



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

**FRIDAY, JULY 12, 2024  
8:30 A.M.**

**AGENDA**

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – May 10, 2024
3. Land Development Code Amendments
  - A. Development Services Amendments
    - 1) Platting Code Changes (SB812)
    - 2) Chapter 10 Deviations
      - a. Dumpster Size Reduction
    - 3) Minor Change Limitations
    - 4) Types of Development Entitled to Limited Review
    - 5) Sidewalk Fee-In-Lieu/Absence of Need Reexamination
    - 6) Street Design and Construction Standards
    - 7) Bicycle Parking Design
    - 8) Access Width Requirements for Fire Stations
  - B. Code Enforcement Amendments
    - 1) Unsafe Building Abatement Code
    - 2) Penalties and Liens
    - 3) Sea Turtle Conservation
    - 4) Beach and Dune Management
    - 5) Invasive Exotics Table
  - C. Clean-up
    - 1) HEX Powers and Duties
    - 2) Right to Farm Act (Fish Farm Reversion)

- 3) Off-Street Parking Requirements for Residential Communities with a Golf Course
- 4) Post-Disaster Ordinance Cross-References
- 5) Separation of Building Official/Floodplain Administrator Duties
- 6) Quorum Requirements for Board of Adjustments and Appeals
- 7) Street Names

4. Adjournment – Next Meeting Date: September 13, 2024

To view a copy of the agenda, go to [www.leegov.com/dcd/calendar](http://www.leegov.com/dcd/calendar)

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**MINUTES REPORT**  
**LAND DEVELOPMENT CODE ADVISORY COMMITTEE**  
**(LDCAC)**  
**Friday, May 10, 2024**  
**8:30 a.m.**

**Committee Members Present:**

Veronica Martin	Christopher Scott
Paula McMichael, Chair	Amy Thibaut, Vice Chair
Jennifer Sapen	Patrick Vanasse

**Excused / Absent:**

Jem Frantz	Jarod Prentice
Jay Johnson	Bill Prysi
Randy Krise	Al Quattrone
Tom Lehnert	Linda Stewart
Jack Morris	

**Lee County Government Staff Present:**

Joe Adams, Asst, County Atty.	Janet Miller, DCD Admin.
Dirk Danley, Jr., Zoning	Joe Sarracino, Planning
Tad Delnay, Deputy Bldg. Official	Anthony Rodriguez, Zoning Manager
Adam Mendez, Zoning	

**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.

Mr. Joe Adams, Assistant County Attorney, reviewed the Affidavit of Publication and found it legally sufficient as to form and content.

**AGENDA ITEM 2 - APPROVAL OF MINUTES – March 8, 2024**

**Ms. Martin made a motion to approve the March 8, 2024 minutes, seconded by Mr. Scott. The motion was called and passed unanimously.**

**AGENDA ITEM 3 – LAND DEVELOPMENT CODE AMENDMENTS**

**A. Restaurant Classifications**

Mr. Dirk Danley, Principal Planner, provided an overview of these amendments. He informed the Board that it was staff's preference to have a motion for each item separately.

**Sec. 33-1261. Permitted Uses**

Ms. Sapen noted the different group numbers (i.e. Group 1 thru IV) are being removed. She asked what will take place if someone gets their zoning approved and one group approved, but not the other groups. Now that the group numbers are being removed, does this mean someone's restaurant would be allowed in all groups by default?

Mr. Rodriguez stated that would not be the case because there are no more groups.

Mr. Danley referred the Committee to the definition of restaurant and noted there is a line item that says, *“This definition includes uses previously classified as Restaurants, Groups I, II, III and IV.”* Now, the restaurant classification is under an umbrella of what it was previously designated as.

### **LDC Section 34-2. – Definitions**

Mr. Scott asked if an establishment would still be considered a restaurant with drive-through if it is a fast-food restaurant that does not have a drive-through. He also was not certain the definition is necessary because restaurant is already defined as well as a drive-through. Some establishments have a drive-through lane.

Mr. Danley stated that was an interesting question and suggested staff might change the word “or” to “and.” He further stated the intent is that as soon as a drive-through is associated with a restaurant, it would be considered a fast-food restaurant. An example is Starbucks, which is a Group II restaurant. As soon as it has a drive-through, it triggers the 34-1353 requirements of a fast-food restaurant. Currently, the Starbucks in downtown Fort Myers is a restaurant because it does not currently have a drive-through. If at some point, they add a drive-through, it becomes a fast-food restaurant. Staff will clarify that the presence of a drive-through is what is triggering that requirement.

Mr. Scott stated if that is the intent his recommendation would be to strike the definition because both restaurant and drive-through is already defined. If the only qualification is a restaurant that includes a drive-through, he did not see why staff needs to define it any further.

Ms. McMichael asked if there was anything other than a fast-food restaurant that staff is trying to regulate other than the drive-through?

Mr. Danley stated that in terms of triggering something into a fast-food restaurant, it is the presence of the drive-through that changes the nature of the business. Staff is trying to capture the way the ITE captures different types of restaurants. They have many different categories, such as a coffee shop that does not have a lot of trips. However, a coffee shop with a drive-through is one of the highest trip generating businesses in the ITE. The reason is the convenience of being able to stay in your car, order, and drive away.

Mr. Vanasse stated that although we were not looking at the parking requirements, he noticed there was not much difference in the parking required for a drive-through versus a sit-down restaurant. He felt the parking numbers should be significantly reduced for drive-throughs. He was in favor of there being a distinction between the two so that staff can adjust the parking requirement at some point.

Ms. Martin referred to the definition of “Drive-through Facility.” It says, *“...in which the patron may temporarily depart from a vehicle in a non-parking space while servicing it.”* She asked if staff could provide an example of that.

Mr. Rodriguez stated one example would be people bringing their vehicle in for an oil change. He explained that the business of instant oil change places has changed in the last 5 years to where patrons can stay in their car. It used to be that a patron would get out of their car, wait in the waiting room while their vehicle is being serviced, get back in their car once the service is completed, and drive away. This is what the clause is trying to capture.

Ms. McMichael referred to the strike-through language and felt it was helpful and should be kept in. It includes examples such as “*do it yourself car washes*” and “**fuel pumps.**”

Ms. Martin and Ms. Sapen concurred with Ms. McMichael and felt the strike-through language should be kept.

Mr. Danley stated that historically staff tries to take out examples in the code, but they can consider leaving it in since the Committee feels it is helpful.

Ms. McMichael referred to “*pick-up window.*” She asked if there were instances where it would not be a window. In other words, is staff only allowing a pick-up window?

Mr. Danley did not feel the intent was to limit it to a window. In the downtown Fort Myers area, there is a dry cleaning facility where people drop their items to be dry cleaned through a sliding glass door. Staff can make it a point of egress or something less specific so there is not a situation.

### **Section 34-844. Use Regulations for Conventional Commercial Districts**

Mr. Scott noted staff was adding restaurant uses to a couple of zoning districts that did not previously allow for restaurants (C-1 and CN-I). He stated he was not objecting to it. He just wanted to make sure it was not a typo.

Mr. Danley stated both of those are intended to be there. He believed that C-1 is an intensive commercial district that straddles some industrial uses. Staff is loosening up the industrial districts to allow for more restaurant uses. In terms of a neighborhood commercial district, staff felt people would want a restaurant in a neighborhood commercial district.

Mr. Rodriguez stated staff also talked about determining it by the neighborhood commercial districts. There are restrictions on hours of operation and size of facilities. Staff felt that was adequate control to allow those uses to operate. The goal is to shorten some trips.

### **Sec. 34-1264. Sale or Service for On-premises Consumption**

Ms. Martin referred to the last sentence in (a)(1) g. on Page 14 of 19 and noted it still includes outdoor seating with a group II, III, or IV restaurant.

Mr. Danley stated that the Executive Regulatory Oversight Committee caught this as well when they met on May 8th. Staff is making that correction.

### **Sec. 34-1353. Convenience Food and Beverage Stores, Automobile Service Stations, Restaurants with Drive-throughs, and Car Washes**

Mr. Scott noticed that in some instances staff is referring to it as restaurant, with drive-through and in other places it is restaurant with drive-through (minus the comma). He felt the comma could be omitted to where it just says restaurant with drive-through.

### **Sec. 34-2020. Required Parking Spaces**

Mr. Vanasse referred to his earlier comment about required parking spaces. With restaurants the parking spaces must be 14 spaces per 1,000 square feet whereas drive-throughs must have 13 spaces per 1000 square feet. He felt there should be adjustments made to that.

Ms. Martin stated she agreed with Mr. Vanasse's sentiment. Her company does many "hybrid restaurants" where some are carry-out only. For instance, a strip plaza might have a Chinese restaurant that might have 2 – 4 booths, but you never see anyone eating there. People only seem to be waiting to pick-up their food and leave. There are also Hungry Howie's throughout Southwest Florida, which have eat-in, they offer delivery, and have a pick-up window, but they do not have a menu board where someone can go to, place an order, and drive away. She felt the parking requirements for those types of facilities should be looked at as well.

Mr. Danley was not certain when staff would be reviewing the parking requirements again, but he plans to add these comments to the list staff is compiling of other comments they have received from members of the public asking for adjustments. Staff will make note of this discussion.

Mr. Scott stated he also disagrees with parking requirements for drive-through restaurants. He referred to Note (9) and questioned why it is in this document since it basically says that it does not apply to restaurants with drive-throughs.

Mr. Danley stated he understood and would make note of that.

Mr. Scott felt there was a difference in shopping centers or multi-tenant buildings that include a Starbucks with a drive-through or a Chipotle with a drive-through. He believed the number of people visiting those sites is much lower to where it might be appropriate to allow reduced parking. However, standalone buildings versus ones that are in a larger shopping center typically have different parking demands.

Mr. Danley stated that staff tried to conceptualize as many situations as possible to make sure this was not a broken code. Regarding Note (9), previously if you were a restaurant in group I or II, and located in a shopping center, you had a reduced parking rate, similar to the Chinese restaurant. Staff cannot make things more restrictive, and they are not allowed to simply strike the Code. Typically, it will not be an issue to provide 1 space per 350 square feet for smaller restaurants. There are some businesses such as Outback Steakhouse by the Bell Tower Mall that would be significantly under-parked at 1 space per 350 square feet. Staff is trying to make sure there is under-parking in some areas. However, Mr. Danley acknowledged staff could review this further to see if there could be some parking adjustments.

### **Section 34-2021. Drive-through Stacking Requirements**

Ms. Sopen noted staff had a requirement of 10 spaces for stacking and 5 before the menu board. She felt that requiring 5 before each menu board penalizes someone for having two menu boards because they would need to have 5 spaces per each menu board and whatever it takes to get from the menu board to the window.

Mr. Rodriguez felt the intent was that if someone has two menu boards at one pick-up location, the total would be 10 stack spaces (5 total split between the two menu boards and 5 for the pick-up area). Although it is not written that way, that is the intent.

Ms. Sopen asked how staff regulates a business such as Chick-Fil-A. She referred to the one on Colonial which is already a busy thoroughfare but is made worse near the Chick-Fil-A area.

Mr. Danley stated the same is true for the one located on Pine Island Road. Staff is open to any suggestions the Committee has on this issue.

**Mr. Scott made a motion to accept the amendments to Agenda Item 3.A. Restaurant Classifications with the suggestion to remove the definition of restaurant with drive-through or clean up the language to clearly identify that it is solely for a restaurant with drive-through and remove all the “or” clauses and double check Note 9 within the parking table (Table 34-2020 (b)) for a restaurant with drive-through, The motion was seconded by Ms. Sopen.**

Mr. Vanasse asked if it will complicate things with the definition if staff applies different parking ratios.

Mr. Scott stated he was not incorporating the parking requirement issues as part of his motion because it is a separate issue that staff stated they were aware of and would address at a later date.

Ms. McMichael stated there still seemed to be an issue with having a definition for Restaurant and Restaurant with Drive-through. Should we have a separate definition for Restaurant with Drive-through?

Ms. Sopen stated that a drive-through does not have a parking count. The only way to get a parking count is restaurant with drive-through, which is where the definition comes in.

Mr. Rodriguez stated there is also a definition for “*Drive-through Facility.*” If staff strikes the definition of Restaurant with Drive-through, they will call it a Restaurant with Drive-through Facility which are both defined and will address it in 34-2020 accordingly.

Mr. Vanasse stated it might be simpler to have the definition of Restaurant with Drive-through that includes a drive-through lane, vehicular ordering, and pickup.

Mr. Scott stated there was also the issue of the comma that he wanted to include.

Final Motion:

**Mr. Scott made a motion to accept the amendments to Agenda Item 3.A. Restaurant Classifications with the following suggestions: 1) to remove the definition of restaurant with drive-through or clean up the language to clearly identify that it is solely for a restaurant with drive-through; 2) remove all the “or” clauses and double check Note 9 within the parking table, Table 34-2020 (b), for a restaurant with drive-through; and, 3) remove the commas under Section 34-1353 in instances where it is listed as Restaurant, with drive-through so that it just reads, Restaurant with drive-through (minus the comma). The motion was seconded by Ms. Sopen. The Chair called the motion and it passed 6-0.**

Mr. Rodriguez assured the Committee that staff is making note of all their comments.

## **B. EMS/Fire/Sheriff’s Stations**

Mr. Dirk Danley, Principal Planner, provided an overview of the amendments.

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

Ms. McMichael asked if the public facilities are defined in the plan or the code.

Mr. Danley stated it was a defined term.

Ms. McMichael asked if it was considered a commercial use.

Mr. Rodriguez stated it was in terms of how it is buffered.

Ms. McMichael asked for clarification that staff did not need to make any changes to the special exception criteria to address this specific use that is already addressed in the county's special exception process.

Mr. Danley stated the special exception criteria is somewhat general and to ensure compatibility with the use in other situations staff has taken these through special exception, so the procedure would not be different than what is already in place.

**Ms. Sapen made a motion to accept the amendments to Agenda Item 3.B. EMS/Fire/Sheriff's Stations. The motion was seconded by Mr. Vanasse. The Chair called the motion and it passed 6-0.**

### **C. Accessory Apartments and Accessory Dwelling Units (ADUs)**

Mr. Adam Mendez, Senior Planner, provided an overview of the amendments.

### **Sec. 34-1177. Accessory Apartments and Accessory Dwelling Units**

Ms. Sapen referred to (a)(2) on Page 1 of 3 and asked why they are presumed to be affordable housing units.

Mr. Mendez stated that the existing language says, "*An accessory dwelling unit is subject to density provisions of the Lee Plan. Density may be calculated using the maximum total (bonus) density range....*" In discussing this language with Planning staff, zoning staff asked if these need to be rent controlled once someone builds an accessory dwelling unit or if there needs to be an agreement for what the rent is. The intent is to allow them to be assumed to be affordable housing units and not have that rent control aspect to it just by virtue of the fact that they are subordinate to the principal single-family unit so they are smaller in size in comparison.

Ms. Sapen stated that the way it is written it seemed to be something someone wants, but there is nothing requiring it. To her, it should be that it is required or not required. This may be intent language, but she did not want the county to get into an analysis of dollar amounts if their intention is not to do that.

Mr. Mendez stated staff can review that section further to see if there is a way to clarify it.

Ms. McMichael stated she was confused with the term "*nonliving*" area. She also noted that "*living area*" is in the same section.

Mr. Mendez stated staff does not have a definition for "*nonliving area*," so they referenced "*living area*" to make the delineation. Staff can define what they consider to be a "*living area*." Anything outside of that is a "*nonliving area*."



Ms. McMichael asked if staff was trying to capture items such as storage or something similar to that.

Mr. Mendez stated that was correct, but that they want to capture the garages as well.

Mr. Vanasse asked if it included lanais.

Mr. Mendez stated that was correct.

Ms. Martin asked how staff would address a larger estate type of home that is connected through their backyard that has a man cave next to the pool, pool table, lounge, bar, grill, bathroom, etc. She asked if this would be considered an accessory dwelling unit for density purposes.

Mr. Mendez stated that staff has reviewed items like that occasionally. When they do, it is a floor plan level review in instances where they are not planning to have the space used as an accessory apartment or an accessory dwelling unit. Staff reviews the floor plan, and the applicant must submit a *"no separate dwelling affidavit"* as well.

**Mr. Scott made a motion to accept the amendments to Agenda Item 3.C. Accessory Apartments and Accessory Dwelling Units (ADUs). The motion was seconded by Mr. Vanasse. The Chair called the motion and it passed 6-0.**

#### **D. Dwelling Unit Types on Nonconforming Lots of Record**

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

Mr. Vanasse stated he felt these were good changes and he supports staff for doing this especially post storm. He stated that many times when we create non-conformities the planning theory is that over time you want to eliminate those. However, there are property rights involved and there are people that are hurting and want to bring back what they had before.

Mr. Rodriguez noted there is also a housing affordability problem in Lee County, so he felt these amendments will help ease that issue a bit.

**Mr. Vanasse made a motion to accept the amendments to Agenda Item 3.D. Dwelling Unit Types of Nonconforming Lots of Record. The motion was seconded by Ms. Martin. The Chair called the motion and it passed 6-0.**

#### **E. RVs as Temporary Living Facilities**

Mr. Anthony Rodriguez, Zoning Manager, gave an overview of the amendments. He noted that the Executive Regulatory Oversight Committee recommended a change to Subsection (b)(2) which establishes a maximum temporary duration of a business occupying these temporary facilities as 270 days. The Executive Regulatory Oversight Committee recommended an extension of that to 24 months by virtue of having to sort through insurance claims and subsequent litigation that is associated with that so that businesses have more time operating the way that they are so they can be a viable business until things are sorted out.

Ms. McMichael stated that the City of Sanibel gives two years for those temporary commercial uses. She referred to (a)(1) on Page 1 of 2 that says, “*If fire or disaster renders a permanent residential structure...*” instead of a single-family residence that was previously in the language. She asked if staff was anticipating that if someone has a duplex or multi-family structure, they could also have a mobile home or RV.

Mr. Rodriguez stated that customarily this is another issue that comes up after a huge storm event. Staff did not have carve outs for anything more than a single-family home, but the need was there. Staff is trying to recognize and codify that by allowing those placements (duplex, multi-family, etc.) so that rehabilitation can occur.

Ms. McMichael stated that the City of Sanibel opted not to do multi-family structures because staff could not figure out how people would fit them into those condos.

Mr. Rodriguez stated he appreciated that information and that it was a good point.

**Mr. Scott made a motion to accept the amendments to Agenda Item 3.E. RVs as Temporary Living Facilities with the amendment to extend the maximum duration of the temporary use to 24 months. The motion was seconded by Ms. Sapen. The Chair called the motion and it passed 6-0.**

#### **F. Clean-up Items**

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

**Ms. Sapen made a motion to accept the amendments to Agenda Item 3.F. Clean-up Items. The motion was seconded by Mr. Vanasse. The Chair called the motion and it passed 6-0.**

#### **Agenda Item 4 – Adjournment/Next Meeting Date**

Mr. Rodriguez stated that even though the agenda lists June 14, 2024 as the next meeting date, he felt it would be cancelled and that the next meeting date would be July 12, 2024 instead.

Ms. Martin asked what the best course of action would be if a committee member wants to bring some Land Development Code amendments to staff’s attention for discussion.

Mr. Adams stated a committee member could bring the issue up at one of these meetings. These meetings are a venue to bring issues to staff’s attention, but ultimately it will be up to the Board of County Commissioners to direct staff to move forward with those amendments.

Ms. Martin stated that several committee members are on the ground level and see the amendment needs. They are more reactive to what is going on. By the time amendments are brought before the various committees, it is behind the times. She wished things could be more proactive at times.

Mr. Vanasse stated the best course of action would be to contact the Board of County Commissioners. Mr. Adams and zoning staff agreed.

Mr. Rodriguez stated the pick-up window issue is a good example. It first began because someone contact the Commissioners.

Ms. McMichael felt that if the recommendations are merely clean-up items or something where a committee member may not know how to interpret a particular section of the code, they could contact staff.

Mr. Rodriguez agreed with that, but said that for substantive items, it would be best to contact the Board of County Commissioners so they can begin the direction process.

There was no further discussion. Ms. McMichael adjourned the meeting at 9:25 a.m.

MEMORANDUM

FROM  
THE DEPARTMENT OF  
COMMUNITY DEVELOPMENT

TO: Land Development Code                      DATE: June 27, 2024  
Advisory Committee (LDCAC)

FROM: Anthony R. Rodriguez, AICP, CPM  
Zoning Manager

RE: **Land Development Code (LDC) Amendments, Group 3  
Development Services, Code Enforcement, Clean-up**

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The attached Land Development Code amendments, scheduled for consideration at the July 12, 2024 meeting, include changes intended to bring the County's development standards and code enforcement regulations into compliance with state statutes and guidelines, streamline approval processes for certain actions related to development orders, update existing development standards to be consistent with current Department practice and reflect current market trends, codify existing department practices, and provide additional flexibility for certain improvements where appropriate.

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 are 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, between the LDC and the Florida Building Code, and between the LDC and state and federal regulations. The attached amendments to the LDC can be summarized as follows:

**A. Development Services Amendments**

**1. Platting**

- The Issue: The 2024 legislative session resulted in the passage of Senate Bill 812, which outlined a statewide process that local governments must follow for review/approval of subdivision plats.
- Proposed Solution and Intended Outcome: Amend platting requirements in the LDC to be consistent with state statute.

**2. Solid Waste/Recyclable Storage Requirements**

- The Issue: The LDC does not differentiate between commercial buildings of varying activity, nor does it provide consideration of the use of compactors for solid waste/recyclable materials storage.
- Proposed Solution and Intended Outcome: Amend the LDC to relax solid waste/recyclable

storage requirements for self-storage uses and clarify requirements as appropriate.

### **3. Minor Change Requirements**

- *The Issue:* The LDC currently puts a limit on the number of minor changes allowed based on type of development (Small vs. Large). Staff has historically allowed 4 minor changes then an amendment to be submitted to reset the number of minor changes permitted for the project.
- *Proposed Solution and Intended Outcome:* Amend the LDC to remove limit on minor changes, relying on department practice to classify minor changes versus amendments.

### **4. Types of Development Orders Entitled to Limited Review (LDOs)**

- *The Issue:* Current LDO requirements are outdated and required reexamination to align with current market trends.
- *Proposed Solution and Intended Outcome:* Amend LDO classifications to allow more projects to be reviewed through the LDO process.

### **5. Sidewalk Fee-In-Lieu/Absence of Need Reexamination**

- *The Issue:* The LDC does not establish a waiver process for pedestrian facilities along state roads.
- *Proposed Solution and Intended Outcome:* Amend the LDC to establish a waiver process for instances where pedestrian facilities cannot be accommodated or are already planned to account for this scenario.

### **6. Street Design and Construction Standards**

- *The Issue:* The LDC does not reflect current market trends regarding available pavement types, nor does the LDC contemplate the General Interchange Future Land Use Category in its street design and construction standards
- *Proposed Solution and Intended Outcome:* Revise the LDC to update pavement specifications and add reference to General Interchange Future Land Use Category.

### **7. Bicycle Design Requirements**

- *The Issue:* The LDC provides for limited bike rack design requirements, which limits flexibility in designing well-functioning bicycle storage facilities.
- *Proposed Solution and Intended Outcome:* Revise bike rack design requirements to provide more flexibility without requiring an administrative deviation.

### **8. Access Width Requirements**

- *The Issue:* The LDC limits maximum driveway width to 35 feet. Certain public safety facilities require a larger width, necessitating a deviation from this standard.
- *Proposed Solution and Intended Outcome:* Revise the LDC to exempt fire and EMS stations from the 35-foot maximum width standard to streamline the development process.

## **B. Code Enforcement Amendments**

### **1. Unsafe Building Abatement**

- *The Issue:* The Unsafe Building Abatement Code was established in 1985 and does not allow for legal notice to include posting the notice to the property.
- *Proposed Solution and Intended Outcome:* Revise the LDC to allow unsafe building violation notifications to mirror code enforcement noticing requirements to provide a consistent legal notice process.

## **2. Penalties and Liens**

- *The Issue:* Current maximums for code enforcement penalties and liens are capped at amounts much less than the maximum permitted by Florida Statutes.
- *Proposed Solution and Intended Outcome:* Revise the LDC to align maximum penalties with Florida Statutes to better incentivize code compliance.

## **3. Sea Turtle Conservation**

- *The Issue:* Sea turtle research and lighting technologies have advanced significantly since 1992 when the county's sea turtle lighting regulations were last updated.
- *Proposed Solution and Intended Outcome:* Revise the LDC to incorporate up-to-date sea turtle research and lighting technology and applicable portions of the State of Florida Model Lighting Ordinance for Marine Turtle Protection, Rule 62B-55.004, F.A.C. to align LDC with industry standards and commercial product availability.

## **4. Beach and Dune Management**

- *The Issue:* Proposed changes to sea turtle conservation standards make certain portions of this section outdated. Certain dune vegetation common names reference multiple species.
- *Proposed Solution and Intended Outcome:* Revise the LDC to resolve conflicts and to provide scientific names for dune vegetation species to assure internal consistency and clarity.

## **5. Beach and Dune Management**

- *The Issue:* There are several typographical errors in scientific plant names of invasive exotic species and mowing of required plantings in detention areas is a common code violation.
- *Proposed Solution and Intended Outcome:* Revise the LDC to correct typographical errors and clarify prohibition of mowing of required plantings to provide clarity.

## **C. Clean-up Items**

- Clarification of HEX powers and duties;
- Consistency with Florida Right-to-Farm Act;
- Clarification of parking requirements for residential amenities;
- Removal of reference to post-disaster ordinance;
- Separation of floodplain administrator and building official roles;
- Board of Adjustment and Appeals quorum requirements; and
- Street Name clean-up

## **Attachments**

Draft LDC Amendments

**GROUP 3, ITEM A.1  
PLATTING AMENDMENTS**

AMENDMENT SUMMARY

Issue: In the 2024 Legislative Session, Senate Bill 812 was passed which outlined a statewide process that local governments must follow for review and approval of subdivision plats. The main premise of the legislation was to create a two-step review process for a “Preliminary Plat” and then a “Final Plat.” The law allows building permits to be pulled following approval of the Preliminary Plat. Certificates of Occupancy cannot be issued until after Final Plat approval and the recording of the Plat in the Public Records.

Solution: The County’s existing platting requirements are already fairly in line with the new legislation. It appears that the law was adopted due to processes other jurisdictions utilized that included more extensive review, such as approval of Plats by the governing bodies at public meetings. Notwithstanding, certain changes are necessary to the LDC in order to comply with the new state platting requirements.

**Chapter 10 – DEVELOPMENT STANDARDS**

**ARTICLE I. – IN GENERAL**

Staff note: SB 812 provides specific definitions for “Preliminary Plat” and “Final Plat.” The definitions are codified into Chapter 177, Florida Statutes. The LDC does not currently define these terms. These definitions are necessary in order to comply with the new law. Incorporation of the definitions in the statute provides for the flexibility to not need to amend the LDC again if the Legislature amends the definitions in the future.

**Sec. 10-1. Definitions and rules of construction.**

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

*AC through Expressway remain unchanged.*

*Final plat* is defined as that term is defined by F.S. Ch. 177.

*Florida Department of Environmental Protection (DEP) through Person remain unchanged.*

~~*Plat means a plat as defined by F.S. Ch. 177, as amended.*~~

*Plat or replat* means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirements of F.S. Ch. 177, and this Land Development Code.

*Preliminary plat* is defined as that term is defined by F.S. Ch. 177.

## ARTICLE II. – ADMINISTRATION

### DIVISION 2. DEVELOPMENT ORDERS

Staff note: The statute requires that infrastructure surety be provided before building permits can be issued. Building permits can be issued upon Preliminary Plat approval. Language clean-ups were necessary for statutory consistency.

#### Sec. 10-154. Additional required submittals.

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

- (26) *Assurance of completion of improvements.* Assurance of completion of the development improvements as specified in this section will be required for all off-site improvements prior to commencing any off-site or on-site development. Assurance of completion of the development improvements for on-site subdivision improvements will be required prior to the ~~approval~~acceptance of the preliminary subdivision plat. Those on-site subdivision improvements that have been constructed, inspected and approved by the Director of Development Services through the issuance of a Certificate of Compliance may be excluded from the requirements of this section.
- a. *Surety or cash performance bond.* Security in the form of a surety or cash performance bond must be posted with the Board and made payable to the County in an amount equal to 110 percent of the full cost of installing the required improvements approved by the County. If the proposed improvement will not be constructed within one year of issuance of the final development order, the amount of the surety or cash performance bond must be increased by ten percent compounded for each year of the life of the surety or bond. Alternatively, the surety or cash performance bond may be renewed annually at 110 percent of the cost of completing the remaining required improvements if approved by the Director. Prior to acceptance, bonds must be reviewed and approved by the County Attorney's Office. Surety instruments will be reviewed and approved in accordance with the provisions set forth in Administrative Code 13-19.
- b. *Other types of security.* The Board may accept letters of credit or escrow account agreements or other forms of security, provided that the reasons for not obtaining the bond are stated and the County Attorney approves the document. Review and approval of surety instruments will be in accordance with the guidelines set forth in Administrative Code 13-19.

### DIVISION 5. Plats

Staff note: As the LDC is currently written, a plat must be recorded in the public records prior to issuance of a building permit. This is now inconsistent with state law. Now a Preliminary plat as that term is defined in statute must receive approval by the County prior to building permit issuance. The Final Plat must be recorded prior to issuance of a CO or CC.

#### Sec. 10-211. Plat required.

- (1) Subdivisions of land, as defined in this chapter, must be platted in accordance with the requirements of F.S. Ch. 177, Pt. I (F.S. § 177.011 et seq.), this chapter, and County Administrative Code 13-19, as amended.
- (2) A preliminary plat must receive approval in accordance with Administrative Code 13-19 prior to the issuance of building permits for buildings on property within the plat boundaries.
- (~~23~~) ~~Except as provided under Subsection (5) of this section,~~ A final plat must be recorded in the public records of the County prior to the issuance of Certificates of Occupancy or Compliance for building permits on for property within the plat boundaries.



- (34) Lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land created by a plat must:
  - a. Meet the density requirements of the Lee Plan and any other applicable requirements;
  - b. Comply with the minimum property development regulations for the zoning district in which it is located or be approved by the Director pursuant to Section 34-2221(1); and
  - c. Abut and have access to a road that meets the minimum construction standards set forth in Section 10-296.
- (45) Residual parcels not meeting the minimum requirements under this subsection may be created for the limited purposes of construction of surface water management systems, right-of-way, drainage, utilities, and other similar uses as determined by the Development Review Director.
- (56) Building permits may be issued for model buildings and sales centers prior to preliminary plat approval ~~recording of the plat~~, subject to evidence of unified control and, provided that any Certificate of Compliance Occupancy ~~Occupancy~~ issued is for model or sales use only, until the final plat has been recorded.
- (67) The establishment or extension of a road resulting in the creation of three or more lots, parcels, tracts, tiers, blocks, sites, or units, requires a plat.

**Sec. 10-212. Preparation and submission.**

Plats must be prepared in compliance with F.S. Ch. 177 and must contain all of the elements specified in F.S. Ch. 177, Pt. I (F.S. § 177.011 et seq.) and AC 13-19. ~~Review copies of the preliminary plat must be submitted with the application for prior to development order approval. The preliminary initial plat submittal must include a boundary survey of the lands to be platted, in accordance with F.S. § 177.041.~~

## Chapter 34 – ZONING

### ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

#### DIVISION 24. MODEL HOMES, UNITS AND DISPLAY CENTERS

*Staff note: This is clean-up language to correct the fact that Certificates of Compliance are issued for Model Homes, not Certificates of Occupancy.*

**Sec. 34-1954. Model homes and model units.**

- (a) *Generally.* Model homes and model units may be permitted by right, by special exception, or by administrative approval as specified in zoning district use regulations and as follows:
  - (1) *Administrative approval.* The Director may administratively approve the location of individual model homes and model units in accordance with Section 34-174.
  - (2) *Special exception.* The Hearing Examiner, after public hearing, may approve the location of individual model homes and model units in existing developments provided the provisions of this division are met.
- (b) *Location; connection of utilities and Certificate of Compliance Occupancy.*
  - (1) Each model home must be located on a single lot. Model units are permitted in any townhouse or multiple-family building.
  - (2) Model homes must be connected to water, sewer and electricity and must receive a Certificate of Compliance Occupancy as a model home only, prior to use as a model.

- (3) Model homes may be approved only in areas where they will not adversely affect existing residents. Except for the CC and CG Zoning Districts, only models for the type of dwelling unit allowed in the district where the model is located may be permitted.
  - (4) Multiple model homes utilizing the same basic floor plan will not be permitted within the same development prior to the final recording of the subdivision plat. Each model must have a floor plan that is distinctly different, as determined by the Director, from other model homes within the development.
- (c) *Prohibited uses.*
- (1) No model home or model unit may be used for living purposes either temporarily or permanently while used as a model home or model unit.
  - (2) No real estate sales, except those incidental to the sale of model homes, model units or lots within the development may be conducted in a model home or model unit.
- (d) *Time limitations.*
- (1) *Model homes.* Approval for a model home will be valid for a period of time not exceeding three years from the date of issuance of a Certificate of ~~Occupancy~~ *Compliance* for a model home, unless the Director or Hearing Examiner (as applicable) grants an additional specified time limit. Upon expiration of the approval, the owner may:
    - 1) Apply for an administrative extension of the model home use;
    - 2) Apply for a change of use permit to convert the model to a living unit; or
    - 3) Remove the model from the property.
  - (2) *Model units.* The use of a model unit within a townhouse or multiple-family building may not extend beyond the initial sale period for that phase.
- (e) *Change of use.* No model home or model unit may be converted to a living unit prior to application and approval of a change of use permit.
- (f) *Parking.* Except when located in a model display center or within a model display group, parking for the model home or model unit must be on the same premises and must be in compliance with parking requirements of this chapter for the type of dwelling unit or recreational vehicle being displayed.

**GROUP 3, ITEM A.2  
CHAPTER 10 DEVIATIONS**

AMENDMENT SUMMARY

- Issue: The LDC does not currently differentiate between commercial buildings and mini-warehouse/storage units for solid waste enclosure requirements as well as separate garbage from recycling to accommodate the calculations to be defined for recycling if a compactor is used for garbage.
- Solution: Revise 10-261 to add a note/section to allow for storage units to only need to calculate the square footage of the office rather than the overall building. Split the table to show separate garbage and recycling.
- Outcome: Makes the county more streamlined with respect to allowing common reductions of Solid Waste Enclosure to be processed under one means of review versus multiple permit applications.

## Chapter 10 – Development Standards

### ARTICLE III. – Design Standards and Requirements

#### DIVISION 1. - GENERALLY

**Sec. 10-261. - Refuse and solid waste disposal facilities.**

*Staff Note: The solid waste enclosure table is updated to reflect the Special Notes or Regulations and note section has been added beneath the table.*

- (a) Provision of container spaces. All new construction of multifamily residential developments, commercial businesses, and industrial uses must provide sufficient on-site space for the placement of garbage containers or receptacles, and sufficient space for recyclable materials collection containers. At a minimum, the following area requirements must be provided:

<i>Commercial Business Building sq. ft.</i>	<i><u>Special Notes Or Regulations</u></i>	<i>Multifamily Development Units</i>	<i>Minimum sq. ft. for Garbage Collection</i>	<i>Minimum sq. ft. for Recyclable Collection</i>
	<u>Note (1)</u>	5–25	120	96
		25+	<del>216 sq. ft. (120 sq. ft. + 96)</del> for first 25 units, plus 8 sq. ft. for each additional dwelling unit	96 sq. ft. for first 25 units, plus 8 sq. ft. for each additional dwelling unit
0–5,000			60	24
5,001–10,000			80	48

<i>Commercial Business Building sq. ft.</i>	<i>Special Notes Or Regulations</i>	<i>Multifamily Development Units</i>	<i>Minimum sq. ft. for Garbage Collection</i>	<i>Minimum sq. ft. for Recyclable Collection</i>
10,001—25,000			120	96
25,000+			<del>216 sq. ft. (120 sq. ft. + 96)</del> for first 25,000 sq. ft., plus 8 sq. ft. for each additional 1,000 sq. ft.	96 sq. ft. for first 25,000 sq. ft., plus 8 sq. ft. for each additional 1,000 sq. ft.

Notes:

1) Mini warehouse\* developments must calculate the minimum enclosure size in relation to the square footage of the office and caretaker’s residence. \*See Warehouse, public; Storage, dead, and Warehouse, hybrid.

- (b) A minimum overhead clearance of 22 feet is required and a 12-foot-wide, unobstructed access opening must be provided to accommodate all storage areas/containers.
- (c) All storage areas/containers must be adequately shielded by a landscaped screen or solid fencing along at least three sides. Use of chain link fencing to meet this requirement is prohibited. Refer to Section 10-610(c)(2) for guidelines.
- (d) Commercial, industrial and multifamily developments using a compactor for garbage collection must provide sufficient space for the compactor (including receiver) in addition to the space required for recyclable collection.
- (e) Container space enclosures may not be located within or encroach into the required perimeter landscape buffer width for the proposed or constructed uses as provided in accordance with Section 10-416(d)(3) and (4). Concrete wall enclosures may not be located within a public utility or drainage easement.

**GROUP 3, ITEM A.3  
MINOR CHANGE LIMITATIONS**

AMENDMENT SUMMARY

- Issue: The LDC currently puts a limit on the number of minor changes allowed based on type of development (Small vs. Large). Staff has historically allowed 4 minor changes then an amendment to be submitted to reset the number of minor changes permitted for the project.
- Solution: Remove the limit of minor changes allowed as long as it does not require a review by three or more of the following review disciplines: zoning, transportation, drainage, fire, utilities and landscaping. Changes that exceed the criteria for the scope of a minor change as specified in this subsection shall be processed as a development order amendment in accordance with Section 10-118.
- Outcome: Codifies current department practice.

**Chapter 10 – DEVELOPMENT STANDARDS**

**ARTICLE II. – ADMINISTRATION**

**DIVISION 2. DEVELOPMENT ORDERS**

**Sec. 10-120(f). Minor Changes.**

- (f) ~~Any number of minor changes will be allowed; however, only two separate submittals or applications will be allowed for either single or multiple minor changes on small projects and only four separate submittals will be allowed for either single or multiple minor changes on large projects. Minor changes required due to conflicts in the requirements of other governmental agencies or utility companies will not be counted towards the maximum of two separate minor change submittals.~~

**GROUP 3, ITEM A.4**  
**TYPES OF DEVELOPMENT ORDERS ENTITLED TO LIMITED REVIEW**

AMENDMENT SUMMARY

- Issue: Update sizes and requirements for LDOs.
- Solution: Alter size thresholds to allow for more projects to be reviewed within specific LDOs and codify additional lists of type of developments.
- Outcome: Provides clearer direction regarding under which submittal type projects should come be filed.

## Chapter 10 – Development Standards

### ARTICLE II. – Design Standards and Requirements

#### Division 3: Limited Review Process

**Sec. 10-174. - Types of development entitled to Limited Review**

The following types of development may be processed in accordance with this division:

- (1) *Type A.* Any improvements to the land determined by the Director to have no impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.), including up to ~~100~~ 200 square feet of additional impervious surface and any Notice of Intent to Commence Water Retention Excavation for AG use or as an amenity to a single-family residence where blasting activities will not be conducted and where no more than 1,000 cubic yards of spoil will be removed off-site. (See Section 10-329(c)(1).)
- (2) *Type B.* A cumulative addition or enlargement of an existing impervious area, provided that the addition or enlargement does not increase the total impervious cover area by more than 2,500 square feet and there is no increase in the rate of runoff from the project site.
- (3) *Type C.* Any out-of-door type recreational facilities, such as swimming pools, tennis courts, tot lots and other similar facilities, provided the total cumulative additional impervious area does not exceed 5,000 square feet, including any County-initiated improvements for public water access purposes in County-owned or County-maintained rights-of-way.
- (4) *Type D.*
- a. Any other improvement to land determined by the Director to have insignificant impacts on public facilities in accordance with applicable standards of measurement in this chapter (vehicular trips, amount of impervious surface, gallons per day, etc.).
  - b. The installation of new utility lines in existing right-of-way or easement.
  - c. Improvements to a County-maintained road right-of-way within an incorporated area as defined in Section 10-297.
  - d. Previously developed properties that are vacant for more than one year.

(5) *Type E*. Any lot split, that does not qualify as a subdivision, must comply with the following:

a. Each lot created must:

i. Meet the density requirements of the Lee Plan and any other applicable requirements;

ii. Comply with the minimum property development regulations for the zoning district in which it is located or be approved by the Director pursuant to Section 34-2221(1); and

iii. Abut and have access to a road that meets the minimum construction standards set forth in Section 10-296.

b. Reasonable conditions may be attached to the approval so that any development on the lots will comply with all County land development regulations.

**GROUP 3, ITEM A.5**  
**SIDEWALK FEE-IN-LIEU/ABSENCE OF NEED REEXAMINATION**

AMENDMENT SUMMARY

- Issue: The LDC states developer must construct bicycle and/or pedestrian facilities on State roads within the boundaries of the State Road right-of-way, subject to FDOT approval. However, the LDC does not specify a waiver process in the event FDOT cannot approve the facility or a facility is already planned. Additionally, Lee Plan Map References in section 10-1 and section 10-256, subsection (a) require updates.
- Solution: Amend language to reference waiver mechanism established in subsection (5) and accurately reference Lee Plan Maps.
- Outcome: Ability to seek waiver for pedestrian facilities within FDOT jurisdiction when an absence of need and/or duplicate facility is planned by FDOT and the applicable Lee Plan Maps are accurately referenced.

## Chapter 10 - DEVELOPMENT STANDARDS

### ARTICLE I. – IN GENERAL

#### Sec. 10-1. Definitions and rules of construction.

Absence of need means where it can be reasonably determined that:

- (1) The facility is not likely to connect to an existing or planned facility, scheduled for construction in a five-year transportation work program;
- (2) Is not identified on the Lee Plan Map 3-A (~~Financially Feasible Highway Plan~~ Cost Feasible Roadway Projects), 3-C (~~Financially Feasible Transit Network~~ 2045 Financially Feasible Transit Network) or 3-D (~~Unincorporated Bikeways/Walkways Facilities Plan~~ Lee County Walkways & Bikeways); and
- (3) The roadway frontage is more than 60 percent developed, without facilities and the remainder of the undeveloped land will not provide a continuous facility at the time of build out.

### ARTICLE III. –DESIGN STANDARDS AND REQUIREMENTS

#### DIVISION 1. – GENERALLY

#### Sec. 10-256. Bikeways and pedestrian ways.

- (a) *Required for development and redevelopment in urban and suburban areas.* All development and redevelopment proposed within future urban areas or future suburban areas, as defined by the Lee Plan, or along trails depicted on the Greenways Master Plan (Lee Plan Map ~~4-E22~~), or along walkways and bikeways depicted on the County Walkways and Bikeways Map (Lee Plan Map ~~3-D 3D~~) are required to provide for bikeways and pedestrian ways.
- (b) *Requirements for bikeways and pedestrian ways.*  
*No changes to subsection (1)*
  - (2) *Location.*



- a. All new development and redevelopment must construct the required bikeway and pedestrian facilities in the abutting road right-of-way, or alternate on-site location may be approved in accordance with Subsection (b)(2)d of this section.
- b. The developer must coordinate with the FDOT for ~~construct~~ construction of bicycle and/or pedestrian facilities required in subsections 10-256(a) and (b) on State roads within the boundaries of the State road right-of-way that is subject to approval and issuance of a general use permit by FDOT. Facilities may not be constructed in easements abutting the State roadway unless approved by FDOT prior to local development order approval. A copy of the written FDOT approval must be submitted to the County. A waiver from required facilities in the State road right-of-way may be requested in accordance with subsection (5) with a copy of written confirmation from the FDOT.

*Remainder of subsection remains unchanged. Subsections (3) and (4) remain unchanged.*

*No changes proposed to subsection (5). Subsection included for context.*

(5) *Waiver (fee-in-lieu).*

- a. Notwithstanding the provisions of Subsections (a) and (b) of this section, a bikeway and pedestrian way will not be required where the Development Services Director, along with a recommendation from the Director of the Department of Transportation, determines that:
  - 1. Construction of the bikeway or pedestrian way would be contrary to public safety; or
  - 2. There is an absence of need as defined in Section 10-1-; or
  - 3. A waiver from the required facilities in a state road right-of-way is provided in writing from FDOT.
- b. As a condition of granting the waiver, the applicant is required to make a fee-in-lieu contribution equal to the estimated cost of constructing the improvement. The cost estimate must include: design; mobilization, clearing, and grubbing; embankment; drainage, including inlets, grates, headwalls, pipes and mitered ends; sidewalk and grading; bridge, gravity wall and handrail; and finish items, including sod, and miscellaneous driveway work where applicable. The amount of the fee must be paid prior to the issuance of a development order.
- c. For projects adjacent to a County facility with an active construction bid, the actual bid price will be accepted. The fee is to be calculated using the line items from the bid tabulation submitted by the contractor building the project.
- d. The fee-in-lieu will be deposited in a CIP subfund, County-wide bicycle and pedestrian facilities, created for expenditure on a bicycle or pedestrian facility within the same road impact fee district as the proposed development.

**GROUP 3, ITEM A.6**  
**STREET DESIGN AND CONSTRUCTION STANDARDS**

AMENDMENT SUMMARY

Issue: Type “S-I” and “S-III” product referenced in Pavement Design Table 3 is no longer market available. Subsection 10-296(1)i does not address the General Interchange future land use category, which is a future urban area.

Solution: Remove reference from LDC to be consistent with the FDOT Flexible Pavement Design Manual (FPDM). Add reference to General Interchange future land use category.

Outcome: Updates LDC design standard references consistent with FPDM and market conditions. Updates LDC to be consistent with Lee Plan.

**Chapter 10 - DEVELOPMENT STANDARDS**

**ARTICLE III. – DESIGN STANDARDS AND REQUIREMENTS**

**DIVISION 2. – TRANSPORTATION, ROADWAYS, STREETS AND BRIDGES**

**Sec. 10-296. Street design and construction standards.**

*Subsections (a) through (d)10 remain unchanged.*

- (d) (11) *Pavement design.* New construction or reconstruction of streets and roadways must be in accordance with Table 3 unless an alternative pavement design based on traffic type and volume performed by a registered professional engineer demonstrates the same or better structural integrity or, in the case of capital improvement projects, an acceptable alternative is approved by the Director of the Lee County Department of Transportation. Roadway pavement design criteria will also apply to travel lanes, turn lanes, median openings, bicycle lanes, on-street parking, and bus-pullout bays. The applicant may submit a request for an administrative deviation in accordance with Section 10-104(a)(5) for an alternative design.

TABLE 3. MINIMUM PAVEMENT DESIGN SPECIFICATIONS

	<i>Friction Course</i>	<i>Structural Course</i>	<i>Base</i>	<i>Subgrade</i>
Principal Arterial	One-inch <del>Type S-III (section 331, FDOT specifications) OR SUPERPAVE 9.5 (FDOT Standard Specifications)</del>	2½-inch asphaltic concrete FDOT <del>Type S-1 or SUPERPAVE 12.5 (Section 334, FDOT)</del>	FDOT Optional Base Group 9 (ten inches of compacted limerock)	Twelve-inch-thick stabilized subgrade LBR40
Minor Arterial	One-inch <del>Type S-III (section 331, FDOT specifications) OR SUPERPAVE 9.5 (FDOT Standard Specifications)</del>	2½-inch asphaltic concrete FDOT <del>Type S-1 or SUPERPAVE 12.5 (Section 334, FDOT)</del>	FDOT Optional Base Group 9 (ten inches of compacted limerock)	Twelve-inch-thick stabilized subgrade LBR40
Major Collector	One-inch <del>Type S-III (section 331, FDOT</del>	1½-inch asphaltic concrete FDOT <del>Type S-1 or</del>	FDOT Optional Base Group 6 (eight inches of	Twelve-inch-thick stabilized subgrade LBR40

	specifications) OR SUPERPAVE 9.5 (FDOT Standard Specifications)	SUPERPAVE 12.5 (Section 334, FDOT)	compacted limerock)	
Minor Collector	None	1½-inch asphaltic concrete FDOT <del>Type S-1</del> or SUPERPAVE 12.5 (Section 334, FDOT)	FDOT Optional Base Group 6 (eight inches of compacted limerock)	Twelve-inch-thick stabilized subgrade LBR40
Local and Access Street (including Privately-Maintained Nonresidential Streets)	None	1½-inch asphaltic concrete FDOT <del>Type S-1</del> or SUPERPAVE 12.5 (Section 334, FDOT)	FDOT Optional Base Group 6 (eight inches of compacted limerock)	Twelve-inch-thick stabilized subgrade LBR40
Privately-Maintained Residential Local Streets	None	One-inch asphaltic concrete FDOT <del>Type S-III</del> , or SUPERPAVE 9.5 (Section 334, FDOT)	FDOT Optional Base Group 4 (six inches of compacted limerock)	Six-inch-thick stabilized subgrade LBR40
Shared Streets/ Bicycle Boulevard	None	Six-inch Portland Cement concrete, or one-inch asphaltic concrete FDOT <del>Type S-III</del> , or SUPERPAVE 9.5 (Section 334, FDOT)	FDOT Optional Base Group 4 (six inches of compacted limerock)	Six-inch-thick stabilized subgrade LBR40
Shared Use Path/Sidewalk/Cycle Track	None	Six-inch Portland Cement concrete, or one-inch asphaltic concrete FDOT <del>Type S-III</del> , or SUPERPAVE 9.5 (Section 334, FDOT)	FDOT Optional Base Group 1 (four inches of compacted limerock) <u>only for asphaltic concrete option</u>	Six-inch-thick stabilized subgrade LBR40

- (e) *Road design.* All roadways will be designed and constructed in accordance with this subsection. Cross sections within this subsection are for illustrative purposes only.

Staff note: Subsection (1)a through subsection through subsection (1)h remain unchanged. Subsection i has been revised to incorporate the General Interchange future land use category, which is a Future Urban Area that is not currently classified in the LDC.

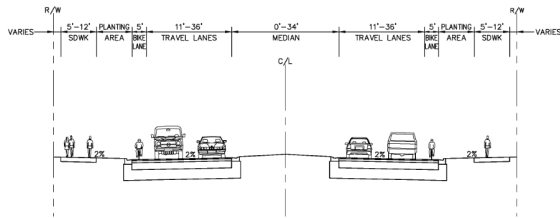
- (1) *Urban roadways.* Roadway segments in or abutting future urban areas identified in the Lee Plan will be designed in accordance with this subsection. Design criteria will be determined by the existing functional classification of the adjacent roadway identified in AC 11-1 and the future land use designation of the property identified in the Lee Plan Future Land Use Map.
  - a. *Lane width.* The required lane width for roadways with two-way traffic and no existing or planned transit or freight routes, must be as specified in Tables 4 through 10. The required lane width for one-way streets is 14 feet. For roadways with an existing or planned transit route, the required lane width for lanes utilized by the transit vehicle is 12 feet. Where freight or large truck traffic is frequent (shown as a primary or secondary truck route on the MPO freight plan or greater than one percent of the daily volume), the lane width will be 11 feet.
  - b. *Transit facilities.* Bus pull-offs, shelters, and benches will be provided consistent with this chapter. All bus stops will have:
    1. A sign with route numbers.
    2. An eight-foot by 30-foot minimum concrete landing pad. The landing pad will have a maximum two percent cross-slope and connected to, or be a part of, an existing pedestrian way.
    3. Bicycle parking.
  - c. *Tree wells/planting strips.* Dimensions, plant materials specifications and irrigation must comply with the Lee Scape Master Plan and AC 11-12. The planting area may utilize islands or areas between on-street parking spaces to provide adequate area for tree growth with dimensions shown in Table 4 as minimums. The planting strip area depicted in cross sections include two feet for curb and gutter.
  - d. *Tree and palm spacing.* Small trees (under 30 feet at mature height) must be provided at a rate of five trees for every 100 linear feet. Medium sized trees (30 feet to 40 feet at mature height) must be provided at a rate of four trees for every 100 linear feet. Large trees (over 40 feet at mature height) must be provided at a rate of three trees for every 100 linear feet. Trees should be spaced evenly along the frontage and not clustered. Adjustments to the placement of trees up to ten feet is permitted to avoid conflicts with utilities and building visibility. Palm trees may only be substituted for a maximum of 50 percent of the required small trees.
  - e. *Street furniture.* May be installed in the streetside planting area where approved by the Development Services Director.
  - f. *Bicycle and pedestrian facilities.* Include a shared use path when depicted on the Lee Plan Maps 3D or 22. Where a shared use path or greenway is not depicted, pedestrian facility width dimensions will be governed by the design tables contained in this section.
  - g. *Street lighting.* Must be provided in accordance with AC 11-2. When street lighting is required in or abutting coastal areas or environmental preserves, the lighting must be constructed utilizing environmentally friendly techniques.
  - h. *Mixed use development.* Streets must be designed in accordance with nonresidential roadway design criteria.
  - i. *Urban context design criteria.*
    1. *Urban principal arterials.*
      - i. *Pavement design.* Must be in accordance with Table 3.

- ii. *Context design.* Urban principal arterial roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 4.

TABLE 4. URBAN PRINCIPAL ARTERIAL

<i>Lee Plan Future Land Use Designation</i>		<i>Intensive</i>	<i>Central Urban and General Interchange</i>		<i>Urban Community</i>	
<i>Existing/Proposed Land Use</i>		<i>All</i>	<i>Commercial</i>	<i>Residential</i>	<i>Commercial</i>	<i>Residential</i>
Lane Width		11 feet	12 feet	11 feet	12 feet	12 feet
On-Road Bicycle Facility		5-foot bike lane	5-foot bike lane	5-foot bike lane	5-foot bike lane	5-foot bike lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	12 feet	10 feet	8 feet	6 feet	5 feet

- iii. *Cross section drawings.* The following cross section is illustrative of an urban principal arterial. All urban arterial cross section drawings reflect closed drainage facilities.



**Urban Principal Arterial**

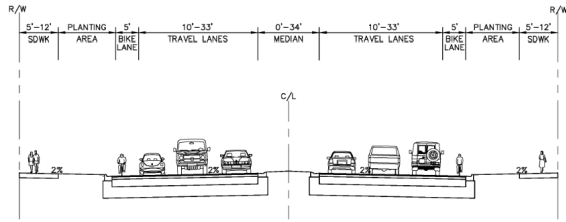
2. *Urban minor arterials.*

- i. *Pavement design.* Must be in accordance with Table 3.
- ii. *Context design.* Urban minor arterial roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 5.

TABLE 5. URBAN MINOR ARTERIAL

<i>Lee Plan Future Land Use Designation</i>		<i>Intensive</i>	<i>Central Urban and General Interchange</i>		<i>Urban Community</i>	
<i>Existing/Proposed Land Use</i>		<i>All</i>	<i>Commercial</i>	<i>Residential</i>	<i>Commercial</i>	<i>Residential</i>
Lane Width		10 feet	11 feet	11 feet	11 feet	11 feet
On-Road Bicycle Facility		Shared lane	5-foot bike lane	Shared lane	5-foot bike lane	5-foot bike lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	12 feet	10 feet	8 feet	6 feet	5 feet

- iii. *Cross section drawings.* The following cross section is illustrative of an urban minor arterial. All urban arterial cross section drawings reflect closed drainage facilities.



**Urban Minor Arterial**

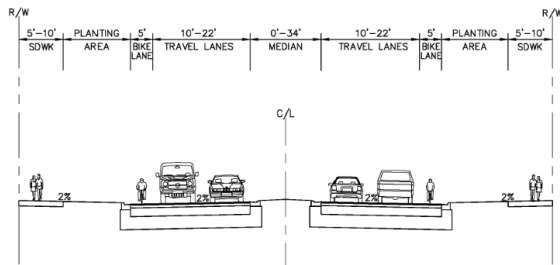
3. *Urban major collectors.*

- i. *Pavement design.* Must be in accordance with Table 3.
- ii. *Context design.* Urban major collector roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 6.

TABLE 6. URBAN MAJOR COLLECTOR

<i>Lee Plan Future Land Use Designation</i>		<i>Intensive</i>	<i>Central Urban and General Interchange</i>		<i>Urban Community</i>	
<i>Existing/Proposed Land Use</i>		<i>All</i>	<i>Commercial</i>	<i>Residential</i>	<i>Commercial</i>	<i>Residential</i>
Lane Width		10 feet	10 feet	10 feet	11 feet	11 feet
On-Road Bicycle Facility		Shared lane	5-foot bike lane	Shared lane	5-foot bike lane	Shared lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	10 feet	8 feet	8 feet	6 feet	5 feet

- iii. *Cross section.* The following cross section is illustrative of an urban major collector. All urban major collector cross section drawings reflect closed drainage facilities.



**Urban Major Collector**

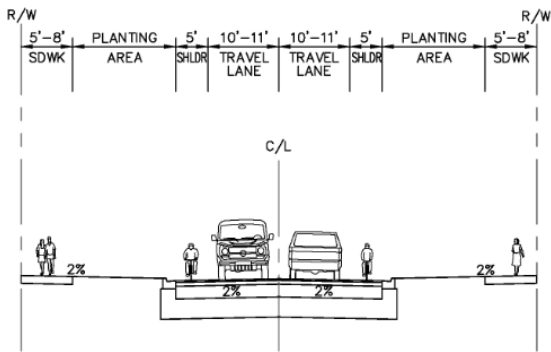
4. *Urban minor collectors.*

- i. *Pavement design.* Must be in accordance with Table 3.
- ii. *Context design.* Urban minor collector roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 7.

TABLE 7. URBAN MINOR COLLECTOR

<i>Lee Plan Future Land Use Designation</i>		<i>Intensive</i>	<i>Central Urban and General Interchange</i>		<i>Urban Community</i>	
<i>Existing/Proposed Land Use</i>		<i>All</i>	<i>Commercial</i>	<i>Residential</i>	<i>Commercial</i>	<i>Residential</i>
Lane Width		10 feet	10 feet	10 feet	11 feet	11 feet
On-Road Bicycle Facility		Shared lane	Shared lane	Shared lane	Shared lane	Shared lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	8 feet	8 feet	8 feet	6 feet	5 feet

- iii. *Cross section drawings.* The following cross section is illustrative of an urban minor collector. All urban minor collector cross section drawings reflect closed drainage facilities.



**Urban Minor Collector**

5. *Urban local and access streets.*

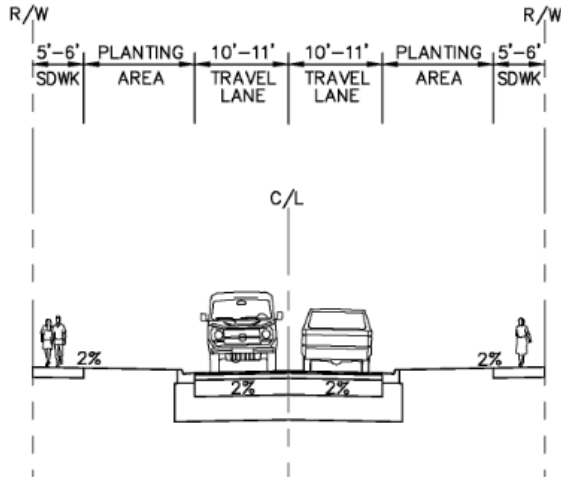
- i. *Pavement design.* Must be in accordance with Table 3.
- ii. *Context design.* Urban local and access street roadway lane width, bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 8.

TABLE 8. URBAN LOCAL AND ACCESS STREETS

<i>Lee Plan Future Land Use Designation</i>		<i>Intensive</i>	<i>Central Urban and General Interchange</i>		<i>Urban Community</i>	
<i>Existing/Proposed Land Use</i>		<i>All</i>	<i>Commercial</i>	<i>Residential</i>	<i>Commercial</i>	<i>Residential</i>
Lane Width		10 feet	10 feet	10 feet	11 feet	11 feet
On-Road Bicycle Facility		Shared lane	Shared lane	Shared lane	Shared lane	Shared lane
Streetside	Planting Strip	8-foot strip	8-foot strip	6-foot strip	6-foot strip	5-foot strip
	Pedestrian Facility Width	6 feet	6 feet	5 feet	6 feet	5 feet

- iii. *Cross section drawings.* The following cross section is illustrative of an urban local roadway. All urban local street cross section drawings reflect closed drainage facilities.

- a. Urban local/access street cross section:



**Urban Local/Access Street**

6. *Urban shared streets.*

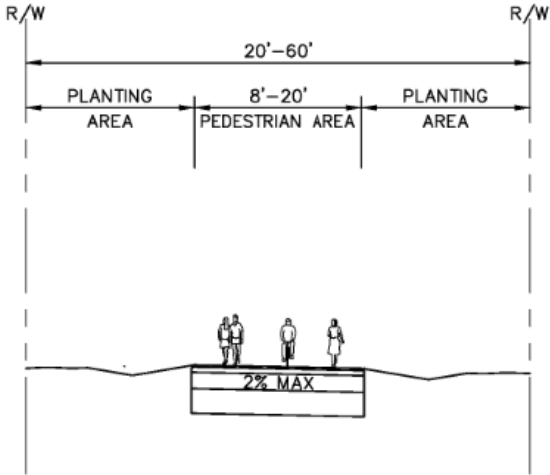
- i. *Pavement design.* Must be in accordance with Table 3.
- ii. *Context design.* Urban shared street roadway bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 9.

TABLE 9. URBAN SHARED STREET

<i>Lee Plan Future Land Use Designation</i>		<i>Intensive</i>	<i>Central Urban and General Interchange</i>		<i>Urban Community</i>	
<i>Existing/Proposed Land Use</i>		<i>All</i>	<i>Commercial</i>	<i>Residential</i>	<i>Commercial</i>	<i>Residential</i>
<b>On-Road Bicycle Facility</b>		Shared lane	Shared lane	Shared lane	Shared lane	Shared lane
Streetside	Planting Strip	8 ft.—20 ft. strip	8 ft.—20 ft. strip	6 ft.—10 ft. strip	8 ft.—20 ft. strip	6 ft.—10 ft. strip
	Pedestrian Facility Width	12 ft.—20 ft.	10 ft.—16 ft.	8 ft.—12 ft.	10 ft.—16 ft.	8 ft.—12 ft.

- iii. *Cross section.* The following cross section is illustrative of an urban shared street. All urban shared streets are designed with open drainage graded to drain to planting areas and a design speed of five miles per hour. Motor vehicle use on shared streets is limited to emergency vehicles, local traffic or deliveries. Restriction of vehicular traffic to be determined by LCDOT.
  - a. Urban shared street cross section:





**Urban Shared Street Open Drainage**

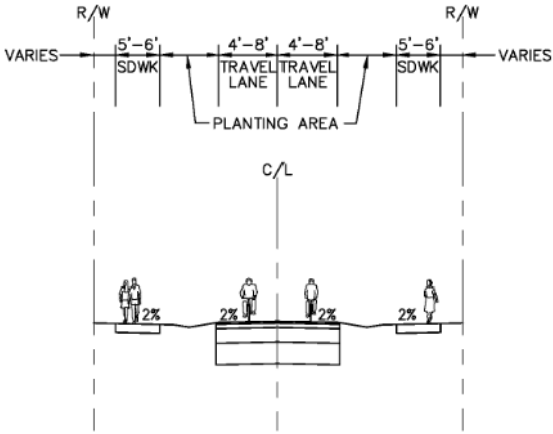
7. *Urban bicycle boulevards.*

- i. *Pavement design.* Must be in accordance with Table 3.
- ii. *Context design.* Urban bicycle boulevard roadway bicycle and pedestrian facilities, and planting strips must be designed in accordance with the criteria set forth in Table 10.

TABLE 10. URBAN BICYCLE BOULEVARDS

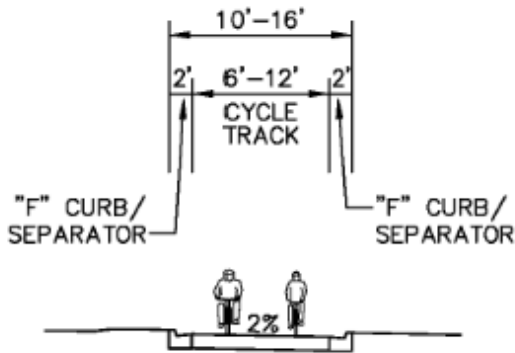
<i>Lee Plan Future Land Use Designation</i>		<i>Intensive</i>	<i>Central Urban and General Interchange</i>	<i>Urban Community</i>
<i>Existing/Proposed Land Use</i>		<i>All</i>	<i>All</i>	<i>All</i>
On-Road Bicycle Facility		8 ft. bike lane	6 ft.—8 ft. bike lane	4 ft.—6 ft. bike lane
Streetside	Planting Strip	8-foot strip	8-foot strip	8-foot strip
	Pedestrian Facility Width	6 feet	6 feet	5 feet

- iii. *Cross section.* The following cross section is illustrative of an urban bicycle boulevard. All urban bicycle boulevards are designed with open drainage graded to drain to planting areas with a design speed of 20 mph with speed restrictions.



**Urban Bicycle Boulevard  
Open Drainage, 20 mph**

8. *Urban cycle tracks.*
  - i. *Pavement design.* Must be in accordance with Table 3.
    - a. *Bicycle facility width.* The width of a one-way urban cycle track will be a minimum of six feet to eight feet for bicycle traffic. The width of a two-way urban cycle track will be 12 feet.
  - ii. *Cross section.* The following cross section is illustrative of an urban cycle track. All urban cycle tracks are designed with closed drainage systems.



**Urban Cycle Track Closed Drainage**

**GROUP 3, ITEM A.7  
BICYCLE DESIGN REQUIREMENTS**

AMENDMENT SUMMARY

- Issue: The current LDC references specific bicycle rack design requirements that are not always best suited to serve the development and often do not match the aesthetics of the development.
- Solution: Revise Bicycle parking design requirements to offer more flexibility without requiring Section 10-104 deviations.
- Outcome: Bicycle designs that provide better options which are more conducive to the site design and aesthetic.

## CHAPTER 10 – DEVELOPMENT STANDARDS

### ARTICLE IV. – DESIGN STANDARDS AND GUIDELINES FOR COMMERCIAL DEVELOPMENTS

**Sec. 10-610(d)(3).** Site design standards and guidelines for commercial developments.

(3) Bicycle parking requirements.

- a) Number of spaces. Safe and secure bicycle parking spaces must be provided as follows: spaces totaling five percent of required motor vehicle spaces in accordance with Section 34-2020 up to 1,000 vehicle spaces. For each 500 spaces above 1,000 vehicle spaces, four additional bicycle parking spaces are required. A minimum of two bicycle parking spaces must be provided.
- b) Design.
  1. A bicycle parking areas must include a bicycle rack with appropriate access on all sides to accommodate adequate space for the required number of bicycles. ~~facility suited to a single bicycle must be a standalone inverted-U design measuring a minimum of 36 inches high and 18 inches wide of 1½ inch Schedule 40 pipe, ASTM F 1083 bent in one piece ("bike rack") mounted securely to the ground by a three-eighth inch thick steel base plate, ASTM A 36 so it is capable of securing the bicycle frame and both wheels.~~
  2. ~~Each bicycle parking space must have a minimum of three feet of clearance on all sides of the bike rack.~~
  - 3-2. Bicycle parking spaces must be surfaced with stabilized, all-weather materials ~~consistent with those approved for the motor vehicle parking lots, lighted and located no greater than 100 feet from the building entrances providing access to the public.~~
  - 4-3. Extraordinary bicycle parking designs and surfaces that depart from the bike rack standard but are consistent with the development's design theme may be considered by the ~~Director~~ Manager of Development Services in accordance with Section 10-104(b). ~~Bike racks that are freely oriented, function without securing the bicycle frame, or require the use of a bicycle kick stand are prohibited.~~

**GROUP 3, ITEM A.8**  
**ACCESS WIDTH REQUIREMENTS**

AMENDMENT SUMMARY

- Issue: The LDC currently allows a maximum width at the property line at 35 feet. Fire stations and other public safety facilities typically require more than a 35-foot width and consistently require a deviation or variance from this standard.
- Solution: Include language to allow for an exemption for fire and emergency services to exceed the 35-foot maximum width.
- Outcome: Streamlines permitting process by eliminating the need for the zoning action currently required for these types of deviations.

## Chapter 34 – Zoning

### ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

#### DIVISION 26. PARKING

##### **Sec. 34-2013(b) Access**

- (b) Each parking lot must have a distinct parking lot entrance. The entrance must meet the requirements of Chapter 10, as well as the following:
- (1) Minimum width at property line for one-way entrances is 15 feet.
  - (2) Minimum width at property line for two-way entrances is 24 feet.
  - (3) Maximum throat width at property line is 35 feet.

The Director may determine that high traffic volumes or other special circumstances warrant other requirements. Emergency Services facilities, including fire, EMS, and sheriff's stations, are exempt from the maximum width requirements but provided that the maximum throat width at the property line does not exceed 80 feet.

**GROUP 3, ITEM B.1**  
**CODE ENFORCEMENT INSPECTIONS AND NOTICE OF NONCOMPLIANCE**

AMENDMENT SUMMARY

- Issue: The Unsafe Building Abatement Code was established in 1985 and does not allow for legal notice to include posting the notice to the property.
- Solution: Revise the LDC to allow unsafe building violations to mirror Code Enforcement Noticing LDC Section 2-429 to allow for posting notice to the property.
- Outcome: Provides Code Enforcement staff with a consistent legal notice process. The notice posting affords an opportunity to the public to be aware of and resolve the violation.

**Chapter 6 – BUILDINGS AND BUILDING REGULATIONS**  
**ARTICLE II. – CODES AND STANDARDS**  
**DIVISION 4. – UNSAFE BUILDING ABATEMENT CODE**

**Sec. 6-211. - Adoption; amendments.**

The following Sections of the 1985 Standard Unsafe Building Abatement Code, as published by Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206, are hereby adopted and made part of this article as follows:

Chapter I, Administration.

Section 105, relating to the Board of Adjustment and Appeals, is deleted, and the latest adopted County ordinance relating to the Board of Adjustment and Appeals is substituted therefor.

Chapter II, Definitions.

Chapter III, Inspection and Notice of Noncompliance.

Sections 302.1.2; 302.1.3; and 302.1.4, relating to service of notice and proof of service, are deleted and replaced in their entirety with the following: *The notice and all attachments thereto shall be provided to the owner of record in accordance with the notice procedures set forth in Lee County Land Development Code Section 2-429, as may be amended from time to time.*

Chapter IV, Appeals.

Chapter V, Rules of Procedure for Hearing Appeals.

Chapter VI, Implementation.

Chapter VII, Recovery of Cost of Repair or Demolition.

Exception: If the Building Official proceeds to demolish the building or structure as set forth herein, the Chairman of the Board of County Commissioners, on behalf of the

entire Board, will execute a resolution, assessing the entire cost of demolition and removal against the real property upon which the cost was incurred. Assessments will constitute a lien upon the property superior to all others except taxes. The lien will be filed in the public land records of the County. The resolution of assessment and lien must indicate the nature of the assessment and lien, the lien amount, and an accurate description of the property affected. The lien becomes effective on the date the notice of lien is filed and bears interest from the date of filing at a rate of ten percent per annum. If the resulting lien is not satisfied within two years after the date it is filed, then the County may:

1. File suit to foreclose on the lien property as provided by law in suits to foreclose mortgages; or
2. Follow any other lawful process or procedure available for enforcement of the lien in accordance with any general law of the State relating to the enforcement of municipal liens.

**GROUP 3, ITEM B.2**  
**CODE ENFORCEMENT PENALTIES AND LIENS**

AMENDMENT SUMMARY

Issue: Current maximums for code enforcement penalties and liens are capped at amounts much less than the maximum permitted by Florida Statutes.

Solution: Revise the LDC to align maximum penalties with those permitted by Florida Statutes.

Outcome: Provides greater incentive for compliance by providing for penalties and liens that align with those permitted by Florida Statutes.

**Chapter 2 - ADMINISTRATION**  
**ARTICLE VII. – HEARING EXAMINER**

**Sec. 2-427. Penalties and liens.**

*Staff note: Revise maximum penalties to align with Florida Statutes.*

(a) *Penalties.*

- (1) Fines imposed under this section for the first violation will be no less than \$25.00 per day and no greater than ~~\$1,000.00~~ ~~\$250.00~~ per day. Fines imposed under this section for a repeat violation will be no less than \$50.00 per day and no greater than ~~\$5,000.00~~ ~~\$500.00~~ per day. Unless agreed upon by the County Manager or designee, fines imposed pursuant to a Code Enforcement agreement must be imposed in accordance with the provisions of the Code Enforcement agreement. If the Hearing Examiner finds a violation is irreparable or irreversible in nature, a fine of up to ~~\$15,000.00~~ ~~\$5,000.00~~ per violation may be imposed. Further, the fine may include the cost of all repairs incurred by the County as well as the costs of prosecuting the case before the Hearing Examiner.

*Remainder of section remains unchanged.*

**GROUP 3, ITEM B.3**  
**SEA TURTLE CONSERVATION**

AMENDMENT SUMMARY

- Issue: Sea turtle research and lighting technologies have advanced significantly since 1992 when the county's sea turtle lighting regulations were last updated. Developers, contractors, and property owners get confused when the solutions given in the code do not match industry standards or what is commercially available.
- Solution: Amend the code to incorporate up-to-date sea turtle research and lighting technology and applicable portions of the State of Florida Model Lighting Ordinance for Marine Turtle Protection, Rule 62B-55.004, F.A.C.
- Outcome: There are clear lighting standards for new construction and methods that can be used to fix existing non-compliant lights. The code reflects modern practices and State recommendations.

## Chapter 14 - ENVIRONMENT AND NATURAL RESOURCES

### ARTICLE II. - WILDLIFE AND HABITAT PROTECTION

#### DIVISION 2. - SEA TURTLE CONSERVATION

##### **Sec. 14-71. Purpose and applicability.**

- (a) ~~The purpose and intent of this division is to protect endangered and threatened sea turtles along the Gulf of Mexico beaches in the unincorporated areas of the County. This division protects nesting sea turtles and sea turtle hatchlings from the adverse effects of artificial lighting, provides overall improvement in nesting habitat degraded by light, and increases successful nesting activity and production of hatchlings on the beaches, as defined in this division.~~ nesting and hatchling sea turtles on the beaches in unincorporated Lee County by ensuring that their nesting habitat is not degraded by artificial light. The objective of the division is for the appropriate design and implementation of coastal lighting systems to ensure that light pollution does not interfere with sea turtle nesting and hatching events while at the same time protecting public safety.
- (b) ~~The provisions of this division apply during the nesting season.~~ If this division conflicts with any other requirement of the Lee County Land Development Code, then this division will control during sea turtle nesting season.

##### **Sec. 14-72. Definitions.**

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

*Administrator* means the County manager, or his designee, who is responsible for administering the provisions of this division.

*Artificial light* means the light emanating from any human-made device.

~~*Artificial lighting or illumination* means light emanating from a manmade point source. See *Point source of light*.~~

*Beach* has the same meaning given it in Section 14-170.

~~*Bug type light* means any yellow-colored incandescent light bulb that is specifically treated in such a way so as to reduce the attraction of bugs to the light but does not include bug-killing devices.~~



*Construction* means the carrying out of any building, clearing, filling, excavating or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, the term "construction" refers to the act of constructing or the result of construction and includes reconstruction or remodeling of existing buildings or structures.

*DEP* means State Department of Environmental Protection or successor agency.

*Decorative lighting* means lighting used for aesthetic reasons, ~~primarily landscaping~~ including but not limited to landscape lights, uplights, spotlights, strobe lights, string lights, etc.

*Development* has the same meaning stated in Section 34-2.

~~*Directly illuminated* means illuminated by one or more point sources of light directly visible to an observer on the beach, dune, or other sea turtle nesting habitat.~~

*Directly visible* means when glowing elements, lamps, globes, or reflectors of an artificial light source can be seen by an observer standing anywhere on the beach, dune, or other sea turtle nesting habitat.

*Dune* has the same meaning given it in Section 14-170.

*Existing development* means completed development having received official approval in the form of a Certificate of Compliance, final building permit inspection, or other final governmental approval ~~as of January 31, 1998.~~

*FWC* means the Florida Fish and Wildlife Conservation Commission or its successor.

*Full cutoff* means a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90° as determined by photometric test or certified by the fixture manufacturer.

*Fully shielded* means a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible from the beach, dune, or other sea turtle nesting habitat. Any structural part of the light fixture providing this shielding must be permanently affixed.

~~*Ground-level barrier* means any vegetation, structure, or natural feature or artificial structure rising from the ground intended to prevent beachfront lighting from shining being directly or indirectly onto visible from the beach, dune, or other sea turtle nesting habitat.~~

*Hatchling* means any individual of a species of sea turtle, within or outside of a nest, that has recently hatched from an egg.

~~*Indirectly illuminated* means illuminated by one or more point sources of light not directly visible to an observer on the beach, dune, or other sea turtle nesting habitat.~~

*Indirectly visible* means light reflected from glowing elements, lamps, globes, or reflectors of an artificial light source that can be seen by an observer standing anywhere on the beach, dune, or other sea turtle nesting habitat without the light source being directly visible.

*Long wavelength* means a lamp or light source emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers.

~~*Low-profile lighting* means a light fixture which places the low wattage source of light no higher than 48 inches above grade and is designed so that a point source of light does not directly or indirectly illuminate sea turtle nesting habitat. is not directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.~~

*Mechanical beach cleaning* has the same meaning given it in Section 14-170.

*Nest* means an area where sea turtle eggs have been naturally deposited or subsequently relocated by an FWC-authorized marine turtle permit holder.

*Nesting season* means from 9:00 p.m. until 7:00 a.m. during the period of May 1 through October 31 of each year.

*New development* means construction of new buildings or structures as well as renovation or remodeling of existing development, and includes the alteration of exterior lighting, including lighted signs, ~~occurring after January 31, 1998.~~

*Point source of light* means a manmade source emanating light, including, but not limited to, LED, incandescent, tungsten-iodine (quartz), mercury vapor, fluorescent, metal halide, neon, halogen, high-pressure sodium and low-pressure sodium light sources, as well as torches, camp and bonfires.

*Sea turtle* means any marine-dwelling reptile, including all life stages from egg to adult, of the families Cheloniidae or Dermochelyidae found in Florida waters or using the beach as nesting habitat, including *Caretta caretta* (loggerhead), *Chelonia mydas* (green) and *Dermochelys coriacea* (leatherback), *Eretmochelys imbricata* (hawksbill), *Lepidochelys kempi* (Kemp's ridley). For the purposes of this division, sea turtle is synonymous with marine turtle.

*Sea turtle nesting habitat* means ~~the beach, any adjacent dunes or areas landward of the beach used by sea turtles to deposit sea turtle eggs.~~ all sandy beach and dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.

*Temporary lighting* means any non-permanent light source that may be hand-held or portable including but not limited to tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, fire-pits, bonfires, etc.

*Tinted glass* means any glass ~~treated to achieve an industry approved, inside to outside light transmittance value of~~ modified via tinting, film or other material to reduce the inside to outside light transmittance value to 45 percent or less.

## **Sec. 14-73. Violations, enforcement and penalty.**

(a) *Violations.*

- (1) Failing in any respect to comply with the provisions of this division.
- (2) A rebuttable presumption that there is a violation of this division exists when:
  - a. A shadow is created or cast by artificial lighting directly or indirectly illuminating an opaque object in sea turtle nesting habitat during the nesting season; or
  - b. The disorientation or mortality of a nesting sea turtle or sea turtle hatchling is caused by artificial lighting directly or indirectly illuminating that is directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat during the nesting season.

- (b) *Enforcement and penalty.* Violations of this division will be prosecuted in accordance with Chapter 2, Article VII. The County may take action against the property owner, occupant or person otherwise responsible for causing the violation. In addition to Code enforcement action, the County may pursue other legal means of obtaining compliance, including civil and criminal remedies, that are available by law.

## **Sec. 14-74. Exemptions. Reserved.**

*Administrative exemptions.* ~~The administrator may authorize, in writing, any activity or use of lighting otherwise prohibited by this division for a specified location and period of time. The authorization must be for the minimum duration and amount of lighting from a point source of light.~~

## Sec. 14-75. Lighting for existing development.

Existing development must ensure that ~~sea turtle nesting habitat is not directly or indirectly illuminated by artificial lighting originating from the existing development~~ artificial lighting originating from the existing development is not directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat during the nesting season. Existing development must incorporate and follow the measures outlined in Section 14-79, ~~to reduce or eliminate interior light emanating from doors and windows visible from the beach, a dune, or other sea turtle nesting habitat.~~

## Sec. 14-76. Lighting for new development.

New development must comply with the following requirements:

- (a) Artificial lighting must conform to the general requirements of Section 14-75;
- (b) A lighting plan must be submitted to the County for review prior to the earlier of building permit or development order issuance for all new development on the barrier islands identified in Appendix B, as follows:
  - (1) Seaward of the coastal construction control line, as defined in Section 6-333 (CCCL), a lighting plan is required for all new development.
  - (2) Landward of the CCCL, a lighting plan is required for all commercial and industrial development, and for all multi-story developments in multifamily zoning districts.
  - (3) The location, number, wattage, elevation, orientation, fixture cut sheets, and types of all proposed exterior artificial light sources, including landscape lighting, must be included on the lighting plan. A County approved lighting plan is required before a building permit will be issued and final inspections for a Certificate of Occupancy or Certificate of Compliance will be performed by the County.
  - ~~(4) Tinted glass, or any window film applied to window glass that meets the definition for tinted glass in Section 14-72, must be installed on all windows and glass doors visible from the beach. The alternative selected to comply with this subsection must be identified on the building permit plans.~~
  - ~~(5) Exterior light fixtures visible from the beach must meet all of the following criteria to be considered appropriately designed:
    - a. ~~Completely shielded downlight only fixtures or recessed fixtures having 25-watt yellow bug type bulbs and nonreflective interior surfaces are used. Other fixtures that have appropriate shields, louvers, or cutoff features may also be used, if they comply with Section 14-75. Mercury vapor and metal halide lighting is prohibited.~~
    - b. ~~All fixtures must be mounted as low as possible through the use of low-mounted wall fixtures, low bollards, and ground level fixtures.~~
    - c. ~~All exterior lighting must be installed so that the cone of light will fall substantially within the perimeter of the property. Through the use of shielding and limitations on intensity, artificial light traveling outward and upward producing a sky glow must be reduced to the greatest extent possible without unduly interfering with the purpose of the exterior lighting.~~
    - d. ~~Lighting on ceiling fans placed on balconies or porches visible from the beach is prohibited.~~
    - e. ~~Artificial lighting, including, but not limited to, uplighting, is not permitted seaward of the 1978 CCCL.~~~~

- f. ~~A colored or partially opaque lens must be installed over pool and spa lights.~~
- (6) ~~Parking lot lighting must use:~~
- a. ~~Poles no higher than 12 feet in height;~~
  - b. ~~Shoebox style fixtures containing high pressure sodium or low pressure sodium bulbs 150 watts or less; and~~
  - c. ~~Opaque shields with a nonreflective black finish on the inside that completely surrounds each fixture and extends below each fixture at least 12 inches.~~
- (7) ~~Low profile artificial lighting is encouraged, such as step lighting or bollards with louvers and shields that are no taller than 48 inches with bulbs of 35 watts or less. Opaque shields must surround 180 degrees of each fixture to keep direct light off the beach.~~
- (c) Interior lighting. All glass windows, walls, railings, and doors on the seaward and shore-perpendicular sides of any new construction must use tinted glass, or tinted film applied to glass, with an inside to outside light transmittance value of 45 percent or less.
- (1) The method selected to comply with this subsection must be identified on the building permit plans.
  - (2) Prior to the issuance of a certificate of occupancy or certificate of compliance, manufacturer specification stickers will remain affixed to all glass windows, walls, railings, and doors on the seaward and shore-perpendicular sides of any new construction.
  - (3) The measures outlined in Sec. 14-79(b) to reduce the impacts of interior light should be used in addition to turtle glass.
- (d) Exterior lighting. Exterior light fixtures must be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible. All lighting must not produce light that is directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.
- (1) Lighting at egress points must be limited to the minimum number of fixtures necessary.
  - (2) Lighting of paths, walks and routes of building access must use low level fixtures such as step, paver, path, recessed wall or bollard lights. Bollard lights are not to exceed 42 inches in height and other low level fixtures must be mounted as close to the ground or finished floor surface as possible.
  - (3) Decorative exterior lighting may only be installed landward of buildings or other opaque structures.
  - (4) Pool and spa lighting. Lighting of pool facilities, swimming pools, splash pads, spas, ponds, and fountains must be long wavelength.
    - a. Underwater lighting must:
      - 1. Be downward or horizontally directed only,
      - 2. Emit only long wavelength light during the nesting season.
  - (5) Parking area lighting. All lighting of parking areas must be long wavelength, downward directed, full cutoff, and fully shielded.
    - a. Parking area lighting fixtures may consist of only the following:
      - 1. Downward-directed fixtures, equipped with interior dark-colored, non-reflective baffles or louvers, mounted either with a wall mount, on walls or piles, facing away from the beach.

2. Bollard-type fixtures, which do not extend more than 42 inches above the adjacent floor or deck, measured from the bottom of fixture, equipped with downward-directed louvers that completely hide the light source, and externally shielded on the side facing the beach.
  3. Pole-mounted lights, located only on the landward sides of buildings, mounted no higher than 12 feet above grade, and downward-directed.
- b. Parking area lighting must be shielded from the beach via ground-level barriers. The shielding material must be provided parallel to the nesting beach for a distance no less than the length of the parking lot.
1. If shielded by vegetation, a minimum double staggered hedge row must be provided. Shrubs must be a minimum height of 36" tall at the time of installation and must be measured from the parking lot grade of the project site.
  2. If shielded by structures or natural features, the vertical height must be no less than 36" above the finished grade of the parking lot.
  3. These shielding methods must prevent artificial light sources, including but not limited to vehicular headlights, from producing light that is directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.
  4. Detailed specifications for the method selected must be included in the permit.
- ~~(8)~~(7) Signs. Illuminated signs must conform to the requirements of this section. Reverse lighting signs are recommended, where the background is opaque, and the letters/logo are illuminated from within the sign. If exterior lighting is used to illuminate the sign, the lights must be downlights with shields and louvers to pinpoint the light. The use of neon, decorative LED strips, and other architectural lighting is not permitted.
- ~~(e)~~(8) Prior to the issuance of a Certificate of Occupancy (CO), the exterior lighting of new development must be inspected after dark by the County, with all exterior lighting turned on, to determine compliance with an approved lighting plan and this division.
- (e) Emergency lighting. Emergency lights are not subject to the above standards if on a separate circuit and activated only during power outages or other situations in which emergency lighting is necessary for public safety.
- (1) Self illuminated exit signs that are continuously on and are visible from the beach, dune, or other sea turtle nesting habitat must have red lettering.

### **Sec. 14-77. Publicly owned lighting.**

Streetlights and lighting at parks and other publicly owned beach access areas are subject to the following requirements:

- (a) ~~The beach must not be directly or indirectly illuminated by a~~ Newly installed or replaced point sources of light must not be directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.
- (b) Artificial lighting at parks or other public beach access points must conform to the provisions of Section 14-75 and 14-76.

### **Sec. 14-78. Additional regulations affecting sea turtle nesting habitat.**

- (a) ~~Fires.~~ Fires are prohibited on the beach ~~during the sea turtle nesting season.~~

- (1) Fire pits, fire bowls, tiki torches, bonfires, lanterns and other decorative fires may not be directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat during the sea turtle nesting season.
- (b) Temporary construction lighting. Within sea turtle nesting season, temporary work zone lighting must be:
- (1) Inclusive of all the standards of this Section, including using fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat, and
- (2) Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture.
- (c) Other temporary lighting. Handheld and other portable temporary lighting must not be directed toward or used in a manner that disturbs sea turtles or other coastal wildlife.
- ~~(b)~~(d) Driving on the beach. Driving on sea turtle nesting habitat, specifically including the beach, is prohibited during the nesting season, except as follows:
- (1) Research or patrol vehicles. Only authorized permittees of the FWC, DEP officials, and law or Code enforcement officers conducting bona fide research or investigative patrols, may operate a motor vehicle on the beach or in sea turtle nesting habitat during the nesting season. No lights may be used on the vehicles during the nesting season unless they are covered by appropriate, red-colored filters. The vehicles must travel below the previous night's mean high tide line to avoid dunes, dune vegetation, sea turtle nests and bird nesting areas.
- (2) Mechanical beach raking. The mechanical raking of the beach or wrack line is prohibited, except in accordance with Section 14-174. ~~During the nesting season, mechanical beach raking:~~
- a. ~~Must not occur before 9:00 a.m. or before completion of daily monitoring for turtle nesting activity by a FWC authorized marine turtle permit holder, whichever occurs first;~~
- b. ~~Must not disturb any sea turtle or sea turtle nest; and~~
- c. ~~Must avoid all staked sea turtle nests by a minimum of ten feet.~~
- (3) Beach furniture and equipment transport. During the nesting season, the transport of beach furniture and equipment: can only be done in accordance with Section 14-173.
- a. ~~May not be set out in the morning until after a sea turtle monitor has inspected the beach in the area of the authorized activity to ensure any new sea turtle nests are identified and marked.~~
- b. ~~May not travel within ten feet of a sea turtle nest or dune vegetation.~~
- (4) See Section 14-175 for other restrictions on vehicular traffic on the beach that apply before and after the nesting season.
- ~~(e)~~(e) Parking. Vehicle headlights in parking lots or areas on or adjacent to the beach must be screened utilizing ground-level barriers ~~to eliminate so that~~ artificial lighting directly or indirectly illuminating sea turtle nesting habitat is not directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.
- (f) Special events. Special events proposed on or near the beach or dune, or where lighting from the special events will be directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat, will require a permit from DEP and the County pursuant to LDC Section 14-176.

## **Sec. 14-79. Guidelines for mitigation and abatement of prohibited artificial lighting.**

- ~~(a)~~ Appropriate techniques to achieve lighting compliance include, but are not limited to:
- (1) ~~Fitting lights with hoods or shields.~~
- (2) ~~Utilizing recessed or down fixtures with low wattage bulbs.~~

- ~~(3) Screening light with vegetation or other ground level barriers.~~
- ~~(4) Directing light away from sea turtle nesting habitat.~~
- ~~(5) Utilizing low profile lighting.~~
- ~~(6) Turning off artificial light during the nesting season.~~
- ~~(7) Motion detectors set on the minimum duration.~~
- ~~(8) Lowering the light intensity of the lamps to 25-watt yellow bug lights.~~
- ~~(9) Spraying reflective surfaces within fixtures or globes on fixtures with a flat black grill or oven paint.~~

Although plastic sleeves for fluorescent bulbs may help to reduce the amount of artificial light to an acceptable level if the bulbs are of sufficiently low wattage, additional shielding is still needed as sea turtles are more sensitive to the wavelengths of fluorescent light.

- ~~(b) Opaque shields for lights covering an arc of at least 180 degrees and extending an appropriate distance below the bottom edge of the fixture on its seaward side may be installed so that the light source or any reflective surface of the light fixture is not visible from sea turtle nesting habitat.~~

(a) Reduce or eliminate the negative effects of existing exterior artificial lighting through the following measures:

- (1) Reposition, modify or remove existing lighting fixtures so that the point source of light or any reflective surface of the light fixture is no longer directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat.
- (2) Replace fixtures having an exposed light source with fully shielded fixtures.
- (3) Replace any light source, light bulb or lamp that is not long wavelength (e.g. incandescent, fluorescent, or high intensity lighting) with the lowest wattage long wavelength (e.g. amber, orange, or red LED under 560 nm) light source or lamp available for the specific application.
- (4) Replace non-directional fixtures with directional fixtures that point down and away from the beach.
- (5) Provide non-reflective shields for fixtures visible from the beach, dune, or other sea turtle nesting habitat and not practical to immediately be replaced. Beachside shields are to cover 270 degrees and extend below the bottom edge of the fixture on the seaward side so that the light source or any reflective surface of the light fixture is not visible from the beach, dune, or other sea turtle nesting habitat.
- (6) Replace pole lamps with low-profile, low-level luminaries so that the light source or any reflective surface of the light fixture is not visible from the beach, dune, or other sea turtle nesting habitat.
- (7) Plant or improve vegetation buffers between the light source and the beach to screen light from the beach.
- (8) Construct a ground level barrier landward of the beach and frontal dune to shield light sources from the beach. Ground-level barriers are to be considered a last resort when no other remediation of the light source is feasible. Ground level barriers may be subject to state coastal construction control line regulations under section 161.053, Florida Statutes, and must not interfere with sea turtle nesting or hatchling emergence, or cause short- or long- term damage to the beach and dune system.
- ~~(c)(9) Floodlights, Landscape lights, up-lights, spotlights, and other decorative lighting (e.g. strobe lights, string lights, etc.) directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat should must not be used during the nesting season. The ideal alternatives within direct line of sight of the beach are completely shielded downlight only fixtures or recessed fixtures, with any visible interior surfaces or baffles covered with a matt black nonreflective finish.~~

(10) Permanently remove or permanently disable any fixture which cannot be brought into compliance with the provisions of these standards.

~~(d) Appropriate techniques to eliminate interior lighting directly or indirectly illuminating the beach, include, but are not limited to, applying window tint film to windows, using tinted glass, moving light fixtures away from windows, closing blinds or curtains, and turning off unnecessary lights.~~

(b) Take the following measures to minimize interior light emanating from doors and windows within line-of-sight of the beach:

(1) Apply window tint or film that meets the light transmittance standards for tinted glass.

(2) Rearrange lamps and other moveable fixtures away from windows.

(3) Use opaque shades or room darkening window treatments (e.g., blinds, curtains, screens) to shield interior lights from the beach.

(4) Turn off unnecessary lights.

**Secs. 14-80—14-110. Reserved.**

## **APPENDIX B**

### AMENDMENT SUMMARY

Issue: Appendix B includes beaches that are no longer in unincorporated Lee County.  
Solution: Remove those beaches that are no longer in unincorporated Lee County jurisdiction.  
Outcome: Update locations where code is applicable.

## **Appendix B GULF OF MEXICO BEACH DESCRIPTION<sup>1</sup>**

### GULF OF MEXICO BEACH DESCRIPTION

#### GASPARILLA ISLAND.

Those beaches westerly from the Lee County Line on the north to a point being the southernmost point of the island bearing due south provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

#### CAYO COSTA ISLAND (LA COSTA)

Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the southernmost point of the island bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

#### THOSE UNNAMED ISLANDS IN THE GULF OF MEXICO OFF THE WESTERN COAST OF CAYO COSTA ISLAND.

All beaches of each island.

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<sup>1</sup>Editor's note(s)—Printed herein is Appendix B to the Land Development Code. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and expression of numbers in text has been used. Additions made for clarity are indicated by brackets.



**NORTH CAPTIVA ISLAND.**

Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the southernmost point of the island bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

**CAPTIVA ISLAND.**

Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the southernmost point of the island bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

**ESTERO ISLAND.**

Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the southernmost point of the island bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

**LOVER'S KEY GROUP OF ISLANDS INCLUDING BLACK ISLAND.**

Those beaches westerly from that point beginning at the northernmost point bearing due north of the western-most lands of the island group fronting on the Gulf of Mexico to a point being the southernmost point of the island group bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

**BIG HICKORY ISLAND.**

Those beaches westerly from that point being the northernmost point of the island bearing due north to that point of the island in Big Hickory Pass being the southernmost point bearing due south; provided, however, that said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

**LITTLE HICKORY ISLAND (BONITA BEACH).**

Those beaches westerly from that point being the northernmost point of the island bearing due north to that point being the Lee County Line on the south; provided, however, that the said northernmost and southernmost points are subject to change as a result of natural erosion and accretion occurring to the beaches over time.

**GROUP 3, ITEM B.4  
BEACH AND DUNE MANAGEMENT**

AMENDMENT SUMMARY

- Issue: Some language in this division conflicted with the language used in the Sea Turtle Conservation division. Dune vegetation was installed based on common names, which can reference multiple species.
- Solution: Clean up this division to maintain consistency with the Sea Turtle Conservation division. Reformat the list of native dune vegetation species to include scientific names.
- Outcome: The dune protection measure are clear and easy to understand.

## Chapter 14 - ENVIRONMENT AND NATURAL RESOURCES

### ARTICLE II. - WILDLIFE AND HABITAT PROTECTION

#### DIVISION 5. BEACH AND DUNE MANAGEMENT

**Sec. 14-170. Definitions.**

When used in this division, the following words, terms and phrases have the meanings set forth in this section, except where their context clearly indicates a different meaning:

*Beach* means the area of sand along the Gulf of Mexico that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, usually the effective limit of storm waves. Beaches include dunes and dune vegetation.

*Beach furniture or equipment* means any manmade apparatus or paraphernalia designed or manufactured for use or actually used on the beach or in the adjacent tidal waters. Examples include chairs, tables, cabanas, lounges, hammocks, umbrellas, sailing vessels, personal watercraft, concession storage units, canoes, kayaks, paddle vessels, sailboards, surfboards, fishing gear, sporting equipment, floatables, tents, and bicycles.

*Coastal Construction Control Line (CCCL)* has the same meaning given it in Section 6-333.

*Dune* means a mound, bluff, ridge, or emergent zone of loose sediment, usually sand-sized sediment, lying upland of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location (see F.S. § 161.54; F.A.C. 62B-33.002). It encompasses those ecological zones that, when left undisturbed, will support dune vegetation. As to areas restored or renourished pursuant to a permit issued by the County or State, it encompasses the area specified in the permit as a dune or any area specified as suitable for establishment of dune vegetation.

*Dune vegetation* means pioneer species of native vegetation which, if left undisturbed by manmade forces, will begin to grow on a dune, including species such as: ~~bitter panicum, coastal panic grass, crowfoot grass, salt meadow cordgrass, sandbur, seacoast bluestem, sea oats, seashore dropseed, seashore paspalum, seashore saltgrass, stiffleaf eustachys, beach bean, blanket flower, dune sunflower, fiddle leaf morning glory, partridge pea, railroad vine, sea purslane, beach creeper, nicker bean, coin vine, inkberry, lantana, saw palmetto, seashore elder, baycedar, and seagrape.~~

Dune Vegetation

<u>Common Name</u>	<u>Scientific Name</u>	<u>Common Name</u>	<u>Scientific Name</u>
<u>Beach bean</u>	<u>Canavalia maritima</u>	<u>Bitter panicum</u>	<u>Panicum amarum</u>

<u>Florida rosemary</u>	<u>Ceratiola ericoides</u>	<u>Coastal panic grass</u>	<u>Panicum amarum var. amarulum</u>
<u>Partridge pea</u>	<u>Chamaecrista fasciculata</u>	<u>Inkberry</u>	<u>Scaevola plumieri</u>
<u>Seagrape</u>	<u>Coccoloba uvifera</u>	<u>Seacoast bluestem</u>	<u>Schizachyrium littorale</u>
<u>Seashore saltgrass</u>	<u>Distichlis spicata</u>	<u>Saw palmetto</u>	<u>Serenoa repens</u>
<u>Beach creeper</u>	<u>Ernodea littoralis</u>	<u>Shoreline sea purslane</u>	<u>Sesuvium portulacastrum</u>
<u>Blanket flower</u>	<u>Gaillardia pulchella</u>	<u>Saltmeadow cordgrass</u>	<u>Sporobolus pumilus</u>
<u>Dune sunflower</u>	<u>Helianthus debilis</u>	<u>Seashore dropseed</u>	<u>Sporobolus virginicus</u>
<u>Railroad vine</u>	<u>Ipomoea pes-caprae</u>	<u>Bay cedar</u>	<u>Suriana maritima</u>
<u>Seashore elder</u>	<u>Iva imbricata</u>	<u>Sea oats</u>	<u>Uniola paniculata</u>
<u>Gulfhairawn muhly</u>	<u>Muhlenbergia filipes</u>		

*Mechanical beach raking* means the cleaning of the beach seaward of the dune and vegetation line of trash and other debris on or near the surface by use of a rake or other similar porous device that penetrates no more than two inches below existing ambient grade and results in no removal of in situ sand.

*Wrack* means the natural organic marine material cast on the shore, including seaweed and other vegetative and animal debris, but excluding manmade material.

### **Sec. 14-171. Purpose and intent.**

The purpose of this division is to encourage a steward-like attitude toward one of the County's most valuable assets, the beach. It is the intent of this division to preserve and improve the condition of the beach asset as a place for recreation, solitude, and preservation of beach vegetation and marine wildlife. This division establishes minimum standards to safeguard the beach.

### **Sec. 14-172. Destruction or diminishment of dune or beach system.**

**Staff note:** The installation of irrigation in the dune systems is already prohibited under 14-172(a)(3) and 14-178(a)(4). Listing it specifically in this section will clarify this for property owners.

- (a) No person may conduct or allow any of the following activities on the beach, upon a dune, or in the water adjacent to the beach, unless otherwise specifically permitted in accordance with Subsection (b) of this section.
- (1) Harass, molest, or disturb wildlife;
  - (2) Plant vegetation other than native dune vegetation;
  - (3) Install irrigation, except for temporary irrigation for restoration planting as required in Section 14-178;
  - ~~(3)~~(4) Destroy or harm a dune or mow or remove native dune vegetation;
  - ~~(4)~~(5) Maintain a dump of, or discard or leave litter, garbage, trash or refuse, vegetative clippings, or debris;
  - ~~(5)~~(6) Deposit and leave human or animal waste;
  - ~~(6)~~(7) Destroy or grossly interfere with the natural wrack line by grooming or nonselective raking except as authorized in Section 14-174;
  - ~~(7)~~(8) Operate any air-powered or any engine-powered nonwatercraft vehicle, machine, or implement, including any battery- or electrically-powered vehicle, machine, or implement, except for a wheelchair or approved conveyance for a person with a disability which is actually being used by the person with a disability or as authorized in Section 14-175;
  - ~~(8)~~(9) Excavate, mine, and remove, or haul sand or soil from the beach or dune except in emergency situations as permitted by DEP;

- ~~(9)~~(10) Detonate any explosive devices, including fireworks;
  - ~~(10)~~(11) Light or maintain any open fire on the beach;
  - ~~(11)~~(12) Temporarily reside, camp, or sleep overnight;
  - ~~(12)~~(13) Deposit/install rocks, concrete, or other shoreline stabilization materials without a permit from DEP and the County;
  - ~~(13)~~(14) Deposit/add sand to the beach and dune system without a permit from DEP. All fill material will be sand that is similar to the existing beach sand in both coloration and grain size and be free of debris, rocks, clay, or other foreign matter;~~or~~
  - (15) Deposit/apply water from adjacent or upland irrigation systems; or
  - ~~(14)~~(16) Conduct any commercial activities not explicitly authorized by this Code or by other County ordinances.
- (b) Permits may be issued by the County for activities prohibited under Subsection (a) of this section, which the Director finds are:
- (1) Necessary for reasonable accommodation of persons with disabilities;
  - (2) Adjunct to a lawfully existing activity;
  - (3) For the conduct of a civic or educational activity; for the conduct of scientific research; or
  - (4) For any purpose otherwise necessary to protect or to promote the public welfare.

To the extent that a permit is issued for any of the above activities, the standards and procedures for issuance will be governed by this Code.

### **Sec. 14-173. Beach furniture and equipment.**

- (a) All beach furniture and equipment must be set landward of the mean high water line and at least ten feet from a sea turtle nest or dune vegetation.
- (b) Trash containers may only be located adjacent to beach access points and may be left in place at all times. Trash containers must be kept secured from wildlife and emptied nightly.
- ~~(a)~~(c) From May 1 through October 31, all beach furniture and equipment must be removed from the beach as follows:
  - (1) All beach furniture and equipment must be removed daily from the beach to behind the 1978 CCCL between the hours of 9:00 p.m. until 8:00 a.m.
  - (2) Beach furniture and equipment that is removed from the beach must be safely stacked in areas no larger than ten feet by ten feet and each stack must be at least 50 feet removed or apart from the next stack.
- ~~(b) Trash containers are not included in the definition of beach furniture and equipment and may be left in place on the beach at all times.~~
- ~~(c) All beach furniture and equipment (such as chairs, umbrellas, cabanas, and rental podiums) must be set landward of the mean high water line and at least ten feet from a sea turtle nest or dune vegetation.~~
- (d) Vendors or property owners using a vehicle to transport furniture and equipment to and from the beach are required to follow these additional restrictions:
  - (1) Equipment may not be set out in the morning ~~before 8:00 a.m. or~~ until after completion of daily monitoring by a FWC-authorized marine turtle permit holder examining the beach in the area of the authorized activity to ensure any new sea turtle nests are identified and marked, ~~whichever occurs first.~~

- (2) Transporting vehicles may not travel within ten feet of a sea turtle nest or dune vegetation.
- (3) The vehicle, trailer, and equipment may not exceed a maximum ground-to-tire pressure of ten PSI (pounds per square inch) using the formula in Section 14-174(a)(3)d-1(4)a. Beach furniture and equipment may be placed on a vehicle or on a wheeled trailer but may not be dragged or pushed by a vehicle. After setup, the vehicle and trailer must be removed from the beach.

**Sec. 14-174. Beach raking and wrack line policy.**

- (a) Under normal circumstances, the raking of the beach or wrack line is prohibited. The only exceptions require an appropriate DEP permit based on a determination that existing health or safety issues require action in accordance with the following:
  - (1) A larger than normal wrack line resulting from extraordinary circumstances may be raked if the wrack line is at least ten feet landward of the normal high tide line.
  - (2) If health or safety issues are present, such as a large fish kill or a red tide event, the wrack line may be raked up to ten feet landward of the normal high tide line.
  - (3) If this occurs during sea turtle season (May 1 through October 31), the raking must be in compliance with the following conditions:
    - a. Mechanical beach raking activities must be confined to daylight hours and may not begin before 9:00 a.m. or completion of daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder, whichever occurs first.
    - b. The permittee is responsible for ensuring that a daily sea turtle nest survey, protection, and monitoring program is conducted throughout the permitted beach raking area. Surveys and associated conservation measures must be completed after sunrise and prior to the commencement of any mechanical beach raking. The sea turtle survey, protection, and monitoring program may be conducted only by individuals possessing appropriate expertise in the protocol being followed and a valid F.A.C. Rule 68-E Permit issued by the FWC. To identify those individuals available to conduct marine turtle nesting surveys within the permitted area, please contact the FWC, Bureau of Protected Species Management.
    - c. All turtle nests will be marked with wooden stakes, flagging tape, and an FWC sea turtle nest sign. No mechanical raking equipment is allowed inside of the staked area. All equipment operators must be briefed on the types of marking utilized and must be able to easily contact the individual responsible for the nest survey to verify any questionable areas.
- ~~4.~~(4) Mechanical beach raking equipment must meet the following standards:
  - ~~1.~~a. The vehicle and equipment may not exceed a maximum ground-to-tire pressure of ten PSI (pounds per square inch) using the following formula:  
 PSI = vehicle weight in pounds (includes person and equipment) divided by the footprint in square inches.  
 Example: 404 lbs. (ATV weight), plus 200 (person plus equipment), divided by 198 square inches (ATV with a six-inch by 8.25-inch footprint times four tires) equals 3.1 PSI.
  - ~~2.~~b. Raking must be accomplished with a pronged rake that limits penetration into the surface of the beach to a maximum of two inches. Box blades, front- or rear-mounted blades, or other sand sifting/filtering vehicles are not allowed.
  - ~~3.~~c. Operators of mechanical beach raking equipment must avoid all native salt-tolerant dune vegetation and staked sea turtle nests by a minimum of ten feet.
  - ~~4.~~d. Burial or storage of any debris (biotic or abiotic) collected is prohibited seaward of any frontal dune, vegetation line, or armoring structure. Removal of all accumulated material from the beach

must occur immediately after raking has been performed in an area. Prior to removing the debris, and to the greatest extent possible, beach compatible sand must be separated from the debris and kept on site.

- ~~5-e.~~ Mechanical beach raking equipment must travel seaward of the mean high water line with the rake disengaged when driving on the beach from one raking area to another, and may not disturb any dune or dune vegetation.
- (b) The use of box blades on the beach or dune is prohibited. In an emergency or storm event the use of a box blade may be allowed with the approval of DEP.

### **Sec. 14-175. Prohibition of vehicular traffic on the beach.**

The operation of any engine-powered vehicle, machine, or implement, including any electrically-powered vehicle, machine, or implement, on the beach, dune, or sea turtle nesting habitat, as defined in Section 14-72, is prohibited except for the following:

- (a) *Research or patrol vehicles.* Only authorized permittees of the FWC, DEP officials, and law or Code enforcement officers, EMS and firefighters, scientific monitoring conducting bona fide research, or investigative patrols, may operate a motor vehicle on the beach or in sea turtle nesting habitat during the nesting season. No lights may be used on these vehicles during the nesting season unless they are covered by appropriate, red-colored filters. These vehicles must travel below the previous night's mean high tide line to avoid dunes, dune vegetation, sea turtle nests and bird nesting areas.
- (b) *Mechanical beach raking.* Vehicles operating under permits issued pursuant to Section 14-174.
- (c) *Beach furniture and equipment transport.* Vehicles operating ~~under permits issued~~ pursuant to Section 14-173.
- (d) *Wheelchairs.* A wheelchair, or other conveyance with prior approval from the County, for a person with a disability, which is actually being used by the person with a disability. Disabled access to the beach is encouraged through use of wheelchairs equipped with special beach friendly tires that are available for rent or purchase.
- (e) *Maximum tire pressure.* Any vehicle authorized to drive on the beach may not exceed a ground-to-tire pressure of ten PSI as computed in accordance with Section 14-174(a)(4)a, except for wheelchairs permitted in accordance with Subsection (d) of this section.
- (f) *Sea turtle nesting season.* See Section 14-78 for additional restrictions during the sea turtle nesting season.

State law reference(s)—Vehicular traffic on coastal beaches, F.S. § 161.58.

### **Sec. 14-176. Special events on the beach.**

- (a) Special events on the beach are temporary, short-term activities, which may include the construction of temporary structures; temporary excavation, operation, transportation, or storage of equipment or materials; or nighttime lighting that is visible seaward of the CCCL. Generally, activities within this category include but are not limited to, sporting events (e.g., volleyball, personal watercraft races), festivals, competitions, organized parties (e.g., weddings), promotional activities, concerts, film events, ~~balloon releases,~~ and gatherings under tents.
- (b) Due to the potential for adverse impacts, certain special event activities may not be compatible with sea turtle nesting areas. In some cases, this is due to the type of activity, where permit conditions alone cannot provide adequate protection. In other cases, the density of sea turtle nesting prevents certain activities from being conducted safely.

- (c) Special events proposed on or near the beach or dune, or where lighting from the special events will ~~directly or indirectly illuminate~~ be directly or indirectly visible from the beach, dune, or other sea turtle nesting habitat, will require a permit from DEP and the County. The permit may contain special conditions for the protection of the beach, dune, and sea turtles.
- (1) Site-specific conditions related to identifying, designating, and protecting existing vegetation and sea turtle nests in accordance with this Code may be imposed. These conditions are in addition to the following standard permit conditions for all special events on the beach:
    - a. During the sea turtle nesting season (May 1 through October 31), special event activities including construction must be confined to daylight hours and may not begin before ~~8:00 a.m.~~ However, the daily monitoring for turtle nesting activity by a FWC-authorized marine turtle permit holder must be is completed before the special event activity may commence.
    - b. All turtle nests will be marked with wooden stakes, flagging tape, and an FWC sea turtle nest sign. No activities (including the placement of equipment or the storage of materials) are allowed within 30 feet of a marked nest and ten feet from dune vegetation. The permittee must ensure that all personnel are briefed on the types of marking utilized and be able to easily contact the individual responsible for the nest survey to verify any questionable areas.
  - (2) A violation of these conditions will automatically invalidate the permit. Periodic compliance inspections will be conducted to ensure compliance with the permit conditions and this Code.
  - (3) Release of balloons and sky lanterns is prohibited, except as permitted by F.S. § ~~372.995~~379.233.

**Sec. 14-177. Enforcement.**

- (a) The Director is authorized to pursue any one, or a combination of the enforcement mechanisms provided in this Code (for example, Section 1-5, or Chapter 2, Article V) for any violation of this article.
- (b) The successful replacement of the illegally removed dune vegetation and restoration of the subject area may be considered when determining whether the violator has eliminated or significantly decreased the ability of the dune system to recover or perform those functions for which it is being protected.

**Sec. 14-178. Restoration standards for dune vegetation alteration violations.**

- (a) Upon written agreement between the Director and the violator in accordance with Section 2-2, or if they cannot agree, then, upon action by the court or Hearing Examiner, a restoration plan may be ordered using the standards in this section. The restoration plan must require replacement of the same species, or any species approved under the written agreement or order.
- (b) The restoration plan must include the following minimum standards:
  - (1) Restoration plantings for vegetation other than trees must be nursery grown, containerized, and planted at a minimum density of no less than 1½ feet on center. The number of replacement plantings will be computed by the square footage of the area destroyed. The replacement stock must be a minimum of a two-inch size container. Higher density plantings may be required at the discretion of the Director based upon density and size of the vegetation on the site prior to the violation. If it is not reasonably possible to determine the density or species of the vegetation in the area where the violation occurred, then the density and the species will be deemed to be the same as those located on similar properties. The Director has the discretion to allow a deviation from the above-specified ratio. When a deviation is requested, the total size must equal or exceed that specified in the above standards.
  - (2) Dune vegetation alteration violations caused by raking, excavation, or clearing must be restored to natural ground elevation and soil conditions prior to commencement of replanting.

- (3) Replacement plantings must have a guaranteed minimum of 80 percent survivability for a period of no less than five years; however, success will be evaluated on an annual basis.
- (4) Only temporary aboveground irrigation may be installed and must be removed no later than one year from the date of planting. Temporary irrigation must be turned off within 50 feet of a sea turtle nest.
- (5) The plan must specify that, within 90 days of restoration completion, a written report, prepared by or on behalf of the violator, must be submitted to the County. This report must include the date of completion, copies of the nursery receipts, a drawing showing the locations of the plantings, and color photographs of the planting areas from fixed reference points.
- (6) The restoration plan must include a maintenance provision of no less than five years for the control of invasive exotic vegetation, with annual monitoring and maintenance of the restored area to include the following:
  - a. Removal of all exotic and nuisance vegetation in the area without disturbing the existing dune vegetation.
  - b. Replacement of dead vegetation in order to ensure at least 90 percent coverage at the end of the five-year period. Replacement vegetation must be nursery grown and of the same species and at least the same size as those originally planted.
  - c. Submittal of an annual monitoring report to the Director for five years following the completion of the restoration describing the conditions of the restored site. The monitoring report must include mortality estimates, causes for mortality (if known), growth, invasive exotic vegetation control measures taken, and any other factors that indicate the functional health of the restored area.
  - d. The monitoring report must be submitted on or before each anniversary date of the effective date of the restoration plan. Failure to submit the report in a timely manner constitutes a violation of this Code.
  - e. To verify the success of the mitigation efforts and the accuracy of the monitoring reports, the Director may periodically inspect the restoration.

**Secs. 14-179—14-200. Reserved.**



**GROUP 3, ITEM B.5  
PLANT MATERIAL STANDARDS**

AMENDMENT SUMMARY

Issue: Several typos in the scientific names of the plants and outdated list of plants. Repeated code violations of properties mowing the required plantings in detention areas.  
 Solution: Corrects typographical errors and updates the species list of invasive exotics.  
 Outcome: Clarifies and updates the list of invasive plants and detention area maintenance requirements.

**Chapter 10 DEVELOPMENT STANDARDS**  
**ARTICLE III. DESIGN STANDARDS AND REQUIREMENTS**  
**DIVISION 6. OPEN SPACE, BUFFERING AND LANDSCAPING**

**Sec. 10-420. Plant material standards.**

*10-420(a) through (g) remain unchanged*

(h) *Invasive exotics.* The following highly invasive exotic plants may not be planted, (i.e., are prohibited) and must be removed from the development area. Methods to remove and control invasive exotic plants must be included on the development order plans. A statement must also be included on the development order that the development area will be maintained free from invasive exotic plants in perpetuity. For the purposes of this subsection, invasive exotic plants include:

Prohibited Invasive Exotics

<i>Common Name</i>	<i>Scientific Name</i>	<i>Common Name</i>	<i>Scientific Name</i>
<u>Rosary pea</u>	<u>Abrus precatorius</u>	<u>Lead tree</u>	<u>Leucaena leucocephala</u>
Earleaf acacia	Acacia auriculiformis	Japanese Climbing fern	Lygodium japonicum
Woman's tongue	Albizia lebbek	Old World climbing fern	Lygodium microphyllum
Bishopwood	Bischofia javanica	Melaleuca, paper tree	Melaleuca quinquenervia
Australian pines	All Casuarina species	Downy rose myrtle	Rhodomyrtus <del>tomentosus</del> <u>tomentosa</u>
Carrotwood	<del>Cupianopsis</del> <u>Cupaniopsis</u> anacardioides	Chinese tallow	Sapium sebiferum
<u>Dodder</u>	<u>Cuscuta spp.</u>	<u>Beach naupaka</u>	<u>Scaevola taccada</u>
Rosewood	Dalbergia sissoo	Brazilian pepper, Florida holly	Schinus terebinthifolius
<u>Winged yam</u>	<u>Dioscorea alata</u>	Tropical soda apple	Solanum viarum
Air potato	<del>Dioscorea alata</del> <u>bulbifera</u>	Java plum	Syzygium cumini
Murray red gum	Eucalyptus camaldulensis	Rose apple	Syzygium jambos
Weeping fig	Ficus benjamina	Cork tree	Thespesia populnea
Cuban laurel fig	Ficus microcarpa	Wedelia	Wedelia trilobite
<u>Cogongrass</u>	<u>Imperata cylindrica</u>	<u>Beach vitex</u>	<u>Vitex rotundifolia</u>

- (i) *Grasses in lieu of sod or seeding.* If dry detention areas are planted with native clump grasses in lieu of sod or seeding, then the plants must be a minimum one-gallon container size planted three-foot on center. Maintenance of the planted dry detention areas includes removal of exotic vegetation, but mowing of native clump grasses is not permitted.

*(j) remains unchanged*

**GROUP 3, ITEM C.1**  
**HEARING EXAMINER POWERS AND DUTIES**

AMENDMENT SUMMARY

Issue: The LDC provides the Hearing Examiner final-decision-making authority on certain amendments to planned developments, as adopted by County Ordinance 22-11 on May 17, 2022. Per the codified language, the Hearing Examiner does not have final-decision-making authority for matters that affect intensity, with limited use-specific exceptions. Intensity is defined by Land Development Code Section 34-2 as “a measurement of the degree of customarily nonresidential uses based on use, size, impact, bulk, shape, height, coverage, sewage generation, water demand, traffic generation or floor area ratios.”

The Director of Community Development has similar authority to grant administrative amendments to planned developments, in that the administrative amendments do not increase height, density or intensity of the development. In the interest of time, the Hearing Examiner’s final decision-making authority through the public hearing process is proposed to be expanded with respect to intensity to consider additional elements of intensity that do not increase non-residential floor areas or traffic generation originally permitted by the planned development approval. For example, a deviation from the maximum sign height to enhance visibility along a project corridor in an existing planned development is, by definition, an increase in intensity and requires Board approval due to the broad definition of intensity in the LDC.

Solution: Expand the Hearing Examiner’s decision-making authority to capture additional elements of intensity.

Outcome: Reduces decision rendering timeframe for certain public hearing amendment requests as intended by Ordinance 22-11.

**Chapter 34 – ZONING**

**ARTICLE II. – ADMINISTRATION**

**DIVISION 4. – HEARING EXAMINER**

**Sec. 34-145. Functions and authority.**

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

*Subsections (a) through (c) remain unchanged.*

(d) *Zoning matters.*

(1) *Authority.*

- a. The Hearing Examiner will hear and decide applications for conventional rezoning, amendments to approved planned developments pursuant to Subsection (d)(1)e of this section, and, notwithstanding Section 34-1038(b), amendments to planned unit developments that are not subject to separate ordinance.
- b. The Hearing Examiner serves in an advisory capacity to the Board on new planned development zoning requests, amendments to planned developments exceeding the scope of amendments permitted by Subsection (d)(1)e.3 of this section, amendments to approved MEPDs, and amendments to planned unit developments approved by separate ordinance.

- c. The Hearing Examiner may not recommend approval of a rezoning that is more expansive than the request published in the newspaper. The Hearing Examiner may recommend approval of a zoning district that is more restrictive than the published request.
- d. The Hearing Examiner may impose conditions of approval on requests to amend planned developments where the Hearing Examiner retains final decision-making authority. The Hearing Examiner may recommend conditions of approval on requests for new planned developments or amendments to existing planned developments subject to Board approval.
- e. The Hearing Examiner has the final decision-making authority on the following matters:
  - 1. Board-initiated applications to rezone County-owned property to the Environmentally Critical (EC) District.
  - 2. Applications for conventional rezoning.
  - 3. Applications for amendments to planned developments when the request is limited to:
    - i. Amendments to the master concept plan, schedule of uses, or property development regulations that do not ~~affect~~increase the maximum density or non-residential floor area or intensity permitted in the planned development, except as provided in subsection vi below;
    - ii. Requests for consumption on premises;
    - iii. Requests for wireless telecommunication facilities;
    - iv. Requests for an increase in the maximum number of fuel pumps in conjunction with a convenience food and beverage store or automobile service station provided that the use is already approved in the planned development;
    - v. Changes to conditions and deviations; or
    - vi. Requests to establish or increase density within the Mixed Use Overlay, ~~and~~
  - 4. Notwithstanding Section 34-1038(b), amendments to planned unit developments that are not subject to separate ordinance.
  - 5. An applicant or agent applying for a conventional rezoning or an amendment to a planned development in which the Hearing Examiner has the final decision-making authority may request a public hearing before the Board of County Commissioners in accordance with Section 34-83(a)(1). Such a request must be made prior to the ~~conclusion of the public hearing before~~ issuance of a final decision by the Hearing Examiner.

*Remainder of section remains unchanged.*

**GROUP 3, ITEM C.2  
RIGHT TO FARM ACT (FISH FARM REVERSION)**

**Chapter 34 – ZONING  
ARTICLE VI. – DISTRICT REGULATIONS  
DIVISION 2. – AGRICULTURAL DISTRICTS**

**Sec. 34-653. Use regulation table.**

Staff note: Ordinance 19-03 amended the Use Regulations Table in section 34-653 to require a special exception for the keeping, raising or breeding of marine life which requires the storage of brackish or saline water. Prior to this amendment, the LDC only required a special exception for this use if such use took place in “man-made ponds.” The Right to Farm Act, as amended, preempts any regulation affecting a bona fide agricultural use enacted after June 16, 2000, making the amendments adopted by Ordinance 19-03 null and void. This section has been amended to reflect this preemption.

Use regulations for agricultural districts are as follows:

TABLE 34-653. USE REGULATIONS FOR AGRICULTURAL DISTRICTS

	Special Notes or Regulations	AG-1	AG-2	AG-3
Animals, reptiles, marine life:				
Animals (excluding exotic species)	Section 34-1291 et seq.	P	P	P
Animal clinic (df) or animal kennel (df)	Section 34-1321 et seq.	EO/SE	EO/SE	EO/SE
Keeping, raising or breeding of domestic tropical birds (df) for commercial purposes	Note (12), Section 34-1291 et seq.	SE	SE	SE
Keeping, raising or breeding of American alligators, venomous reptiles or Class II animals (df)	Section 34-1291 et seq.	SE	SE	SE
Keeping, raising or breeding of marine life which requires the storage of brackish or saline water	Section 34-1291 et seq.	<del>SE</del> <u>P</u>	<del>SE</del> <u>P</u>	<del>SE</del> <u>P</u>

**GROUP 3, ITEM C.3**  
**OFF-STREET PARKING REQUIREMENTS FOR RESIDENTIAL COMMUNITIES WITH A GOLF COURSE**

**Chapter 34 – ZONING**  
**ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS**  
**DIVISION 26. – PARKING**

**Sec. 34-2020. Required parking spaces.**

*Staff note:* The required parking spaces for residential uses do not currently contemplate a parking standard for golf courses that function as amenities to residential communities. Staff has typically relied upon the parking requirements for non-residential golf courses to establish parking requirements for golf courses within amenity areas of residential communities. Relying on non-residential parking standards requires parking for each individual use within an amenity to be calculated individually, which may require parking beyond what operational needs dictate due to a residential golf course’s function as part of a larger amenity area that is typically not open to the public. Staff proposes a revision to the LDC to clarify the parking requirements for clubhouses and ancillary uses within a residential community to better reflect how these amenities function.

All uses are required to provide off-street parking based on the single-use development requirement unless the use is located in a development that qualifies as a multiple-use development, in which case, the minimum required spaces for multiple-use developments may be used. Use of the multiple-use development minimum parking regulations is optional. Parking for uses not specifically mentioned in this section must meet the minimum parking requirement for the use most similar to that being requested.

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

Table 34-2020(a). Required Parking Spaces for Residential Uses

<i>Use</i>		<i>Special Notes or Regulations</i>	<i>Minimum Required Spaces for Single-Use Development</i>	<i>Minimum Required Spaces for Multiple-Use Development</i>
1.	Single-family, duplex, two-family attached and mobile home units		2 spaces per unit	—
2.	Townhouses	Note (1)	2 spaces per unit	—
3.	Multiple-family and timeshare units	Notes (1) & (3)	2 spaces per unit	—
4.	Assisted living facilities	Note (2), Sections 34-1414(c) et seq. & 34-1494 et seq.	0.54 spaces per unit	0.41 spaces per unit
5.	Continuing care facilities	Note (2), Sections 34-1414(c) et seq. & 34-1494 et seq.	1.12 spaces per unit	1 space per unit
6.	Independent (self-care) living facilities, including group	Note (2), Sections 34-1414(c) et seq. & 34-1494 et seq.	1 space per unit	0.59 spaces per unit

	quarters, health care (Groups I & II), social services (Groups III & IV) and other similar uses			
7.	Clubhouse and ancillary uses within a residential community <del>without a golf course</del>	Notes <u>(4)</u> & <u>(5)</u>	4 spaces per 1,000 square feet of total floor area	3.5 spaces per 1,000 square feet of total floor area

Notes:

- (1) In addition to the spaces required, additional parking spaces equal to ten percent of the total required must be provided to accommodate guest parking in a common parking lot.
- (2) Where the living units are maintained under single management and the residents are not capable or permitted to own or operate private vehicles on the same premises, the Director may authorize up to a 75 percent reduction in required parking spaces if sufficient parking is provided for employees and visitors.
- (3) If vehicles back directly onto an internal roadway or accessway, the driveway must be designed so that:
  1. The driveway connects to a private internal local road or accessway with a design and posted speed limit of 25 miles per hour, or less;
  2. The visual clear zone sight distance (considering vehicles that may be parked nearby) is a minimum of 200 feet and in conformance with the visibility triangle criteria of Section 34-3131;
  3. Traffic calming devices are provided per Lee County AC-11-14; and
  4. The length of the driveway, as measured from the garage structure or the end of the stacked parking space farthest from the street or accessway must be a minimum of 22 feet to the edge of a private street right-of-way or easement line or 27 feet to the edge of pavement of an accessway. However, this section is not to be interpreted to allow buildings or structures closer to a street right-of-way or easement than permitted by Section 34-2192.
- (4) May include administrative offices or other ancillary uses to the clubhouse such as a gym and/or meeting room.
- (5) Where a residential community includes a golf course, parking for a clubhouse with food and beverage service, limited or a restaurant will be six spaces per hole or 12.5 spaces per 1,000 square feet of restaurant whichever is greater.

**GROUP 3, ITEM C.4**  
**POST-DISASTER ORDINANCE CROSS-REFERENCE**

**Chapter 34 – ZONING**  
**ARTICLE II. – ADMINISTRATION**  
**DIVISION 4. – HEARING EXAMINER**

**Sec. 34-141. Office established.**

Staff note: Remove reference to the Post-Disaster Recovery Ordinance (Ordinance 07-20), which was repealed by the Board of County Commissioners via Ordinance 24-08.

The Office of Hearing Examiner is hereby created and established, in accordance with the provisions of this Code. The Hearing Examiner has the powers set forth in:

- The Land Development Code;
- Code Enforcement Board/Special Masters Ordinance (Lee County Code, Chapter 1, Article II, Division 2 and Section 18-95);
- Historic Preservation Ordinance (Lee County Code, Chapter 22);
- The Nuisance Accumulation Ordinance (Lee County Code, Chapter 18, Article IV);
- ~~Post Disaster Recovery Ordinance ( Lee County Code, Chapter 10, Article IV);~~
- Mandatory Recycling of Commercial and Multifamily Residential Solid Waste, Construction and Demolition Debris ( Lee County Code, Chapter 23, Article III);
- Mandatory Solid Waste Collection and Disposal Benefit Unit Ordinance (Lee County Code, Chapter 25, Article VII, Division 2);
- The Lot Mowing Ordinance (Lee County Code, Chapter 18, Article V);
- The Abandoned Property Registration Program (Lee County Code, Chapter 18, Article III); and
- The Noise Control Ordinance ( Lee County Code, Chapter 19, Article VI).



## GROUP 3, ITEM C.5

### DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

#### AMENDMENT SUMMARY

- Issue: The Code as written requires that the Building Official serve as the Floodplain Administrator. Following Hurricane Ian there was a need to designate a Floodplain Administrator as its own position rather than being under the duties of the Building Official.
- Solution: Board action was taken to designate the new Floodplain Administrator because of the inconsistency with the LDC as written. This amendment allows the County Manager to designate the Floodplain Administrator.
- Outcome: Allows for separation of roles where appropriate and eliminates the need for Board action to designate the floodplain administrator.

## CHAPTER 6 - BUILDINGS AND BUILDING REGULATIONS

### ARTICLE IV. – FLOOD HAZARD REDUCTION

#### DIVISION 1. ADMINISTRATION

##### Subdivision III. Duties and Powers of the Floodplain Administrator

###### Sec. 6-421. Designation.

Staff note: The Code as written requires that the Building Official serve as the Floodplain Administrator. This amendment allows the County Manager to designate the Floodplain Administrator.

The ~~Building Official is designated as the Floodplain Administrator~~ is designated by the County Manager. The Floodplain Administrator may delegate performance of certain duties to other employees.

GROUP 3, ITEM C.6  
QUORUM REQUIREMENTS: BOARD OF ADJUSTMENTS AND APPEALS

**Chapter 6 – BUILDINGS AND BUILDING REGULATIONS**

**ARTICLE II. – CODES AND STANDARDS**

**DIVISION 2. – BOARD OF ADJUSTMENT AND APPEALS**

**Sec. 6-76. Quorum.**

Staff note: Reaching a Quorum for BOAA meetings has been difficult due to the high seven-member requirement. Reduction to a five-member quorum requirement is in line with other county boards. Once this is implemented, the Administrative Code governing BOAA will also need to be amended to reduce the quorum requirement.

~~Five~~Seven members of the Board of Adjustment and Appeals shall constitute a quorum. Variation with respect to the application of any provision of the standard code or modification of any order of the Building Official, Fire Official, coordinator or their designees, requires an affirmative of the majority vote among the Board members present. ~~An affirmative majority vote must consist of at least four affirmative votes.~~ Any member of the Board of Adjustment and Appeals shall not act in any case in which he has a personal interest.

**GROUP 3, ITEM C.7  
STREET NAMES**

**Chapter 10 - DEVELOPMENT STANDARDS  
ARTICLE III. - DESIGN STANDARDS AND REQUIREMENTS  
DIVISION 1. - GENERALLY**

**Sec. 10-255. - Street names.**

Staff note: The LDC does not currently reference approval or knowledge of E911 addressing services for street naming purposes. The LDC is proposed to be revised to require all proposed street names to be approved in writing by E911 rather than by DCD to assure public safety agencies have approved and are aware of proposed street names.

Street names shall not be used which will duplicate or be confused with the names of existing streets. New streets that are an extension of or in alignment with existing streets shall bear the same name as that borne by such existing streets. All courts and circles should have one name only. All proposed street names shall be approved in writing by the Department of ~~Community Development~~ Public Safety (Emergency Management) (EMS), E911/Addressing, and be indicated on the plat, if any, and on the site plan.