085 alternative species of the same size and plant category (canopy tree, accent tree, palm tree, shrub)
3086 shall not require the submission of an amended landscape plan, unless a specific species has been
3087 prescribed as a condition of approval by the Hearing Examiner or City Council; however, any such
3088 substitution shall meet all other landscape requirements, including the minimum separation distance
3089 between trees and overhead power lines, the Florida native plant percentage, the tree species mix,
3090 and species specific palm tree substitution requirements. Except as described above, after a landscape
3091 plan has been approved, it shall be unlawful to change, modify, alter, or otherwise deviate from the
3092 terms or conditions of the landscape plan without first obtaining written approval of an amendment
3093 to the landscape plan. The approval of an amendment to a landscape plan does not constitute an
3094 amendment to the site plan. Modifications that require approval of an amended landscape plan
3095 include:
3096

- 3097 1. Replacement of any plant indicated on an approved landscape plan with a plant of a different
3098 species; or
3099
- 3100 2. The reduction of any quantity or size of plants below the size that was indicated on the most
3101 recently approved landscape plan.
3102

3103 The city may impose a reasonable fee for the review and approval of an application for an amendment
3104 to a landscape plan. An application for an amendment to a landscape plan shall be reviewed in
3105 accordance with the standards herein, unless the landscaped area is a legal nonconformity. An
3106 application for an amendment to a nonconforming landscaped area shall be reviewed in accordance
3107 with Article 5, Section 6.
3108

3109 D. Nonconforming landscaped areas.
3110

3111 1. Legal nonconforming landscaped areas established. All landscaped areas which were lawful prior
3112 to the adoption of this Code but which fail by reason of adoption of such amendment to comply
3113 therewith, are hereby declared to be nonconforming. Such nonconforming landscaped areas are
3114 hereby declared to be lawful and shall not be required to be altered to conform with such
3115 regulations as adopted by the City of Cape Coral; provided, however, that such nonconforming
3116 landscaped areas are restricted and subject to the requirements of this section.
3117

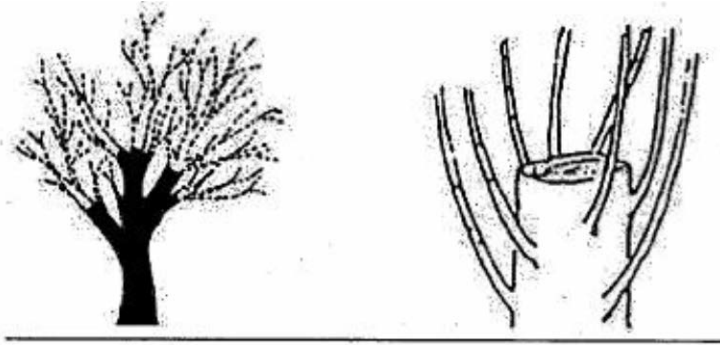
3118 2. Requirements for nonconforming landscaped areas.

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- a. For sites with an approved landscape plan, nonconforming landscaped areas, including buffers, shall be maintained in accordance with approved landscape plans, as modified by requirements of any approval for PUD, PDP, special exception, or variance, if any. If the minimum requirements for landscaping are reduced subsequent to the most recently approved landscape plan, the property owner may request approval of an amended landscape plan meeting the minimum requirements pursuant to Article 5, Section 6.
 - b. For single-family and duplex sites, nonconforming landscaped areas shall be maintained in accordance with landscape regulations in effect at the time of issuance of the original building permit for the primary structure.
 - c. For sites without an approved landscape plan, other than single-family and duplex sites, nonconforming landscaped areas shall be maintained in accordance with landscape regulations in effect at the time of the most recent site plan approval.
- E. Canopy tree pruning.
- 1. Except as otherwise provided herein, trees required by regulations in effect at the time of site development shall only be pruned to promote healthy, uniform, natural growth, to keep trees trimmed back from doors, windows, and public sidewalks or where necessary to promote health, safety, and welfare. Pruning shall be in accordance with "American National Standard for Tree Care Operations - Tree, Shrub, and Other Woody Plant Maintenance - Standard Practices (Pruning) (A300, Part 1)" by the American National Standard Institute and "Best Management Practices: Tree Pruning" by the International Society of Arboriculture (ISA). Pruning of trees on any site over one acre should be supervised by a certified arborist. Pruning necessary to maintain public overhead utilities shall be in accordance with the National Electric Safety Code (NESC).
 - 2. Trees required by regulations in effect at the time of site development shall not be pruned so as to include topping of trees through removal of crown material or the central leader, or any other similar procedure to permanently limit growth to a reduced height or spread or that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Severely pruned trees required by regulations in effect at the time of site development must be replaced by the property owner. Replacement trees must meet the tree size requirements of this Chapter. A tree's growth habit shall be considered in advance of conflicts that might arise (e.g., signs, power lines, sidewalks, buildings, and similar conflicts).

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Excessively pruned trees.

3. Palm maintenance and pruning. Palms shall only be pruned in such a manner that removal of fronds does not exceed a 9:00 to 3:00 pattern and no more than one-half of the fronds are removed at a single time. This limitation shall not apply to flower stalks or fronds that are yellow or dead.



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Section 5.5.17. Planting in medians, cul-de-sacs, and roundabouts.

A. Permits.

1. Required. It shall be unlawful for any person to place any landscape material, including plant materials and hardscape materials other than mulch, in any median, cul-de-sac, or roundabout under the control of the city, without first obtaining a permit for such work from the City.
2. Application. An application for a permit shall be submitted on a form provided by the city and include all required information as specified in the permit application forms, including:
 - a. A general vicinity map showing the nearest intersecting streets;

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- 3180 b. The location of existing public and private utilities, including overhead power lines and
3181 drainage facilities within twenty (20) feet of the proposed landscaping;
3182
- 3183 c. A planting plan showing all pertinent dimensions, the location of existing plant materials with
3184 indication if they are to be removed, the location of proposed plant materials indicating the
3185 size and species, the location of existing or proposed hardscape materials, and the proposed
3186 irrigation plan and source of water;
3187
- 3188 d. A description of the proposed monthly maintenance schedule and the primary and alternate
3189 contact information for the parties responsible for maintenance;
3190
- 3191 e. Any additional information reasonably required by the City because of unique circumstances
3192 of the project; and
3193
- 3194 f. A non-refundable application fee as established by City Council.
3195
- 3196 B. Median design. Landscaping in medians shall be in accordance with the City of Cape Coral Engineering
3197 Design Standards.
3198
- 3199 C. Cul-de-sac or roundabout design. Landscaping in cul-de-sacs or roundabouts shall utilize the plants
3200 and materials identified below. Such plantings shall be in accordance with the City of Cape Coral
3201 Engineering Design Standards.
3202
- 3203 1. Trees. Trees shall be of at least ten-gallon size at the time of planting. The following trees are
3204 permitted: Mahogany, Wild Tamarind, Yellow or Pink Tabebuia, Buttonwood, Crepe Myrtle,
3205 Gumbo Limbo, Southern Magnolia, Paradise tree, Pigeon Plum, Sago Palm, or Pygmy Date Palm.
3206 Other types of trees may be permitted providing the criteria established in this section are met.
3207 The prohibited vegetation standards of this Chapter shall apply in cul-de-sacs and roundabouts.
3208
- 3209 2. Shrubs. Shrubs to be planted should be durable in harsh conditions with slow, unobtrusive growth
3210 habits. All shrubs shall be of at least three-gallon size at the time of planting. The following shrubs
3211 are recommended for planting: Carissa, Cocoplum, Yaupon Holly, Myrsine, Necklace Pod,
3212 Podocarpus, and Wax Myrtle. Other types of shrubs may be permitted providing the criteria
3213 established in this section are met.
3214
- 3215 3. Other vegetation. The planting of flowers or any vegetation (other than approved trees or shrubs)
3216 by any private person or entity on cul-de-sac or roundabout owned by the city is prohibited. In
3217 addition, cul-de-sacs or roundabouts shall be left in sod. A small bed immediately surrounding a
3218 tree or shrub may be mulched.
3219
- 3220 D. Prohibited vegetation. The prohibited vegetation standards of section 9 of this article shall apply in
3221 medians.
3222
- 3223 E. Review criteria. In determining whether a permit will be issued, the city shall consider factors that
3224 include, but are not limited to, the following:
3225

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- 3226 1. Relationship to traffic and pedestrian safety;
3227
3228 2. Location of existing and proposed public utilities, power lines, and other right-of-way
3229 improvements;
3230
3231 3. Effect on surface waters and drainage patterns;
3232
3233 4. Aesthetic effect of the proposed landscaping, including whether the resultant theme would be
3234 consistent throughout the specific median, and whether the proposed landscaping would
3235 coordinate with the landscape theme, if any, established in the vicinity;
3236
3237 5. Type, size, and location of any extant plant materials and hardscape materials, if any;
3238
3239 6. Type, size, and location of proposed plant materials and hardscape materials on the median;
3240
3241 7. Method of removal of existing plant materials and hardscape materials;
3242
3243 8. Adequacy of proposed irrigation, its expense to the city, and availability of water supply;
3244
3245 9. The city's ability to maintain the landscaping in the event that the permittee fails to do so including
3246 economic ability, manpower, and location of the median, and
3247
3248 10. Potential sight obstructions and compliance with all standards and regulations regarding sight
3249 distances and clear zones.
3250
- 3251 F. Approval.
3252
- 3253 1. In its approval of any permit request, the city may request modifications, which may include:
3254
- 3255 a. The planting plan, including the design to ensure integration with the aesthetic character of
3256 the neighborhood, the requirement that the entire median be included in the design, as well
3257 as to plant sizes, species, location, and nature placement of hardscape materials;
3258
- 3259 b. Plant installation or removal methods or specifications;
3260
- 3261 c. Regulation of the commencement and completion date, work hours, or phasing of installation
3262 or removal;
3263
- 3264 d. The proposed maintenance schedule;
3265
- 3266 e. Requirement of a financial instrument to ensure maintenance or removal of the landscaping;
3267
- 3268 f. Requirement that all or part of the landscaping be installed and maintained by a licensed
3269 landscape contractor or certified arborist;
3270

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- 3271 g. Requirement that temporary traffic control measures be implemented by a barricade
3272 company with certification by the American Traffic Safety Services Association (ATSSA) or the
3273 International Municipal Signal Association (IMSA);
3274
3275 h. Requirement that curbing be installed;
3276
3277 i. Requirement that erosion control measures be implemented; and
3278
3279 j. Submission of a hold harmless agreement acceptable to the city.
3280
3281 2. The permittee shall be responsible for compliance with the permit along with the maintenance of
3282 the landscaping. The limitation on the time for installing landscape materials shall not apply to
3283 replacement of materials as part of maintenance. The maintenance obligations shall remain in full
3284 force and effect for the life of the landscaping.
3285
3286 3. Approval of a permit to install landscape materials shall not obviate the requirement to obtain all
3287 other necessary permits, including permits for irrigation and signs.
3288
3289 G. Changes subsequent to approval. After a planting plan has been approved, it shall be unlawful to
3290 change, modify, alter, or otherwise deviate from the terms of the planting plan without first obtaining
3291 written approval of an amendment to the planting plan. Modifications that require approval of an
3292 amended landscape plan include the following:
3293
3294 1. Replacement of any plant indicated on an approved planting plan with a plant of a different
3295 species; or
3296
3297 2. Modification of the location of any plants or other landscape materials.
3298
3299 The city may impose a reasonable fee for the review and approval of an application for an
3300 amendment to a planting plan. An application for an amendment shall be reviewed in accordance
3301 with the standards herein. The replacement of plants indicated on an approved landscape plan
3302 with plants of the same species shall not require the submission of an amended landscape plan.
3303
3304 H. Permit expiration. A permit for installing landscape materials in any median under the control of the
3305 city shall be valid for a one-year period from the date of issuance, except as otherwise provided within
3306 the permit approval. The permittee is solely responsible for submitting an application for renewal of
3307 the. In determining whether the permit should be renewed, the city shall consider all of the factors
3308 listed in subsection D. above, as well as the condition in which any materials planted pursuant to the
3309 permit have been maintained.
3310
3311 I. Maintenance. Once any landscape materials are installed in a median, the materials are the property
3312 of the city. Except when the city determines that it is in its best interest to maintain portions of
3313 landscaping in medians permitted in accordance with this subsection, the permittee shall be
3314 responsible for maintaining any and all landscaping permitted by this subsection in accordance with
3315 Section 16 of this chapter. Should any plant material or other landscape material or portion thereof
3316 become a safety hazard, unsightly, or die or become diseased, or if it is installed or maintained in a

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3317 manner inconsistent with the permitting requirements herein, the city shall have the option of
3318 performing maintenance, replacing, or removing it. The City will determine compliance with this
3319 subsection.

3320

3321 J. Removal. Any landscape materials planted or installed without the express written permission of the
3322 city shall be subject to removal by the city in its sole discretion. Except for the City and persons with
3323 a permit or other written authorization from the City, no person shall remove landscape materials
3324 from a median.

3325

3326 1. The authorization in this section for the removal of landscaping in medians shall be construed as
3327 supplementary to any other means of enforcement available to the city and shall not be construed
3328 so as to negate the authority of the Code Compliance Special Magistrate to hear and adjudicate
3329 appropriate cases.

3330

3331 2. The city may also, in its sole discretion, remove any landscape materials placed in any median
3332 under the city's control, for utility maintenance, safety, or any other reason. The City is not
3333 required to replace any landscaping removed pursuant to this section.

3334

3335 K. Revocation. If any requirements of the approval are not satisfied, the city may revoke or stop work on
3336 any permit issued pursuant to this subsection.

3337

3338 **Section 5.5.18. Lateral right-of-way planting.**

3339

3340 A. No permit required- Registration required. It shall be unlawful to install any trees or shrubs in the city-
3341 owned lateral right-of-way without first obtaining a registration certificate from the city.

3342

3343 B. Refer to Section 5.1.9 for landscaping that may be installed within the lateral right-of-way without a
3344 permit or registration certificate.

3345

3346 C. Placement of planting material. In the South Cape Downtown District, in order to provide a cohesive
3347 urban streetscape, applicants may enter into an agreement with the city for placement of planting
3348 material in the lateral right-of-way. In all other districts, the planting of trees, palm trees, and shrubs,
3349 and the placement of the tree bed(s) shall be allowed in the city-owned lateral right-of-way subject
3350 to the following restrictions:

3351

3352 1. The property owner must call the Sunshine 811 notification service to have all underground
3353 utilities located and marked on the ground prior to installation of any landscape material. All
3354 excavation on public property, rights-of-way, or dedicated easements shall comply with the
3355 requirements of F.S. 556. **UNDERGROUND FACILITY DAMAGE PREVENTION AND SAFETY.**

3356

3357 2. Where potable water, irrigation or sanitary sewer force mains are located within the right of
3358 way, the property owner must contact the Utility Department to confirm the location of
3359 proposed canopy trees and palm trees.

3360

3361 3. No canopy tree shall be planted within 10 feet of existing or proposed drainage inlet or potable
3362 water, irrigation and sanitary sewer force mains.

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4. No palm tree with a mature diameter of 8 inches or greater shall be planted within 5 feet of existing or proposed drainage inlet or potable water, irrigation and sanitary sewer force mains
 5. Planting near overhead utility infrastructure shall be in accordance with the requirements of Section 5.5.7 of this article;
 6. One or more trees may be immediately surrounded by a bed consisting of landscape edging materials, bedding plants or groundcover, and mulch or decorative rock so long as the size of the bed is reasonably related to the size and number of trees contained therein. Groundcover or annual bedding plants shall be permitted within the tree bed. Unless otherwise permitted, no other landscape edging material, concrete curbing, bedding plant or groundcover, mulch, or decorative rock shall be allowed in the city-owned lateral right-of-way;
 7. The property owner abutting the portion of the lateral right-of-way in which the plantings and the tree bed(s) are placed shall be responsible for any and all costs incurred by the city for damage sustained to any drainage system or underground utility facilities as a result of said plantings or placement of the tree bed(s), and shall indemnify and hold the city, its officers, employees, and agents, harmless from any and all claims for injuries and damages to persons and property, both real and personal resulting from said plantings or placement of the tree bed(s);
 8. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way within five feet of the roadway. Canopy trees shall not be planted within seven feet of any roadway, sidewalk, or underground utility unless an acceptable root barrier material, installed in accordance with this Chapter.
 9. No tree, shrub, landscape edging material, concrete curbing, bedding plant, groundcover, mulch, or decorative rock shall be placed in the city-owned lateral right-of-way:
 - i. Within five feet of either side property boundaries, as measured perpendicular from the side property line;
 - ii. Within three feet of the bottom on the swale in either direction;
 - iii. Within three feet of a public sidewalk; or
 - iv. So as to be an obstruction to pedestrian or vehicular traffic or traffic visibility and each shall be maintained accordingly.
- D. Maintenance. Once any landscape materials are installed in a lateral right-of-way, the materials are the property of the city. The person or entity who owns the property abutting a portion of the lateral right-of-way along a city street in which the trees, palm trees, shrubs, landscape edging material, concrete curbing, bedding plants, or groundcover, mulch, or decorative rock have been placed shall be responsible for the following:
1. Maintaining all plantings and tree bed(s) in good condition so as to present a healthy, neat, and orderly appearance;

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3408 2. Trimming such trees, palm trees, shrubs, and tree bed(s) so as to not be an obstruction to
3409 pedestrian or vehicular traffic or traffic visibility; and
3410

3411 3. Keeping such trees, palm trees, shrubs, and tree bed(s) free of refuse, debris, and disease.
3412

3413 Failure to maintain such trees, palm trees, shrubs, and tree bed(s) in accordance with this provision
3414 shall constitute a violation of this section and shall be grounds for removal by the city of the trees,
3415 palm trees, shrubs, and tree bed(s) in the right-of-way.
3416

3417 E. Removal.
3418

3419 1. The authorization in this section for the removal of trees, palm trees, shrubs, and tree bed(s) shall
3420 be construed as supplementary to any other means of enforcement available to the city and shall
3421 not be construed so as to negate the authority of the Code Compliance Special Magistrate to hear
3422 and adjudicate appropriate cases.
3423

3424 2. The city may also, in its sole discretion, remove any trees, palm trees, shrubs, and tree bed(s)
3425 placed in a city-owned lateral right-of-way for utility maintenance, safety, or any other reasonable
3426 cause. Except for the city, persons with written authorization from the city, and the property
3427 owner abutting the portion of the lateral right-of-way in which landscape materials have been
3428 placed, no person shall remove landscape materials from a lateral right-of-way.
3429

3430 3. All expenses incurred by the city for removal trees, palm trees, shrubs, and tree bed(s), for any
3431 reason, shall be the responsibility of the property owner.
3432

3433 4. If, for any reason, such trees, palm trees, shrubs, and tree bed(s) are removed, the adjoining
3434 owner shall be responsible for returning the right-of-way to its original condition prior to the
3435 placement of the plantings and tree bed(s) and any expenses related thereto regardless of
3436 whether the removal of the trees, palm trees, shrubs, and tree bed(s) was performed by the
3437 property owner or the city pursuant to this section.
3438

3439 **Section 5.5.20. Deviations.**
3440

3441 A. Deviations of up to 10% from the requirements of this section may be approved by the Director and
3442 as further provided herein) provided that the deviation will not be contrary to the public interest and
3443 will be in harmony with the general intent and purpose of this section and where either of the
3444 following applies:
3445

3446 1. Conditions exist that are not the result of the applicant and which are such that a literal
3447 enforcement of the regulations involved would result in unnecessary or undue hardship; or
3448

3449 2. Literal conformity with the regulations would inhibit innovation or creativity in design.
3450

3451 B. In determining whether a particular deviation request should be approved as the result of
3452 unnecessary or undue hardship, factors the Director shall consider include the following: site
3453 constraints such as shape, topography, dimensions, and area of the property, the effect other

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3454 regulations would have on the proposed development, or other locational factors that may make
3455 compliance with this section impossible or impracticable, and the effect the requested deviation
3456 would have on the community appearance. Additionally, the Director shall find that the approval of
3457 the deviation(s) would serve the intent of this section to protect the health, safety, and welfare of the
3458 public while ensuring a high level of overall aesthetic appeal and visual interest in the city.
3459

3460 C. In determining whether a particular deviation request should be approved because literal conformity
3461 with the regulations would inhibit innovation or creativity in design, the Director may approve the
3462 request for deviation(s) if the applicant demonstrates that the design of the landscaping for which
3463 one or more deviations is sought is unique and innovative and, further, that the approval of the
3464 deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find
3465 that the approval of the deviation(s) would serve the intent of this section to protect the health,
3466 safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual
3467 interest in the city. For purposes of this section, indicia of unique and innovative design may include,
3468 but are not limited to, the following:

- 3469
- 3470 1. Landscape details that are unique or that are exceptional in quality by virtue of artistic
3471 composition, quality of materials, dimensional attributes, or any combination thereof;
 - 3472
 - 3473 2. Plant massing that evokes exceptional expression through use of angularity, curvature, or other
3474 means;
 - 3475
 - 3476 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
 - 3477
 - 3478 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.
 - 3479

3480 D. Requests for deviations and the reasons therefore shall be set forth by the applicant in the application
3481 for deviation and shall be accompanied by documentation including, a narrative that clearly defines
3482 the section(s) of the regulations of the requested deviation, a narrative explanation as to the reason
3483 for the requested deviation and why it should be approved, sample detail drawings, elevations, and
3484 perspectives which shall graphically demonstrate the proposed deviation(s) and illustrate how each
3485 deviation would operate to the benefit, or at least not to the detriment, of the public interest.
3486

3487 E. For deviations to avoid unnecessary or undue hardship, the Director subject to these standards and
3488 criteria, shall approve only the minimum deviation from the provisions of this section. For deviations
3489 to avoid the inhibition of innovation or creativity in design, the Director shall approve deviations
3490 necessary to enhance the unique and innovative design. The Director may impose reasonable
3491 conditions of approval in conformity with this section. Violation of such conditions and safeguards,
3492 when made a part of the terms under which a deviation is granted, shall be deemed a violation of this
3493 section and shall be enforceable not only by revocation of the deviation, but also by all other remedies
3494 available to the city, including all code enforcement procedures.
3495

3496 **CHAPTER 6. LIGHTING.**

3497
3498 **Section. 5.6.1. Purpose and applicability.**
3499

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3500 The purpose and intent of this Section is to create outdoor lighting standards that promote the health,
3501 safety, and welfare of the residents and decrease the impacts of ambient lighting on the natural sky by
3502 establishing maximum intensities of lighting and controlling glare from lighting fixtures. The provisions
3503 of this article shall apply to all permanent outdoor lighting from any light source in nonresidential
3504 development.

3505
3506 **Section. 5.6.2. Outdoor lighting standards.**

- 3507
- 3508 A. Outdoor lighting fixtures. All outdoor lighting fixtures shall be installed in such a manner that the
3509 source of each individual light is shielded, positioned, and maintained so as not to be visible off the
3510 premises.
 - 3511
 - 3512 B. Light shielding for parking lot illumination. All parking lot lighting shall have no light emitted above
3513 90 degrees.
 - 3514
 - 3515 C. Outdoor lighting fixtures adjacent to residential. Any outdoor lighting fixture providing light to any
3516 parcel adjacent to a residentially zoned parcel, whether adjoining or not, shall emit no more than
3517 0.1 foot-candles of light, as measured from the property line of the adjacent residential parcel, using
3518 a standard light meter, the cell of which is directed towards the source of the light.
 - 3519
 - 3520 D. All areas designed for use after daylight hours shall be adequately lit, in accordance with Table 5.6.2.
3521 below.

3522
3523 **Table 5.6.2. Lighting levels for commercial and industrial developments**

Outdoor Lighting Area	Lighting Level minimum - maximum (foot-candles)
Entrance of commercial or industrial building	1 - 5
Sidewalk or walkway from parking area to entrance	.5 - 2
Parking lot	.5 - 3
Gas station canopy	10 - 15
Loading and unloading areas	15 - 20

- 3525
- 3526 E. Illumination ratio. Luminaire fixtures in parking lots shall be arranged in order to provide uniform
3527 illumination throughout the parking lot area of not more than a 4:1 ratio of average to minimum
3528 illumination, and not more than 12:1 ratio of maximum to minimum illumination.
 - 3529
 - 3530 F. Automatic Switching Requirements. Controls shall be provided that automatically extinguish all
3531 outdoor lighting when sufficient daylight is available using a control device or system such as a
3532 photoelectric switch, astronomic time switch, or equivalent functions from a programmable lighting
3533 controller, building automation system, or lighting energy management system, all with battery or
3534 similar backup power or device.
 - 3535

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3536 B. Modifications. Additions, modifications, or replacement of more than 25 percent of outdoor lighting
3537 fixtures existing as of the effective date of this ordinance shall require the submission of a complete
3538 inventory and photometric plan detailing all existing and any proposed new outdoor lighting. Any
3539 new lighting shall meet the requirements of this ordinance.

3540
3541 C. Exempt lighting. The provisions above shall not apply to streetlights, single-family residences,
3542 duplexes, or governmental facilities.

3543
3544 **CHAPTER 7. SCREENING**

3545
3546 This Chapter shall not apply to single-family detached or duplex residential development.

3547
3548 **Section. 5.7.1. Screening of rooftop equipment.**

3549
3550 All rooftop equipment shall be screened from view from the right-of-way or adjacent properties by the
3551 use of a parapet wall or other architectural feature to screen the equipment or shall be set back
3552 adequately from the building edge to conceal the equipment from adjacent properties at ground level.

3553
3554 **Section. 5.7.2. Screening of storage areas.**

3555
3556 A. All permitted storage areas shall be screened from adjacent properties and the right-of-way.
3557 Permissible screening materials include:

3558
3559 B. A six-foot high wall of concrete or similar approved material, Section. 5.2.7 on walls;

3560
3561 C. A six-foot high opaque fence of an approved material, Section. 5.2.7 fences; or

3562
3563 D. A vegetative buffer, consisting of two staggered rows of shrubs a minimum of three feet tall at
3564 planting. The buffer shall create a dense barrier, at 80% opacity, within two years.

3565
3566 **Section. 5.7.3. Air conditioning units and mechanical equipment.**

3567
3568 A. All mechanical equipment at ground level shall be screened from adjacent property and the right-of-
3569 way. When possible, sound deadening materials shall be used. Permissible screening materials
3570 include:

3571
3572 1. A wall or opaque fence of adequate height to screen the view of the equipment, see Section. 5.2.7
3573 for approved materials.

3574
3575 2. A vegetative buffer, which meets the specifications in Section 5.6 for a four-foot tall buffer.

3576
3577 **Section. 5.7.4. Permanently installed stand-by generators.**

3578
3579 Permanently installed stand-by generators serving all properties other than single-family and duplex
3580 residences where life and safety does not depend on the performance of the system.

3581

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- 3582 A. The generator may only be used in emergency situations when there is a power outage.
3583
3584 B. Repairs and testing may only occur during daylight hours a maximum of once per week.
3585
3586 C. Installation of a generator shall comply with the following restrictions:
3587
3588 1. The generator shall not encroach more than three feet into any required setback, and in no case
3589 shall be any closer than two and one-half feet from any property line. The generator shall not be
3590 installed in an easement.
3591
3592 2. The generator shall be screened from public view by:
3593
3594 a. A vegetative buffer which meets the specifications in Section 5.6 for a five-foot high hedge;
3595 or
3596
3597 b. A wall or opaque fence, of an adequate height to screen the equipment, which meets the
3598 specifications of Section 5.2.7.
3599
3600 3. Permanent signs shall be placed at the electrical service indicating the type and location of the
3601 generator.
3602

3603 **CHAPTER 8. NON-RESIDENTIAL DESIGN STANDARDS.**

3604
3605 **Section 5.8.1. Purpose and Intent.**
3606

3607 The appearance of non-residential and mixed-use development affects the visual image and
3608 attractiveness of the City of Cape Coral. Utilitarian design and developments with minimal architectural
3609 features detract from the city's image and character. The purpose and intent of the non-residential design
3610 standards is to promote the City as an attractive destination for tourists and residents, and to support
3611 economic vitality while protecting the public health, safety, and welfare. These regulations intend to:

- 3612
3613 A. Enhance the visual image and attractiveness of the City;
3614
3615 B. Establish reasonable standards that offer flexible and diverse design options;
3616
3617 C. Ensure development in Cape Coral is of consistent high quality and character; and
3618
3619 D. Regulate site layout and architectural features to ensure aesthetic and visual interest.
3620

3621 **Section 5.8.2. Applicability.**
3622

- 3623 A. The standards of this section shall apply to all non-residential and mixed-use development for which
3624 application for site plan approval, or a building permit is made.
3625
3626 B. These design standards shall apply to existing development if a building's gross floor area is increased
3627 by 50% or more.

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C. Development on Industrial zoned sites shall be exempt from these standards.

D. The design standards of this section do not apply when the City Council has established specific design standards for a unique area of the city unless the specific design standards otherwise expressly state their applicability.

Section 5.8.3. Exemptions.

The following types of buildings shall be exempt from the non-residential design standards.

- A. Any building that has received a temporary use permit.
- B. Any accessory structure.
- C. Bona fide agricultural buildings in the Agricultural and RE Districts such as barns and stables.
- D. Guard houses.
- E. Government facilities that are screened or not visible from a public street.
- F. Model homes.
- G. Municipal pump station buildings.
- H. Self-storage buildings provided the buildings are enclosed with a wall with a minimum height of eight feet.
- I. Pavilions, carports, gas canopies, and similar buildings that have support posts or columns but no sides except for roof treatments as required in Section 5.8.8.
- J. Buildings similar to those listed above as determined by the Director.

Section 5.8.4. Conflicts.

If any of the non-residential and mixed-use design standards of this section conflict with any other provision of the City of Cape Coral Code of Ordinances or Land Development Code, the provision that establishes the more specific standard or architectural theme governs. If neither conflicting provision establishes a specific standard or architectural theme, then the more restrictive provision governs unless otherwise expressly provided.

Section 5.8.5. Appearance, Building Mass, and Design Treatments.

A. Consistency Within a Development. Except for buildings on outparcels that contain only one unit, designed and constructed to be occupied by a single end user, regardless of the number of business operations conducted within the single unit, buildings within a development shall be designed with

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3674 color schemes, building materials, finishes, roof types, roof lines, and exterior roof finishing consistent
3675 with or that resemble those of the principal building or structure on the main parcel(s).
3676

3677 B. Consistency and Integrity of Building Components. All portions of any exterior side of a building,
3678 extending from finished grade to the top of the parapet wall or eaves, extending the entire width of
3679 the side of a building, must be designed with consistent architectural style, detail and trim features.
3680 All architectural features other than parapet walls, including towers or cupolas, shall be designed so
3681 as to have an equivalent character from any ground-level angle from which they can be viewed.
3682

3683 C. Glazing.

3684
3685 1. For buildings abutting and facing a public street, transparent windows, doors, or any combination
3686 thereof, shall cover at least 25% of the first story building wall area from grade to a height of 10
3687 feet.
3688

3689 2. For buildings with walls abutting but not facing a public street, transparent windows, doors, or
3690 any combination thereof, shall cover at least 15% of the first story building wall area from grade
3691 to a height of 10 feet
3692

3693 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking
3694 areas, transparent windows, doors, or any combination thereof, shall cover at least 25% of the
3695 first story building wall area from grade to a height of 10 feet.
3696

3697 D. Sides of a building. For buildings located on outparcels, all exterior sides of a building shall comply
3698 with this section. Additionally, except for a side of a building built flush with a side lot line, a side of a
3699 building that faces a rear lot line of an abutting property, and a side of a building that faces a property
3700 line that abuts an alley, all sides of a building shall comply with the standards of this section.
3701

3702 1. All exterior sides of a building subject to this subsection shall include a repeating or varying
3703 pattern and shall comply with both design elements listed below. At least one of the three design
3704 elements shall repeat horizontally. All elements shall repeat or alternate at intervals of no more
3705 than 50 feet, either horizontally or vertically.
3706

3707 a. Each wall shall provide visual differentiation of wall surfaces through variations in a minimum
3708 of one of the following:
3709 i. Building materials;
3710 ii. Finish textures; or
3711 iii. Color.
3712

3713 b. Each wall shall provide a minimum of two of the following architectural features:
3714 i. Columns;
3715 ii. Pilasters;
3716 iii. Awnings;
3717 iv. Canopies;
3718 v. Reveals (if provided shall have a minimum depth of ½ inch);
3719 vi. Corbels;

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- 3720 vii. Quoins ;
3721 viii. Keystones;
3722 ix. Cornices (if provided shall have a minimum height of four inches); or
3723 x. Other features as determined by the DCD Director that provide articulation or reduce
3724 building massing.

- 3725
3726 2. All exterior sides of a building shall provide a minimum number of design elements among
3727 elements a. thru r. below in accordance with the gross square footage of a building, as provided
3728 herein. Required design elements may be located on an exterior wall of a building, on the roof of
3729 the building, or on both the wall(s) and the roof of a building, as applicable. If located on a roof,
3730 the design element shall be located on a portion of the roof that faces in the same direction as
3731 the exterior wall. It is not the intent of this section, however, to require the design elements to
3732 be on both the exterior wall(s) and the roof.
3733

Building Gross Floor Area (sq. ft.)	Minimum number of Design Elements Required
10,000 sq. ft. or less	3
10,001 to 49,999 sq. ft.	4
50,000 sq. ft. or greater	5

- 3734
3735 a. Architectural features and detailing that create a frame and definition to the primary public
3736 entrance;
3737
3738 b. One or more canopies or awnings that extend a total length of at least 30% of the length of
3739 any side of a building subject to this subsection;
3740
3741 c. One or more attached porticos;
3742
3743 d. Peaked or arched roof form;
3744
3745 e. Overhanging eaves a minimum of 18 inches wide on all portions of a building with a pitched
3746 roof;
3747
3748 f. Arcade;
3749
3750 g. Colonnade;
3751
3752 h. Arches or arched forms other than roof forms or an arcade;
3753
3754 i. Windows or glazing that exceed the minimum glazing requirements of Subsection 5.8.5.C. by
3755 a minimum of 10% for a wall;
3756
3757 j. Ornamental or structural details, including, banding or moldings used throughout the exterior
3758 building walls that add decoration and detail to a building roofline, building openings, or
3759 windows;
3760

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- 3761 k. Two or more ornamental or structural details that are horizontally continuous (except for
3762 interruptions for doors and windows), which may include belt courses or any type of three-
3763 dimensional molding, banding, projections, recesses, or niches that help to define a base,
3764 body, and cap to the proposed building;
3765
3766 l. A tower such as a clock tower or bell tower;
3767
3768 m. A cupola;
3769
3770 n. Sculptured artwork (excluding corporate logos or advertising);
3771
3772 o. Vertical articulation of walls, including pilasters, columns, or other relief with maximum
3773 separation of one third of the wall on which they are located, not to exceed a separation of
3774 100 feet;
3775
3776 p. Planter boxes that are integrated into the building architecture or wing walls that incorporate
3777 landscaped areas or places for sitting; or
3778
3779 q. Curved wall containing an uninterrupted curve along at least 10% of the length of any side of
3780 a building subject to this subsection.
3781
3782 r. One or more vegetated trellises that occupy a minimum of 25% of the area of a single wall.
3783
3784 3. For buildings with a gross floor area of greater than 50,000 square feet, no exterior wall shall
3785 exceed 100 linear feet in a horizontal direction within a single, continuous wall plane, nor shall
3786 any single, continuous wall plane constitute more than 60% of the building's total length. A wall
3787 shall be deemed to be in a single, continuous wall plane unless it is offset (recessed or projected)
3788 by at least 24 inches from any adjacent wall plane or contains a pilaster that projects at least 36
3789 inches from the wall.
3790

3791 **Section 5.8.6. Wall Height Transition.**
3792

- 3793 A. Buildings that are more than twice the height of the height of extant buildings on abutting property
3794 shall incorporate one or more transitional height elements to segue the height of the new building to
3795 the height of the closest existing building. The transitional height element shall be incorporated on
3796 the new building at the approximate cornice or roof line of the nearest existing building, if any. Where
3797 there is no extant building on adjacent property, the requirements of this sub-section will not apply.
3798 Where no single building is "nearest" to the new building, but instead two or more buildings are
3799 located an equidistance from the new building, the property owner may select the approximate
3800 cornice or roof line of any of such equidistant buildings at which to incorporate the transitional height
3801 element on the new building.
3802
3803 B. Transitional height elements may include:
3804
3805 1. Cornices or other decorative elements that run the length and width of the building and project
3806 a minimum of six inches from the wall;

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3807
3808 2. Upper story setbacks and offsets at the approximate cornice or roof line of the nearest existing
3809 building as provided above;

3810
3811 3. Variations in roof planes.

3812
3813 **Section 5.8.7. Building Materials.**

3814
3815 Only the following finish materials for exterior walls are permitted. All other finish materials are
3816 prohibited.

3817
3818 A. Concrete block with stucco finish (CBS), synthetic stucco (an exterior cladding system with a stucco-
3819 like outer finish applied over insulating boards or composite materials), or other exterior coating that
3820 is the visual equivalent of stucco. Non-textured concrete block with visible mortar joints, even if
3821 painted, is not an acceptable finished material.

3822
3823 B. Textured or ribbed concrete block, e.g. "split-face block".

3824
3825 C. Reinforced concrete of any finish.

3826
3827 D. Glass or other glazing, whether transparent, translucent, or applied as a veneer. For purposes of this
3828 subsection, glazing consists of glass or any material that resembles glass including, but not limited to,
3829 Plexiglass or polycarbonate.

3830
3831 E. Stone or brick, including simulated stone or brick.

3832
3833 F. Wood, other than plywood or T1-11 type paneling, if termite-resistant species, pressure-treated,
3834 painted, or stained.

3835
3836 G. Fiber-reinforced cement panels or boards.

3837
3838 H. Tile.

3839
3840 I. Architectural metal panels, provided that corrugated metal panels shall not exceed 30% of the surface
3841 of any wall.

3842
3843 J. Vinyl siding, provided that vinyl siding shall not exceed 30% of the surface of any wall.

3844
3845 K. Cargo or shipping containers, provided that any exterior wall of the container is completely sheathed
3846 with one of more of the allowable materials listed in this subsection.

3847
3848 **Section 5.8.8. Roofs.**

3849
3850 A. All non-residential and mixed-use buildings shall have variations in rooflines and roof features that
3851 are consistent with the building's mass and scale. In addition, roofs shall include features from at least
3852 two of the following five categories below.

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- 3853
3854 1. Parapet wall provided the parapet extends completely around the building on all sides. However,
3855 this requirement shall not prohibit the substitution of a pitched roof in lieu of a parapet for part
3856 of a building.
3857
3858 2. A three-dimensional cornice treatment, a minimum of four inches high (not applicable along any
3859 portion of a wall that is built flush to the side lot line). Flashing at the top of a parapet shall not
3860 qualify as a cornice. Cornices shall return a minimum of eight feet around corners that transition
3861 from a building wall that requires a cornice to a building wall that does not require a cornice.
3862
3863 3. Varied roof lines with different roof heights and or separate or distinct roof segments that fall at
3864 different horizontal planes above the cornice line;
3865
3866 4. Overhanging eaves that extend at least 18 inches beyond the supporting walls, with a minimum
3867 fascia of six inches in height (not applicable along any portion of a wall that is built flush to the
3868 side lot line);
3869
3870 5. Vertical variation in the roof line with a minimum change in elevation of two feet.
3871
3872 B. Pitched roofs such as gable, hip, shed or mansard roofs shall be clad with highly durable materials such
3873 as standing seam metal, slate, ceramic, or fireproof composite tiles. Fiberglass and asphalt shingles
3874 are prohibited except for dimensional grade or better.
3875
3876 1. Allowed slope. Pitched roofs shall have a minimum slope of three feet vertical rise for every 12
3877 feet of horizontal run. The maximum slope of a pitched roof shall not exceed a one-foot vertical
3878 rise for every on foot of horizontal run.
3879
3880 C. Roofs covering pavilions, carports, gas canopies, and similar structures with support posts or columns
3881 but no sides. Buildings with roofs that lack walls, whether free-standing or attached to another
3882 building, shall have a minimum slope of three feet vertical rise for every 12 feet of horizontal run.
3883 Unless a roof with an alternative design is approved by the DCD Director, all roofs are required to
3884 possess a pitched roof with a minimum slope of three feet vertical rise for every 12 feet of horizontal
3885 run. The DCD Director shall consider the following two criteria in determining whether to approve a
3886 roof with an alternative design:
3887
3888 1. Whether the design of the roof evokes exceptional expression through the use of angularity,
3889 curvature, or other means; or
3890
3891 2. Whether the design of the roof precludes visual monotony and enhances the aesthetic character.
3892
3893 Flat and parapet roofs are prohibited for buildings covered by this subsection.
3894

Section 5.8.9. Building Design Standards in the SC and MXB Districts.

- 3895 A. All buildings, whether residential, nonresidential or compound use, shall conform to the design
3896 standards provided herein., except as superseded by the following requirements.
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3898

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- B. Public entrances. Public entrances shall be provided as follows:
1. Any building facade that faces a street (excluding alleys) shall provide a public entrance oriented toward such street. In the case of a corner lot where more than one building facade faces a street, a corner entrance may serve to meet the requirements for the two streets that intersect and create the corner. All public entrances shall have convenient pedestrian access providing a direct connection from the street to the entrance via a walkway a minimum of four feet in width and not traversing any portion of an off-street parking area. In the event the City determines that this provision cannot be met due to site constraints, such walkway may traverse the off-street parking area but shall be clearly delineated by a change in paving material, pavement markings, or similar treatment.
 2. Any building facade that faces a dedicated city parking area shall provide a public entrance oriented toward such dedicated city parking area with convenient pedestrian access providing a direct connection via a walkway a minimum of four feet in width.
 3. It is not the intent of these provisions to require more than two public entrances to any use intended to be occupied by a single tenant. In the event that the provisions above cumulatively require more than two public entrances, then the requirements may be reduced such that two public entrances shall be required. In determining the orientation of such public entrances. Parkway street designations and dedicated city parking areas shall have priority.
- C. Transparency of building walls. Except for parking structures, building walls shall contain transparent windows, doors, or any combination thereof, meeting the following standards:
1. For lots abutting primary or secondary street designations, transparent windows, doors, or any combination thereof, shall cover at least 50% of the first story building wall area that faces the primary or secondary street designation. Above the first story, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area; residential and hotel uses shall provide at least 15%.
 2. For lots abutting local street designations, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area that faces the secondary or tertiary street designations; residential and hotel uses shall provide at least 15%.
 3. For lots abutting dedicated city parking areas or portions of alleys abutting dedicated city parking areas, non-residential uses, except hotels, shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area that faces the dedicated city parking area; residential and hotel uses shall provide at least 15%.
 4. Non-residential use building walls facing navigable waterways shall provide transparent windows, doors, or any combination thereof, covering at least 25% of the entire building wall area.

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- 3944 5. The exterior of windows and doors shall remain unshuttered at all times of the day. This provision
3945 shall not apply to the following:
3946
- 3947 a. Un-walled areas such as, but not limited to, dining and seating areas associated with
3948 restaurants and bars.
3949
- 3950 b. Hurricane shutters or flood-proofing panels during the time period in which a flood watch or
3951 warning, a tropical storm watch or warning, or a hurricane watch or warning is in effect for
3952 any portion of Lee County. Such shutters or panels shall be removed within a week from the
3953 time they are put up, unless a hurricane, tropical storm, or flood has impacted the area, in
3954 which case the shutters may remain up for not more than three months from the date of the
3955 incident, except for good cause shown to the City.
3956
- 3957 D. Non-residential buildings with a first story consisting of more than 35,000 square feet of floor area
3958 and consisting of a single use shall meet the following requirements:
3959
- 3960 1. One public entrance shall be provided for every 75 feet of overall building frontage; or
3961
- 3962 2. Liner buildings meeting the following requirements shall be provided:
3963
- 3964 a. Liner buildings shall be provided along at least 50% of the overall building frontage.
3965
- 3966 b. Liner buildings shall contain active uses with at least one public entrance provided for every
3967 75 feet of liner building frontage. Such liner buildings shall comply with all applicable building
3968 setbacks and building frontages.
3969
- 3970 c. Liner buildings shall have an interior depth of at least 15 feet.
3971
- 3972 d. Liner buildings may be detached from, attached to, or integrated into the principal building.
3973
- 3974 E. Architectural elements design standards: awnings, canopies, colonnades, arcades, balconies, front
3975 porches, stoops/landings, and cupolas. A first story facade facing a street or dedicated city parking
3976 area shall provide shade with awnings, canopies, colonnades, arcades, balconies, or any combination
3977 thereof, for at least 50% of its length or width, unless prohibited by Article 4, Chapter 5.
3978 Notwithstanding Section 5.1.6 of the LDC, architectural elements or any combination of architectural
3979 elements, may occur forward of the minimum setback, as applicable, but shall not extend forward of
3980 a lot line, except as provided herein. Notwithstanding Section 5.1.8 of the LDC, architectural elements,
3981 or any combination of architectural elements may extend forward of a lot line into the public right-
3982 of-way with the approval of the City Manager. The city may require the property the property owner
3983 to enter into a formal easement agreement or formal right-of-way agreement in a form acceptable to
3984 the City Attorney. The owner of the structure containing the architectural elements encroaching into
3985 the easement or right-of-way is solely responsible for repairing any damage to encroachments in the
3986 easement or right-of-way that result from maintenance or public infrastructure improvements. The
3987 property owner must comply with the provisions of Section 5.8.9.E.1-8 below.
3988

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- 3989 1. The City Manager shall consider the following criteria in determining whether to approve an
3990 architectural element, or any combination of architectural elements, that would encroach into
3991 the easement or public right-of-way.
3992
- 3993 a. The extent to which the architectural element would encroach into the easement or right-of-
3994 way;
3995
- 3996 b. The effect of such encroachment on any utilities that are either currently located in the
3997 easement or right-of-way or that may be located in the easement or right-of-way in the
3998 future; and
3999
- 4000 c. The effect of such placement on any abutting properties or streetscape and on the navigability
4001 of the public right-of-way.
4002
- 4003 2. Awnings and canopies. Awnings and canopies extending from the first story, facing a street or
4004 dedicated city parking area, and serving to meet the 50% length/width requirement of Article 4,
4005 Chapter 5 shall conform to the following:
4006
- 4007 a. Depth shall be a five-foot minimum projection from the building facade.
4008
- 4009 b. Height shall be an eight-foot minimum clearance, including suspended signs.
4010
- 4011 3. Colonnades and arcades. Colonnades and arcades facing a street or dedicated city parking area
4012 shall conform to the following:
4013
- 4014 a. Depth shall be a minimum of five feet from the building wall to the inside column face.
4015
- 4016 b. Height shall be an eight-foot minimum clearance, including suspended signs. The lowest point
4017 on arches shall not extend below seven feet.
4018
- 4019 c. Openings between piers, columns, or similar supporting elements shall be at least 50% of the
4020 colonnade or arcade facade area.
4021
- 4022 d. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
4023 permitted above the colonnade or arcade.
4024
- 4025 4. Balconies. Balconies shall be open and un-air-conditioned. Balconies may have roofs. Roofed
4026 balconies may be enclosed with screen and may contain privacy partitions. Balconies shall not
4027 project beyond the rear building setback requirement, as applicable. Balconies shall be located
4028 no closer than six feet from the abutting side lot line. Balconies facing a street or dedicated city
4029 parking area shall have a height clearance of ten feet minimum from grade; their decorative or
4030 supporting elements that project from building walls shall have a clearance of seven feet from
4031 grade.
4032
- 4033 5. Front porches. Front porches shall be un-air-conditioned. may be screened, and shall conform to
4034 the following:

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- 4035
- 4036 a. Front porches facing a street or dedicated city parking area and serving to meet the minimum
- 4037 building frontage requirements of Article 4, Chapter 5 shall be a minimum of eight feet in
- 4038 depth.
- 4039
- 4040 b. Open multi-story verandas, awnings, balconies, and enclosed habitable space shall be
- 4041 permitted above front porches.
- 4042
- 4043 6. Stoops and landings. Stoops and landings may be roofed or unroofed, and shall maintain the
- 4044 required minimum building setback, as applicable. However, access to a stoop, whether by stairs,
- 4045 ramp, or other means, may extend forward of the minimum building setback as applicable, if
- 4046 approved by the Director but shall not be located less than three feet from the front lot line.
- 4047
- 4048 7. Cupolas. When provided, cupola(s) shall have a maximum of 400 square feet in horizontal
- 4049 dimension and shall be limited to two per building.
- 4050
- 4051 8. Garage doors associated with residential uses, when facing the front of the lot, shall be set back
- 4052 at least 20 feet behind the building line.
- 4053

4054 **Section 5.8.10. Equipment and Loading Areas**

4055

- 4056 A. For all non-residential and mixed-use developments, air conditioning, heating, and similar equipment
- 4057 shall be placed on the roof or the ground.
- 4058
- 4059 1. Air conditioning and heating equipment shall be prohibited from being mounted on the side of a
- 4060 building.
- 4061
- 4062 2. Rooftop equipment shall be screened on all sides in a manner consistent with the architectural
- 4063 design of the building. Such screening shall be at least as high as the highest portion of the
- 4064 equipment or apparatus being screened.
- 4065
- 4066 3. Equipment located on the ground shall be located or screened so as not to be visible from any
- 4067 property line abutting a public street other than an alley when viewed along a line perpendicular
- 4068 or radial to such property line. Screening shall consist of a wall, fence, plant material, or any
- 4069 combination thereof. Fences used for screening shall not be constructed of chain link with or
- 4070 without slats and are encouraged to be designed to appear to be constructed of material the same
- 4071 as the building, and to incorporate architectural trim features consistent with the building.
- 4072
- 4073 4. Electric meters and similar panels may be wall-mounted and are subject to the same screening
- 4074 requirements outlined in subsection c. above. In lieu of screening, the equipment may be painted
- 4075 to match the color of the building.
- 4076
- 4077 5. Attic vents and solar panels are exempt from the requirements of this subsection.
- 4078
- 4079 B. Loading areas that are visible from an abutting property with a residential future land use
- 4080 classification or that is separated from a property with a residential future land classification by an

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4081 alley or a two-lane street shall be screened by a wall that is at least six feet in height, which is
4082 constructed of the same material as the building or is designed to appear to be constructed of material
4083 the same as the building, and that incorporates architectural trim features consistent with the
4084 building, by an earthen berm that is at least six feet in height, or by a combination of wall and berm
4085 that is at least six feet in height.

4086

4087 **Section 5.8.11. Deviations.**

4088

4089 A. Deviations from the provisions of this section may be approved by the Director provided that the
4090 deviation will not be contrary to the public interest and will be in harmony with the general intent
4091 and purpose of this section and where either of the following applies:

4092

4093 1. Conditions exist that are not the result of the applicant and which are such that a literal
4094 enforcement of the regulations involved would result in unnecessary or undue hardship; or

4095

4096 2. Literal conformity with the regulations would inhibit innovation or creativity in design.

4097

4098 B. In determining whether a particular deviation request should be approved as the result of
4099 unnecessary or undue hardship, factors the Director shall consider include, but are not limited to, the
4100 following: site constraints such as shape, topography, dimensions, and area of the property, the effect
4101 other regulations would have on the proposed development, or other locational factors that may
4102 make compliance with this section impossible or impracticable, the effect the requested deviation
4103 would have on the community appearance including, but not limited to, consideration of the mass,
4104 scale, and other characteristics of a proposed building relative to the characteristics of existing and
4105 approved surrounding buildings whether on the same or nearby sites, and the relative visibility and
4106 character of equipment or loading areas which are otherwise required to be screened along with
4107 constraints on alternative location of such equipment or loading areas. Additionally, the Director shall
4108 find that the approval of the deviation(s) would serve the intent of this section to protect the health,
4109 safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual
4110 interest in the city.

4111

4112 C. In determining whether a particular deviation request should be approved because compliance with
4113 the regulations would inhibit innovation or creativity in design, the Director approve the request for
4114 deviation(s) if the applicant demonstrates that the design of the building or development for which
4115 one or more deviations is sought is unique and innovative and further, that the approval of the
4116 deviation(s) would enhance such unique and innovative design. Additionally, the Director shall find
4117 that the approval of the deviation(s) would serve the intent of this section to protect the health,
4118 safety, and welfare of the public while ensuring a high level of overall aesthetic appeal and visual
4119 interest in the city. For purposes of this section, indicators of unique and innovative design may
4120 include, but are not limited to, the following:

4121

4122 1. Architectural details that are unique or that are exceptional in quality by virtue of artistic
4123 composition, quality of materials, dimensional attributes, or any combination thereof;

4124

4125 2. Building forms that evoke exceptional expression through use of angularity, curvature, or other
4126 means;

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- 4127
4128 3. Design elements or other forms that achieve dynamic or symmetric aesthetic balance; or
4129
4130 4. Other details or forms that preclude visual monotony and are pleasing in aesthetic character.
4131
4132 D. Requests for deviations and the reasons therefor shall be set forth by the applicant in the application
4133 for deviation and shall be accompanied by documentation including sample detail drawings,
4134 schematic architectural drawings, site plans, floor plans, elevations, and perspectives which shall
4135 graphically demonstrate the proposed deviation(s) and illustrate how each deviation would operate
4136 to the benefit or at least not to the detriment, of the public interest.
4137
4138 E. Subject to these standards and criteria, the Director shall approve only the minimum deviation from
4139 the provisions of this section necessary to avoid either the unnecessary or undue hardship or the
4140 inhibition of innovation or creativity in design. The Director may impose reasonable conditions of
4141 approval in conformity with this section. Violation of such conditions and safeguards, when made a
4142 part of the terms under which a deviation is granted, shall be deemed a violation of this section and
4143 shall be enforceable not only by revocation of the deviation, but also by all other remedies available
4144 to the city, including, but not limited to, all code enforcement procedures.
4145

4146 **CHAPTER 9. TEMPORARY USES.**

4147
4148 **Section. 5.9.1. Purpose and applicability.**

- 4149
4150 A. The purpose of this Section is to ensure all temporary events and activities are located and
4151 coordinated in harmony with the surrounding community. Temporary uses are authorized in this
4152 article as temporary accessory or principal uses for time periods proportionate and appropriate to the
4153 nature of the temporary use. Temporary uses permitted by this article may not be listed as a use in a
4154 particular zoning district. Temporary uses not listed in this article may be permitted through a
4155 temporary use agreement approved by the Director of Community Development
4156
4157 B. All temporary uses and special events approved subject to the standards and requirements set forth
4158 under this article are deemed to be a privilege and not a right, which may be revoked by the city for
4159 failure to comply with any of the provisions of this article or any other local, state, or federal law
4160 governing the event. Approved temporary uses and special events may also be revoked if such
4161 revocation is in the best interest of the city based on emergency, disorder, or other unforeseen
4162 conditions. Private events held on private property shall not require a temporary use permit. Signs
4163 shall be limited to the signs permitted in Section 5.9.10 of this article and shall not be allowed within
4164 the right-of-way.
4165
4166 C. Application for a temporary permit.
4167
4168 1. Temporary use permits shall be coordinated by the Community Development department who
4169 may request reviews from the Fire, Police, Building, and Public Works departments as necessary
4170 to ensure safety.
4171

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4172 2. If a temporary use or event is proposed at a public park property, an application must be
4173 submitted to the Parks and Recreation Department along with any applicable fees and proof of
4174 insurance.

4175
4176 3. Private events held on private property shall not require a temporary use permit.
4177

4178 **Section. 5.9.2. Firework, pumpkin, and Christmas tree sales.**
4179

4180 Temporary outdoor sales are prohibited, except as provided here in. Excepted seasonal events involving
4181 outdoor sales of merchandise shall meet all appropriate requirements of the Building Code, Electrical
4182 Code, Fire (Life Safety) Code, and Plumbing Code, particularly regarding temporary sanitary facilities.
4183 Temporary outdoor sales are prohibited unless they have applied for and received all required permits in
4184 compliance with this Subsection. Firework, pumpkin, and Christmas tree sales may be in all nonresidential
4185 zoning districts except the Preservation and Public Zoning Districts subject to the following:
4186

4187 A. Application. A complete application must be submitted to the Department of Community
4188 Development, along with a conceptual site plan.
4189

4190 B. Dates and hours of operation:
4191

4192 1. Firework sales may be operated from December 15 through January 1 and from June 1 through
4193 July 10;
4194

4195 2. Pumpkin sales may be operated from October 1 through November 5;
4196

4197 3. Christmas tree sales may be operated from November 15 to January 1; and
4198

4199 4. Lots may be open from 8 AM to 10 PM.
4200

4201 C. Parking and facilities.
4202

4203 1. Temporary sales lots must provide five parking spaces per half acre. A paved parking lot shall not
4204 be required.
4205

4206 2. Permission to place one or more tents (up to a total of 425 square feet in size) on the site, provided
4207 that the applicant provides proof of fire-retardancy and adequate tie-down measures with the
4208 application. Tents larger than 425 square feet shall require a separate tent permit. The location
4209 and setback of the tent(s) shall be shown on the conceptual site plan. If a sales trailer is being
4210 used in lieu of a sales tent, the sales trailer shall be handicap-equipped and accessible in
4211 accordance with the Florida Accessibility Code for Building Construction and ADA requirements
4212 and shall be anchored in accordance with all applicable building code standards.
4213

4214 3. Permission to utilize an electric generator on site. A temporary electric pole shall not, however,
4215 be authorized by the temporary sale permit. A temporary electric pole shall require a separate
4216 permit to be applied for and issued to a licensed electrical contractor.
4217

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4218 D. The Director may approve temporary outdoor seasonal sales in the RML zoning district, if it is
4219 determined that such sale would not result in adverse impacts on the surrounding neighborhood.
4220 Approval of a season sale in the RML district may include conditions to protect the surrounding
4221 neighborhood from adverse impacts.
4222

4223 E. The applicant shall request inspection by the city of the items authorized pursuant to this Section and
4224 shall receive approval thereof prior to beginning the sale activity. Inspection of items authorized
4225 pursuant to this Section shall be made by the Community Development and Fire Departments.
4226

4227 **Section. 5.9.3. Outdoor display of merchandise.**
4228

4229 Unless otherwise permitted, outdoor display of merchandise is prohibited, except on improved property
4230 in accordance with the following conditions:
4231

4232 A. All outdoor display of merchandise in non-residential districts are prohibited with the exception of
4233 the following items listed below when displayed in conjunction with an existing licensed business
4234 location which retails the items: boats; displays of new or used cars by auto dealerships or auto
4235 rental companies; bicycles; motorcycles; garden equipment such as lawnmowers, tillers, and
4236 edgers; landscaping nursery items displayed by a nursery business; tires as displayed in service
4237 stations; vehicles displayed as part of a temporary off-site vehicle sale approved pursuant to this
4238 Code; temporary sales approved pursuant to this Code; and seasonal fundraising events approved
4239 pursuant to this Code. In addition to the foregoing, the outdoor displays of fruit, vegetables,
4240 flowers, jewelry, books, or antiques are allowed in the South Cape zoning district. This restriction
4241 shall not apply to special events approved pursuant to the Code.
4242

4243 B. All outdoor display of merchandise for sale, in non-residential districts is permitted with the following
4244 conditions:
4245

4246 1. Except in the South Cape zoning district, such displays may be no closer than 10 feet to the front
4247 or rear property lines and five feet to side property lines or 15 feet to the side property line on
4248 corner lots.
4249

4250 2. Displays may not placed in required parking areas.
4251

4252 3. Displays may be placed on the public sidewalk subject to the following requirements:
4253

4254 a. Displays may be placed only directly in front of the lawfully existing business which retails the
4255 items being displayed;
4256

4257 b. Displays shall be placed on tables, shelves, or racks that are moved indoors during any hours
4258 the business is not open.
4259

4260 c. Displays shall not impede pedestrian circulation, use of the sidewalk, or ingress and egress to
4261 nearby buildings.
4262

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- 4263 C. Outdoor display of merchandise for sale on vacant property is prohibited, except as permitted for
4264 seasonal events in accordance with Section 5.9.2. or special events in accordance with Section 5.9.10.
4265
4266 D. All outdoor displays of merchandise must be approved the City Council. Notice of the Council meeting
4267 shall be mailed to surrounding property owners with 500’ of the site in question.
4268

4269 **Section. 5.9.4. Garage sales.**
4270

4271 Garage sales may be permitted on a private property in accordance with the following regulations:
4272

- 4273 A. Garage sales are permitted to be held for a period not to exceed three days, on the basis of three such
4274 activities per residence per year, not to be held closer than 30 days apart.
4275
4276 B. Prior to conducting a garage sale, the person conducting such sale is required to obtain a permit online
4277 from the city website or at the Code Enforcement Division. Such permit shall be posted or otherwise
4278 displayed on the property where the sale is being held to be visible from the street. In the event a
4279 garage sale is conducted without a permit, such sale shall be closed by the Police Department or the
4280 Code Enforcement Division, and shall remain closed until a valid garage sale permit is received from
4281 the city. Garage sale permits shall include authorization for on-site signs and off-site signs in
4282 accordance with applicable portions of the City of Cape Coral Land Development Code. On-site or off-
4283 site garage sale signs shall not be attached to any utility pole, street sign, tree, or other landscaping.
4284
4285 C. The purchase of items for resale at a residence, which in essence establishes a residence as a second-
4286 hand store, is hereby prohibited.
4287
4288 D. A violation of this Section shall be punishable by a fine of not less than \$75 and not more than \$250.
4289 Each day any violation of any provision of this Section occurs or continues shall constitute a separate
4290 offense. As an alternative, violators may be cited by a Code Enforcement Officer to appear before the
4291 Code Enforcement Special Master. In such event, violators shall be subject to fine(s) not to exceed
4292 \$250 per day for first time violations or not to exceed \$500 per day for repeat violations, as imposed
4293 by the Code Enforcement Special Master pursuant to the City of Cape Coral Code of Ordinances or the
4294 Florida Statutes. A person is subject to arrest if he or she refuses to close down a garage sale for which
4295 no valid permit is in effect.
4296

4297 **Section. 5.9.5. Temporary construction or field office.**
4298

- 4299 A. Construction trailers in residential zoning districts are subject to the following requirements.
4300
4301 1. Construction trailers shall not be connected to potable water and sewer facilities. If the
4302 construction trailer is wired for electricity, the wiring must conform to all applicable city
4303 electric codes.
4304
4305 2. The construction trailer must be removed from the site prior to issuance of a certificate of
4306 occupancy.
4307
4308 3. No overnight residential use shall be permitted in a construction trailer.

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- 4309
4310 4. Construction trailers must comply with the setback requirements of the zoning district or the
4311 site.
4312
4313 5. Construction trailers shall not be larger than 200 square feet.
4314
4315 B. Construction trailers in non-residential zoning districts are subject to the following
4316 requirements.
4317
4318 1. When a construction trailer is used as a temporary office, the trailer must be wired for
4319 electricity and must be connected to potable water and sewer facilities, if available. Wiring
4320 and plumbing must conform to applicable Electric and Plumbing Codes.
4321
4322 2. The construction trailer must be located at the construction site or an abutting site with the
4323 property owner's written permission.
4324
4325 3. The construction trailer must be removed from the site prior to issuance of a certificate of
4326 occupancy.
4327
4328 4. No overnight residential use shall be permitted in a construction trailer.
4329
4330 5. Construction trailers must comply with the setback requirements of the zoning district or the
4331 site.
4332

Section 5.9.6. Construction staging areas for essential public facilities and post disaster debris staging

- 4333
4334
4335 A. Contractor staging for essential public facilities. Contractor staging areas for materials used in
4336 construction of essential public facilities are permitted in all zoning districts, subject to the following
4337 requirements:
4338
4339 1. The temporary staging area shall serve a project being carried out in the vicinity of the
4340 construction staging area;
4341
4342 2. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
4343
4344 3. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
4345 Saturday only;
4346
4347 4. Temporary fencing may be used to enclose the staging area;
4348
4349 5. No structures other than a permitted construction trailer may be placed on the property; and
4350
4351 6. No outdoor lighting is permitted for any staging area in a residential zoning district.
4352
4353 7. The staging area shall be restored upon completion of the work and restoration of any damage
4354 to any City facilities, such as roadside swales, pipes, catch basins, pavement, signs, striping, etc.

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- 4355
- 4356 B. Construction staging areas. Construction staging areas are a permitted activity in all zoning districts,
- 4357 provided the staging area is on the same parcel where construction activity is authorized by a valid
- 4358 building permit. Construction staging areas on vacant, adjoining, or nearby parcels is prohibited.
- 4359
- 4360 C. Post disaster debris staging areas. Post disaster debris staging areas are allowed in all zoning
- 4361 districts on sites designated by the City for such activity.
- 4362
- 4363 D. Post disaster construction staging. Staging areas for post disaster reconstruction efforts are allowed
- 4364 in all non-residential zoning districts.
- 4365

4366 **Section. 5.9.7. Temporary sales office.**

4367

- 4368 A. Temporary sales offices are mobile structures used only for the sale or lease of units within that
- 4369 development. For the purpose of this section, units to be located within the development shall
- 4370 mean residential, non-residential, or mixed use habitable space or leasable floor area, whether
- 4371 occupying all of a building or individual area within a building including residential units,
- 4372 residential or non-residential units, individual units in a multi-unit non-residential development,
- 4373 or freestanding residential or non-residential structures.
- 4374
- 4375 B. Requirements for a temporary sales office. The following requirements must be met prior to the
- 4376 approval of a temporary sales office:
- 4377
- 4378 1. Connection to sewer and water is required. If sanitary sewer and potable water are unavailable
- 4379 to the site, bottled water and portable sanitary facilities may be utilized until such time as
- 4380 sanitary sewer and potable water are available. A temporary sales office shall be connected to
- 4381 such facilities within 90 days of availability or within 90 days of the permitted temporary sales
- 4382 office, whichever is less.
- 4383
- 4384 2. The temporary sales office shall meet the setbacks of the zoning district in which it is located.
- 4385
- 4386 3. A temporary sales office shall not be used as a place of habitation or abode by any person(s),
- 4387 and shall not be used or occupied for business, office, or other purpose(s) at any time except
- 4388 between the hours of 7:00 a.m. and 9:00 p.m.
- 4389
- 4390 4. A minimum of three paved off-street parking spaces shall be provided for the temporary sales
- 4391 office.
- 4392
- 4393 5. The entrance to the site on which the temporary sales office is located shall consist of a city
- 4394 approved driveway or construction entrance. Any impervious area added for the temporary
- 4395 sales office shall be subject to review and approval by the city.
- 4396
- 4397 6. The base of any temporary sales office shall be fully obscured by landscaping and skirting.
- 4398 Shrubs must be planted on 30-inch centers and have a minimum planted height of two feet.
- 4399 The type of irrigation, if applicable, must also be provided on the plan. Erosion shall be
- 4400 minimized and prevented to the extent practicable around any disturbed area.

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4446
7. The maximum duration of the permit shall not exceed one year. The Director may extend permits for up to six months each, based upon factors that include:
 - a. Size of the project.
 - b. Number of lots or units in the development remaining to be sold or leased.
 - c. Effect that the extension would have on the surrounding properties.
 - d. Developer's need for an extension and efforts, if any, the developer has put forward toward completion of the development (e.g., effort to complete construction in a timely manner, delays beyond the reasonable control of the developer, etc.).
 8. A temporary sales office shall be removed no later than the date the development is completed or within 30 days after notice by the city that the application for development has been denied, whichever is applicable.
- C. Permit application and submittal requirements. A permit shall be required for a temporary sales office. In order to obtain a permit for the use of a structure for a temporary sales office, the applicant shall submit the following to the Department of Community Development:
1. A scaled drawing of the site, identifying the location of the temporary sales office with dimensions. Construction plans shall also be submitted.
 2. The names of the property owner and the operator of the temporary sales officer. In the event the operator is different from the property owner, written and notarized consent from the property owner must be submitted. Such written consent shall be revocable. In the event such consent is revoked, the temporary sales office shall be removed within 30 days.
 3. The length of time the temporary mobile sales office is proposed for the site.
 4. The description of potable water and sanitary facilities that will be available for the temporary office.
- D. Inspection by city officials. To ensure compliance with all applicable laws and regulations, the temporary sales office shall be held open for reasonable inspection, without court order, by employees or agents of the City of Cape Coral or any other duly authorized governmental agency.
- Section. 5.9.8. Temporary Storage Containers.**
- A. Temporary storage containers are prohibited in any zoning district of the city, except as follows:
1. Residential zoning districts. No more than one temporary storage container per dwelling unit is permitted in residential zoning districts.

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- 4447 2. Non-residential zoning districts. No more than two temporary storage containers are permitted
4448 in non-residential zoning districts. In the case of multi-tenant non-residential properties, each
4449 business or tenant may have a temporary storage container.
4450
- 4451 3. This section is not intended to restrict the storage or location of temporary storage
4452 containers on the premises of a business which is lawfully engaged in the sale, rental, or
4453 distribution of such containers so long as the containers are on the property of such business
4454 as "merchandise" and not for temporary storage of items or goods.
4455
- 4456 4. The provisions of this section shall not apply to prohibit or restrict the location of temporary
4457 storage containers on any property for which a valid City of Cape Coral building permit has
4458 been issued and is in effect provided that the construction on the property has not been
4459 abandoned or allowed to lie idle in violation of Article 5-2 of the City of Cape Coral Code of
4460 Ordinances.
4461
- 4462 B. General Requirements:
4463
- 4464 1. No temporary storage container may be placed in one or more parking spaces if the required
4465 number of parking spaces is reduced below the minimum number of spaces required for the
4466 site.
4467
- 4468 2. No temporary storage container shall block or reduce access to fire lane(s), handicapped
4469 parking area(s), or drainage facilities or structures, including swales and catch basins.
4470
- 4471 3. Temporary storage containers shall not be placed in an easement or in any area designated
4472 as a buffer.
4473
- 4474 4. The maximum size of temporary storage containers shall not exceed ten feet in width, ten
4475 feet in height, or 40 feet in length.
4476
- 4477 5. Non-residential zoning districts. Temporary storage container permits are valid for 30 days.
4478 A maximum of two temporary storage container permits may be issued for a property or, in
4479 the case of multi-use or multi-unit properties, for each business or commercial enterprise
4480 located on the property in any calendar year. Temporary container permits may run
4481 consecutively without any minimum period required to elapse between the issuance of
4482 permits.
4483
- 4484 6. Residential zoning districts. Temporary storage container permits are valid for seven days. A
4485 maximum of two temporary storage container permits may be issued in any calendar year.
4486 Temporary container permits may run consecutively without any minimum period required
4487 to elapse between the issuance of permits. No dwelling unit shall utilize a temporary storage
4488 container for more than 14 days in any 12-month period.
4489

Section 5.9.9. Temporary Habitable Structures

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4491

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- 4492 A. Purpose and intent. The purpose of this ordinance is to provide a means by which residents,
4493 business owners, governmental agencies, and medical facilities are able to live and conduct
4494 business on the same site as their damaged structure using temporary housing and temporary
4495 business structures. When disasters result in significant destruction rendering homes and
4496 businesses uninhabitable, temporary housing and temporary business structures will provide
4497 residents and businesses with the ability to quickly resume normal activities during the restoration
4498 of their permanent structures.
4499
- 4500 B. Definitions. Terms used in this subsection shall have the meanings as defined in Article 11,
4501 Definitions, unless the context clearly indicates or requires a different meaning.
4502
- 4503 C. Declaration of habitable structure emergency. Following a disaster, the city shall evaluate the
4504 effect of the disaster on the public health, safety, and welfare. If the City Council finds that the
4505 disaster has negatively affected residential housing or business structures in the city by a
4506 significant degree, the City Council may, by a majority vote, declare the existence of a habitable
4507 structure emergency. Upon the declaration of a habitable structure emergency by vote of the
4508 City Council, the provisions of this subsection shall become effective. The habitable structure
4509 emergency shall identify the disaster which created the emergency situation, and may be
4510 declared for either a specified period of time or an indefinite period of time. If the emergency is
4511 for an indefinite period of time, the emergency shall continue until City Council, by a majority
4512 vote, terminates the habitable structure emergency.
4513
- 4514 D. Habitable structure emergencies. During a habitable structure emergency, the city will allow, in
4515 accordance with the provisions set forth herein, the use of temporary structures. Temporary
4516 residential structures and temporary business structures must be approved by the city with a
4517 temporary placement permit. Application and issuance criteria for a temporary placement permit
4518 are as set forth below.
4519
- 4520 E. Temporary business structures may be used for business owners to provide a means for a business
4521 to remain open during the time the permanent business structure is being repaired or replaced.
4522 Temporary business structures may be used to provide temporary facilities for governmental uses,
4523 critical public facilities, charitable, religious, or educational institutions that have been rendered
4524 uninhabitable. The regulations for temporary business structures shall apply to temporary business
4525 structures used for governmental uses, critical public facilities, charitable, religious, or educational
4526 institutions. For these institutions, the habitable structure regulations shall apply; however, the
4527 Building Official may waive any regulations when strict enforcement may preclude them from
4528 carrying out their normal or emergency functions. Critical facilities shall be limited to the following:
4529
- 4530 1. Federal, state, regional, or local government facilities;
 - 4531
 - 4532 2. State, county, or local emergency operations centers;
 - 4533
 - 4534 3. Police, fire, and emergency medical facilities;
 - 4535
 - 4536 4. Radio and television stations;
 - 4537

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- 4538 5. Public, semi-public, and privately-owned utilities;
4539
4540 6. Hospitals, emergency medical care facilities, infusion centers, dialysis centers, physician's
4541 offices; and
4542
4543 7. Nursing homes and assisted living facilities.
4544
- 4545 F. Temporary placement permit. Following the declaration of a habitable structure emergency, a
4546 property owner may apply for a temporary placement permit (TPP) to locate onsite while the
4547 permanent structure is being repaired or rebuilt. A temporary placement permit (TPP) may be
4548 considered by the Building Official when the following criteria are met:
4549
- 4550 1. The existing permanent habitable structure has been determined to be uninhabitable as the
4551 result of a disaster by inspection of the city Building Official;
4552
- 4553 2. The property owner or occupant of a damaged structure desires to locate in a temporary
4554 residential or business structure; and
4555
- 4556 3. A habitable structure emergency must be in effect at the time of application.
4557
- 4558 G. Applications for temporary placement permits.
4559
- 4560 1. Application forms and required fees.
4561
- 4562 2. The following permits are required prior to application for a TPP:
4563
- 4564 a. City permits for hook-up to electric, potable water, and wastewater utilities; and
4565
- 4566 b. A State Department of Health or State Department of Environmental Protection permit
4567 authorizing the connection of the temporary residence to an onsite or small domestic
4568 wastewater treatment system.
4569
- 4570 H. Time limits. Temporary structures may be located for a period not to exceed 30 days. At the end
4571 of that 30-day period, if no application has been filed, the temporary habitable structure must
4572 be immediately removed from the site. If an application has been filed within the 30-day time
4573 period, the temporary habitable structure may remain in place until the TPP is either approved
4574 or denied. Once approved, the temporary habitable structure may remain in accordance with the
4575 TPP. If denied, the temporary structure shall be removed within five days from the date of denial.
4576
- 4577 I. Terms of use of temporary habitable structures. Applicants for a temporary habitable structure
4578 shall be subject to the following:
4579
- 4580 1. Except as otherwise provided herein, temporary structures shall not be occupied until such
4581 time as a valid TPP has been issued and is in effect for the site.
4582

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- 4583 2. Connection to sanitary sewer and potable water, or onsite water and wastewater facilities, and
4584 an external electrical system are required within 20 days of issuance of the TPP. Inspections for
4585 such connections shall be called into the city within two days of completion of each connection.
4586 Electrical and plumbing connections must be done by electricians or plumbers licensed to do
4587 business in the City of Cape Coral. If there is no electricity to the site due to a power outage, a
4588 generator may be used. Upon restoration of electricity to the property, connection to the local
4589 power grid must be made within 24 hours of power restoration.
4590
- 4591 3. An application for a building permit is required within three months from the date of issuance
4592 of the TPP for temporary residential structures or within six months for temporary business
4593 structures. Failure to apply for a building permit within the required time shall deem the TPP
4594 revoked pursuant.
4595
- 4596 4. If a building permit application has not been submitted within the required time-frames, an
4597 applicant may petition City Council for relief from the time restrictions of this subsection.
4598 City Council shall determine whether the failure to apply for a building permit is due to good
4599 cause shown by the applicant. If City Council denies the request for relief, the temporary
4600 structure shall be removed from the site within ten days from the date of denial, or at the
4601 end of the initial three-month period for temporary residential structures, or at the end of
4602 the initial six-month period for temporary business structures, whichever is later.
4603
- 4604 5. Temporary habitable structures with a TPP may be used until the earlier of: 1) completion of
4605 the rehabilitation or reconstruction of the damaged structure; or 2) until such time as the
4606 owner or occupants of the damaged structure are established in a permanent structure at
4607 another location.
4608
- 4609 6. Occupants must comply with all mandatory hurricane evacuation requirements.
4610
- 4611 J. Temporary structures. Temporary habitable structures must comply with the following:
4612
- 4613 1. Temporary residential structures may consist of a recreational vehicle or a travel trailer.
4614 Temporary business structures may consist of recreational vehicles, travel trailers, or mobile
4615 offices. At the discretion of the Building Official, additional types of temporary business
4616 structures may be allowed, consistent with applicable federal, state, and local regulations and
4617 the provisions of this ordinance.
4618
- 4619 2. Must meet all applicable National Fire Protection Association and Life Safety codes and
4620 regulations as well as all applicable state and local requirements for tie-downs.
4621
- 4622 3. Shall contain plumbing (both water and wastewater) and electrical connections and shall be
4623 capable of being hooked up or attached to external plumbing and electrical systems. Temporary
4624 residential structures shall contain a kitchen capable of being hooked up or attached to external
4625 plumbing and electrical systems. Requirements for temporary business structures shall be
4626 based upon the proposed use.
4627
- 4628 4. Shall meet the Florida Accessibility Code for building construction amenities.

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- 4629
- 4630 L. Placement of temporary habitable structures. The following site considerations are required for
- 4631 placement of a temporary habitable structure:
- 4632
- 4633 1. Temporary residential structures may be anywhere on the site of the existing permanent
- 4634 residence; however, no a temporary residence is allowed within road rights-of-way or
- 4635 drainage or utility easements. The city may waive any development regulations regarding lot
- 4636 areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
- 4637 temporary residential structures.
- 4638
- 4639 2. Where more than one existing permanent residence has been rendered uninhabitable, the
- 4640 Building Official may allow up to the number of damaged permanent residences or residential
- 4641 units on the site. Such determination shall be based upon consideration of life, health, and
- 4642 safety requirements.
- 4643
- 4644 3. For temporary business structures:
- 4645
- 4646 a. Temporary business structures may be anywhere on the parcel of the existing business;
- 4647 however, temporary business structures are not allowed within road rights-of-way or
- 4648 drainage or utility easements. The city may waive any development regulations regarding
- 4649 lot areas, dimensions, setbacks, lot coverage, height, and open space to accommodate
- 4650 temporary business structures.
- 4651
- 4652 b. Temporary business structures may be on property adjacent to the permanent business
- 4653 structure if a notarized, written consent from the property owner is submitted at the
- 4654 time of application for a TPP.
- 4655
- 4656 c. The establishment of an emergency response team center on a parcel containing a
- 4657 business does not necessarily preclude the placement of one or more temporary business
- 4658 structures on the same parcel.
- 4659
- 4660 d. Parking for a temporary business structure shall be provided based upon the square footage
- 4661 of the temporary business structure, including handicapped parking. However, a minimum
- 4662 of two handicapped parking spaces must be provided.
- 4663
- 4664 e. The entrance to the site shall have a city approved driveway or construction entrance.
- 4665 Any impervious area added for the temporary business structure shall be subject to
- 4666 review and approval by the city.
- 4667
- 4668 f. Additional conditions or restrictions may be placed on a temporary business structure as
- 4669 a condition of issuance in areas including, but not limited to, the following:
- 4670 i. Hours of operation;
- 4671 ii. Traffic control and access;
- 4672 iii. Lighting; and
- 4673 iv. Noise control.
- 4674

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- 4675 M. Issuance and revocation. The Building Official may revoke a TPP upon finding that any of the
4676 following has occurred:
4677
- 4678 1. Failure to connect to water, sewer, and electrical within 20 days of the receipt of the TPP.
4679
 - 4680 2. If an application for a building permit has not been submitted within required time from the
4681 date of receipt of the TPP, or relocation has not occurred before the time of expiration of the
4682 TPP, or, if a building permit later expires.
4683
 - 4684 3. If, upon inspection by the Building Official, a temporary residence is not in compliance with
4685 the requirements of this subsection.
4686
 - 4687 4. Failure to evacuate temporary residence during mandatory evacuation orders.
4688
 - 4689 5. Upon revocation of a TPP, the temporary residence must be vacated and the temporary
4690 residence removed within five days of revocation. Failure to vacate or remove the temporary
4691 residence constitutes a violation subject to the penalty imposed herein.
4692
- 4693 N. Extensions and expiration of temporary placement permits.
4694
- 4695 1. Residential TPPs shall be valid for six months from the date of issuance. The Building Official
4696 may, for good cause shown, issue up to two extensions for six months each, for an 18-month
4697 maximum period of validity from the date of issuance.
4698
 - 4699 2. Non-residential TPPs shall be valid for nine months from the date of issuance. The Building
4700 Official may, for good cause shown, issue up to two extensions for six months each, for a 21-
4701 month maximum period of validity from the date of issuance.
4702
 - 4703 3. All applications for extensions of time must be submitted prior to the date of expiration of
4704 the current TPP.
4705
 - 4706 4. Any further extensions after the second extension and maximum time period may not be
4707 issued by the Building Official: however, applicants may submit a request to City Council for
4708 their approval of any further extension of time for the TPP.
4709
 - 4710 5. Factors to be considered by the Building Official or the City Council in determining whether
4711 to grant an extension of time of the TPP shall include:
4712
 - 4713 a. The ability of the property owner or occupant of the temporary residential or business
4714 structure to secure permanent quarters; and
4715
 - 4716 b. Any hardship that, in the opinion of the Building Official or City Council, as applicable,
4717 would warrant a further extension of the TPP.
4718
 - 4719 6. Upon the, expiration of a TPP, a temporary residence or business structure must be removed
4720 or placed in proper storage on the property within 30 days. Failure to remove or properly

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4721 store the temporary residence or business structure constitutes a violation subject to the
4722 penalty imposed herein.
4723

4724 7. Termination of temporary habitable structure. Once an uninhabitable structure has been
4725 issued a certificate of occupancy or certificate of use for a new or rehabilitated residence,
4726 business, or institutional facility, the TPP shall be deemed to be terminated. A temporary
4727 residential or business structure must then be removed or placed in proper storage on the
4728 property within 30 days. Failure to remove or properly store the temporary residence or
4729 business structure constitutes a violation subject to the penalty imposed herein.
4730

4731 8. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each
4732 day of violation shall constitute a separate offense and shall be punishable as such.
4733

4734 **Section. 5.9.10. Temporary Off-Site Vehicle Sales.**
4735

4736 The display of vehicles, including, but not limited to, automobiles, trucks, vans, recreational vehicles
4737 such as camping trailers, motorcycles and recreational terrain vehicles, and water craft such as boats,
4738 jet skis and wave runners, displayed for the purpose of sale, lease, trade or rental, shall be permitted
4739 at an off-site location (that is, on an improved property that is not the approved location of the
4740 business).
4741

4742 A. Temporary Off-Site Vehicle Sales shall adhere to the following requirements:
4743

4744 1. The commercial establishment seeking the temporary sale permit must have the written
4745 permission of the owner, or an authorized representative of the owner, of the property on
4746 which the temporary sale will be conducted. The written permission shall state that, as a
4747 condition of the city's issuance of a permit for the temporary sale, the property owner agrees
4748 to be responsible for any damage to the city's right-of-way or utility systems as a result of the
4749 sale and that any such damage shall be repaired at the expense of the property owner. In
4750 addition, such written permission shall also state that, in consideration of the city's issuance of
4751 the permit, the property owner shall hold the city harmless from any claim, loss, damage, or
4752 cause of action that arises because of the temporary sale or the issuance of the permit
4753 therefore, including any loss or damage to the owner's property or improvements thereon. Such
4754 written permission shall have a notarized signature and shall be filed with the Department of
4755 Community Development.
4756

4757 2. The duration of any such temporary sale shall not exceed five consecutive days.
4758

4759 3. The property on which the off-site sale is conducted shall not have been used for temporary
4760 off-site sales for more than six occasions in the preceding one-year period.
4761

4762 4. Temporary sales shall only be conducted between the hours of 8:00 a.m. to 9:00 p.m.
4763

4764 5. The display of vehicles and the operation of the temporary sale shall not interfere with the
4765 normal parking and traffic circulation of the business(es) located on the site.
4766

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- 4767 6. The temporary off-site vehicle sales permit shall, at all times during the permitted time period
4768 authorized for the sales, be displayed on the site upon which such sales are being conducted.
4769
- 4770 7. No temporary sale shall begin until a permit therefore has been approved and issued by the city
4771 and all fees are paid in accordance with the city's adopted fee schedule. Prior to the issuance
4772 of a temporary sale permit, a complete application must be submitted to the Department of
4773 Community Development, along with a conceptual site plan. In addition to the proposed site
4774 layout and setbacks, the conceptual site plan shall address vehicular traffic and parking
4775 measures, fire protection measures, sanitary facilities and lighting and areas of electric needs.
4776 The temporary sale permit shall include, as applicable:
4777
- 4778 a. The right to erect one sign or banner, a maximum of 32 square feet in size, or two such signs
4779 or banners for properties having frontage on more than one street. In lieu of such sign(s) or
4780 banner(s), the applicant may display an inflatable object in accordance with Article 7 of this
4781 code. The applicant shall include with the application sign details such as the placement of
4782 the sign and anchoring or tie-down measures. The placement and anchoring of the means
4783 of advertisement shall not interfere with the visual safety of motoring traffic.
4784
- 4785 b. Permission to place one or more tents (up to a total of 425 square feet in size) on the site,
4786 provided that the applicant provides proof of fire-retardancy and adequate tie-down
4787 measures with the application. Tents larger than 425 square feet shall require a separate
4788 tent permit. The location and setback of the tent(s) shall be shown on the conceptual site
4789 plan. If a sales trailer is being used in lieu of a sales tent, the sales trailer shall be handicap-
4790 equipped and accessible in accordance with the Florida Accessibility Code for Building
4791 Construction and ADA requirements and shall be anchored in accordance with all applicable
4792 building code standards.
4793
- 4794 c. Permission to utilize an electric generator on site. A temporary electric pole shall not,
4795 however, be authorized by the temporary sale permit. A temporary electric pole shall
4796 require a separate permit to be applied for and issued to a licensed electrical contractor.
4797
- 4798 d. The applicant shall request inspection by the city of the items authorized under this section
4799 and shall receive approval thereof prior to beginning the off-site sale activity. Inspection of
4800 items authorized pursuant to subparagraphs a. through c. shall be made by the Department
4801 of Community Development. Items authorized pursuant to subparagraphs b. and c. shall
4802 also be made by the Fire Department.
4803
- 4804 B. Any other outdoor display on improved property must be approved by City Council and is subject
4805 to review annually at the discretion of Council, except that the City Manager may approve requests
4806 for temporary displays of no longer than five days duration no more than two times per calendar
4807 year for any location or applicant when he or she is satisfied that the request would be in keeping
4808 with the harmony of the zoning district and that it would violate none of the ordinances of the City
4809 of Cape Coral.
4810

Section. 5.9.11. Tents for other than Special Events.

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- 4813 A. A tent may be permitted to be erected for a for a maximum of five days for an event.
4814
4815 B. A tent permit is required, and the application must include the following information.
4816
4817 1. A site plan showing tent location(s) with the dimensions from the property lines, existing
4818 structures, location of equipment, all streets, entrances, exits, parking areas, and restroom
4819 facilities;
4820
4821 2. Notarized agent authorization from the property owner;
4822
4823 3. Proof of current liability insurance; and
4824
4825 4. If required, proof of sanitary facilities (port-o-let) or a letter from a neighboring business stating
4826 that restroom facilities are available for their use and the hours of operation are compatible.
4827
4828 C. Review Criteria. All tent permits will be reviewed for zoning compliance, compliance with applicable
4829 building and fire code requirements, and a City Business Tax Receipt.
4830

4831 **Section. 5.9.12. Other events not named.**
4832

4833 A person desiring to hold any temporary event, not listed herein, shall contact the Community
4834 Development department regarding the necessity of a permit and any additional permissions that may be
4835 required.
4836

4837 **Section 5.9.13 Temporary seawall staging areas.**
4838

- 4839 A. Temporary seawall construction staging in residential zoning districts. Temporary off-site staging
4840 areas for seawall construction are allowed in residential zoning districts subject to the following
4841 requirements:
4842
4843 1. Requirements for temporary seawall construction staging areas:
4844
4845 a. Time limits. Temporary seawall staging areas may be permitted for up two years;
4846
4847 b. Allowable storage of materials. Only materials used in the repair or reconstruction of seawalls
4848 may be stored on the permitted staging site. Materials shall not be located in the side yard
4849 setbacks of the staging site. All rubble or debris shall be stored in dumpsters;
4850
4851 c. No land clearing, removal of vegetation, or fill shall occur to accommodate the staging area;
4852
4853 d. All activities at the staging area shall occur between 7:00 a.m. to 7:00 p.m. Monday through
4854 Saturday only. No work shall occur on New Years Day, July 4th, Thanksgiving, or Christmas
4855 Day;
4856
4857 e. No structures other than a permitted construction trailer may be placed on the property;
4858

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- 4859 f. No outdoor lighting is permitted for any staging area in a residential zoning district;
4860
4861 g. The permittee shall be responsible for restoration of the staging area upon completion of
4862 the work and restoration of any damage to any City facilities, such as roadside swales, pipes,
4863 catch basins, pavement, signs, striping, etc.;
- 4864
4865 h. Barges may not be docked or moored in any manner that obstructs navigation or use of
4866 docks or boats; and
4867
4868 i. Prohibited on-site activities. The following activities are prohibited:
4869 i. Jackhammering or other methods of breaking up concrete or other demolition debris
4870 from damaged seawalls;
4871 ii. Grinding or saw cutting of concrete or rebar debris; and
4872 iii. Any dust creating operations.
4873
- 4874 2. Permit application and submittal requirements. A permit shall be required for a temporary
4875 seawall staging area. The applicant shall submit the following information to the Department of
4876 Community Development:
4877
4878 a. A scaled drawing of the site showing the location of all material to be stored or staged for
4879 construction;
4880
4881 b. The name and notarized written consent of the property owner(s). Such written
4882 authorization may be revoked at any time;
4883
4884 c. The length of time the site is to be used for staging, including post-staging clean up; and
4885
4886 d. The name, address, and contact information for the person(s) responsible for the staging
4887 area activities.
4888
- 4889 3. Notice to Neighbors. Mailed notice to surrounding property owners is required for any
4890 individual seawall staging area expected to be used for a period exceeding nine months. The
4891 notice shall be mailed to all property owners of record in a 500' radius from the site. The
4892 applicant shall be responsible for the cost of notice.
4893
- 4894 4. Extensions and expiration of seawall staging areas. Seawall staging area permits shall expire
4895 two-years from issuance unless an extension is granted. Permitted staging areas may apply for
4896 a (1) one-year extension.
4897
- 4898 5. Inspection by City officials. In order to ensure compliance with all applicable laws and
4899 regulations, temporary seawall construction staging areas shall be held open for reasonable
4900 inspection, without court order, by employees or agents of the City of Cape Coral or any other
4901 duly authorized governmental agency.
4902
- 4903 6. Penalty. Any violation of the provisions of this subsection shall be subject to a \$500 fine. Each
4904 day of violation shall constitute a separate offense and fines.

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Chapter 10. - SPECIFIC USE REGULATIONS (P* Uses in Table 4.4)

Section. 5.10.1. Purpose and applicability.

- A. The uses listed in this chapter are deemed to be appropriate uses when developed and operated in accordance with the requirements listed within each Section. Approval may be granted administratively as long as the requirements are met and maintained. The applicant shall provide all documents necessary to prove that the requirements are met prior to receiving approval to operate and on an ongoing basis as required for the specific use.
- B. The landscape standards of this chapter are in addition to any landscape standards established in Chapter 5, Landscaping, of this Article.

Section. 5.10.2. Craft breweries, distilleries, and wineries.

- A. Requirements. All craft breweries, distilleries, or wineries which produces alcoholic beverages for consumption on premise or provide retail sales, shall comply with the following requirements:
 - 1. The business owner shall submit semi-annual production records to the Department of Community Development for all alcohol and nonalcohol products produced within the establishment.
 - 2. All mechanical equipment used in the alcohol production process shall be behind a wall or fence that separates the equipment from any property line abutting a public street other than an alley when viewed along a line perpendicular or radial to such property line. The wall or fence shall be opaque and have a minimum height of six feet.
 - 3. Loading and unloading areas shall be provided to the side or rear of the building. Loading and unloading areas shall not be along the front of the building.
 - 4. Spent or used grain or similar wastes may be placed outdoors for a period not to exceed 24 hours. The temporary stockpiling for spent or used grain shall be:
 - a. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the stockpiled spent grains on the property and the distance of the stockpiled grains from the property lines and the building containing the artisan brewery, distillery, or winery;
 - b. Located only along the side or rear of the building; and
 - c. Fully enclosed in containers that are behind an opaque wall or fence. The wall or fence shall have a minimum height of six feet. Cargo containers and tractor trailers shall not be utilized for the temporary stockpiling of spent or used grains even if the cargo containers and tractor trailers are behind an opaque wall or fence.
- B. Waiver of requirements.

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1. Permitted and Conditional Uses.

To encourage the repurposing of existing buildings in the NC or SC districts, any craft brewery, distillery, or winery that is approved as a permitted use, the provisions of this Section may be waived in part or in their entirety by the Director for the purpose of spurring economic development based on the criteria contained in Subsection 2.

2. Criteria. In determining whether to waive one or more of these standards the Community Development Director shall utilize the following criteria:

- a. The visibility of the mechanical equipment and loading areas from any public street(s).
- b. The proximity and visibility of the mechanical equipment and loading areas from existing residential development.
- c. The existence of site conditions that are not the result of the applicant and which are such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship.
- d. The effect other regulations would have on the proposed development or other locational factors that may make compliance with this Section impossible or impracticable.
- e. The annual production of alcohol anticipated to be produced by the establishment.
- f. The size and extent of the equipment requiring screening.

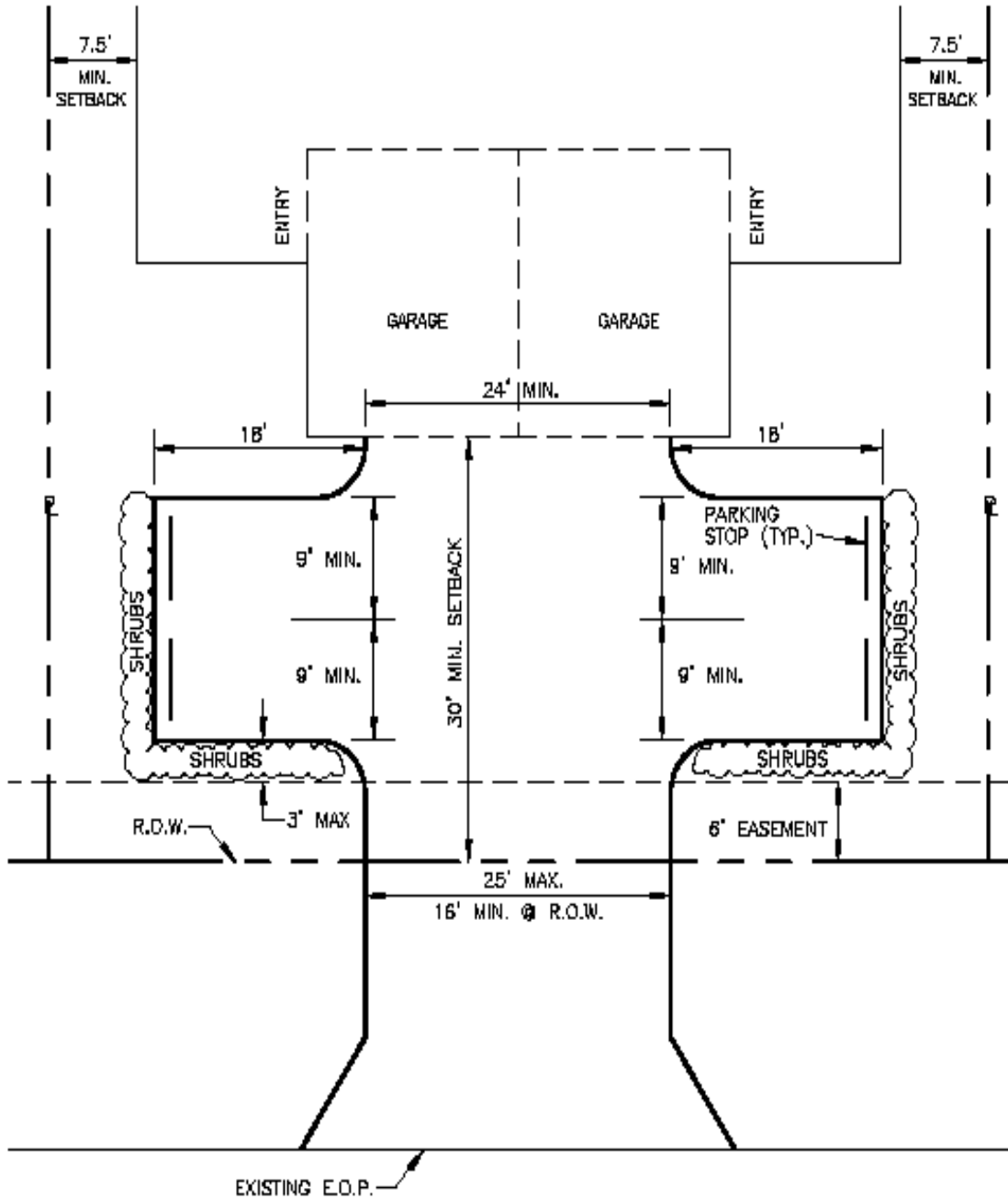
Section. 5.10.3. Duplexes and Single-family Semi-detached dwellings.

Duplexes and Single-family Semi-detached dwellings must meet the following conditions:

- A. All duplexes or single-family semi-detached dwellings on parcels less than 20,000 square feet in area must be served by public water and sewer.
- B. All duplex and single-family semi-detached dwelling parking areas and driveways in the RML zoning district shall conform to one of the following Duplex Driveway and Parking Design Standards:

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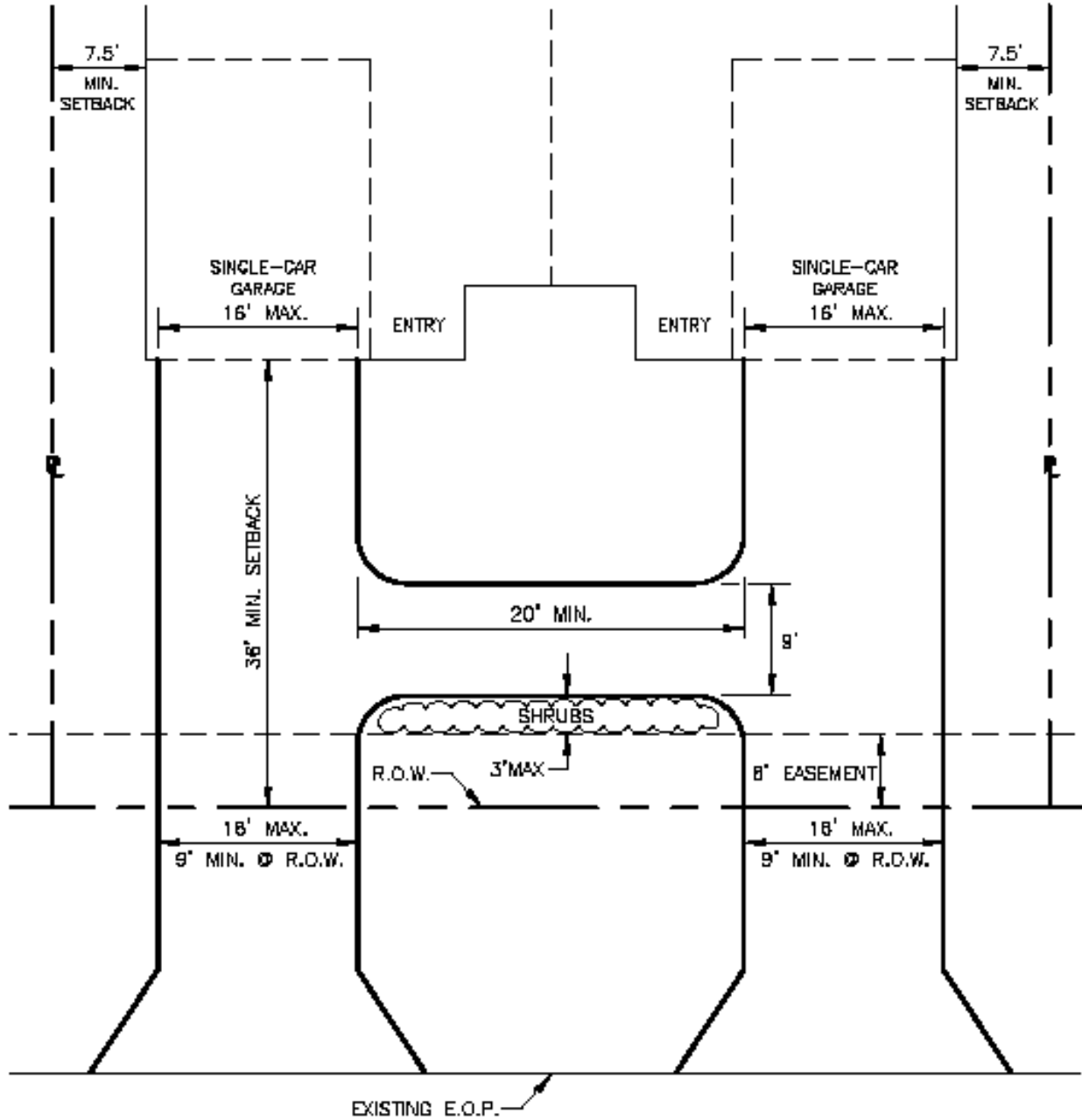
DUPLEX DRIVEWAY & PARKING STANDARD



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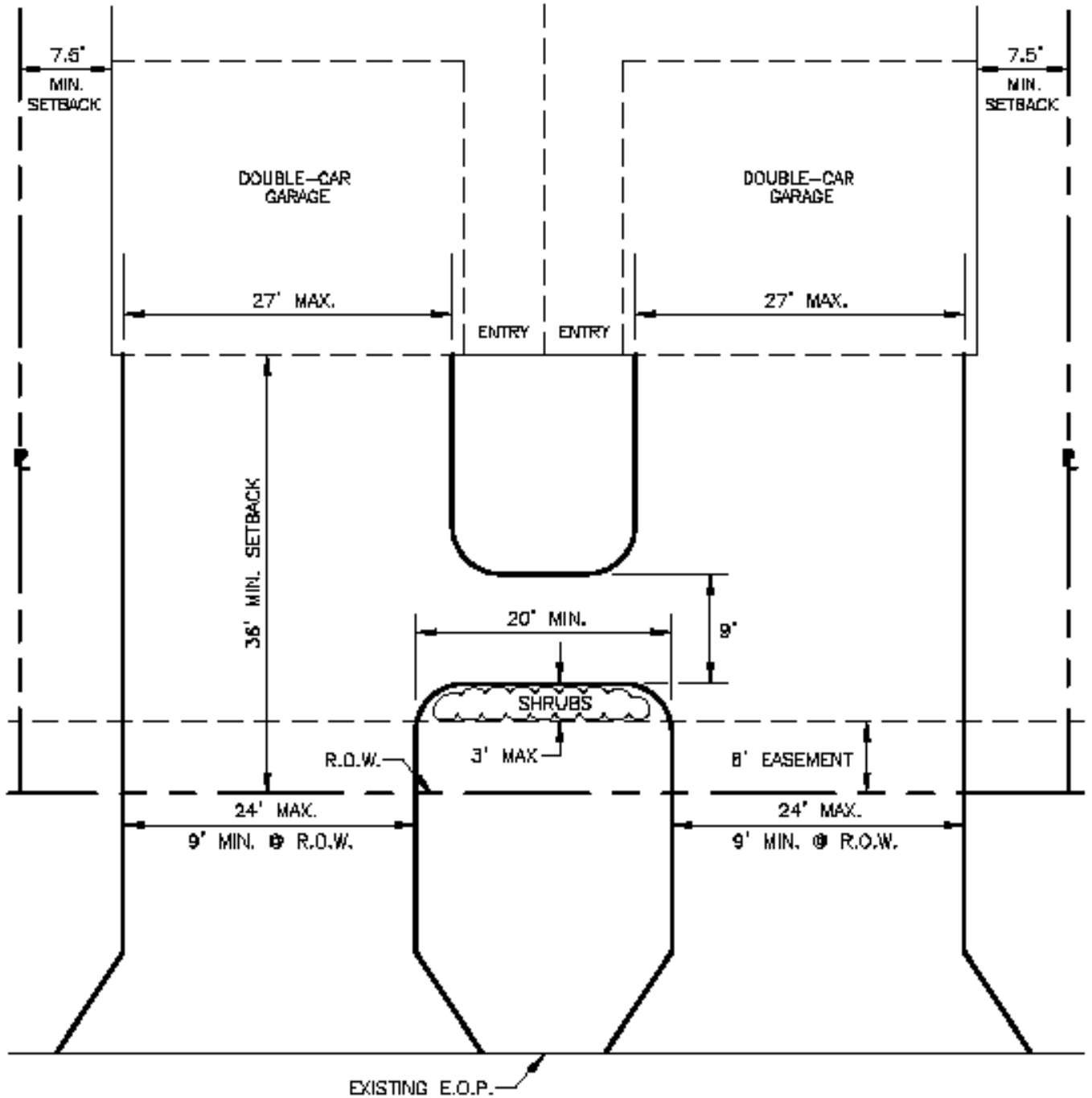
DUPLEX DRIVEWAY & PARKING STANDARD
(SINGLE-CAR GARAGE)



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DUPLEX DRIVEWAY & PARKING STANDARD
(DOUBLE-CAR GARAGE)



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- 4995 C. Duplex structures in the RML zoning district may not be sold, subdivided, or conveyed by deed into
4996 individually owned parcels or dwelling units.
4997
- 4998 D. Landscaping shall be provided at a rate of two trees and six shrubs per each 2,500 square feet of the
4999 lot. A portion of the required landscaping shall be placed in the locations shown on the Duplex
5000 Driveway and Parking Design Standards.
5001
- 5002 E. All duplexes and single-family semi-detached structures shall incorporate three of the following
5003 design elements into each dwelling unit:
5004
- 5005 1. Dwelling entry as the primary façade feature;
 - 5006
 - 5007 2. Garage door recessed from the front façade, a preferred minimum of four feet;
 - 5008
 - 5009 3. Horizontal eaves broken up with gables, projection, and articulation;
 - 5010
 - 5011 4. Projecting eaves and gables, related to building massing;
 - 5012
 - 5013 5. Building massing and roof form which articulate individual unit definition;
 - 5014
 - 5015 6. Offset of four feet where two garage doors are adjacent to each other; or
 - 5016
 - 5017 7. Projections and decorative elements, such as trellises, for visual interest.
5018
- 5019 F. Duplexes on corner lots that have at least one dwelling unit entry on the side of a duplex shall not be
5020 required to provide a turn-around or a bump-out driveway on a 2-lane street.
5021
- 5022 G. As an alternative to the design requirements of subsection B, above, a duplex or single-family semi-
5023 detached dwelling unit in the RML zoning district may provide a two-car garage for each dwelling unit.
5024

Section. 5.10.4. Home occupations.

- 5025
5026
- 5027 Home occupations shall only be allowed as an accessory use to a residential use, provided the following
5028 conditions are met:
5029
- 5030 A. All home occupations operated in or from a residence shall comply with federal, state, and county
5031 rules and regulations, city license regulations specified herein, and any other applicable ordinances of
5032 the City of Cape Coral.
5033
 - 5034 B. No person other than members of the immediate family may be employed for a salary, commission
5035 or upon any other remunerative basis.
5036
 - 5037 C. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
5038 such as storage of paints or other flammable materials in excess of normal family use.
5039

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- 5040 D. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
5041 of materials be visible from the outside of the structure.
5042
- 5043 E. No home occupation shall occupy an area greater than 10% of the living area of the structure.
5044
- 5045 F. The home occupation shall not generate pedestrian or vehicular traffic beyond that which is
5046 reasonable to the district in which it is located and it shall not involve the use of commercial vehicles
5047 for delivery of materials to or from the residence.
5048
- 5049 G. The appearance of the structure shall in no way be altered for the conduct of the home occupation
5050 within the structure nor shall the conduct be such that the structure may be recognized as serving a
5051 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
5052 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
5053 in the electric voltage line off the premises.
5054
- 5055 H. No business operated under a fictitious name shall be issued a license to operate under this Section.
5056

5057 **Section. 5.10.5. RV resorts**
5058

- 5059 A. General provisions. Within a recreational vehicle park, recreational vehicles that meet the
5060 requirements herein, whether self-propelled or pulled by a towing vehicle, and camping cabins, as
5061 regulated herein, may be used for temporary lodging. Facilities to accommodate administration,
5062 maintenance, recreation, dining, and personal care may be included within a recreational vehicle
5063 park. Recreational vehicle parks shall be deemed to be nonresidential uses, and any transient guest
5064 site occupied by a registered guest of a recreational vehicle park shall not be deemed to be a
5065 "residence", "dwelling." or "residential premises" within the meaning of other provisions of the City
5066 of Cape Coral regulations. The management of all transient guest sites and camping cabins must be
5067 performed by a single on-site management company or entity, regardless of whether the transient
5068 guest sites, camping cabins, or both are owned by more than one person or entity.
5069
- 5070 B. Lodging unit characteristics. Lodging shall only be allowed within recreational vehicles and camping
5071 cabins that have all of the following characteristics:
5072
- 5073 1. Recreational vehicles:
5074
- 5075 a. Shall be no more than eight and one-half feet in body width, exclusive of safety devices
5076 when slide outs are retracted;
5077
- 5078 b. Shall have water and wastewater systems designed for continuous connection to water and
5079 wastewater service facilities while parked at a transient guest site; and
5080
- 5081 c. Shall not be constructed with collapsible partial sidewalls that fold for towing in such a way
5082 as to be unusable for occupancy.
5083
- 5084 2. Camping cabins shall comply with all of the following criteria:
5085

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- 5086 a. Cabins shall be constructed in compliance with the Florida Building Code;
5087
5088 b. The square footage of interior space shall be a minimum of 200 square feet and a maximum
5089 of 600 square feet;
5090
5091 c. Cabins shall be equipped with electric service and a full bathroom;
5092
5093 d. Cabins are exempt from non-residential design standards, however when there is more than
5094 one cabin in a development, the color scheme, exterior materials on walls, exterior roof
5095 finishing, and roof type must be consistent among all cabins;
5096
5097 e. Corrugated metal is prohibited for exterior walls; and
5098
5099 f. Roofs shall consist of pitched roofs, including but not limited to, gable, hip, or mansard
5100 roofs; however, mansard roofs with flat decks and shed style roofs are prohibited.
5101
5102 C. Location. Recreational vehicle parks are permitted only on property with a Mixed-Use future land
5103 use designation. No new recreational vehicle park shall be developed and no existing recreational
5104 vehicle park shall be expanded within a coastal high hazard area, as depicted in the Comprehensive
5105 Plan.
5106
5107 D. Minimum interior road standards. All interior roads shall be privately owned and maintained, and
5108 shall be constructed in accordance with the structural requirements within the City of Cape Coral
5109 Engineering Design standards.
5110
5111 E. Overall recreational vehicle park area and density. The following requirements shall apply to the
5112 recreational vehicle park net area:
5113
5114 1. Minimum recreational vehicle park net area: 25 acres;
5115
5116 2. Maximum net density: 10 transient guest sites per acre, based on net area; and
5117
5118 3. Minimum net density: For recreational vehicle parks with a net area of less than 50 acres, the
5119 minimum quantity of transient guest sites shall be 50; for recreational vehicle parks with a net
5120 area of 50 or more acres, there shall be no less than one transient guest site per acre, rounded
5121 to the nearest whole number.
5122
5123 For purposes of this section, the net area shall mean the area of the recreational vehicle park minus
5124 extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If an extant
5125 wetland or water area is expanded or contracted, the net area shall be based on the resultant
5126 wetland and water areas.
5127
5128 F. Transient guest sites. Transient guest sites can be designed with either: 1) a pad for parking one
5129 recreational vehicle; 2) one camping cabin; or 3) a pad for parking one recreational vehicle and one
5130 camping cabin. The following standards shall apply to transient guest sites within a recreational
5131 vehicle park:

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5177
1. Each transient guest site shall be clearly defined by a permanent marker, constructed of a durable material such as masonry or metal, placed at all corners;
 2. No transient guest site shall include any space used for common areas, such as roadways, sidewalks, or community recreation areas;
 3. No more than 25% of the total transient guest sites shall be developed with a camping cabin. Transient guest sites with a pad for parking one recreational vehicle and one camping cabin shall not be factored into the 25% limitation to the number of camping cabins;
 4. All transient guest sites shall be designed to provide runoff of surface water to a drainage system or basin external to the transient guest site;
 5. Impervious area shall not exceed 65% of any transient guest site. Pervious areas of each transient guest site shall be covered in turf, groundcover, shrubs, trees, or any combination thereof;
 6. Each transient guest site shall have direct vehicular access to an interior road. No transient guest site shall have direct vehicular access to a public street;
 7. No transient guest site shall be located closer than 40 feet to any public street right-of-way;
 8. Separation: Each transient guest site shall be designed to ensure minimum separation between units. When measuring the distance from a recreational vehicle pad, paved areas that project more than four and one-half feet from the centerline of the pad, e.g., driveway apron flares, walkways, and patio areas, may be excluded. Distances of separation shall be as follows:
 - a. Between camping cabins: 15 feet;
 - b. Between a camping cabin and a recreational vehicle pad on the same transient guest site: 15 feet;
 - c. Between a camping cabin and a recreational vehicle pad on a separate transient guest site: 20 feet;
 - d. Between a transient guest site boundary line and a camping cabin: 7½ feet; and
 - e. Between transient guest site boundary line and a recreational vehicle pad: 7½ feet.
 9. Each transient guest site designed with a pad for parking a recreational vehicle shall have the following standards:
 - a. Maximum number of recreational vehicles: 1;
 - b. Minimum site area: 2,000 square feet;

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- 5178
5179 c. Maximum site area: 1 acre;
5180
5181 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
5182 boundary lines; and
5183
5184 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5185 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5186 asphalt as a paving material for vehicle pads and driveways is prohibited.
5187
- 5188 10. Each transient guest site developed with a camping cabin shall have the following standards:
5189
5190 a. Maximum number of camping cabins: 1;
5191
5192 b. Minimum site: 2,500 square feet; and
5193
5194 c. Parking space: Each site developed with a camping cabin shall include a minimum of one
5195 automobile vehicle parking space, paved with concrete or pavers, or as otherwise approved
5196 by the city, with minimum dimensions of 9 feet by 18 feet. This limitation shall not apply to
5197 transient guest sites with a pad for parking one recreational vehicle and one camping cabin.
5198 The use of asphalt as a paving material for vehicle parking spaces is prohibited.
5199
- 5200 11. Each transient guest site developed with both a pad for parking a recreational vehicle and with
5201 a camping cabin shall have the following standards:
5202
5203 a. Maximum number of units: one camping cabin and a pad for parking no more than one
5204 recreational vehicle;
5205
5206 b. Minimum site area: 5,000 square feet;
5207
5208 c. Maximum site area: 1 acre;
5209
5210 d. Minimum site width: 35 feet, measured at right angles to and between the designated side
5211 boundary lines; and
5212
5213 e. Pad and driveway materials: Each pad for a recreational vehicle and associated driveway
5214 shall be paved with concrete or pavers, or as otherwise approved by the city. The use of
5215 asphalt as a paving material for vehicle pads and driveways is prohibited.
5216
- 5217 12. Each transient guest site may also include accessory structures for outdoor living, including, but
5218 not limited to, an outdoor kitchen, fire pit, spa, hot tub, gazebo, shade shelter, marine
5219 improvements, and other hardscape features.
5220
- 5221 G. Utilities. Each transient guest site shall have direct connections to central potable water, central
5222 wastewater, and electric services. All water and wastewater utility infrastructure within a
5223 recreational vehicle park shall be privately owned and maintained, except as otherwise approved

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5224 by the City Council. Within the recreational vehicle park, all telephone, electric, television cable
5225 service, or other wires of all kinds must be underground, provided, however, that appurtenances
5226 to these systems which require aboveground installation may be exempted from these
5227 requirements and primary facilities providing service to the site of the development or necessary
5228 to service areas outside the planned development project may be exempted from this requirement.
5229

5230 H. Lighting. All roads, walkways and parking areas shall be provided with lighting adequate to ensure
5231 the safety of vehicular and pedestrian traffic. All lighting shall be designed so that it is not directed
5232 toward neighboring properties.
5233

5234 I. Parking. In addition to parking spaces on transient guest sites, a minimum of one parking space per
5235 ten recreational vehicle sites within the park shall be provided for visitors.
5236

5237 J. Designated storage. Except for boats at a rental facility or moored at a marine improvement, boats
5238 and utility trailers (tow dollies, "toy haulers", etc.) shall be stored in a designated storage area that
5239 shall occupy no more than 5% of the gross area of the park. Such storage area shall be for the
5240 exclusive use of registered guests. only during the period the guest is a registered occupant of a
5241 transient guest site. Designated storage areas shall be enclosed by an opaque visual barrier that is
5242 a minimum of eight feet in height. The following materials, either singly or in any combination, are
5243 the only materials that may be used to form the opaque visual barrier:
5244

- 5245 1. Wood, plastic, vinyl, or metal fencing;
 - 5246 2. Concrete block and stucco wall;
 - 5247 3. Brick wall; or
 - 5248 4. Formed, decorative, or precast concrete.
- 5249
5250
5251
5252

5253 No storage area shall be located closer than 40 feet to any exterior property line of the recreational
5254 vehicle park. No repair or maintenance other than cleaning shall be conducted within such storage
5255 area.
5256

5257 K. Recreation area. At least one recreation area shall be provided within the park, designed and
5258 improved to serve the recreational needs of the park users. The recreation area(s) shall be a
5259 minimum of 500 square feet per transient guest site. All recreation areas shall be accessible to all
5260 occupants of the park. If more than one recreation area is provided, no recreation area shall be less
5261 than 10,000 square feet. A minimum of 50% of the total required recreation area shall be comprised
5262 of recreation within a building, or outdoor facilities for active recreation, including, but not limited
5263 to, swimming pools, ball fields, tennis courts, or play lots with facilities. No portion of any transient
5264 guest site, perimeter buffer yard, internal road or road easement, or stormwater management area,
5265 except as provided below, shall be counted as required recreation area. Bodies of water may be
5266 counted toward required recreation area if recreational use is not otherwise prohibited on or in the
5267 body of water and if recreational amenities, including, but not limited to, a beach, boat rental or
5268 launching facilities, are provided. In no event, however, shall bodies of water comprise more than
5269 50% of the required recreation area.

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- 5270
5271 L. Landscaping plan. Requests for approval for a recreational vehicle park shall be accompanied by a
5272 landscaping plan that provides, at a minimum, compliance with Section 5.5.
5273
- 5274 M. Phasing. The Director shall not issue a certificate of use for a recreational vehicle park prior to
5275 completion of construction of all of the transient guest sites, internal roads, drainage system,
5276 potable water and wastewater utilities, landscaping and buffering, and accessory structures
5277 approved for the park, unless the Hearing Examiner and Appeals (or the City Council, when
5278 applicable) approves a phasing plan that identifies size, location, sequence, and timing of the
5279 various phases of the development. If a phasing plan is approved, the Director shall not issue a
5280 certificate of use for any phase that has not been completed in its entirety.
5281
- 5282 N. Operation generally.
5283
- 5284 1. Responsibilities of management. The owner of a recreational vehicle park shall, at all times,
5285 maintain the park and its facilities in a clean, orderly and sanitary condition. The park
5286 management shall inform all registered occupants of transient guest sites of the provisions of
5287 this section and other related ordinances and statutes, and of their responsibilities thereunder.
5288
- 5289 2. Certificate of use required. No lodging within recreational vehicles or camping cabins shall occur
5290 prior to the issuance of a certificate of use for the recreational vehicle park.
5291
- 5292 3. Length of occupancy. No owner of any recreational vehicle park shall allow or permit any
5293 transient guest sites in a recreational vehicle park to be rented to or occupied by any person or
5294 recreational vehicle for any period of time that would permit or allow any person or recreational
5295 vehicle to remain at such recreational vehicle park for more than 180 days in any 365-day
5296 period.
5297
- 5298 4. Register of occupants. The owner or operator of any recreational vehicle park shall file a report
5299 with the Director showing the guest names and addresses, recreational vehicle license numbers,
5300 dates of arrival and departure, and the transient guest site occupied by each guest at the
5301 recreational vehicle park during the preceding calendar quarter. Such reports shall be filed not
5302 later than April 15th, July 15th, October 15th and January 15th for the immediately preceding
5303 calendar quarter.
5304
- 5305 O. Inspections authorized. The Director is hereby authorized to make periodic inspections of the
5306 recreational vehicle park and transient guest sites for the purpose of determining satisfactory
5307 compliance with the regulations of this section pertaining to the health, safety and welfare of the
5308 community.
5309
- 5310 P. Incidental facilities and amenities. Various facilities and amenities incidental to a recreational
5311 vehicle park are permissible, however, all facilities and amenities must meet all requirements stated
5312 herein together with any additional conditions of approval.
5313
- 5314 1. The following facilities may be approved as incidental to a recreational vehicle park:
5315

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- 5316 a. Administrative offices;
5317
5318 b. Caretaker or watchperson residence (no more than one);
5319
5320 c. Car wash (Recreational vehicle washing facilities only);
5321
5322 d. Clubhouses;
5323
5324 e. Gatehouses;
5325
5326 f. Grounds maintenance facilities;
5327
5328 g. Laundry facilities:
5329
5330 h. Marine improvements;
5331
5332 i. Restrooms and community showers; and
5333
5334 j. Sanitary dump stations.
5335
5336 2. The following amenities are permitted as amenities incidental to the recreational vehicle park
5337 even though they are typically land use classifications identified as individual "uses" within
5338 other zoning districts.
5339
5340 a. Banquet halls;
5341
5342 b. Bars;
5343
5344 c. Commercial Recreation – indoor and outdoor;
5345
5346 d. Cultural and civic facilities;
5347
5348 e. Personal services;
5349
5350 f. Professional Offices;
5351
5352 g. Restaurant, no drive-thru; and
5353
5354 h. Retail.
5355
5356 3. For recreational vehicle parks with no frontage on any type of arterial or collector street, food
5357 stores, personal services, and restaurants shall be limited as follows:
5358
5359 a. Vehicular ingress/egress for parking lots supporting an amenity shall not be directly
5360 accessible from any public street, but shall only be accessible from a road within the park;
5361

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- 5362 b. No signs shall be visible from outside the recreational vehicle park; and
5363
- 5364 c. The cumulative gross leasable floor area occupied by food stores, personal services, and
5365 restaurants shall not exceed 3% of the net area of the recreational vehicle park. For
5366 purposes of this section, the net area shall mean the area of the recreational vehicle park
5367 minus extant wetland areas and water areas (e.g. streams, waterways, lakes, estuaries). If
5368 an extant wetland or water area is expanded or contracted, the net area shall be based on
5369 the resultant wetland and water areas. Food stores shall not occupy more than 25,000
5370 square feet of contiguous gross leasable floor area.
5371
- 5372 4. For recreational vehicle parks with frontage on any type of arterial or collector street, food
5373 stores, personal services, and restaurants shall be limited as follows:
5374
- 5375 a. Vehicular ingress and egress for parking lots supporting food stores, personal services, and
5376 restaurants may be directly accessible from a public street. Visible evidence of the
5377 commercial character of food stores, personal services, and restaurants may be observable
5378 from a street outside the park. For food stores, personal services, and restaurants that have
5379 vehicular ingress/egress directly accessible from a public street, or present visible evidence,
5380 observable from a street outside the park, of their commercial character, no certificate of
5381 use shall be issued until a minimum of 20% of the total transient guest sites for the entire
5382 recreational vehicle park have been constructed or installed; and
5383
- 5384 b. The cumulative gross leasable floor area of food stores, personal services, and restaurants
5385 shall not occupy more than 3% of the net area of the park. Not more than 25,000 square
5386 feet of contiguous gross leasable floor area shall be devoted to food stores.
5387
- 5388 5. In the event that a recreational vehicle park fails to meet the minimum required number of
5389 transient guest sites as a result of removal of transient guest sites or conversion to another use,
5390 or if the offering of lodging at transient guest sites is discontinued for one year or more, any
5391 activity that had previously been approved as an amenity incidental to the recreational vehicle
5392 park use shall lose its status as an amenity and shall be treated in the same manner as a
5393 nonconforming use.
5394
- 5395 Q. Prohibitions. The following uses, activities or improvements listed below are prohibited within a
5396 recreational vehicle park:
5397
- 5398 1. Permanent residential use is prohibited, except in an approved caretaker/watchperson
5399 residence.
5400
- 5401 2. Lodging within any structure other than an approved recreational vehicle, camping cabin,
5402 caretaker, or watchperson residence (e.g., tent, mobile home, garage, shed, or agricultural
5403 building) is prohibited within a recreational vehicle park.
5404
- 5405 3. The storage of a recreational vehicle, boat, or accessory trailer during any period when the
5406 owner or lessee of the vehicle is not a registered occupant of a transient guest site is prohibited.

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5407 Storage of boats and accessory trailers is prohibited on individual transient guest sites or on
5408 internal roads.

5409
5410 4. The parking of a recreational vehicle, automobile, or truck in an area not designated for parking
5411 is prohibited.

5412
5413 5. Drive-thru facilities for restaurants are prohibited.

5414
5415 6. Fuel pumps for retail sales of fuel are prohibited.

5416
5417 R. Evacuation plan. Prior to issuance of a certificate of use for a recreational vehicle park, the
5418 developer shall provide an emergency response plan, approved by the Fire Chief that requires the
5419 removal of all recreational vehicles in the event of a hurricane. At a minimum, all recreational
5420 vehicles and occupants shall evacuate when notified of a "Hurricane Watch" being issued for the
5421 city. Any amendment by the developer to an approved evacuation plan requires approval by the
5422 Fire Chief.

5423
5424 **Section. 5.10.6. Reserved**

5425
5426
5427 **Section 5.10.7. Roadside Food and Vegetable Stand.**

5428
5429 Roadside food and vegetable stands shall be subject to the following requirements:

5430
5431 A. Must meet the minimum building setback requirements for the district;

5432
5433 B. May be in operation during daylight hours only;

5434
5435 C. Shall provide a designated parking area at the side or rear of the roadside food and vegetable stand
5436 sufficient to accommodate ten vehicles;

5437
5438 D. Shall be no larger than eight feet by 32 feet in dimensions, and must be structurally sound;

5439
5440 E. Must meet state, county, or local access requirements;

5441
5442 F. May sell fruits, plants, and vegetables only;

5443
5444 G. Must be built with tie downs capable of withstanding 110 mph winds; and

5445
5446 H. Must contain adequate toilet facilities.

5447
5448 **Section 5.10.8. Accessory Parking Lots.**

5449
5450 Accessory parking lots shall meet the following requirements:

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- 5452 A. Accessory parking lots on RML property shall be used only in connection with an existing use or
5453 structure in the C, CC, or P zoning districts.
5454
- 5455 B. The parcel shall meet minimum dimensional requirements.
5456
- 5457 C. The lots in the RML zoning district proposed for accessory parking shall be composed of contiguous
5458 lots in that district and owned by the commercial or professional property owner or corporation
5459 served by the parking site.
5460
- 5461 D. A minimum of 40% of the required parking spaces for the use shall be in a Commercial or
5462 Professional zoning district. The number of required parking spaces shall be determined by Article
5463 6.
5464
- 5465 E. The location of accessory parking lots shall be immediately to the rear, or across any service alley,
5466 and within the extended side yard lot lines of the property that the parking is intended to serve.
5467
- 5468 F. Driveways from accessory parking in RML areas to streets with abutting R-1 zoning shall not be
5469 permitted. However, commercial property fronting on Del Prado Boulevard or Santa Barbara
5470 Boulevard with full block depth and abutting R-1 zoning, shall be permitted one driveway access to
5471 the street with abutting R-1 zoning, in accordance with the City of Cape Coral Engineering Design
5472 Standards.
5473
- 5474 G. The driveway shall be included in any traffic impact study for the property to determine the impact
5475 of commercial traffic on the local street and its intersections and if improvements are needed.
5476
- 5477 H. Where necessary for safe and efficient turn movements, the city may restrict certain turn
5478 movements at the driveway accessing the street with abutting R-1 zoning.
5479
- 5480 I. The parking area shall be classified as part of the entire non-residential building site.
5481
- 5482 J. A landscape plan for the accessory parking areas in RML zoning shall be submitted with the
5483 application for this use. Landscape plans shall be drawn to scale, including dimensions and
5484 distances, and shall clearly delineate:
- 5485
- 5486 1. Existing and proposed parking spaces, or other vehicular use areas, access aisles, driveways,
5487 and ingress and egress points;
5488
- 5489 2. The location and floor area of existing building(s) to be served;
5490
- 5491 3. The source of water supply for plantings and materials to be installed or, if existing, to be used
5492 in accordance with the requirements hereof.
5493
- 5494 4. All parking areas shall be landscaped in accordance with the requirements of Section 5.5.13 of
5495 this Article.
5496

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- 5497 5. There shall be a minimum of seven feet of green area in side setbacks and ten feet of green
5498 area in setbacks from street lot lines which face residential areas.
5499
- 5500 6. There shall be a continuous undulating 18 inch to three feet high by five feet deep berm of earth
5501 extending along the property facing streets.
5502
- 5503 K. Lighting. If any parking areas are artificially lighted, they shall be so designed and arranged that
5504 lighting is primarily directed on-site. Such areas shall not be lighted at any time other than during
5505 the same hours that the use to which the parking is appurtenant is open for business, except for
5506 necessary security lighting.
5507
- 5508 L. Stormwater Management. All parking areas shall incorporate appropriate stormwater quality
5509 design features to be reviewed with the SDP application.
5510

5511 **Section. 5.10.9. Solar Arrays.**

5512
5513 Solar Arrays shall meet the following requirements:

- 5514
- 5515 A. These facilities may only be permitted in the Agriculture, Institutional, or Industrial zoning districts.
5516
- 5517 B. Solar Arrays may only be permitted on lots over one acre in size.
5518
- 5519 C. Must maintain appropriate security fencing and signs for protection.
5520
- 5521 D. Solar Arrays shall be effectively screened with a fence, landscape material, or a combination thereof,
5522 where visible from an abutting property or right-of-way as determined by the Director.
5523
- 5524 1. The structures may be screened with an opaque wall or fence, up to the height allowed in that
5525 zoning district.
5526
- 5527 2. Alternatively, the structures may be screened with shrubs that meet the following requirements:
5528
- 5529 a. A row of shrubs shall be planted along all sides of the facility for which screening is required.
5530
- 5531 b. All shrubs required for screening shall be a minimum of 32 inches in height and be in at least
5532 a seven-gallon container size at the time of planting. All shrubs shall be planted at a spacing
5533 of three feet apart as measured on center.
5534
- 5535 c. All shrubs shall be maintained at a minimum height of six feet at maturity and shall be
5536 maintained in good condition as long as the structures requiring screening remain.
5537
- 5538 d. An adequate combination of the two screening options may be permitted.
5539

5540 **Section 5.10.10. Vehicle Sales, Light.**

5541
5542 Vehicle Sales, Light must meet the following requirements:

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- A. The minimum parcel size shall be 2 acres.
- B. Vehicle Sales, Light shall be a standalone use only.
- C. All display areas must be on an impervious surface such as asphalt or concrete.
- D. All repairs must be ancillary and must be conducted within a building.
- E. Other than vehicles, no outdoor display of any other items shall be permitted.

Section 5.10.11. Wireless Communication Facilities

Wireless Communication Facilities are permitted with the following requirements:

1. Adequate documentation that co-location on an existing approved tower or on an existing building or structure, has been attempted and is not feasible. Such documentation shall include:
2. The results of a designed service study demonstrating to the satisfaction of the city that the equipment planned for a proposed communication tower cannot be accommodated on an existing or approved and un-built structure.
3. The designed service study analysis shall be based upon a search area radius of three-quarters of a mile minimum distance from the location of the intended WCF or tower, including areas outside the City of Cape Coral. At the discretion of the city, based on the city's knowledge of existing co-location opportunities, the city may allow an applicant to provide an affidavit from a professional radio frequency engineer which establishes the search area diameter for the proposed WCF or tower location and identifies all other alternatives in the area. Further information may be required by the city on the ability of the WCF or tower to be accommodated on specific sites within three-quarters of a mile of the proposed WCF or tower.
4. When co-location is determined by staff to be infeasible, the determination shall be based upon the results of the designed service study and other evidence provided by the applicant documenting one or more of the following reasons:
 - a. Structural limitation. The proposed equipment would exceed the structural capacity of the existing or approved structure, as documented by a licensed professional engineer, and the existing or approved structure cannot be reinforced, modified, or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
 - b. Interference. The proposed equipment would cause interference or obstruction materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional and the interference or obstruction cannot be prevented at a reasonable cost.

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- 5588 c. Insufficient height. Existing or approved towers and buildings within the search radius cannot
5589 accommodate the planned equipment at a height necessary to function reasonably as
5590 documented by a licensed, if applicable, professional.
5591
- 5592 d. Lack of space. Evidence from the applicant, verified by a licensed professional, of the lack of
5593 space on existing towers or other structures within the search radius to accommodate the
5594 proposed facility.
5595
- 5596 e. Other factors. Other reasons that make it unfeasible to locate the planned equipment upon
5597 an existing or approved tower or building as documented by a qualified and licensed, if
5598 applicable, professional.
5599
- 5600 f. Technical consultants. The city shall have the right to retain independent technical
5601 consultants and experts that it deems necessary to properly evaluate applications for wireless
5602 telecommunications facilities or towers and to charge reasonable fees as necessary to offset
5603 the cost of such evaluations.
5604

Section. 5.10.12. Wireless Facility Design standards.

5605 In addition to any other applicable requirements provided elsewhere in the Land Development Code, an
5606 application for a communication tower shall include the following:
5607

- 5608 A. Fall zone. In the event of a catastrophic failure or collapse, towers shall be designed to collapse within
5609 an engineered fall zone lying wholly within the lot lines of the parcel containing the tower. Such fall
5610 zone shall be certified by a professional engineer, licensed in the State of Florida.
5611
- 5612 B. Tower design for co-location. A proposed tower shall be designed to allow for future rearrangement
5613 of antennas, to provide space for antennas to be mounted at varying elevations, and to accommodate
5614 co-location.
5615
- 5616 C. Monopoles or stealth. All towers shall be monopoles or stealth design.
5617
- 5618 D. Illumination. A tower shall not be artificially lighted except as may be required by federal or state
5619 regulations.
5620
- 5621 E. Surface or finish color. All towers shall be painted or have a non-contrasting finish that minimizes the
5622 visibility of the facility from public view, except where contrasting color is required by federal or state
5623 regulation. In addition, the exterior of support facilities shall be designed to be compatible with the
5624 architectural design prevailing among the structures in the surrounding developed area.
5625
- 5626 F. Sign. The main access gate in the tower shall have affixed to it a sign not to exceed two feet by three
5627 feet in size which displays the owner's or permittee's name and an emergency telephone number.
5628
- 5629 G. Maximum height. The maximum height of towers shall be 100 feet if the tower is designed for one
5630 service provider, 120 feet if the tower is designed to accommodate two service providers, or 140 feet
5631 if the tower is designed to accommodate three or more service providers.
5632
5633

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5634
5635 H. Landscape screening. The accessory components to the tower shall be screened from view by shrubs
5636 maintained at a height of six feet, immediately adjacent to the fence surrounding the facility and
5637 minimum of eight trees planted outside of the shrub buffer
5638

5639 **Section. 5.10.13. Reserved.**

5640
5641 **Section. 5.10.14. Model homes.**

5642
5643 Model Homes shall meet the following requirements.
5644

5645 A. Model homes are intended to facilitate the sale of the model design, or products similar in design to
5646 the model and is not intended to allow the full scope of real estate activities and shall be restricted
5647 primarily to the sale and marketing of the model, or products similar to the model. Model homes shall
5648 be permitted as a temporary, conditional use, not to exceed 10 years, in residential zoning districts
5649 (R1, RE, RML) or within a Planned Development.
5650

5651 B. A model home must meet all of the zoning and building requirements for a residence in that zoning
5652 district as well as the following:
5653

5654 1. Parking. Three off-street vehicular parking spaces, including the garage, shall be provided on the
5655 model site or on an adjacent vacant property.
5656

5657 2. On-site parking. A parking space may be provided in the garage. A handicap parking space is
5658 required and shall count as one of the three required spaces.
5659

5660 3. Off-site parking. Adjacent vacant single-family lot(s) may be used for model home parking. A plan
5661 to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of
5662 authorization from the property owner as well as a surety deposit payable to the City of Cape
5663 Coral to convert the property back to a residential or other permitted use when the structure is
5664 converted or sold. The deposit shall cover the costs associated with the conversion of the parking
5665 lot. The deposit shall be based on no less than 110% of the estimated cost by a professional
5666 engineer licensed in the State of Florida which shall be signed and sealed by the engineer, and
5667 found to be acceptable to the City. Funds and resulting interest shall be returned upon conversion
5668 of the site to a residential or other permitted use, the entire amount if the work is completed by
5669 the applicant, or the remaining funds if the City completes the work.
5670

5671 4. A hedge row of at least 36 inches in height shall be planted and maintained around the vehicular
5672 parking area.
5673

5674 5. On-site or off-site parking shall be a paved or approved impervious surface with appropriate signs
5675 and markings, including handicap parking.
5676

5677 6. Treatment of stormwater runoff will be required for the first inch of runoff from the paved area
5678 associated with the parking lot area only.
5679

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- 5680 7. Model home parking lots require a Limited Site Development Plan approval prior to construction.
5681
5682 B. Handicapped standards shall be met throughout the home, including access per the Florida Building
5683 Code and handrail and grab bar requirements.
5684
5685 C. Garage office. For any garage being used as an office for a model home the applicant must submit the
5686 following:
5687
5688 1. Plan of garage-office facility, including false walls, temporary electrical and plumbing.
5689
5690 2. Plan showing how garage will be returned to its original use.
5691
5692 3. \$10,000.00 refundable surety to ensure that the garage is converted back to the FEMA standards
5693 for single-family home usage.
5694
5695 D. Sign standards as defined in Article 7 of this code.
5696
5697 F. Upon completion of the construction and approval of the unit as a model home, a "temporary
5698 certificate of occupancy" will be issued to the owner of the model home to remain open for a period
5699 of five years. Extensions beyond this five-year temporary certificate of occupancy may be granted for
5700 the structure in the event an extension is approved for the model's permit by the Director of
5701 Community Development. The initial approval and maximum extension will allow the use of an
5702 individual model home to exist for a cumulative 10 years. The decision to extend the initial permit
5703 shall be pursuant to the following considerations:
5704
5705 1. The number of existing model homes within the immediate area of the extension request and
5706 impacts of those on the neighborhood.
5707
5708 2. The adequacy of the right(s)-of-way upon which the model home fronts.
5709
5710 3. The character or makeup of the area surrounding the model home.
5711
5712 4. The potential effect of the model home on adjacent and surrounding properties.
5713
5714 5. The existence of complaints relating to that model home.
5715
5716 6. A demonstration of good cause from the applicant why the extension request is needed.
5717
5718 7. Approval as a model home shall be recorded against the title.
5719

Section 5.10.15. Buildings and Construction with outdoor storage and display.

5720 Buildings and construction with outdoor storage and display shall meet the following requirements:
5721
5722
5723

- 5724 A. No storage or display shall be in fire lanes or required parking areas.
5725

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5726 B. Materials or equipment that are brought inside a building overnight shall not be considered as display.
5727

5728 **Section. 5.10.16. Self-storage Facility.**
5729

5730 Self-storage facilities in the I, C, or CC districts must meet the following conditions:
5731

5732 A. The facility must be designed so as to screen the interior of the development from all property lines.
5733 Screening features may consist of a free-standing wall, wall of a building, or a combination of the two.
5734 Free-standing walls used for screening shall be eight feet in height measured from grade.
5735

5736 1. The following materials, either singly or in any combination, are the only materials that may be
5737 used to form the wall:

5738 a. Concrete block coated with stucco;
5739

5740 b. Textured concrete block;
5741

5742 c. Stone;
5743

5744 d. Brick; or
5745

5746 e. Formed, decorative, or precast concrete.
5747
5748

5749 2. If the wall of a building is used to meet the opaque feature requirement, such wall shall be
5750 surfaced with stucco, brick, stone, textured concrete masonry units, or other concrete surface.
5751 Untreated concrete block is not an acceptable finished material. Building walls used as a screening
5752 feature shall not have doors or windows.
5753

5754 B. A landscaped area with a minimum width of 10 feet shall be provided around the perimeter of the
5755 site. Perimeter landscaping shall consist of a minimum of three canopy trees per 100 feet, three accent
5756 trees per 100 feet, and 33 shrubs per 100 feet. Palms trees cannot be used to meet the minimum
5757 planting requirement of this section. All shrubs shall be installed at a minimum height of 32 inches
5758 and be in a minimum seven-gallon container at the time of planting.
5759

5760 C. In the event a self-storage facility is designed as a multi-story building, the interior of the development
5761 is not required to be screened by a free-standing wall or a building wall, provided there are no visible
5762 exterior doors providing access to individual storage units. Multi-story self-storage facilities must
5763 comply with the nonresidential design standards established in Chapter 8 of this Article.
5764

5765 **Chapter 11. - CONDITIONAL USES**
5766

5767 **Section. 5.11.1. Purpose and applicability.**
5768

5769 A. Purpose and Intent
5770

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- 5771 1. To provide standards and criteria for review and approval of specified conditional uses for a
5772 specific site.
5773
- 5774 2. To provide reasonable limitations or special conditions for conditional uses, in order to address,
5775 minimize, or ameliorate potential impacts of the use on surrounding property and for the
5776 protection of the public health, safety, and welfare.
5777
- 5778 B. General Requirements. Proposed conditional uses must meet the following requirements:
5779
- 5780 1. The conditional use standards identified in Article 4 for the specific zoning district use and
5781 conditional use in question.
5782
- 5783 2. The proposed conditional use will not result in development that is inconsistent with the intended
5784 character of the applicable zoning district.
5785
- 5786 3. A listed conditional use that does not meet the applicable conditional use standards may apply
5787 for approval as a Special Exception.
5788
- 5789 C. Review Criteria. A Conditional Use may be approved by the Director based on criteria identified in
5790 Article 4. These criteria are specific to each conditional use.
5791

5792 **Section. 5.11.2. Brewpubs.**
5793

5794 Brewpubs in the MXB district must meet the following conditions:
5795

- 5796 A. The area used for brewing, bottling, and kegging of all beverages produced by the establishment shall
5797 not exceed 40 percent of the total floor area of the restaurant, bar, or nightclub, or exceed a total
5798 floor area of 2,500 square feet devoted for brewing, bottling, and kegging, whichever is less.
5799
- 5800 B. An interior floor plan shall be submitted that clearly shows the area of the building that will be devoted
5801 to the brewing, bottling, and kegging component of the establishment.
5802
- 5803 C. No outdoor storage shall be allowed including the use of portable storage units, cargo containers, and
5804 tractor trailers, except as follows: spent or used grain may be placed outdoors for a period not to
5805 exceed 24 hours. The temporary stockpiling for spent or used grain shall be:
5806
- 5807 1. Clearly shown on a detailed dimensional and labeled drawing that depicts the location of the
5808 stockpiled spent grains and the distance of the stockpiled grains from property lines and the
5809 building containing the brewpub;
5810
- 5811 2. Placed only along the side or rear of the building; and
5812
- 5813 3. Fully enclosed in containers that are screened behind an opaque wall or fence. The wall or fence
5814 shall have a minimum height of six feet.
5815

5816 **Section. 5.11.3. Attached residential of three-units or more.**

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5817
5818 Attached residential structures of three-units or more in the RML, CC, NC, MX7, MXB, or SC zoning districts
5819 must meet the following conditions:

- 5820
5821 A. The number of linearly attached units must be between three and nine.
5822
5823 B. Landscaping shall be provided at a rate of two trees and six shrubs per 2,500 square feet of lot,
5824 rounding up to the next full number.
5825
5826 C. Attached residential developments shall incorporate three of the following design elements into each
5827 dwelling unit:
5828
5829 1. Dwelling entry as the primary façade feature;
5830
5831 2. Garage door recessed from the front façade, a preferred minimum of four feet;
5832
5833 3. Horizontal eaves broken up with gables, projection, and articulation;
5834
5835 4. Projecting eaves and gables, related to building massing;
5836
5837 5. Building massing and roof form which articulate individual unit definition;
5838
5839 6. Offset of four feet where two garage doors are adjacent to each other; or
5840
5841 7. Projections and decorative elements, such as trellises, for visual interest.
5842

5843 **Section. 5.11.4. Multi-family dwellings.**

5844
5845 Multi-family dwellings in the RML, RMM, CC, NC, MXB, MX7, or SC districts must meet the following
5846 conditions:

- 5847
5848 A. Building Modulation and Articulation. All multi-family buildings shall provide a combination of
5849 volumetric and massing modulation and articulations to prevent the construction of ‘big boxes’, but
5850 rather buildings that harmonize their architectural quality in a stylistically pleasant manner. All
5851 buildings shall incorporate the following combined elements from the articulation criteria identified
5852 below.
5853
5854 1. A minimum of three of the following volumetric elements shall be provided:
5855
5856 a. Pitched roof forms, minimum pitch of 4/12, whose sum covers greater than 30% of the
5857 overall roof area;
5858
5859 b. Architectural roof overhangs four feet or greater in depth or cornices 12 inches or greater in
5860 height;
5861

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- 5862 c. Arcades. Arcades may be used as a means of sheltering pedestrian areas, and where
5863 provided, shall connect to entrances;
5864
- 5865 d. Accent elements such as tower elements, porticos, cupolas, or domes; or
5866
- 5867 e. A building with frontage 90 feet or less in length shall provide the following minimum
5868 massing articulations:
- 5869 i. A minimum of fifty percent (50%) of the cumulative frontage of each façade shall be
5870 setback a minimum of five feet from the primary façade and shall be distributed
5871 throughout the building frontage and shall not be provided as a single aggregated
5872 setback; and
- 5873 ii. A minimum of twenty percent (20%) of each frontage of each facade shall be setback
5874 a minimum of eight feet from the primary façade.
5875
- 5876 2. A minimum of four of the following architectural elements shall be provided:
5877
- 5878 a. Stoops on the ground floor and balconies on all floors above the ground floor;
5879
- 5880 b. Porches on the ground floor;
5881
- 5882 c. Pilasters, string courses, character lines, or other such means of subdividing the facade;
5883
- 5884 d. Structural or ornamental details clearly distinct from the primary wall surface, e.g., lintels,
5885 sills, door and window surrounds, decorative panels, etc.;
- 5886
- 5887 e. Decorative planters or planting areas a minimum of five feet in width, integrated into the
5888 building design; or
5889
- 5890 f. Masonry in at least two contrasting tones or textures, accomplished by a change in material
5891 or coursing such as brick, natural stone, brick or stone veneer, glass, masonry stucco,
5892 decorative concrete block, decorative concrete panels, tile glazing and framing systems, split
5893 face or fluted concrete masonry, factory glazed concrete masonry units, or architectural pre-
5894 cast concrete.
5895

Section. 5.11.5. Vehicle Repair, Minor.

5896 Vehicle Repair, Minor in the C and CC districts must meet the following conditions:
5897

- 5898 A. The number of cars being kept on site, not in a garage bay, shall be limited to three.
5899
- 5900 B. All cars kept on site for repairs must be visually screened from the right-of-way and adjacent
5901 properties.
5902
- 5903 C. All repair work shall be performed within the garage.
5904
- 5905 D. No outside storage of materials or chemicals, all installation to occur within garage.
5906
5907

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5908
5909 E. Hours of operation for repair work shall be limited from 7 a.m. to 8 p.m. when adjacent to any
5910 residential development.

5911
5912 **Section. 5.11.6. Outdoor Screened Storage.**

5913
5914 Outdoor Screened Storage in the CC district must meet the following conditions:

- 5915
5916 A. The screening must consist of opaque fence or wall. Chain-link fencing (with or without slats) is
5917 prohibited for screening.
5918
5919 B. The minimum height of the screening shall be 6 feet.
5920
5921 C. The height of the screening shall be tall enough to screen items being stored.
5922
5923 D. All perimeter landscaping shall be on the outside of the screening.
5924
5925 E. The screened area must be used in conjunction with principal use.
5926
5927 F. The area used for storage must be an improved impervious surface such as asphalt or concrete.
5928
5929 G. No vehicular access to the storage area shall be allowed from a local street.

5930
5931 **Section. 5.11.7. Laboratory – Medical, Research, Testing, and Development.**

5932
5933 Medical, Research, Testing or Development Laboratory Facilities in the NC district must meet the following
5934 conditions:

- 5935
5936 A. The laboratory shall not produce any exterior impacts such as sound, smoke, or odor.
5937
5938 B. No outside storage of materials shall be permitted.

5939
5940 **Section. 5.11.8. Sporting Facilities, Indoor and Outdoor.**

5941
5942 Sporting Facilities, Indoor and Outdoor in the A district must be in conjunction with an agricultural use
5943 such as riding stadiums etc.

5944
5945 **Section. 5.11.9. Boat Sales**

5946
5947 Boat Sales in the SC district may only be permitted on sites with water frontage and direct access to
5948 Caloosahatchee River.

5949
5950 **Section 5.11.10. Home based businesses**

5951
5952 Home based businesses shall only be allowed as an accessory use to a single-family residential use and
5953 must meet the following conditions:

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- 5954
5955 A. All home-based businesses operated in or from a residence shall comply with federal, state, and
5956 county rules and regulations, city license regulations specified herein and any other applicable
5957 ordinances of the City of Cape Coral.
5958
5959 B. No condition shall be permitted which tends to cause or increase the fire hazard to the residence,
5960 such as storage of paints or other flammable materials in excess of normal family use.
5961
5962 C. No storage of materials or supplies shall be allowed outside the structure nor shall any indoor display
5963 of materials be visible from the outside of the structure.
5964
5965 D. The appearance of the structure shall in no way be altered for the conduct of the home occupation
5966 within the structure nor shall the conduct be such that the structure may be recognized as serving a
5967 non-residential use either by color, materials, construction, lighting, signs, sounds, noises, vibrations,
5968 audible or visible interference in any radio or television receiver off the premises, or cause fluctuations
5969 in the electric voltage line off the premises.
5970
5971 F. Frontage and access shall be from arterial street.
5972
5973 G. No driveway with ingress or egress to a local street shall be utilized.
5974
5975 H. Hours of operation shall be 7:00 A.M. until 7:00 p.m.
5976
5977 I. Employees and customers shall be allowed as long as adequate parking is provided on-site.
5978
5979 J. No parking shall be allowed on any surrounding parcels.
5980

5981 **Section. 5.11.11. Vehicle fueling stations.**
5982

5983 Vehicle fueling stations in the C, N, and SC (along primary streets) districts must meet the following
5984 conditions:

- 5985
5986 A. General:
5987
5988 1. All buildings, including pump islands, shall have a 25' setback from all property lines.
5989
5990 2. In no case shall a lot have less than 100 feet of street frontage.
5991
5992 3. Underground storage is required for all receptacles for combustible materials in excess of 55
5993 gallons. Such storage shall comply with all building and fire codes and Environmental Protection
5994 Agency standards.
5995
5996 4. The accumulation and storage of waste petroleum products is forbidden, unless in compliance
5997 with Environmental Protection Agency standards.
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5. Primary services and sales permissible include fueling stations and electric charging stations, and include only the following accessory uses:
 - a. Car wash services;
 - b. Sale of convenience goods; and
 - c. Accessory fast food services without a drive-through.
 6. Uses permissible at a gas station do not include body work, straightening of body parts, painting, welding (other than minor repairs), or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in vehicle fueling stations. A vehicle fueling station is not a body shop.
 7. Outside materials storage is not permissible.
 8. Lighting at a gas station shall be designed and installed so as to prevent glare or excessive light above 0.1 foot-candles on adjacent property. No source of illumination shall be allowed if such source of illumination, unshielded, would be visible from a residentially-zoned district to the extent that it interferes with the residential use of that area.
 9. The minimum size parcel shall be 1.25 acres.
 10. An eight-foot tall opaque wall constructed of concrete block coated with stucco, textured concrete block, stone, brick, or concrete (formed, decorative or precast) shall be constructed between any residential properties and a gas station. The wall shall be constructed within the gas station property, seven and one-half feet from the property line shared by the gas station and any adjacent residential property. The wall shall not be within a sight triangle.
 - a. The residential side of the wall shall be landscaped with shrubs (seven-gallon and 32 inches at planting) which shall be maintained at a mature height between six and eight feet and 80 percent opacity.
 11. Stormwater runoff from the fueling and storage tank loading areas shall be directed to an oil/gas/water separator prior to entering the surface water treatment area for the project.
- B. Appearance:
1. All structures on the site shall have a unified architectural theme.
 2. Gas station roofs shall be pitched a minimum of 4:12.
 3. A minimum of 12-inch overhangs shall be provided
 4. Roof and exterior wall surfaces, with the exception of glass areas, shall be nonreflective. Any glass coating shall not reflect outward.

CITY OF CAPE CORAL, FLORIDA
LAND DEVELOPMENT CODE
ARTICLE 5 – DEVELOPMENT STANDARDS

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- 6046 5. The use of flat steel or metal panels for the exterior walls of the gas station shall be prohibited.
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- 6048 6. The rear and sides of buildings shall be finished with material that in texture and color resembles
- 6049 the front of the building.
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- 6051 7. Glass windows and doors must make up at least 25 percent of the front elevation and 15 percent
- 6052 of the side elevations at eye level.
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- 6054 8. Any canopy shall be restricted to a clearance of 14 feet in height and shall be consistent with the
- 6055 primary structure design. The canopy columns and roof shall be architecturally finished to match
- 6056 the building.
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- 6058 9. The commercial advertising on the canopy shall be limited to 10 percent of the exterior area of
- 6059 the canopy and backlighting shall not be permitted on the canopy.
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- 6061 10. Perimeter walls, if utilized, shall be architecturally compatible with the principal structure.
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6063 C. Landscaping:

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- 6065 1. Front yard buffer. An enhanced front yard buffer shall be required for automobile service
- 6066 stations to limit the visual impact of the use. The following requirements shall be utilized:
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- 6068 2. Area to be landscaped. A strip of land at least 10 feet in depth, abutting the right-of-way and
- 6069 extending the length of the property except the entrance and exit drives, shall be landscaped.
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- 6071 3. Minimum tree requirements. Palm clusters on the ends of landscape buffers parallel to the gas
- 6072 pump canopy. The palm clusters shall consist of three palms with a minimum of 13 feet of gray
- 6073 wood, at planting. One cluster shall be provided for every 30 feet of road frontage;
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- 6075 4. Landscape accents. The use of landscape accents, such as planters and window boxes, shall be
- 6076 incorporated into the overall landscape design of the building and the site;
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- 6078 5. Other materials. The remainder of the required landscaped area shall be landscaped with grass,
- 6079 ground cover, or other approved landscaping treatment.
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- 6081 D. Vehicle Fueling Stations in the SC zoning district shall only be allowed with frontage along Del Prado
- 6082 Boulevard.
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6084 **Section. 5.11.12. Religious Institutions.**

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6086 Religious Institutions in the R1, RML, RMM, RE, and A districts shall have a minimum size of three acres.

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