



LAND DEVELOPMENT CODE ADVISORY COMMITTEE

**COMMUNITY DEVELOPMENT/PUBLIC WORKS BUILDING
1500 MONROE STREET, FORT MYERS, FL 33901
CONFERENCE ROOM 1B**

**FRIDAY, MARCH 8, 2024
8:30 A.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Extension of Officer Terms
3. Approval of Minutes – May 12, 2023
4. LDC Amendments
 - A. Micro-breweries, wineries, and distilleries
 - B. Clean-up Amendments
 - I. Florida Building Code (2023) Compliance
 - II. Emergency Shelter Mitigation (Mobile Home and RV Developments)
5. Adjournment
Next Meeting date: May 10, 2024

To view a copy of the agenda, go to www.leegov.com/dcd/calendar.

For more information, contact Debbie Carpenter, (239) 533-8345 or DCarpenter@leegov.com.

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MINUTES REPORT
LAND DEVELOPMENT CODE ADVISORY COMMITTEE
(LDCAC)
Friday, May 12, 2023
8:30 a.m.

Committee Members Present:

Jem Frantz	Veronica Martin
Jay Johnson	Paula McMichael, Chair
Randy Krise	Jack Morris
Tom Lehnert	

Excused / Absent:

Jarod Prentice	Christopher Scott
Bill Prysi	Linda Stewart
Al Quattrone	Amy Thibaut, Vice Chair
Jennifer Sapan	Patrick Vanasse

Lee County Government Staff Present:

Dirk Daniley, Jr., Zoning	Anthony Rodriguez, Zoning Manager
Adam Mendez, Zoning	Amanda Swindle, Deputy County Attorney
Janet Miller, DCD Admin.	

AGENDA ITEM 1 - CALL TO ORDER/REVIEW OF AFFIDAVIT OF PUBLICATION

Ms. McMichael, Chair, called the meeting to order at 8:30 a.m. in the Large First Floor CR 1B, Community Development/Public Works Building, 1500 Monroe Street, Fort Myers, Florida.

Ms. Amanda Swindle, Assistant County Attorney, reviewed the Affidavit of Publication and found it legally sufficient as to form and content.

AGENDA ITEM 2 - APPROVAL OF MINUTES – April 14, 2023

Mr. Jay Johnson made a motion to approve the April 14, 2023 minutes. Mr. Tom Lehnert seconded. The motion was called and carried.

AGENDA ITEM 3 – LDC AMENDMENTS – BUILDING HEIGHT AND RESILIENCY, SOUTH SEAS ISLAND RESORT, DEFINITIONS, APPLICATION REQUIREMENTS FOR ZONING ACTIONS, HOTELS AND MOTELS, PARKING FOR EXISTING DEVELOPMENTS, PERMITTED SETBACK ENCROACHMENTS

Mr. Anthony Rodriguez, Zoning Manager, gave an overview of the amendments.

The Board had no questions on pages 1 through 6.

Page 7

Mr. Lehnert referred to item (b) under Section 34-2011. Applicability of division. He asked if (1) conflicted with (2) because (2) reads, “*Existing buildings or uses enlarged in terms of floor area must provide additional parking spaces for the total floor area in accordance with this division.*” However, his interpretation of (1) is that if someone builds it back and adds square footage, they only have to provide proportionately for the new square footage in accordance with the regulations. He liked the idea that if someone adds 1,000 square feet, they must comply with the current regulations, but their existing square footage is grandfathered in. He suggested staff might want to clarify this language.

Mr. Rodriguez staff would review this section further and modify it accordingly.

Page 8

Mr. Lehnert referred to Section 34-2171. Measurement where it references 12 inches. He asked how staff derived at 12 inches when typically grade is 12 -18 inches above.

Mr. Rodriguez stated it was an established standard in Chapter 6 of the Building Code. It is merely a cross reference. In the staff note highlighted in red, there is a reference to that code (LDC Section 6-514).

The Board had no questions on Pages 9 and 10.

Page 11

Mr. Lehnert referred to (5) Greater Pine Island and asked how staff came up with the difference in height from 38 feet to 33 feet (5 foot difference).

Mr. Rodriguez stated it ties into the Lee Plan and also past decisions by the Hearing Examiner regarding building height. He explained that the recognition is Pine Island's community plan and its implementing regulations. They are intended to have Pine Island be the area where the building height in Lee County is the lowest. In recognition of that fact, staff is changing the way the building height is measured causing it to be lowered by 5 feet. It is currently measured from grade to the peak of the roof. However, now it is being measured from flood to the midpoint of the roof (especially if it is a pitched roof).

The Board had no questions on Pages 12 through 14.

Page 15

Ms. McMichael noted staff had added an exception for exterior stairways. If someone wanted to add an elevator, she asked it that would be covered by the equipment pad platforms.

Mr. Rodriguez stated staff would most likely make that interpretation. For means of access, staff would allow either an elevator or staircase to encroach. He also noted that staff may further review this section because there are several instances occurring where homes are being elevated to where the principal entrance is at the front of the building and the stairs are coming straight perpendicular to the front elevation of the building meaning they are coming out into the setback. Therefore, staff may need to make further adjustments to this section to allow for that without any sort of administrative approval.

Mr. Lehnert stated he had spoken to Mr. Danley about a project in St. James City where they had stairs on the rear of the structure. He believed Mr. Danley stated the stairs were considered part of the structure. Item (6) on Page 15 allows for a three foot encroachment. However, his client had stairs that are not elongated. They come up and down so they are actually six feet. If they wanted to do something outside of the hurricane, would they need a variance? Mr. Lehnert stated he had difficulty understanding why stairs are treated as being part of the principal structure on the setback. Although he could see how staff might consider stairs in the front being part of the principal structure, he did not understand it applying to stairs in the rear.

Mr. Rodriguez understood Mr. Lehnert's comments and stated that may be the direction staff takes because staff is receiving several applications that are not just 1 or 2 feet into the setback, but 7 to 8 feet into the setback. This week alone staff has received approximately three requests for administrative variances for that configuration. Mr. Rodriguez stated staff realizes they need to look into this further and may exempt access all together.

It was determined that the Board did not need to review the remaining pages because they are only legal descriptions.

Mr. Lehnert made a motion to approve the LDC amendments. Ms. Veronica Martin seconded. The motion was called and carried.

There was no further discussion. Ms. McMichael adjourned the meeting at 8:43 a.m.

DRAFT

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Land Development Code
Advisory Committee (LDCAC)

DATE: February 23, 2024

FROM: Dirk Danley, AICP
Principal Planner

**RE: Land Development Code (LDC) Amendments
Micro-breweries, -wineries, and -distilleries and Brew Pubs and Clean-Up**

The attached Land Development Code amendments, scheduled for consideration at the March 8, 2024 meeting, have been prepared to address the addition of small-scale manufacturers of alcoholic beverages and corresponding regulations to the LDC. This package also includes certain non-substantive amendments to the LDC to assure internal consistency within the LDC and consistency with the Florida Building Code (FBC). Staff seeks input and a recommendation on whether the proposed amendments should be adopted by the Board of County Commissioners (BoCC).

Background and Summary

On February 6, 2024, the BoCC authorized staff to begin work on drafting substantive and non-substantive (“clean-up”) amendments to the LDC as part of the County’s biennial Land Development Code Amendment Cycle. Substantive amendments will be focused on eliminating redundancies within the LDC, codifying existing Department interpretations, and lessening burdensome restrictions where appropriate. Non-substantive amendments will be focused on assuring consistency within the LDC, between the LDC and the Lee Plan, and between the LDC and the Florida Building Code.

The attached amendments to the LDC include the following items:

1. Introduction of regulations for small-scale alcoholic beverage producers to the LDC. The proposed amendments establish new definitions for brewpubs, and micro-breweries, -wineries, and -distilleries and establish zoning district regulations for these uses, which are proposed to generally align with existing regulations governing bars and cocktail lounges. The proposed amendments are intended to make the County more competitive from a business standpoint by allowing these types of establishments in certain commercial and planned development zoning districts.
2. A non-substantive amendment to assure LDC consistency with the Florida Building Code. The Florida Building Code’s latest edition establishes design requirements

for detached residential accessory structures, which includes a 600-square-foot maximum. The LDC is proposed to be amended to remove an existing reference to a maximum building size that conflicts with the Florida Building Code.

3. A non-substantive amendment to assure internal consistency within the LDC.
Required hurricane impact mitigation for all development is determined using the methods provided in Section 2-485. LDC Section 10-258 currently contains hurricane impact mitigation requirements for mobile home and recreational vehicle developments that are separate and apart from the requirements in Section 2-485. The LDC is proposed to be amended to remove the emergency shelter required by Section 10-258, which is an outdated requirement and is no longer a preferred means of mitigation.

Attachment – Draft LDC Amendments

GROUP 1, ITEM 2

MICRO-BREWERIES, -DISTILLERIES, -WINERIES AND BREWPUBS

AMENDMENT SUMMARY

- Issue:** The LDC does not currently differentiate between large-scale production of alcoholic beverages and small-scale craft production of these products. Current state statute establishes distinct licensing requirements for small- and large-scale alcoholic beverage producers; however, the LDC does not recognize this distinction and considers all alcoholic beverage production as a manufacturing use (Food and Kindred Products Manufacturing, Group II).
- Solution:** Amend the LDC to establish definitions and provisions regulating Micro-Breweries, -Distilleries, -Wineries and Brewpubs to allow these small-scale producers more broadly throughout the County, recognizing that these types of businesses typically operate an ancillary tap or tasting room that is akin to a bar and cocktail lounge as defined in the LDC.
- Outcome:** Aligns County regulations with state statute and makes the County more competitive with respect to allowing these types of businesses in recognition of current market trends.

CHAPTER 33 – PLANNING COMMUNITY REGULATIONS

ARTICLE VIII. – NORTH FORT MYERS PLANNING COMMUNITY

**DIVISION 3. COMMERCIAL CORRIDOR LAND DEVELOPMENT
PROVISIONS**

Sec. 33-1596. Use regulations.

Staff Note: The use table for the North Fort Myers Planning Community is updated to reflect the uses of Brewpub and Micro-brewery, -distillery, -winery, including updating when an administrative approval or a special exception is required.

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

USE DESCRIPTION	SPECIAL NOTES OR REGULATIONS	COMMERCIAL CORRIDOR
Bar, cocktail lounge or nightclub as an accessory use to a hotel or restaurant	34-1201 et seq., 34-1261 et seq.	AA/SE*
Bar, cocktail lounge or nightclub (freestanding)	34-1201 et seq., 34-1261 et seq.	SE**

<u>Brewpub</u>	<u>34-1201 et seq., 34-1261 et seq.</u>	<u>AA/SE*</u>
Consumption on premises	34-1261 et seq., Note (33)	Refer to bars, cocktail lounges, and nightclubs
<u>Micro-brewery, -distillery, -winery</u>	<u>34-1201 et seq., 34-1261 et seq.</u>	<u>AA/SE*</u>
Restaurant, fast food	34-1353	P
Restaurants (34-622(c)(43)):	-	-
Group I	Note (33)	P
Group II	Note (33)	P
Group III	Note (33)	P
Group IV	-	P

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

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

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

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

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

CHAPTER 34 – ZONING

ARTICLE I. – IN GENERAL

Sec 34-2. Definitions.

Staff Note: Add definitions of Brewpub; Microbrewery, -distillery, or -winery; and Tasting Room definitions. Definitions based on state licensure requirements, jurisdictional research of other municipalities definitions of the use and the American Planning Associations Planner's Dictionary (PAS 521/522).

Brewpub is a retail establishment that manufactures malted beverages for on-site consumption and retail sales, in quantities less than 5,000 barrels (155,000 US gallons/1 barrel = 31 US gallons) a year and a tasting room, service area retail space for patrons, and may include and/or be operated in conjunction with a restaurant with no distribution component.

Microbrewery, -distillery, or -winery is an establishment that manufactures and packages ales, beers, meads, wines, liquor or similar beverages on-site, in quantities less than 15,000 barrels (465,000 US gallons/1 barrel = 31 US gallons) per year, and may include an accessory tasting room and retail space for patrons on-site that is clearly incidental to the microbrewery operation.

Taproom Brewery – See bar and cocktail lounge.

Tasting Room is an area within a Microbrewery, -distillery, or -winery devoted to the sampling and sales thereof of beer, spirits, or wine produced on-site for on- or off-site consumption.

Remainder of section unchanged.

ARTICLE VI. – DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 34-622. Use activity groups.

Staff Note: Update malt beverage uses to over 15,000 barrels based on microbrewery definition and state licensing requirements.

(a) through (b) unchanged.

(c) Use activity groups are as follows:

(15) *Food and kindred products, manufacturing.*

GROUP II	
2082	Malt beverages, <u>over 15,000 barrels per year</u>
2083	Malt, <u>over 15,000 barrels per year</u>
2084	Wines, brandy, and brandy spirits, <u>over 15,000 barrels per year</u>
2085	Distilled, rectified and blended liquors, <u>over 15,000 barrels per year</u>
2082	Regional Brewery <u>over 15,000 barrels</u>

Remainder of section unchanged.

DIVISION 6. COMMERCIAL DISTRICTS

Sec. 34-844. Use regulations table.

Staff Note: Add ‘brewpub’ and ‘micro-brewery, -distillery, -winery’ to the use regulations table, consistent with ‘bar or cocktail lounge’ use. No changes are proposed for the table notes, but are included for reference.

Use regulations for conventional commercial districts are as follows:

TABLE 34-844. USE REGULATIONS FOR CONVENTIONAL COMMERCIAL DISTRICTS

	Special Notes or Regulations	C-1A	C-1	C-2	C-2A	CN-1	CN-2	CN-3 (21, 23)	CC	CG	CS-1	CS-2	CH	CT	CR	CI	CP
Bar or cocktail lounge	34-1201 et seq. 34-1261 et seq.	—	AA/SE	AA/SE	AA/SE	—	—	—	AA/SE	AA/SE	—	—	AA/SE (6)	AA/SE	AA/SE	—	—
Brewpub	34-1201 et seq. 34-1261 et seq.	=	AA/SE	AA/SE	AA/SE	=	=	=	AA/SE	AA/SE	=	=	AA/SE (6)	AA/SE	=	=	=
Consumption on premises	34-1261 et seq.	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE (22)	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	AA/SE	—	—
Micro-brewery, -distillery, -winery	34-1201 et seq. 34-1261 et seq.	=	AA/SE	AA/SE	AA/SE	=	=	=	AA/SE	AA/SE	=	=	AA/SE	AA/SE	=	=	=

Notes:

- (1) Permitted only when accessory to a lawfully permitted single-family dwelling unit.
- (2) No outdoor display of merchandise permitted.
- (3) Permitted only if completely enclosed within a building.
- (4) No installation service permitted.
- (5) Limited to 500 square feet when in conjunction with one dwelling unit on the same premises.
- (6) Use only permitted when clearly incidental to a hotel or motel.
- (7) The following uses may be permissible seaward of the water body setback line only by special exception: boat rentals (inflatables, sailboats, jet skis, windsurfers and the like), foodstands, rental of cabanas and beach furniture, outdoor amusements including boat balloonist, and seaplane rides, water ski tows, parasail tows and similar activities, fishing and sightseeing piers and towers.
- (8) Bail bonding, blood banks, blood donor stations and caterers permitted only by special exception.
- (9) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.
- (10) The total square footage of the residential uses shall not exceed the total square footage of all existing and proposed commercial uses on the subject property, and the total number of residential units shall not exceed the number of units permitted by the Lee Plan, whichever is less.
- (11) Not permitted within 500 feet of the nearest residence.
- (12) Excluding supermarkets.
- (13) New facilities of 50 or more beds, or the expansion of an existing facility that will bring the number of beds to 50 or more, requires a special exception.
- (14) Use not permitted on Captiva Island or within the Gasparilla Island conservation district.
- (15) Limited to those commodities and products which are permitted to be sold at retail, provided that parking meets the requirements for retail sales.
- (16) ATM's that are to be available to the public 24 hours a day, must be approved by Special Exception and located so that their uses will not cause a disturbance to adjacent property owners. ATM's located within a building housing a permitted use and available to the public only during normal working hours do not require a Special Exception.
- (17) Limited to rental of passenger cars, vans, and pick-up trucks less than three-quarter ton capacity. Maintenance activities limited to washing, waxing, vacuuming and minor repairs but excluding activities classified as Automotive Repair and Service-Groups I and II. See section 34-622(c)(2).
- (18) Two pumps are permissible as an accessory use to businesses (other than a convenience food and beverage store which is listed separately) to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.
- (19) Limited to eight pumps unless a greater number is approved as part of a special exception or as specifically approved in the master concept plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998 will not be considered non-conforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.
- (20) Facilities proposed for ten or more acres or the expansion of an existing facility that will bring the number of acres to ten or more acres must request and be approved as a special exception.
- (21) Regular business hours limited to 7:00 a.m. to 9:00 p.m. unless extended hours are approved by Special Exception for a specific use.
- (22) Use may only be approved when clearly incidental to a permitted restaurant.
- (23) Total floor area of a single use building may not exceed 5,000 square feet. A multi-use building may not exceed 7,500 square feet. If more than one building is in a development, there must be a minimum separation between buildings of fifteen feet.
- (24) No outdoor seating.

- (25) Not permitted in Airport Noise Zone B.
- (26) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (27) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004.
- (28) Limited to active recreation only (ball fields and tennis courts, for example) in Airport Noise Zone B.
- (29) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- (30) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.
- (31) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (32) For purposes of this use only, grade is the average elevation of the street or streets abutting the property measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage.
- (33) Limited to four pumps, unless a greater number is approved as part of a special exception.
- (34) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352.
- (35) New multiple-family buildings are permitted on properties zoned C-1A only within the mixed use overlay.
- (36) Family day care homes are exempt pursuant to F.S. § 125.0109.

DIVISION 7. MARINE-ORIENTED DISTRICTS

Sec. 34-873. Use regulations table.

Staff Note: Add 'brewpub' and 'micro-brewery, -distillery, -winery' to the use regulations table, consistent with 'bar or cocktail lounge' use. No changes are proposed for the table notes, which are included for reference.

Use regulations for marine-oriented districts are as follows:

TABLE 34-873. USE REGULATIONS FOR MARINE-ORIENTED DISTRICTS

	Special Notes or Regulations	CM	IM	PORT
Bar or cocktail lounge	34-1261 et seq.	AA/SE	—	—
<u>Brewpub</u>	<u>34-1201 et seq.</u> <u>34-1261 et seq.</u>	<u>AA/SE</u>	=	=
Consumption on premises	34-1261 et seq.	AA/SE	AA/SE	AA/SE
<u>Micro-brewery, -distillery, -winery</u>	<u>34-1201 et seq.</u> <u>34-1261 et seq.</u>	<u>AA/SE</u>	<u>AA/SE</u>	<u>AA/SE</u>
Restaurant (34-622(c)(43)):				
Group I		P	P	P
Group II		P	SE	—
Group III		P	—	—

Notes:

- (1) Minor boat repair only.
- (2) Limited to yacht or sailing clubs, youth-oriented boating clubs, and U.S. Coast Guard power squadrons.
- (3) Mainly the U.S. Navy, Coast Guard, Army Corps of Engineers, State Department of Environmental Protection and Marine Patrol.
- (4) Limited to marine-oriented schools.
- (5) Not permitted on Captiva Island or within the Gasparilla Island conservation district.
- (6) Limited to caretaker's residence only. This limitation shall not apply to the Boca Bay Project as may be amended, which shall remain a permitted residential development in the PORT district located at Boca Grande.
- (7) In conjunction with approved caretaker's residence only (see note (6)).
- (8) Not permitted in Airport Noise Zone B.
- (9) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (10) Permitted in Airport Noise Zone B only when ancillary to lawful mobile home or single-family residence. See section 34-1004.
- (11) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (12) For purposes of this use only, grade is the average elevation of the street or streets abutting the property. Average elevation of the street is measured along the centerline of the streets, at the points of intersection of the streets with the lot lines (as extended) and the midpoint of the lot frontage.

DIVISION 8. INDUSTRIAL DISTRICTS

Sec. 34-903. Use regulations table.

Staff Note: Add 'brewpub' and 'micro-brewery, -distillery, -winery' to the use regulations table, consistent with 'bar or cocktail lounge' use. No changes are proposed for the table notes, which are included for reference.

Use regulations for industrial districts are as follows:

TABLE 34-903. USE REGULATIONS FOR INDUSTRIAL DISTRICTS

					Special Notes or Regulations	IL Note (14)	IG Note (14)	IR Note (14)	
					Bar or cocktail lounge	34-1261 et seq.	SE	SE	—
					<u>Brewpub</u>	<u>34-1201 et seq.</u> <u>34-1261 et seq.</u>	<u>SE</u>	<u>SE</u>	<u>—</u>
					Consumption on premises	34-1261 et seq., 34-3152	AA/SE	AA/SE	—
					<u>Micro-brewery, -distillery, -winery</u>	<u>34-1201 et seq.</u> <u>34-1261 et seq.</u>	<u>SE</u>	<u>SE</u>	<u>—</u>

Notes:

- (1) Excluding asphalt or concrete batch plants that were not lawfully existing as of February 4, 1978.
- (2) New facilities of ten or more acres or expansion of an existing facility to ten or more acres requires a special exception.
- (3) Limited to agricultural products, livestock and equipment.
- (4) Expansion of an existing facility to over 50 beds requires a special exception.
- (5) Limited to manufacturing of cosmetics, perfumes and other toilet preparations only.
- (6) Limited to assembly of the finished product from its component parts.
- (7) Limited to SIC code 265 (Paperboard Containers and Boxes) only.

- (8) Limited to small custom-designed concrete products produced in molds, such as decorative architecture or ornamental features commonly associated with residential uses.
- (9) The use is subject to the special setback regulations as set forth in section 34-2443, minimum required setbacks.
- (10) Family day care homes are exempt pursuant to F.S. § 125.0109.
- (11) Two pumps are permissible as an accessory use to businesses to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.
- (12) Including asphalt batch plants.
- (13) A day care center, owned by the entity with title to the place of worship, that is operated within the building housing the place of worship is not required to obtain special exception approval.
- (14) In the industrial development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those that are specifically related to adjoining industrial uses consistent with Policy 1.1.7 of the Lee County Comprehensive Plan.
- (15) Limited to the parking of the following:
 - 1. A tractor-trailer or semi-trailer truck.
 - 2. A truck with two or more rear axles.
 - 3. A truck with a manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 12,000 pounds.
 - 4. Any truck and trailer combination resulting in a combined manufacturer's Gross Vehicle Weight Rating (GVWR) in excess of 12,000 pounds.
 - 5. Any trailer used in the conduct of a commercial or industrial business.
- (16) Not permitted in Airport Noise Zone B.
- (17) Not permitted in Airport Noise Zones B unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1004 as applicable.

DIVISION 9. PLANNED DEVELOPMENT DISTRICTS

Sec. 34-934. Use regulations table.

Staff Note: Add 'brewpub' and 'micro-brewery, -distillery, -winery' to the use regulations table, consistent with 'bar or cocktail lounge' use. No changes are proposed for the table notes, which are included for reference.

Use regulations for planned development districts are as follows:

TABLE 34-934. USE REGULATIONS FOR PLANNED DEVELOPMENT DISTRICTS

	Special Notes or Regulations	RPD	MHPD	RVPD	CFPD	CPD	IPD Note (37)	MPD	MEPD
Bar or cocktail lounge	34-1261 et seq.	—	—	—	—	P	P	P	—
<u>Brewpub</u>	<u>34-1201 et seq.</u> <u>34-1261 et seq.</u>	—	—	—	—	P	P	P	—
Consumption on premises	34-1261 et seq.	P(4)	P(4)	P(8)	P	P	P(9)	P	—
<u>Micro-brewery, -distillery, -winery</u>	<u>34-1201 et seq.</u> <u>34-1261 et seq.</u>	—	—	—	—	P	P	P	—

Notes:

- (1) If use or structure is customarily accessory to an approved permitted use it does not need to be shown on the master concept plan.
- (2) Permitted only when accessory to a lawfully permitted single-family dwelling unit.

- (3) If not shown on the master concept plan, but included in the approved list of enumerated uses, this use may be approved administratively, at the Director's discretion, or as a planned development amendment after approval of the master concept plan.
- (4) Subject to limitations for commercial uses set forth in section 34-937.
- (5) If the use or activity does not conform to the criteria set-forth in section 34-938, then it is subject to the setback requirements set forth in sections 34-935(b)(4) and 34-2441 et seq.
- (6) Limited to nontransient parks only.
- (7) Uses anticipated include boat rentals (inflatables, sailboats, jet skis, windsurfers and the like) food stands, rental of cabanas and beach furniture, outdoor amusements including balloonist, seaplane rides, ski tows and similar activities, fishing and sightseeing piers and towers.
- (8) Permitted as an accessory use when designed and intended primarily for use by people staying at the recreational vehicle development.
- (9) Permitted only when accessory to an airport or other transportation facility, hotel or motel, or an office complex of 50,000 or more square feet.
- (10) Permitted only in conjunction with at least 50,000 square feet or more of commercial or industrial uses.
- (11) Not permitted within 500 feet of nearest residence.
- (12) Automobile auctions, on-site or internet, are permitted only when all vehicles are stored inside. Projects with outdoor storage will be considered vehicle and equipment dealers, group I, and must comply with section 34-1352.
- (13) Family day care homes are exempt pursuant to F.S. § 125.0109.
- (14) Park-trailers permitted in nontransient parks only.
- (15) Limited to recreational vehicles, trailers, boats, and other vehicles and goods belonging to park residents.
- (16) Reserved.
- (17) Limited to recreational vehicles only.
- (18) Reserved.
- (19) Only when clearly subordinate to a cemetery located on the same premises.
- (20) Recreational vehicle sites in mobile home planned developments (MHPD) must be designated on the approved master concept plan. All recreational vehicles approved as part of a MHPD are subject to the regulations in sections 34-762 through 34-766 and 34-1179.
- (21) In RPDs and residential areas of MPDs, a special exception may be required.
- (22) Wireless communication facilities must be listed on the approved schedule of uses for the planned development; however, approval of a specific facility must be in accordance with section 34-1441 et seq.
- (23) Real estate sales offices in residential areas are limited to sales of lots, homes or units within the development, except as may be permitted in section 34-1951 et seq. The location of, and approval for, the real estate sales office will be valid for a period of time not exceeding five years from the date the certificate of occupancy for the sales office is issued. The Director may grant one two-year extension at the same location.
- (24) Two pumps are permissible as an accessory use to businesses to provide fuel for their own fleet of vehicles and equipment. Additional pumps require approval of a special exception.
- (25) Reserved.
- (26) Reserved.
- (27) Limited to eight self service fuel pumps (df) unless a greater number is specifically approved as part of the planned development and depicted on the master concept plan. An existing business with more than eight lawfully permitted pumps as of January 31, 1998 will not be considered non-conforming. Existing pumps may be modernized, replaced, or relocated on the same premises but additional new pumps will not be permitted.
- (28) Not permitted in Airport Noise Zone B.
- (29) Not permitted in Airport Noise Zone B. See section 34-1004 for exceptions.
- (30) Reserved.
- (31) Not permitted in Airport Noise Zone B unless accessory to a lawful mobile home or single-family residence. See section 34-1004.
- (32) Indoor theater only in Airport Noise Zone B.
- (33) Reserved.

- (34) Not permitted in Airport Noise Zones unless required to support a noise compatible use and constructed in compliance with limitations for dwelling unit type set forth in section 34-1006(b)(2) as applicable.
- (35) Not permitted in Airport Noise Zone B unless pre-empted by state law.
- (36) Sound attenuating insulation should be considered for hotels and motels in Airport Noise Zone B.
- (37) In the Industrial Development land use category, offices and office complexes are only permitted when specifically related to adjoining industrial use(s). Prior to issuance of any local development order, the developer must record covenants and restrictions for the property that limit any office uses to those that are specifically related to adjoining industrial uses consistent with Policy 1.1.7 of the Lee County Comprehensive Plan.
- (38) Reserved.
- (39) Reserved.
- (40) Reserved.
- (41) Limited to four pumps, unless a greater number is approved as part of a planned development.
- (42) In an existing planned development, the Director has the discretion to require removal of excess spoil to be reviewed through the public hearing process.
- (43) See sections 34-3107 and 34-3108.
- (44) The rights applicable to mining excavations approved prior to September 1, 2008, are set forth in section 12-121.
- (45) All new or expanded essential services group II uses must be approved as a planned development.
- (46) Reserved.
- (47) Not permitted in Coastal High Hazard areas unless in compliance with section 2-485(b)(5)a.
- (48) Planned development rezonings within the future urban areas may not establish new, or expand existing, agricultural uses. Bona fide agricultural uses that exist at the time of rezoning may continue until development commences. The approved existing agricultural uses must not expand beyond the boundaries that existed at the time of rezoning. Existing agricultural uses within any tract or phase must be discontinued upon local development order approval for that tract or phase.

ARTICLE VIII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 5. ALCOHOLIC BEVERAGES

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

Staff Note: Add regulatory framework to allow for the package sale of alcoholic beverages in conjunction with micro-breweries, -distilleries, and –wineries in a similar manner to other package stores, when clearly incidental to the manufacturing of alcoholic beverages.

- (a) Package stores which have only a 1-APS state liquor license are exempt from this section, except for subsection (c) of this section.
- (b) The sale of alcoholic beverages for consumption off the premises shall be allowed as a permitted use as follows, provided that the regulations set forth in subsection (c) of this section are met:
 - (1) In any zoning district wherein package stores are listed as a permitted use, only when the establishment is licensed only as a package store; and
 - (2) In any retail sales establishment wherein the sale of alcoholic beverages for consumption off-site is clearly incidental to other retail sales commodities, such as in a grocery store, supermarket or drugstore, and limited to PS series liquor licenses.
 - (3) In any micro-brewery, micro-distillery, or micro-winery where the sale of alcoholic beverages for consumption off-site is clearly incidental to the production of alcoholic beverages on-site.
- (c) Only alcoholic beverages in original factory-sealed containers shall be permitted to be sold.

- (d) In addition to the requirements of subsections (a) through (c) of this section, any establishment primarily engaged in the sale of alcoholic beverages for consumption off-site shall also be required to comply with all applicable state liquor laws and section 1 of Ordinance No. 76-9 of the County.
- (e) No package store or other establishment primarily engaged in the retail sale of liquor for consumption off-site shall be permitted closer than 500 feet to any religious facility, school (noncommercial), day care center (child), park or dwelling unit, or 500 feet from any other establishment primarily engaged in the sale of alcoholic beverages.
 - (1) For purposes of this subsection, the distance shall be measured in a straight line from any public entrance or exit of the establishment to the nearest property line of the religious facility, school (noncommercial), day care center (child), park or dwelling unit, or any public entrance or exit of any other establishment primarily engaged in the sale of alcoholic beverages.
 - (2) Where an establishment for the sale of alcoholic beverages is located in conformity with the provisions of this subsection, and a religious facility, school (noncommercial), day care center (child), park or dwelling unit is subsequently established in the proximity of such existing establishment, then the separation requirements shall not apply.
 - (3) Notwithstanding subsection (e)(1) of this section, where a package store is located in a shopping center which is 25,000 square feet or greater in size, the separation requirements from any dwelling unit shall not apply.
 - (4) In any PD, planned development, where the applicant is contemplating the sale of alcoholic beverages for consumption off the premises in an establishment which cannot meet the distance requirements set forth in subsection (e) of this section, the applicant shall request a deviation from the requirements of subsection (e).

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

Staff Note: Incorporate brewpubs, micro-breweries, -distilleries, and -wineries into administrative approval procedures for administrative approval for Consumption on Premises.

- (a) *Approval required.* The sale or service of alcoholic beverages for consumption on-premises is not permitted until the location has been approved by the County as follows:
 - (1) *Administrative approval.* An administrative approval for consumption on-premises is required in accordance with section 34-174 when in conjunction with the following uses:
 - a. County-owned airports, arenas and stadiums, including liquor, beer, malt liquor and wine in restaurants, bars, lounges, concessions, concession stands and package stores at County-owned airports;
 - b. Bars, cocktail lounges, ~~or~~ night clubs, brewpubs, micro-breweries, micro-distilleries, or micro-wineries located in commercial and industrial zoning districts that permit bars, cocktail lounges or night clubs, provided the standards set forth in subsections (b)(1) and (3) of this section are met;
 - c. Bowling alleys and movie theaters provided the standards set forth in subsections (b)(2)a. and (b)(3) of this section are met;
 - d. Clubs and fraternal or membership organizations located in commercial and industrial zoning districts, where permitted, provided the standards set forth in subsections (b)(2)f. and (b)(3) of this section are met;
 - e. Cocktail lounges in golf course, tennis clubs or indoor racquetball clubs, provided the standards set forth in subsections (b)(2)d. and e. and (b)(3) of this section are met;
 - f. Hotels/motels, provided the standards set forth in subsections (b)(2)c and (b)(3) of this section are met; and

- g. Restaurants groups II, III and IV, and restaurants with brew pub license requirements, provided the standards set forth in subsections (b)(2)b. and (b)(3) of this section are met. Outdoor seating in conjunction with a group II, III or IV restaurant may be approved administratively provided:
 - 1. The outdoor seating area is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership; or
 - 2. The outdoor seating area is within 500 feet of a religious facility, school (noncommercial), day care center (child), park or dwelling unit under separate ownership but is a tenant of a multi-occupancy complex that is adjacent to an arterial or collector road.
 - h. Charter, party fishing boat or cruise ship, provided the standards of section (b)(3) are met. The COP approval is specific to the charter, party fishing boat or cruise ship operating from a specific location and does not run with the land nor is it transferrable.
 - i. Beer and wine taste testing in conjunction with package sales (consumption off premises).
 - j. Limited food and beverage services when accessory to an agritourism activity permitted in accordance with LDC § 34-1711 provided that the activity is not within 500 feet of a religious facility, school (noncommercial), day care center (child), park, or dwelling unit under separate ownership.
- (2) *Special exception.*
- a. A special exception for consumption on the premises is required for:
 - 1. Any establishment not covered by subsection (a)(1) of this section; or
 - 2. Any establishment, except those covered by section 34-1264(a)(1)(g), which provides outdoor seating areas for its patrons consuming alcoholic beverages.
 - b. The burden of proof that the grant of the special exception will not have an adverse affect on surrounding properties lies with the applicant.
 - c. A single special exception for consumption on the premises for a shopping center in a conventional zoning district is sufficient to permit consumption on the premises in every restaurant that exists or may be established within the center.
- (3) *Planned developments and planned unit developments.*
- a. No administrative approval is necessary where an individual establishment or other facility proposing consumption on the premises is explicitly designated on the master concept plan and is included on the schedule of uses.
 - b. If consumption on the premises is shown as a permitted use on the approved schedule of uses for a shopping center, no administrative approval for consumption on the premises is required for restaurants within the center.
 - c. Consumption on the premises for other uses within planned developments and planned unit developments require administrative approval or a special exception.

Remainder of section unchanged.

DIVISION 26. PARKING

Sec. 34-2020. Required parking spaces.

Staff note: incorporate brewpubs, micro-breweries, -distilleries, and -wineries into parking regulations. Staff calculates tasting rooms and retail operations at the same rate as bar and cocktail lounge, while allowing for the

production of alcoholic beverages to be calculated as a processing and warehousing use, commonly used for general industrial uses.

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

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

(a) *Remains unchanged.*

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

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

Use	Special Notes or Regulations	Minimum Required Spaces for Single-Use Development	Minimum Required Spaces for Multiple-Use Development
Bars and cocktail lounges, nightclubs <u>brewpubs</u> , <u>micro-breweries</u> , - <u>distilleries</u> , - <u>wineries</u> , <u>Tasting Room</u> .	Note (1) <u>(17)&(18)</u>	21 spaces per 1,000 square feet of total floor area	14 spaces per 1,000 square feet of total floor area
Manufacturing and Light Industrial	Note (1)	1.75 spaces per 1,500 square feet of total floor area	1.5 spaces per 1,500 square feet of total floor area
Restaurants.	Notes (8), (9) & (10)	14 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate	12.5 spaces per 1,000 square feet of total floor area; outdoor seating area is calculated at same rate
Restaurants, fast food.	Note (9)	13 spaces per 1000 square feet of total floor area; outdoor seating area is calculated at same rate	—

Notes:

- (1) Accessory or ancillary uses must be calculated separately and in compliance with this division.
- (2) In addition to the minimum parking requirement for day care centers, adequate and safe provisions for loading and unloading clients must be provided.
- (3) An additional one space for every six seats must be provided when public use of an auditorium or other place of assembly within a school is likely.
- (4) Parking for a clubhouse with a restaurant will be 6 spaces per hole or 12.5 spaces per 1,000 square feet of restaurant whichever is greater.

- (5) Parking space dimensions for boat ramps must be a minimum of 12 feet wide by 40 feet long to accommodate a vehicle and boat trailer.
- (6) Minimum parking requirement is based on the boat manufacturer's specifications related to the maximum passenger capacity and crew capacity of the boat or ship using the dock or loading facility.
- (7) For meeting facilities with fixed seats, refer to Recreational facilities, indoor.
- (8) If over 50 percent of the total floor area of a restaurant is used as a bar or cocktail lounge, then the minimum parking requirement will be: 14 spaces per 1,000 square feet for the floor area used as the restaurant and 21 spaces per 1,000 square feet for the floor area used as the bar or cocktail lounge.
- (9) The minimum required parking requirement for Groups I, II and fast food restaurants with no drive-up facilities located in a multiple-use development is 1 space per 350 square feet of total floor area.
- (10) No additional parking spaces are required when a restaurant is located within the same building as the principal use and is provided primarily for the employees and customers of the principal use.
- (11) Reserved.
- (12) Truck dock/loading bay spaces may be used to satisfy the truck and trailer parking requirement. Truck dock/loading spaces do not have to be striped.
- (13) Parking space dimensions of 15 feet wide by 60 feet long are required to accommodate truck and trailer parking. However, truck and trailer parking spaces located in truck dock/loading bays do not have to meet the parking space dimension requirements.
- (14) Where occupants utilize benches, pews or other similar seating arrangements, each 24 lineal inches of seating facilities will be counted as one seat for the purpose of computing off-street parking requirements.
- (15) If more than 20 percent of the total floor area or 600 square feet, whichever is less, is used for the preparation and/or sale of food or beverages in a ready-to-consume state, parking will be calculated the same as a fast food restaurant.
- (16) Limited to multiple-occupancy complexes that lawfully existed on September 17, 2012. If the complex is enlarged in terms of floor area or if the value of renovation exceeds 50% of the value of the property, additional parking spaces must be provided based on the requirements in 34-2020(b). Parking for the additional floor area will be calculated at the multiple-use development rate required for the specific use.
- (17) Floor area dedicated to the manufacturing and packaging of ales, beers, meads, wines, liquor or similar beverages and not accessible to the general public may utilize the minimum parking requirement for 'Manufacturing and Light Industrial.'
- (18) A maximum of 35 percent of the total floor area of a brewpub can be dedicated to non-brewery related functions.

Remainder of section unchanged.

GROUP 1, ITEM 3

CLEAN-UP ITEMS

Sec. 2-482. Applicability.

Staff note: Required impact mitigation is determined using the methods provided in Section 2-485. The emergency shelter required by Section 10-258 is an outdated requirement and is no longer a preferred means of mitigation.

This article applies only to development required to obtain a development order under Chapter 10 and is applicable to all new residential development within unincorporated areas of the County that are located in a land falling Category 1, 2, or 3 storm surge area. The provisions of this article are intended to supersede the provisions of the County Administrative Code 7-9 in the event of a conflict. Under this article, the term "residential development," includes, but is not limited to, all assisted living facilities, dwelling units, living and housing units, mobile homes, recreational vehicle developments (including recreational vehicles qualifying as permanent residences under this Code), hotel and motel, health care facilities Groups I, II and IV, and social services facilities Groups III and IV, as these terms are defined in Chapter 34. ~~This article does not eliminate the shelter requirements applicable to mobile home or recreational vehicle developments contained in Section 10-258 to the extent this obligation is fulfilled by compliance with this article.~~

Sec. 6-505. Accessory structures.

Staff note: The Florida Building Code's latest edition establishes design requirements for detached residential accessory structures, which includes a 600-square-foot maximum. This section of the LDC is revised to remove reference to a maximum building size that conflicts with the Florida Building Code.

Accessory structures are not required to meet the elevation requirements if they meet all of the following requirements, in addition to those set forth in Section 6-487:

- (1) The structure is securely anchored to resist flotation, collapse, and lateral movement;
- ~~(2) The building is a minimal investment, and the total size of the building does not exceed 1,000 square feet in floor area;~~
- ~~(2)(3)~~ The structure is used exclusively for uninhabitable parking or storage purposes;
- ~~(3)(4)~~ All electrical or heating equipment is elevated above the base flood elevation or otherwise protected from intrusion of floodwaters; and
- ~~(4)(5)~~ For accessory structures located in coastal high-hazard areas (V zones), breakaway walls are used below the lowest floor.

Sec. 10-258. Reserved. ~~Emergency shelters for mobile home or recreational vehicle developments.~~

Staff note: Required impact mitigation is determined using the methods provided in Section 2-485. The emergency shelter required by Section 10-258 is an outdated requirement and is no longer a preferred means of mitigation.

~~For all mobile home or recreational vehicle developments, there shall be required an emergency shelter, which shall be a building of wood frame, metal or CBS construction. The size of each emergency shelter shall be determined by using the total number of units and spaces multiplied by 2.4 (representing the average number of persons per household), multiplied by the shelter space requirement of 20 square feet of usable floorspace per person, and multiplied by the maximum estimated percentage of evacuating population that would use a shelter (45 percent), which would equal the total required size of the emergency shelter. In no case, however, shall this section be interpreted to require construction of a shelter with less than 1,000 square feet of floor area. The shelter shall be~~

~~elevated to a minimum height equal to or above the worst case Category 3 flooding level utilizing the National Weather Service Storm Surge Model, "SLOSH."~~

Sec. 34-734. Reserved. Emergency shelters.

Staff note: Required impact mitigation is determined using the methods provided in Section 2-485. The emergency shelter required by Section 10-258 is an outdated requirement and is no longer a preferred means of mitigation.

~~Mobile home residential developments commenced after August 1, 1986, will be required to provide emergency shelters in accordance with the provisions of Section 10-258.~~

Sec. 34-763. Tiedowns and emergency shelters.

Staff note: Required impact mitigation is determined using the methods provided in Section 2-485. The emergency shelter required by Section 10-258 is an outdated requirement and is no longer a preferred means of mitigation.

(a) *Tiedowns.*

- (1) The following recreational vehicles must be properly tied down in accordance with the standards set forth in F.A.C. Ch. 15C-1, as amended, or Chapter 6, Article IV, whichever is applicable, as follows:
 - a. All permanent units, as defined in section 34-2. ~~(df).~~
 - b. All travel trailers, motor homes or camping trailers left unattended for more than two weeks during the months of June through December. For the purposes of this section only, the term "unattended" will be interpreted to mean that the owner of the unit has not provided for a person to be responsible for the unit in the event of a hurricane watch alert as set forth in Subsection (a)(2) of this section.
- (2) All travel trailers, motor homes or camping trailers must be tied down within 48 hours of the issuance of a hurricane watch for the County by the National Hurricane Center. Travel trailers, motor homes or camping trailers not tied down will be removed from the County within 48 hours of such a hurricane watch or placed within an approved off-lot storage area.

~~(b) *Emergency shelters.* New or phased recreational vehicle developments will be required to provide an emergency shelter in accordance with the provisions of Section 10-258.~~