

proposed change in relation to the following, where applicable:

1. Whether the proposed change will be consistent with the goals, objectives, and policies and Future Land Use Map and the elements of the Growth Management Plan.
2. The existing land use pattern.
3. The possible creation of an isolated district unrelated to adjacent and nearby districts.
4. The population density pattern and possible increase or overtaxing of the load on public facilities such as schools, utilities, streets, etc.
5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.
6. Whether changed or changing conditions make the passage of the proposed amendment necessary.
7. Whether the proposed change will adversely influence living conditions in the neighborhood.
8. Whether the proposed change will create or excessively increase traffic congestion or create types of traffic deemed incompatible with surrounding land uses, because of peak volumes or projected types of vehicular traffic, including activity during construction phases of the development, or otherwise affect public safety.
9. Whether the proposed change will create a drainage problem.
10. Whether the proposed change will seriously reduce light and air to adjacent areas
11. Whether the proposed change will adversely affect property values in the adjacent area.
12. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.
13. Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.
14. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.
15. Whether the change suggested is out of scale with the needs of the neighborhood or the County.
16. Whether it is impossible to find other adequate sites in the County for the proposed use in districts already permitting such use.

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17. Review and recommendations of the conceptual Site Development Plan as required in accordance with Div. 3.3, or the PUD Master Plan and Document as required in Sec. 2.7.3.
18. The physical characteristics of the property and the degree of site alteration which would be required to make the property usable for any of the range of potential uses under the proposed zoning classification.
19. The impact of development on the availability of adequate public facilities and services consistent with the levels of service adopted in the Collier County Growth Management Plan and as defined and implemented through the Collier County Adequate Public Facilities Ordinance, as amended.
20. Such other factors, standards, or criteria that the Board of County Commissioners shall deem important in the protection of the public health, safety, and welfare.

2.7.2.6

Adequate Public Facilities. The petitioner may provide all required existing community and public facilities and services for the requested rezone needs in any one of the following manners:

1. Petition for a rezone at such time as all required adequate existing community and public facilities and services have been provided at public expense according to the Capital Improvement Program, or
2. Petition for a rezone at such time as all required existing community and public facilities and services have been provided at the private expense of the petitioner, or
3. Post a surety in lieu of completed improvements to guarantee that all of the required community and public facilities and services will be provided, or
4. Facilities for parks and schools through land dedication or fee in lieu of such dedication, or
5. Other method acceptable to Board of County Commissioners.

2.7.2.7

Other Proposed Amendments. When pertaining to other proposed amendments of these zoning regulations, the Planning Commission shall consider and study:

1. The need and justification for the change;
2. The relationship of the proposed amendment to the purposes and objectives of the County's Growth Management Plan, with appropriate consideration as to whether the proposed change will further the purposes of these zoning regulations and other County codes, regulations, and actions designed to implement the Growth Management Plan.

2.7.2.8

Restrictions, Stipulations and Safeguards.

The Planning Commission may recommend that a petition to amend, supplement or establish a zoning district be approved subject to stipulations, including, but not limited to limiting the use of the property to certain uses provided for in the requested zoning district. The governing body, after



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receiving the recommendation from the Planning Commission on a request to amend, supplement or establish a zoning district, may grant or deny such amendment or supplement and may make the granting conditional upon such restrictions, stipulations and safeguards as it may deem necessary to ensure compliance with the intent and purposes of the Growth Management Plan.

Restrictions, stipulations and safeguards attached to an amendment, supplement, or establishment of a zoning district may include but are not limited to those necessary to protect adjacent or nearby land owners from any deleterious effects from the full impact of any permitted uses, limitations more restrictive than those generally applying to the district regarding density, height, connection to central water and sewer systems and stipulations requiring that development take place in accordance with a specific site plan. The maximum density permissible or permitted in a zoning district within the Urban Designated Area shall not exceed the density permissible under the Density Rating System. The Board of County Commissioners shall be required to condition and limit the density of a Zoning District to a density not to exceed the maximum density permissible under the Density Rating System. The governing body may also stipulate that the development take place within a given period of time after which time public hearings will be initiated and the district returned to the original designation or such other district as determined appropriate by the governing body in accordance with the Growth Management Plan and Sections 2.7.3.4 and 2.7.2.12.3 Any restrictions, stipulations and safeguards attached to an amendment or rezoning including those identified in Section 2.7.2.8 may be indicated on the Official Zoning Atlas in a manner deemed by the County to be appropriate and informative to the public. In cases where stipulations, restrictions or safeguards are attached, all representations of the owner or his agents at public hearings shall be deemed contractual and may be enforced by suit for injunction or other appropriate relief. All conditions, restrictions, stipulations and safeguards which are a condition to the granting of the change in zoning district shall be deemed contractual and may be enforced by suit for injunction or other appropriate relief. All costs, including reasonable attorney's fees shall be awarded to the governmental unit if it prevails in such suit.

2.7.2.9 Status of Planning Commission Report and Recommendations.

The report and recommendations of the Planning Commission required by Sec. 2.7.2.4 through 2.7.2.8 shall be advisory only and not be binding upon the Board of County Commissioners.

2.7.2.10 Board of County Commissioners: Action on Planning Commission Report.

2.7.2.10.1 Upon receipt of the Planning Commission's report and recommendations, the Board of County Commissioners shall hold a second public hearing with notice to be given pursuant to the provisions of general law. The reports and recommendations of the staff and the Planning Commission on the application shall be presented prior to the close of the public hearing on the application. The applicant shall have the right, prior to the close of the public hearing, to respond to any contentions presented by any testimony or other evidence presented during the public hearing.

2.7.2.10.2 In the case of all proposed changes or amendments, such changes or amendments shall not be adopted except by the affirmative vote of four (4) members of the Board of County Commissioners.

2.7.2.11 Failure of Board of County Commissioners to Act.

If a Planning Commission recommendation is not legislatively decided within ninety (90) days of the

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date of closing of the public hearing by the Board of County Commissioners, the application upon which the report and recommendation is based shall be deemed to have been denied, provided that Board of County Commissioners may refer the application to the Planning Commission for further study.

2.7.2.12 Limitations on the Rezoning of Property.

2.7.2.12.1 No change in the zoning classification of property shall be considered which involves less than forty thousand (40,000) square feet of area and two hundred (200) feet of street frontage except: where the proposal for rezoning of property involves an extension of an existing district boundary, or where the rezoning is initiated by the Board of County Commissioners to implement the Zoning Reevaluation Ordinance 90-23. However, the requirement of two-hundred feet (200') of street frontage shall not apply to rezone petitions that provide eighty percent (80%) or more affordable housing units.

2.7.2.12.2 Whenever the Board of County Commissioners has denied an application for the rezoning of property, the Planning Commission shall not thereafter:

1. Consider any further application for the same rezoning of any part or all of the same property for a period of twelve (12) months from the date of such action;
2. Consider an application for any other kind of rezoning of any part or all of the same property for a period of six (6) months from the date of such action.

2.7.2.12.3 Except as otherwise provided within Sec. 2.7.3.4, all zoning approvals for which a final development order has not been granted within the fifth (5th) year of the date of its approval shall be evaluated to determine if the zoning classification for the property should be changed to a lower, or more suitable classification.

During the fifth year after the date of the zoning approval by the Board of County Commissioners and during every fifth year thereafter, the Development Services Director shall prepare a report on the status of the rezoned property. The purpose of the report will be to evaluate what procedural steps have been taken to develop the property under its current zoning classification.

Should the Development Services Director determine that development has commenced, then the land shall retain its existing zoning classification and shall not be subject to additional review and classification change.

Should the Development Services Director determine that development has not commenced, then upon review and consideration of the report and any supplemental information that may be provided, the Board of County Commissioners shall elect one of the following:

1. To extend the current zoning classification on the property for a maximum period of five years; at the end of which time, the property shall again be evaluated under the procedures as defined herein.
2. Direct the appropriate county staff to begin rezoning procedures for said property. The

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existing zoning classification of the property shall remain in effect until subsequent action by the Board on the property.

In the case of Developments of Regional Impact, time limit restrictions shall be superseded by the phasing plan and/or time limits contained within the Application for Development Approval and approved as part of a Development Order in conformance with Chapter 380.06, Florida Statutes.

2.7.2.13 Applications for Rezones to a Specific Use. The applicant for any rezoning application may, at his or her option, propose a specific use or ranges of uses permitted under the zoning classification for which application has been made. As a condition of approval of such proposal, the development of the property which was the subject of the rezoning application shall be restricted to the approved use or range of uses. Any proposed addition to the approved use or range of uses shall require re-submittal of a rezoning application for the subject property.

2.7.2.14 Waiver of Time Limits.

The time limits of Sec. 2.7.2.12 above may be waived by three (3) affirmative votes of the Board of County Commissioners when such action is deemed necessary to prevent injustice or to facilitate the proper development of Collier County.

2.7.2.15 Site Development Plan Time Limits.

Approved Final Site Development plans shall remain in force for two (2) years. If no development (actual construction) has commenced within two years, the Site Development plan shall expire. One (1) one-year extension may be granted for good cause shown upon written application submitted to the Development Services Director prior to expiration of the preceding approval. When extending the Final Site Development Plan approval, the Development Services Director shall require the approval to be modified to bring the plan into compliance with any new provision of this Code in effect at the time of the extension request.

SEC. 2.7.3 PLANNED UNIT DEVELOPMENT (PUD) PROCEDURES.

2.7.3.1 Application and PUD Master Plan Submission Requirements. Applications for rezoning to PUD shall be in the form of a PUD Master Plan of Development. The plan shall have been designed by an urban planner who possess the education and experience to qualify for full membership in the American Institute of Certified Planners; and/or a landscape architect who possesses the education and experience to qualify for full membership in the American Society of Landscape Architects, together with either a practicing civil engineer licensed by the State of Florida, or a practicing architect licensed by the State of Florida, and shall be comprised, at a minimum, of the following elements:

2.7.3.1.1 PUD Master Plan. The PUD Master Plan shall include the following graphically portrayed information:

1. The title of the project and name of the developer;
2. Scale, date, north arrow;

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3. Boundaries of the subject property, all existing streets and pedestrian systems within the site, watercourses, easements, land uses and zoning districts of abutting property including book and page numbers of platted parcels, section lines, and other important physical features within and adjoining the proposed development;
4. Identification of all proposed tracts or increments within the PUD such as, but not limited to: residential; commercial; industrial; institutional; conservation/preservation; lakes and/or other water management facilities; common open space; buffers; the location and function of all areas proposed for dedication or to be reserved for community and/or public use; and areas proposed for recreational uses including golf courses and related facilities, and provisions for ownership and operation, maintenance;
5. Identification of all proposed land uses within each tract or increment describing: acreage; proposed number of dwelling units; proposed density and percentage of the total development represented by each type of use; or in the case of commercial, industrial, institutional or office, the acreage and maximum gross leasable floor area within the individual tracts or increments;
6. The location and size (as appropriate) of all existing drainage, water, sewer, and other utility provisions;
7. The location of all proposed major internal thoroughfares and pedestrian access ways;
8. Typical cross-sections of all major, collector, and local streets, public or private, within the proposed PUD;
9. The location of existing roads, rights-of-way, and pedestrian systems within two hundred (200') feet of the proposed PUD;
10. The overall acreage and proposed gross density for the PUD;
11. Other uses of land.

2.7.3.1.2

Supporting Data. Data supporting and describing the application for rezoning to PUD shall consist of the following:

1. Title Page to include Name of project;
2. Index/Table of Contents;
3. List of Exhibits;
4. Statement of Compliance With All Elements of the Growth Management Plan;
5. General location map showing relationship of the site to such external facilities as highways, shopping areas, cultural complexes and the like;

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6. Property Ownership and General Description of Site (including statement of Unified Ownership);
7. Description of Project Development;
8. Boundary survey and legal description;
9. Proposed land uses within each tract or increment;
10. Dimensional standards for each type of land use proposed within the PUD. Dimensional standards shall be based upon an existing zoning district that most closely resembles the development strategy, particularly the type, density and intensity, of each proposed land use. All proposed variations or deviations from dimensional standards of the most similar zoning district shall be clearly identified;
11. The proposed timing for location of, and sequence of phasing or incremental development within the PUD;
12. The proposed location of all other roads and pedestrian systems, with typical cross-sections, which will be constructed to serve the PUD;
13. Habitats and their boundaries identified on an aerial photograph of the site. Habitat identification will be consistent with the Florida Department of Transportation Florida Land Use Cover and Forms Classification System and shall be depicted on an aerial photograph having a scale of one inch equal to at least 200 feet when available from the County, otherwise, a scale of at least one inch equal to 400 feet is acceptable. Information obtained by ground-truthing surveys shall have precedence over information presented through photographic evidence. Habitat, plant and animal species protection plans as required by Div. 3.11 shall apply.
14. Environmental Impact analysis pursuant to applicable provisions of Div. 3.8;
15. Information about existing vegetative cover and soil conditions in sufficient detail to indicate suitability for proposed structures and uses;
16. The location and nature of all other existing public facilities, such as schools, parks, fire stations and like;
17. A plan for the provision of all needed utilities to and within the planned community; including (as appropriate); water supply, sanitary sewer collection and treatment system, storm water collection and management system, pursuant to related County regulations and ordinances;
18. Traffic Impact analysis;
19. Agreements, provisions, or covenants which govern the use, maintenance, and continued protection of the planned unit development and any of its common areas or facilities;

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20. Development Commitments for all infrastructure and related matters.
21. When determined necessary to adequately assess the compatibility of proposed uses to existing or other proposed uses; their relationship to open space, recreation facilities, or traffic impacts; or to assess requests for reductions in dimensional standards, the Development Services Director may request schematic architectural drawings (floor plans, elevations, perspectives) for all proposed structures and improvements, as appropriate.

2.7.3.1.3 Deviations From the Required Master Plan Element. The Development Services Director may exempt a petition from certain required elements of the PUD Master Plan when the petition contains conditions which demonstrate that the element may be waived without a detrimental effect on the health, safety and welfare of the community. All exemptions shall be noted within the PUD submittal and provided the Board of County Commissioners.

2.7.3.2 Procedures for Planned Unit Development Zoning. Petitions for rezoning to PUD in accordance with Sec. 2.7.3.1 shall be submitted and processed as for a rezoning amendment generally pursuant to Sec. 2.7.2 and in accordance with the following special procedures:

2.7.3.2.1 Preapplication Conference. Prior to the submission of a formal application for rezoning to PUD, the applicant shall confer with the Development Services Director and other County staff, agencies, and officials involved in the review and processing of such applications and related materials. The applicant is further encouraged to submit a tentative land use sketch plan for review at the conference, and to obtain information on any projected plans or programs relative to possible applicable Federal or State requirements or other matters that may affect the proposed planned unit development. This preapplication conference should address, but not be limited to, such matters as:

1. The suitability of the area for the type and pattern of development proposed in relation to physical characteristics of the land, surrounding areas, traffic and access, drainage, sewer, water, and other utilities.
2. Adequacy of evidence of unified control and suitability of any proposed agreements, contract, or other instruments, or for amendments in those proposed, particularly as they may relate to arrangements or provisions to be made for the continuing operation and maintenance of such areas and facilities that are not to be provided or maintained at public expense. Findings and recommendations of this type shall be made only after consultation with the County Attorney.
3. Conformity of the proposed Planned Unit Development with the goals, objectives and policies of the Growth Management Plan.
4. The internal and external compatibility of proposed uses, which conditions may include restrictions on location of improvements, restrictions on design, and buffering and screening requirements.
5. The adequacy of useable open space areas in existence and as proposed to serve the development.

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6. The timing or sequence of development for the purpose of assuring the adequacy of available improvements and facilities, both public and private.
7. The ability of the subject property and of surrounding areas to accommodate expansion.
8. Conformity with PUD regulations, or as to desirable modifications of such regulations in the particular case, based on determination that such modifications are justified as meeting public purposes to a degree at least equivalent to literal application of such regulations.

2.7.3.2.2 Prehearing Conference. Any application for rezoning to PUD, together with all materials prescribed herein, shall be submitted to the Development Services Director. Prehearing conferences may be held between the applicant and/or his representatives and officials or representatives of the County. The purpose of such prehearing conferences shall be to assist in bringing the application for rezoning to PUD as nearly as possible into conformity with the intent of these or other applicable regulations, and/or to define specifically any justifiable variations from the application of such regulations.

2.7.3.2.3 Staff Review and Recommendation. Based upon its evaluation of the factors set forth above, the appropriate County staff shall prepare a report containing their review findings, and a recommendation of approval or denial. In addition, the staff shall prepare a PUD Document which shall contain recommended dimensional standards, and other development conditions which should be imposed upon the proposed PUD Master Plan.

2.7.3.2.4 Hearing Before the Planning Commission. Public notice shall be given and a public hearing held before the Planning Commission on the application for rezoning to PUD. Both the notice and the hearing shall identify the application, proposed PUD Master Plan of development, and required statements as they may have been amended as a result of the prehearing conference conducted pursuant to Sec. 2.7.3.2.2.

2.7.3.2.5 Planning Commission Recommendation. The Planning Commission shall make written findings as required in Sec. 2.7.2.5 through 2.7.2.8 and as otherwise required in this section and shall recommend to the Board of County Commissioners either approval of the PUD rezoning as proposed; approval with conditions or modifications; or denial. In support of its recommendation, the Planning Commission shall make findings as to the PUD Master Plan's compliance with the following criteria in addition to the findings in Sec. 2.7.2.5 through 2.7.2.8:

1. The suitability of the area for the type and pattern of development proposed in relation to physical characteristics of the land, surrounding areas, traffic and access, drainage, sewer, water, and other utilities.
2. Adequacy of evidence of unified control and suitability of any proposed agreements, contract, or other instruments, or for amendments in those proposed, particularly as they may relate to arrangements or provisions to be made for the continuing operation and maintenance of such areas and facilities that are not to be provided or maintained at public expense. Findings and recommendations of this type shall be made only after consultation with the County Attorney.

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3. Conformity of the proposed Planned Unit Development with the goals, objectives and policies of the Growth Management Plan.
4. The internal and external compatibility of proposed uses, which conditions may include restrictions on location of improvements, restrictions on design, and buffering and screening requirements.
5. The adequacy of useable open space areas in existence and as proposed to serve the development.
6. The timing or sequence of development for the purpose of assuring the adequacy of available improvements and facilities, both public and private.
7. The ability of the subject property and of surrounding areas to accommodate expansion.
8. Conformity with PUD regulations, or as to desirable modifications of such regulations in the particular case, based on determination that such modifications are justified as meeting public purposes to a degree at least equivalent to literal application of such regulations.

2.7.3.2.6 Action by Board of County Commissioners. Unless the application is withdrawn by the applicant, the Board of County Commissioners shall, upon receipt of the Planning Commission's recommendation, advertise and hold a public hearing on the application. The notice and hearing shall be on the application and PUD Master Plan of Development as recommended by the Planning Commission to the Board of County Commissioners. The Board or County Commissioners shall either grant the proposed rezoning to PUD; approve with conditions or modifications; or deny the application for PUD rezoning.

2.7.3.3 Effect of Planned Unit Development Zoning. If approved by the Board of County Commissioners, the Master Plan for Development and all other information and materials formally submitted with the petition shall be considered and adopted as an amendment to the Zoning Code and shall become the standards of development for the subject planned unit development. Thenceforth, development in the area delineated as the PUD district on the Official Zoning Atlas shall proceed only in accord with the adopted development regulations and PUD Master Plan for said PUD district.

Before development of any type may proceed, all agreements conditions of approval, and contracts required, but not approved at the time of amending action, shall be approved by appropriate officers or agencies of the County. Issuance of a final development order within any tract or increment within the PUD shall first require compliance with all sections of the Collier County Subdivision Regulations (Div. 3.2) and/or the Site Development Plan regulations (Div. 3.3.) as appropriate.

2.7.3.4 Time Limits for Approved PUD Master Plans. In the event that a PUD Master Plan is given approval, and the landowner(s) shall:

1. Fail to obtain approval for improvement plans or a development order for all infrastructure improvements to include utilities, roads and similar improvements required by the approved PUD Master Plan or other development orders for at least fifteen (15%) percent of the gross

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land area of the PUD site every five (5) years of the date of approval by the Board of County Commissioners; and

2. Fail to receive final local development orders for at least fifteen (15%) of the total number of approved dwelling units in the PUD, or in the case of PUD's consisting of non-residential uses, thirty (30%) of the total approved gross leasable floor area within the PUD every six (6) years of the date of approval by the Board of County Commissioners.

The project developer shall submit to the Development Services Director a status report on the progress of development annually commencing on the fifth anniversary date of the PUD approval by the Board of County Commissioners. The singular purpose of the report will be to evaluate whether or not the project has commenced in earnest in accordance with the criteria set forth above.

Should the Development Services Director determine that the development has commenced in earnest, then the land shall retain its existing PUD approval and shall not be subject to additional review and consideration of new development standards or use modification.

Should the Development Services Director determine that the development has commenced in earnest, then upon review and consideration of the report provided by the owner and any supplemental information that may be provided, the Board of County Commissioners shall elect one of the following:

1. To extend the current PUD approval for a maximum period of two years; at the end of which time, the owner will again submit to the procedure as defined herein.
2. Require the owner to submit an amended PUD in which the unimproved portions of the original PUD shall be consistent with the Growth Management Plan. The existing PUD shall remain in effect until subsequent action by the Board of the submitted amendment of the PUD.
3. If the owner fails to submit an amended PUD within six (6) months of Board action to require such an amended submittal, then the Board may initiate proceedings to rezone the unimproved portions of the original PUD to an appropriate zoning classification consistent with the Future Land Use Element of the Growth Management Plan.

In the case of Developments of Regional Impact, time limit restrictions shall be superseded by the phasing plan and/or time limits contained within the Application for Development Approval and approved as part of a Development Order in conformance with Chapter 380.06 Florida Statutes.

2.7.3.5 Changes and Amendments.

- 2.7.3.5.1 Substantial/Insubstantial Changes. Any substantial change(s) to an approved P.U.D. Master Plan shall require the review and recommendation of the Planning Commission and approval by the Board of County Commissioners prior to implementation. Any insubstantial change(s) to an approved PUD Master Plan shall require approval by the Planning Commission. For the purpose of this Section, a substantial change shall be deemed to exist where:

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1. There is a proposed change in the boundary of the Planned Unit Development; or
2. There is a proposed increase in the total number of dwelling units or intensity of land use or height of buildings within the development; or
3. There is a proposed decrease in preservation, conservation, recreation or open space areas within the development not to exceed five (5) percent of the total average previously designated as such, or five (5) acres in area, or;
4. There is a proposed increase in the size of areas used for non-residential uses, to include institutional, commercial and industrial land uses (excluding preservation, conservation or open spaces), or a proposed relocation of non-residential land uses; or
5. There is a substantial increase in the impacts of the development which may include, but are not limited to, increases in traffic generation; changes in traffic circulation; or impacts on other public facilities; or
6. The change will result in land use activities that generate a higher level of vehicular traffic based upon the Trip Generation Manual published by the Institute of Transportation Engineers; or
7. The change will result in a requirement for increased storm water retention, or will otherwise increase storm water discharges; or
8. The change will bring about a relationship to an abutting land use that would be incompatible with an adjacent land use; or
9. Any modification to the PUD Master Plan which is inconsistent with the Future Land Use Element or other element of the Growth Management Plan or which modification would increase the density or intensity of the permitted land uses; or
10. The proposed change is to a Planned Unit Development district designated as a Development of Regional Impact (DRI) and approved pursuant to Sec. 380.06, Florida Statutes.
11. Any change or modification to the PUD Master Plan which impact(s) any consideration deemed to be a substantial modification as described under Sec. 2.7.3.5.1.1 through 2.7.3.5.1.9; or

2.7.3.5.2**Procedure for Substantial/Insubstantial Change Determination.**

1. The applicant shall provide the Development Services Director documentation which adequately describes the proposed changes along with the appropriate review fee prior to review by the Planning Commission. The PUD Master Plan Map shall show all data normally required for submittal of a PUD Master Plan unless it is otherwise determined not to be necessary, describing the proposed changes in: land use; densities; infrastructure; open space, preservation or conservation areas; area of building square footage proposed for non-residential development; change in potential intensity of land use and related automobile trip

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movements, and relationships to abutting land uses. In addition, the applicant, for evaluation of PUD Master Plan revisions, shall provide a detailed written narrative describing all of the change(s) and the reasons for the request. Upon receipt of the amended PUD Master Plan, the Development Services Director shall review said Plan against criteria established within Sec. 2.7.3.5.1 above and may forward the Plan to any other agency, division or authority deemed necessary for review and comment.

2. Upon completion of the review, the Development Services Director, shall provide a written determination to the applicant, or his legal representative, confirming that the proposed change(s) do or do not constitute a substantial change to the approved PUD Master Plan based upon the evaluation of the criteria described in Sec. 2.7.3.5.1. Such Any determination made by the Development Services Director may be appealed to the Board of County Commissioners.

2.7.3.5.3 Substantial Changes Procedures. Changes, as identified in Sec. 2.7.3.5.1, shall be considered substantial changes to the approved PUD Master Plan, and the applicant shall be required to submit and process a new application complete with pertinent supporting data, as set forth in Sec. 2.7.3.1 and 2.7.3.2.

2.7.3.5.4 Insubstantial Changes Procedures. Any insubstantial change(s) to an approved PUD Master Plan based upon an evaluation of Subsection 2.7.3.5.1 shall require the review and approval of the Planning Commission based on the findings and criteria used for original applications, as an action taken at a regularly scheduled meeting.

2.7.3.5.5 Language Changes. Language changes to a previously approved Planned Unit Development Document shall require the same procedure as for amending the official zoning atlas.

2.7.3.5.6 Minor Changes Not Otherwise Provided For. It shall be understood that while a Planned Unit Development is required to describe and provide for: infrastructure; intended land use types; approximate acreages of internal development tracts; compatibility with adjacent land uses minor changes may become necessary during the subdivision or site development plan development review processes.

The Development Services Director shall also be authorized to allow minor changes to the PUD Master Plan during its subdivision improvements plan or site development plan process to accommodate topography, vegetation and other site conditions not identified or accounted for during its original submittal and review and when said changes have been determined to be compatible with adjacent land uses, have no impacts external to the site, existing or proposed, and is otherwise consistent with the provisions of this Code and the Growth Management Plan. Such changes shall include:

1. Internal re-alignment of right-of-ways, other than a relocation of access points to the PUD itself, where no water management facility, conservation/preservation areas, or required easements are affected or otherwise provided for.
2. Relocation of building envelopes when there is no encroachment upon required conservation or preservation areas.

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3. Relocation of swimming pools, clubhouses, or other recreation facilities when such relocation will not affect adjacent properties or land uses.
4. Relocation or reconfiguration of lakes, ponds, or other water facilities subject to the submittal of revised water management plans, or approval of the Environmental Advisory Board where applicable.

Minor changes of the type described above shall nevertheless be reviewed by appropriate staff to ensure that said changes are otherwise in compliance with all county ordinances and regulations prior to the Development Services Director's consideration for approval.

2.7.3.6

Monitoring Requirements. Monitoring reports shall be submitted by the developer/owner or authorized agent of a PUD to the Development Services Director. The monitoring report shall be submitted annually, on each anniversary of the date said PUD was approved by the Board until the PUD is completely constructed and all commitments in the PUD Document/Master Plan are met. The monitoring report shall provide the following information:

1. Name of project;
2. Rezone petition number;
3. Name of owner, developer;
4. General description of project activities over past 12 months;
5. Number of units, by residential type; square footage and acreage of recreation facilities, commercial and other permitted uses; infrastructure and/or other uses which are complete or for which a valid permit has been issued, but which have not been completed;
6. Up-to-date PUD Master Plan showing infrastructure, projects/developments, plats, parcels and other pertinent information.
7. Traffic counts for all access points to the major highway network.
8. Copies of all required monitoring reports, completed in past year (i.e., Traffic, Well Field, etc.).
9. Up-to-date PUD Document which includes all approved amendments.
10. Status of commitments in PUD Document.
11. Other information as may be required by the Development Services Director.

2.7.3.7

Violations. Violation of this section shall be enforced as provided in Div. 1.8.

2.7.3.8

Interpretations of PUD Documents. The Development Services Director shall be authorized to interpret the PUD document.

SEC. 2.7.4

CONDITIONAL USES PROCEDURES.

2.7.4.1

General. A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district or classification, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, property, or the general welfare. Such uses may be permissible in a Zoning District as a conditional use if specific provision for such conditional use is made in this Zoning Code. All petitions for conditional uses shall be considered first by the Planning

Commission in the manner herein set out. Decisions regarding conditional uses shall be quasi judicial in nature.

2.7.4.2

Written Petition. A written petition for conditional use shall be submitted to the Development Services Director indicating the basis in this Zoning Code under which the conditional use is sought and stating the grounds upon which it is requested, with particular reference to the types of findings which the Board of Zoning Appeals must make under Sec. 2.7.4.5. The petition should include material necessary to demonstrate that the grant of conditional use will be in harmony with the general intent and purpose of this Zoning Code, will be consistent with the Growth Management Plan, will not be injurious to the neighborhood or to adjoining properties, or otherwise detrimental to the public welfare. Such material may include, but is not limited to, the following, where applicable:

1. Conceptual Site Development Plans at an appropriate scale showing the proposed placement of structures on the property; provisions for ingress and egress, off-street parking and off-street loading areas, refuse and service areas; and required yards and other open spaces. The conceptual Site Development Plan shall not be in lieu of nor eliminate the need for, a Site Development Plan under Div.3.3, as applicable.
2. Plans showing proposed locations for utilities.
3. Plans for screening and buffering with reference as to type, dimensions, and character.
4. Proposed landscaping and provisions for trees protected by County regulations.
5. Proposed signs and lighting, including type, dimensions, and character.
6. Developments shall identify, protect, conserve, and appropriately use native vegetative communities and wildlife habitat. Habitats and their boundaries shall be identified on a current aerial photograph of the property at a scale of at least 1" = 400'. Habitat identification shall be consistent with the Florida Department of Transportation Land Use Cover and Forms Classification System and shall be depicted on the aerial photograph. Information obtained by ground-truthing surveys shall take precedent over photographic evidence.
7. Where this Zoning Code places additional requirements on specific conditional uses, the petitioner shall demonstrate that such requirements are met.

Where the rezoning of land, as well as grant of conditional use, is requested simultaneously for the same parcel of land, both said petitions may be processed concurrently in accordance with the procedures set forth in Secs 2.7.2 and 2.7.4.

2.7.4.3

Notice and Public Hearing. Notice and public hearing by the Planning Commission and the Board of County Commissioners shall be as provided for under subsection 2.7.2.3.2. All testimony given shall be under oath and the action by the Board of County Commissioners shall be quasi-judicial in nature.

2.7.4.4

Findings. Before any conditional use shall be recommended for approval to the Board of Zoning Appeals, the Planning Commission shall make a finding that the granting of the conditional use will



not adversely affect the public interest and that the specific requirements governing the individual conditional use, if any, have been met by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable:

1. Consistency with this Code and Growth Management Plan.
2. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
3. The effect the conditional use would have on neighboring properties in relation to noise, glare, economic or odor effects.
4. Compatibility with adjacent properties and other property in the district.

2.7.4.5 Conditions and Safeguards. In recommending approval of any conditional use, the Planning Commission may also recommend appropriate conditions and safeguards in conformity with this Zoning Code. Violation of such conditions and safeguards, which are made a part of the terms under which the conditional use is granted, shall be deemed a violation of this Zoning Code.

Any conditional use shall expire one (1) year from the date of grant, if by that date the use for which the conditional use was granted has not been commenced; and a conditional use shall expire one (1) year following the discontinuance of the use for which the conditional use was granted if the use has not then been commenced.

The Board of Zoning Appeals may extend a conditional use a maximum of three (3) times for up to one (1) year each time upon written request of the petitioner. Each extension must be requested and approved prior to the expiration of the original conditional use or previous extension term.

2.7.4.6 Denial. If the Planning Commission shall recommend denial of a conditional use, it shall state fully in its record its reason for doing so. Such reasons shall take into account the factors stated in Sec. 2.7.4.5 or such of them as may be applicable to the action of denial and the particular regulations relating to the specific conditional use requested, if any.

2.7.4.7 Status of Planning Commission Report and Recommendations. The report and recommendations of the Planning Commission required above shall be advisory only and shall not be binding upon the Board of Zoning Appeals.

2.7.4.8 Board of Zoning Appeals Action on Planning Commission Report. Upon receipt of the Planning Commission's report and recommendations, the Board of Zoning Appeals shall approve, by Ordinance, or deny a petition for a conditional use. The approval of a conditional use petition shall require four affirmative votes of said Board.

2.7.4.9 Conditional Uses for School or Religious Purposes. A use which has been approved as part of a Preliminary Subdivision Plat (formerly Subdivision Master Plan) or a Planned Unit Development for schools, religious or eleemosynary uses shall be exempt from the provisions of this Section. Such uses

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must comply with the provisions of Div. 3.3, Site Development Plan approval, as applicable, and all other zoning requirements.

- 2.7.4.10** Changes and Amendments. The Development Services Director may approve minor changes in the location, siting, or height of buildings, structures, and improvements authorized by the conditional use.

Additional uses or expansion of permitted uses not shown on the conceptual Site Development Plan or otherwise specifically provided for in the conditional use application shall require submission, review and approval of a new conditional use application.

SEC. 2.7.5 VARIANCE PROCEDURES.

- 2.7.5.1** Purpose. In specific cases, variance from the terms of this Zoning Code as will not be contrary to the public interest where, owing to special conditions peculiar to the property, a literal enforcement of the Zoning Code would result in unnecessary and undue hardship. A variance from the terms of this Zoning Code may be granted based on the requirements of this Section.

- 2.7.5.2** Procedure.

- 2.7.5.3** Written Petition. A written petition for a variance shall be submitted by the applicant to the Development Services Director.

- 2.7.5.4** Notice of Planning Commission Public Hearing. Notice of public hearing before the Collier County Planning Commission is given at least fifteen (15) days in advance of the public hearing. The owner of the property for which variance is sought, or his agent or attorney designated by him on his petition, shall be notified by mail. Notice of the public hearing shall be prominently posted on the property for which the variance is sought. Notice of the public hearing shall be advertised in a newspaper of general circulation in the County at least one time fifteen (15) days prior to the hearing.

Notice of the time and place of the public hearing before the Collier County Planning Commission shall be sent at least fifteen (15) days in advance of the hearing by mail to all owners of property within three hundred (300) feet of the property lines of the land for which a variance is sought.

- 2.7.5.5** Planning Commission Public Hearing. The public hearing shall be held by the Collier County Planning Commission. Any party may appear in person, by agent or attorney, or may submit written comments to the Development Services Director.

- 2.7.5.6** Findings. Before any variance shall be recommended for approval to the Board of Zoning Appeals, the Collier County Planning Commission shall consider and be guided by the following standards in making a determination:

1. Are there special conditions and circumstances existing which are peculiar to the location, size and characteristics of the land, structure, or building involved and which are not applicable to the same degree or extent to the lands, structures, or buildings in the same zoning district?

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2. Are there special conditions and circumstances which do not result from the action of the applicant?
3. Will a literal interpretation of the provisions of this Land Development Regulations deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Land Development Regulations and work unnecessary and undue hardship on the applicant?
4. Will the variance, if granted, be the minimum variance that will make possible the reasonable use of the land, building or structure?
5. Will granting the variance requested confer on the petitioner any special privilege that is denied by these zoning regulations to other lands, buildings, or structures in the same zoning district?
6. Will granting the variance be in harmony with the intent and purpose of this Zoning Code, and not be injurious to the neighborhood, or otherwise detrimental to the public welfare?
7. Will granting the variance be consistent with the Growth Management Plan?

2.7.5.7 Conditions and Safeguards. In recommending approval of any variance, the Collier County Planning Commission may recommend appropriate conditions and safeguards in conformity with the Zoning Code, including, but not limited to, reasonable time limits within which the action for which variance is required shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Code.

2.7.5.8 Recommendation of Denial. If the Collier County Planning Commission recommends denial of a variance, it shall state fully in its record its reason for doing so. Such reasons shall take into account the factors stated in Sec. 2.7.5.6, or such of them as may be applicable to the action of denial and the particular regulations relating to the specific variance requested if any.

2.7.5.9 Status of Planning Commission Report and Recommendations. The report and recommendation of the Collier County Planning Commission required above shall be advisory only and shall not be binding upon the Board of Zoning Appeals.

2.7.5.10 Notice of Board of Zoning Appeals Public Hearing. Upon completion of the Public Hearing before the Collier County Planning Commission, notice of Public Hearing shall be given at least fifteen (15) days in advance of the Public Hearing for the Board of Zoning Appeals. The owner of the property for which the variance is sought, or his agent or attorney designated by him on his petition, shall be notified by mail. Notice of Public Hearing shall be advertised in a newspaper of general circulation in the County at least one time fifteen (15) days prior to the hearing.

2.7.5.11 Board of Zoning Appeals Public Hearing. The public hearing shall be held by the Board of Zoning Appeals. Any party may appear in person by agent or attorney, or may submit written comments to the Board of Zoning Appeals.

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- 2.7.5.12** Board of Zoning Appeals Action. Upon consideration of the Planning Commission's report, findings and recommendations, and upon consideration of the standards and guidelines set forth in Sec. 2.7.5.6, the Board of Zoning Appeals shall approve, by resolution, or deny a petition for a variance.
- 2.7.5.13** Conditions and Safeguards. In granting any variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Zoning Code, including, but not limited to, reasonable time limits within which action for which variance is required shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Zoning Code.
- 2.7.5.14** Limitations on Power to Grant Variances. Under no circumstances shall the Board of Zoning Appeals grant a variance to permit a use not permitted under the terms of this Zoning Code in the zoning district involved, or any use expressly or by implication prohibited, by the terms of these regulations in the said zoning district.

SEC. 2.7.6 **BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY COMPLIANCE PROCESS.**

- 1. Zoning Action on Building Permits.** The Development Services Director shall be responsible for determining whether applications for building permits, as required by the Collier County Building Code, are in accord with the requirements of this Zoning Code and the Land Development Code, and no building permit shall be issued without written approval that plans submitted conform to applicable zoning regulations, and other land development regulations. No building or structure shall be erected, moved, added to, or altered without a permit, as required by the Collier County Building Code and no building permit application shall be approved by the Development Services Director for the erection, moving, addition to, or alteration of any building or structure except in conformity with the provisions of this Zoning Code and the Land Development Code unless he shall receive a written order from the Board of Zoning Appeals in the form of an administrative review of the interpretation or variance as provided by this Code or unless he shall receive a written order from a court or tribunal or competent jurisdiction.
- 2. Application for Building Permit.** All applications for building permits shall, in addition to containing the information required by the Building Official, be accompanied by plot and construction plans drawn to scale; showing the actual shape and dimensions of the lot to be built upon; the sizes and locations on the lot of buildings already existing, if any; the size and location on the lot of the building or buildings to be erected or altered; the existing use of each building or buildings or parts thereof; the number of families the building is designed to accommodate; the location and number of required off-street parking and off-street loading spaces; approximate location of trees protected by County regulations; and such other information with regard to the lot and existing/proposed structures as may be necessary to determine compliance with and provide for the enforcement of this Land Development Code. In the case of application for a building permit on property adjacent to the Gulf of Mexico, a survey, certified by a land surveyor or engineer licensed in the State of Florida, and not older than thirty (30) days shall be submitted. If there is a storm event or active erosion on a specific parcel of land for which a building permit is requested, which the Development Services Director determines may affect the density of the property, a more recent survey may be required. Where ownership or property lines are in doubt, the Development Services Director may require the submission of a survey, certified by a land surveyor or engineer licensed in the State of Florida. Property stakes shall be in place at the commencement of construction.

3. Construction and Use to be as Provided in Applications: Status of Permit Issued in Error. Building permits or certificates of occupancy issued on the basis of plans and specifications approved by the Development Services Director authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction different from that authorized shall be deemed a violation of this Land Development Code.

- a. Statements made by the applicant on the building permit application shall be deemed official statements. Approval of the application by the Development Services Director shall, in no way, exempt the applicant from strict observance of applicable provisions of this Land Development Code and all other applicable regulations, ordinances, codes, and laws.
- b. A building permit issued in error shall not confer any rights or privileges to the applicant to proceed to or continue with construction, and the County shall have the power to revoke such permit until said error is corrected.

4. Adequate Public Facilities Required. No building permit or certificate of occupancy shall be issued except in accordance with the Collier County Adequate Public Facilities Ordinance, Ord. No. 90-24 (Div. 3.15 of this Code) and Rule 9J-5.0055, F.A.C.

5. Improvement of Property Prohibited Prior to Issuance of Building Permit. No site work, grading, improvement of property or construction of any type may be commenced prior to the issuance of a building permit where the development proposed requires a building permit under this Land Development Code or other applicable County regulations.

SEC. 2.7.7 AFFORDABLE HOUSING DENSITY BONUS.

2.7.7.1 General Provisions.

2.7.7.1.1 Title and Citation. This Sec. 2.7.7 shall be known and may be cited as the "Collier County Affordable Housing Density Bonus Regulations."

2.7.7.1.2 Authority. The Board of County Commissioners of Collier County has the authority to adopt this Code pursuant to Art. VIII, Sec. 1(f), Fla. Const., Sec. 125.01 *et seq.*, Fla. Stat., Sec. 163.3161 *et seq.*, Fla. Stat., Rule 9J-5, F.A.C., the Collier County Growth Management Plan; the Stipulated Settlement Agreement in DOAH Case No. 89-1299 GM, and each of the authorities, findings, conclusions and provisions set forth or referenced in this Section.

2.7.7.1.3 Applicability. This Section shall apply to all development in the total unincorporated area of Collier County.

2.7.7.1.4 Purpose and Intent. Sec. 2.7.7 is intended to implement and be consistent with the Collier County Growth Management Plan, Sec. 163.3161 *et seq.*, Fla. Stat., Rule 9J-5, F.A.C., and the Stipulated Settlement Agreement in DOAH Case No. 89-1299 GM, by providing for moderate, low and very low income housing through the use of density bonuses which allow an increase in the number of residential dwelling units per acre allowed on property proposed for development, thereby decreasing

the per unit cost of land and development.

This objective is accomplished by implementing an Affordable Housing Density Bonus Program which consists of an Affordable Housing Density Bonus Rating System and an Affordable Housing Density Bonus Monitoring Program. The purpose of the Affordable Housing Density Bonus Rating System is to provide increased residential densities to developers who guarantee that a portion of their housing development will be affordable by households of moderate, low or very low income; thus expanding housing opportunities for moderate, low and very low income households throughout the unincorporated County. The purpose of the Affordable Housing Density Bonus Monitoring Program is to provide assurance that the program is properly implemented, monitored, and enforced, and that useful information on affordable housing may be collected.

2.7.7.1.5 Minimum Requirement. The provisions of Sec. 2.7.7 in their interpretation and application are declared to be the minimum requirements necessary to accomplish the stated intent, purposes, and objectives of this Section.

2.7.7.2 Affordable Housing Density Bonus Program.

2.7.7.2.1 Overview. Within the Urban Designated Areas identified on the Future Land Use Map of the Growth Management Plan, a base density of four (4) residential dwelling units per gross acre is permitted. However, the base density may be adjusted depending on the characteristics of the development. One characteristic of a housing development which would allow the addition of density bonuses in order to increase the density over the base density is the provision of affordable housing in the development. The provision of affordable housing units may add up to eight (8) dwelling units per gross acre to the base density of four (4) residential dwelling units per gross acre, for a total of twelve (12) residential dwelling units per gross acre, plus any other density bonuses available, and minus any density reduction for traffic congestion or coastal management area required, pursuant to the Growth Management Plan, not to exceed a total of sixteen (16) dwelling units per gross acre.

2.7.7.2.2 General Requirement. In order to qualify for the affordable housing density bonus for a development, the developer must apply for and obtain the affordable housing density bonus from the County for a development in accordance with this Section, especially in accordance with the provisions of the Affordable Housing Density Bonus ("AHDB") Program, including the Affordable Housing Density Bonus ("AHDB") Rating System, the Affordable Housing Density Bonus ("AHDB") Monitoring Program, and the limitations on the AHDB.

2.7.7.2.3 Preapplication Conference. Prior to submitting an application for affordable housing density bonus, a preapplication conference may be scheduled with the Development Services Director. If the proposed development is to include affordable housing, the Housing and Urban Improvement Director shall participate in the preapplication conference. The preapplication conference provides an opportunity to familiarize the applicant with the affordable housing density bonus program and provides an opportunity for the County staff to obtain a clear understanding of the proposed development. The affordable housing density bonus rating system, the affordable housing density bonus monitoring program, the limitations, criteria, procedures, standard conditions, standard forms, and other information will be discussed and made available to the applicant. Depending on the type of development proposed, the application may take the form of, or be combined with; an application

for a planned unit development, a rezone, or an affordable housing density bonus development agreement.

2.7.7.2.4

Application. An application for affordable housing density bonus for a development shall be submitted to the Development Services Director in the form established by the Development Services Director. One (1) additional copy of the application as otherwise required shall be provided for the Housing and Urban Improvement Director. The application shall, at a minimum, include:

1. Zoning districts proposed by the applicant, if any, on the property and acreage of each;
2. The total number of residential dwelling units in the proposed development, categorized by number of bedrooms and whether the unit is to be rented or owner-occupied;
3. The total number of AHDB units requested, categorized by number of bedrooms and whether the unit is to be rented or owner-occupied;
4. Total number of affordable housing units proposed in the development categorized by level of income, number of bedrooms, and rental units and owner-occupied units:
 - a. Moderate income households (one bedroom, two bedrooms, or three bedrooms or more).
 - b. Low income households (one bedroom, two bedrooms, or three bedrooms or more).
 - c. Very low income households (one bedroom, two bedrooms, or three bedrooms or more).
 - d. Total affordable housing units (one bedroom, two bedrooms, or three bedrooms or more).
5. Gross density of the proposed development;
6. Whether the affordable housing density bonus is requested in conjunction with an application for a planned unit development (PUD), an application for rezoning, or an affordable housing density bonus development agreement;
7. Any other information which would reasonably be needed to address the request for affordable housing density bonus for the development pursuant to the requirements set forth in this Section.

2.7.7.2.5

Determination of Completeness. After receipt of an application for affordable housing density bonus, the Housing and Urban Improvement Director shall determine whether the application submitted is complete. If he determines that the application is not complete, the Housing and Urban Improvement Director shall notify the applicant in writing of the deficiencies. The Housing and Urban Improvement Director shall take no further steps to process the application until the deficiencies have been remedied.

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2.7.7.2.6

Review and Recommendation by the Housing and Urban Improvement Director. After receipt of a completed application for affordable housing density bonus, the Housing and Urban Improvement Director shall review and evaluate the application in light of the affordable housing density bonus rating system, the affordable housing density bonus monitoring program and the requirements of this division, and, if applicable, shall coordinate a rezone with the Development Services Director, and shall recommend to the Planning Commission and the Board of County Commissioners to deny, grant, or grant with conditions, the application. The recommendation of the Housing and Urban Improvement Director shall include a report in support of his recommendation.

2.7.7.2.7

Review and Recommendation by the Planning Commission. Upon receipt by the Planning Commission of the application for affordable housing density bonus and the written recommendation and report of the Housing and Urban Improvement Director, the Planning Commission shall schedule and hold a properly advertised and duly noticed public hearing on the application. If the application has been submitted in conjunction with an application for a planned unit development (PUD), then the hearing shall be consolidated and made a part of the public hearing on the application for the planned unit development before the Planning Commission, and the Planning Commission shall consider the application for affordable housing density bonus in conjunction with the application for the planned unit development (PUD). If the application has been submitted in conjunction with an application for a rezoning, then the hearing shall be consolidated and made a part of the public hearing on the application for rezoning before the Planning Commission, and the Planning Commission shall consider the application for affordable housing density bonus in conjunction with the application for rezoning. In the event that the application for affordable housing density bonus has not been submitted in conjunction with an application for planned unit development (PUD) or an application for rezoning, then the application for affordable housing density bonus shall nonetheless be treated as a rezoning on the property and shall comply with the requirements for a rezoning as well as the requirements of this Section. After the close of the public hearing, the Planning Commission shall review and evaluate the application in light of the requirements of this division and the requirements for a rezoning, and shall recommend to the Board of County Commissioners that the application be denied, granted or granted with conditions. However, in the event that the application for affordable housing density bonus does not change the densities or intensities of use or the zoning on the property and does not require a rezoning or planned unit development application (i.e., an application to maintain the existing zoning on the property in the face of a downzoning through the Zoning Reevaluation Program), then the application for affordable housing density bonus shall comply with the requirements for development agreements under the Collier County Development Agreement Ordinance as well as the requirements of this Section, in lieu of compliance with the rezoning requirement referenced in this section.

2.7.7.2.8

Review and Determination by Board of County Commissioners. Upon receipt by the Board of County Commissioners of the application for affordable housing density bonus and the written recommendation and report of the Housing and Urban Improvement Director and recommendation of the Planning Commission, the Board of County Commissioners shall schedule and hold a properly advertised and duly noticed public hearing on the application. If the application has been submitted in conjunction with an application for a planned unit development (PUD), then the hearing shall be consolidated and made a part of the public hearing on the application for the planned unit development (PUD) before the Board of County Commissioners, and the Board of County Commissioners shall consider the application for affordable housing density bonus in conjunction with the application for the planned unit development (PUD). If the application has been submitted in conjunction with an

application for a rezoning, then the hearing shall be consolidated and made a part of the public hearing on the application for rezoning before the Board of County Commissioners, and the Board of County Commissioners shall consider the application for affordable housing density bonus in conjunction with the application for rezoning. In the event that the application for affordable housing density bonus has not been submitted in conjunction with an application for planned unit development (PUD) or an application for rezoning, then the application for affordable housing density bonus shall nonetheless be treated as a rezoning on the property and shall comply with the requirements for a rezoning as well as the requirements of this Section. After the close of the public hearing, the Board of County Commissioners shall review and evaluate the application in light of the requirements of this division and the requirements for a rezoning, and shall deny, grant, or grant with conditions, the application in accordance with the affordable housing density bonus rating system and the affordable housing density bonus monitoring program. However, if the application for affordable housing density bonus does not change the densities or intensities of use or the zoning on the property and does not require a rezoning or planned unit development application, then the application for affordable housing density bonus shall comply with the requirements for development agreements under the Collier County Development Agreement Ordinance as well as the requirements of this division, in lieu of compliance with the rezoning requirements referenced in this section.

2.7.7.3

Affordable Housing Density Bonus Rating System.

The affordable housing density bonus rating system shall be used to determine the amount of the affordable housing density bonus which may be granted for a development based on household income level, number of bedrooms per affordable housing unit, type of affordable housing units (owner-occupied or rental, single-family or multi-family) and percentage of affordable housing units in the development. To use the affordable housing density bonus rating system, Tables A and B, below, shall be used. Tables A and B shall be reviewed and updated if necessary on an annual basis by the Board of County Commissioners or its designee.

First, choose the household income level (moderate, low, or very low) of the affordable housing unit(s) proposed in the development, and the type of affordable housing units (owner-occupied or rental, single-family or multi-family, where applicable) to be provided, as shown in Table A. Then, referring again to Table A, choose the number of bedrooms proposed for the affordable housing unit(s). An affordable housing density bonus rating based on the household income level and the number of bedrooms is shown in Table A.

After the affordable housing density bonus rating has been determined in Table A, locate it in Table B, and determine the percent of that type of affordable housing unit proposed in the development compared to the total number of dwelling units in the development. From this determination, Table B will indicate the maximum number of residential dwelling units per gross acre that may be added to the base density. These additional residential dwelling units per gross acre are the maximum affordable housing density bonus (AHDB) available to that development. Developments with percentages of affordable housing units which fall in between the percentages shown on Table B shall receive an affordable housing density bonus equal the lower of the two percentages it lies between plus 1/10th of a residential dwelling unit per gross acre for each additional percentage of affordable housing rental units in the development. For example, a development which has 24% of its total residential dwelling units as affordable housing units, and which has an affordable housing density bonus rating of "four" will receive an affordable housing density bonus (AHDB) of 4.4 residential

dwelling units per gross acre for the development.

Where more than one type of affordable housing unit (based on level of income and number of bedrooms shown in Table A) is proposed for a development, the affordable housing density bonus for each type shall be calculated separately in Table B. After the affordable housing density bonus calculations for each type of affordable housing unit have been completed in Table B, the affordable housing density bonus for each type of unit shall be added to those for the other type(s) to determine the maximum affordable housing density bonus available for the development. In no event shall the affordable housing density bonus exceed eight (8) dwelling units per gross acre. ;

TABLE A: AFFORDABLE HOUSING DENSITY BONUS RATING

LEVEL OF HOUSEHOLD INCOME	NUMBER OF BEDROOMS/UNIT		
	EFFICIENCY AND 1	2	3 OR MORE
MODERATE (ONLY OWNER-OCCUPIED, SINGLE-FAMILY)	0	1*	1*
LOW (OWNER-OCCUPIED OR RENTAL, SINGLE-FAMILY OR MULTI- FAMILY)	2	3	4
VERY LOW (OWNER OCCUPIED OR RENTAL, SINGLE- FAMILY OR MULTI- FAMILY)	1	4	5

* For cluster housing developments in the Urban Coastal Fringe, add 1 density bonus to obtain 2.

**TABLE B: AFFORDABLE HOUSING DENSITY BONUS
(ADDITIONAL AVAILABLE DWELLING UNITS PER GROSS ACRE)**

AFFORDABLE HOUSING DENSITY BONUS RATING	% OF AFFORDABLE HOUSING UNITS			
	10%	20%	30%	40%
1	0	0	1	2
2	0	1	2	3
3	2	3	4	5
4	3	4	5	7
5	4	5	7	8

2.7.7.4 Limitations on Affordable Housing Density Bonus.

Anything to the contrary notwithstanding, the following limitations and conditions shall apply to all of the affordable housing density bonus for a development:

2.7.7.4.1

Affordable Housing Density Bonus Development Agreement Required. The affordable housing density bonus shall be available to a development only in an affordable housing density bonus development agreement has been entered into by the developer/applicant and the Board of County Commissioners, and such agreement has been approved by the County Attorney, and the Board of County Commissioners pursuant to the public hearing process established in this division prior to execution. Amendments to such agreement shall be processed in the same manner as the original agreement. The affordable housing density bonus development agreement shall include, at a minimum, the following provisions:

1. Legal description of the land subject to the agreement and the names of its legal and equitable owners.
2. Total number of residential dwelling units in the development.
3. Minimum number of affordable housing units, categorized by level of household income, type of unit (single-family or multi-family, owner-occupied or rental), and number of bedrooms, required in the development.
4. Maximum number of affordable housing density bonus dwelling units permitted in the development.
5. Gross residential density of the development.
6. Amount of monthly rent for rental units or the price and conditions under which an owner occupied units will be sold for each type of affordable housing unit in accordance with the definition for each type of affordable housing rental unit (moderate, low, and very low).
7. The foregoing notwithstanding, any rent charged for an affordable housing unit rented to a low or very low income family shall not exceed 90% of the rent charged for a comparable market rate dwelling in the same or similar development. Comparable market rate means the rental amount charged for the last market rate dwelling unit of comparable square footage, amenities, and number of bedrooms, to be rented in the same development.
8. No affordable housing unit in the development shall be rented to a tenant whose household income has not been verified and certified in accordance with this division as moderate, low, or very low income family. Such verification and certification shall be the responsibility of the developer and shall be submitted to the Housing and Urban Improvement Director for approval. Tenant income verification and certification shall be repeated annually to assure continued eligibility.
9. No affordable housing unit that is to be sold, leased with option to purchase, or otherwise conveyed in the development shall be sold, leased with option to purchase, or otherwise conveyed to a buyer whose household income has not been verified and certified in accordance with this division as moderate, low, or very low income family. Such verification and certification shall be the responsibility of the developer and shall be submitted to the

Housing and Urban Improvement Director for approval. It is the intent of this division to keep housing affordable; therefore, any person who buys an affordable housing unit must agree, in a lien instrument to be recorded with the Clerk of the Circuit Court of Collier County, Florida, that if he sells the property (including the land and/or the unit) within fifteen (15) years after his original purchase at a sales price in excess of 5% per year of his original purchase price that he will pay to the County an amount equal to one-half (1/2) of the sales price in excess of 5% increase per year. The lien instrument may be subordinated to a qualifying first mortgage.

For example, a person originally buys a designated affordable housing unit (a house) for \$60,000 and sells it after 5 years for \$80,000. A 5% increase per year for 5 years will give a value of \$76,577. Deducting this amount from the sales price of \$80,000 gives a difference of \$3,423. The seller would then owe the County \$1,711.50 (1/2 of \$3,423). Payment of this amount would release the first owner from the recorded lien against the property. Such payment shall be maintained in a segregated fund, established by the County solely for affordable housing purposes, and such money shall be used solely to encourage, provide for, or promote affordable housing in Collier County.

10. No affordable housing unit in any building or structure in the development shall be occupied by the developer, any person related to or affiliated with the developer, or a resident manager.
11. When the developer advertises, rents, sells or maintains the affordable housing unit, it must advertise, rent, sell, and maintain the same in a non-discriminatory manner and make available any relevant information to any person who is interested in renting or purchasing such affordable housing unit. The developer shall agree to be responsible for payment of any real estate commissions and fees. The affordable housing units in the development shall be identified on all building plans submitted to the County and described in the application for affordable housing density bonus.
12. The developer shall not disclose to persons, other than the potential tenant, buyer or lender of the particular affordable housing unit or units, which units in the development are designated as affordable housing units.
13. The square footage, construction and design of the affordable housing units shall be the same as market rate dwelling units in the development.
14. The affordable housing density bonus agreement and authorized development shall be consistent with the Growth Management Plan and land development regulations of Collier County that are in effect at the time of development. Subsequently adopted laws and policies shall apply to the affordable housing density bonus agreement and the development to the extent that they are not in conflict with the number, type of affordable housing units and the amount of affordable housing density bonus approved for the development.
15. The affordable housing units shall be intermixed with, and not segregated from, the market rate dwelling units in the development.

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16. The conditions contained in the affordable housing density bonus development agreement shall constitute covenants, restrictions, and conditions which shall run with the land and shall be binding upon the property and every person having any interest therein at anytime and from time to time.
17. The affordable housing density bonus development agreement shall be recorded in the official records of Collier County, Florida, subsequent to the recordation of the grant deed pursuant to which the developer acquires fee simple title to the property.
18. Each affordable housing unit shall be restricted to remain and be maintained as the type of affordable housing rental unit (moderate, low or very low income) designated in accordance with the affordable housing density bonus development agreement for at least fifteen (15) years from the issuance of a Certificate of Occupancy for such unit.
19. The developer and owner of the development shall provide on-site management to assure appropriate security, maintenance and appearance of the development and the dwelling units where these issues are a factor.

2.7.7.4.2 **Compliance With Growth Management Plan and Land Development Regulations.** The affordable housing density bonus shall be available to a development only to the extent that it otherwise complies and is consistent with the Growth Management Plan and the Land Development Regulations, including the procedures, requirements, conditions and criteria for Planned Unit Developments (PUD's) and rezonings, where applicable.

2.7.7.4.3 **Minimum Number of Affordable Housing Units.** The minimum number of affordable housing units that shall be provided in a development pursuant to this division shall be ten (10) affordable housing units.

2.7.7.4.4 **Non-transferable.** The affordable housing density bonus is not transferrable between developments or properties.

2.7.7.4.5 **Phasing.** In the case where a development will occur in more than one phase, the percentage of affordable housing units to which the developer has committed for the total development shall be maintained in each phase and shall be constructed as part of each phase of the development on the property. For example, if the total development's AHDB is based on the provision of ten percent (10%) of the total dwelling units as affordable housing rental units for low income households with 2 bedrooms per unit, then each phase must maintain that same percentage (10% in this case) cumulatively.

2.7.7.5 **Affordable Housing Density Bonus Monitoring Program.**

2.7.7.5.1 **Annual Progress and Monitoring Report.** The affordable housing density bonus for a development shall be subject to the affordable housing density bonus monitoring program set forth in this section. The developer shall provide the Housing and Urban Improvement Director with an annual progress and monitoring report regarding the delivery of affordable housing rental units throughout the period of their construction, rental and occupancy for each of the developer's developments which involve the AHDB in a form developed by the Housing and Urban Improvement Director. The annual

progress and monitoring report shall, at a minimum, require any information reasonably helpful to insure compliance with this division and provide information with regard to affordable housing in Collier County. To the extent feasible, the Housing and Urban Improvement Director shall maintain public records of all dwelling units (AHDB and affordable housing units) constructed pursuant to the affordable housing density bonus program, all affordable housing units constructed pursuant to the AHDB program, occupancy statistics of such dwelling units, complaints of violations of this division which are alleged to have occurred, the disposition of all such complaints, a list of those persons who have participated as tenants or buyers in the affordable housing density bonus program, and such other records and information as the Housing and Urban Improvement Director believes may be necessary or desirable to monitor the success of the affordable housing density bonus program and the degree of compliance therewith. Failure to complete and submit the monitoring report to the Housing and Urban Improvement Director within sixty (60) days from the due date will result in a penalty of up to fifty dollars (\$50.00) per day per incident or occurrence unless a written extension not to exceed thirty (30) days is requested prior to expiration of the sixty (60) day submission deadline.

2.7.7.5.2

Income Verification and Certification.

1. **Eligibility.** The determination of eligibility of moderate, low, and very low income families to rent or buy and occupy affordable housing units is the central component of the AHDB monitoring program. Family income eligibility is a three-step process: 1) submittal of an application by a buyer or tenant; 2) verification of family income; and 3) execution of an income certification. All three shall be accomplished prior to a buyer or tenant being qualified as an eligible family to rent or purchase and occupy an affordable housing unit pursuant to the affordable housing density bonus program. No person shall occupy an affordable housing unit provided under the affordable housing density bonus program prior to being qualified at the appropriate level of income (moderate, low or very low income).

The developer shall be responsible for accepting applications from buyers or tenants, verifying income and obtaining the income certification for its development which involves AHDB, and all forms and documentation must be provided to the Housing and Urban Improvement Director prior to qualification of the buyer or tenant as a moderate, low or very low income family. The Housing and Urban Improvement Director shall review all documentation provided, and may verify the information provided from time to time. Prior to occupancy by a qualified buyer or tenant, the developer shall provide to the Housing and Urban Improvement Director, at a minimum, the application for affordable housing qualification, including the income verification form and the income certification form, and the purchase contract, lease, or rental agreement for that qualified buyer or tenant. At a minimum, the lease shall include the name, address and telephone number of the head of household and all other occupants, a description of the unit to be rented, the term of the lease, the rental amount, the use of the premises, and the rights and obligations of the parties. Random inspections to verify occupancy in accordance with this division may be conducted by the Housing and Urban Improvement Director.

2. **Application.** A potential buyer or tenant shall apply to the developer, owner, manager, or agent to qualify as a moderate, low, or very low income family for the purpose of renting and occupying an affordable housing rental unit pursuant to the affordable housing density bonus program. The application for affordable housing qualification shall be in a form

provided by the Housing and Urban Improvement Director and may be a part of the income certification form.

3. **Income Verification.** The Housing and Urban Improvement Director or the developer shall obtain written verification from the potential occupant (including the entire household) to verify all regular sources of income to the potential tenant (including the entire household). The written verification form shall include, at a minimum, the purpose of the verification, a statement to release information, employer verification of gross annual income or rate of pay, number of hours worked, frequency of pay, bonuses, tips and commissions and a signature block with the date of application. The verification may take the form of the most recent year's federal income tax return for the potential occupants (including the entire household), a statement to release information, tenant verification of the return, and a signature block with the date of application. The verification shall be valid for up to ninety (90) days prior to occupancy. Upon expiration of the 90 day period, the information may be verbally updated from the original sources for an additional 30 days, provided it has been documented by the person preparing the original verification. After this time, a new verification form must be completed.
4. **Income Certification.** Upon receipt of the application and verification of income, an income certification form shall be executed by the potential buyer or tenant (including the entire household) prior to sale or rental and occupancy of the affordable housing unit by the owner or tenant. Income certification that the potential occupant has a moderate, low, or very low household income qualifies the potential occupant as an eligible family to buy or rent and occupy an affordable housing unit under the affordable housing density bonus program. The income certification shall be in a form provided by the Housing and Urban Improvement Director.

2.7.7.6 **Violations and Enforcement.**

2.7.7.6.1 **Violations.** It is a violation of Sec. 2.7.7 to rent sell or occupy, or attempt to rent, sell or occupy, an affordable housing rental unit provided under the affordable housing density bonus program except as specifically permitted by the terms of Sec. 2.7.7, or to knowingly give false or misleading information with respect to any information required or requested by the Housing and Urban Improvement Director or by other persons pursuant to the authority which is delegated to them by Sec. 2.7.7.

2.7.7.6.2 **Notice of Violation.** Whenever it is determined that there is a violation of Sec. 2.7.7, a Notice of Violation shall be issued and sent by the Housing and Urban Improvement Director by certified return-receipt requested U.S. Mail, or hand-delivery to the person or developer in violation of Sec. 2.7.7. The Notice of Violation shall be in writing, shall be signed and dated by the Housing and Urban Improvement Director or such other County personnel as may be authorized by the Board of County Commissioners, shall specify the violation or violations, shall state that said violation(s) shall be corrected within ten (10) days of the date of Notice of Violation, and shall state that if said violation(s) is not corrected by the specified date that civil and/or criminal enforcement may be pursued. If said violation(s) is not corrected by the specified date in the Notice of Violation, the Housing and Urban Improvement Director shall issue a citation which shall state the date and time of issuance, name and address of the person in violation, date of the violation, section of these

regulations, or subsequent amendments thereto, violated, name of the Housing and Urban Improvement Director, and date and time when the violator shall appear before the Code Enforcement Board.

- 2.7.7.6.3** **Criminal Enforcement.** Any person who violates any provision of this division shall, upon conviction, be punished by a fine not to exceed five hundred dollars (\$500.00) per violation or by imprisonment in the County jail for a term not to exceed sixty (60) days, or by both, pursuant to the provisions of Sec. 125.69, Florida Statutes. Such person also shall pay all costs, including reasonable attorneys fees, including those incurred on appeal, involved in the case. Each day such violation continues, and each violation, shall be considered a separate offense.
- 2.7.7.6.4** **Civil Enforcement.** In addition to any criminal penalties which may be imposed pursuant to Sec. 10.2.1. Collier County and the Housing and Urban Improvement Director shall have full power to enforce the terms of this division and any affordable housing density bonus development agreements, rezoning conditions or stipulations, and planned unit development (PUD) conditions and stipulations pursuant to this division and the rights, privileges and conditions described herein, by action at law or equity. In the event that it is determined that a violation has occurred and has not or will not be corrected within sixty (60) days, the Certificate of Occupancy for all affordable housing density bonus units within the development shall be withdrawn and the sanctions or penalties provided in the affordable housing density bonus development agreement shall be pursued to the fullest extent allowed by law.
- 2.7.7.7** **Liberal Construction and Severability.**
- 2.7.7.7.1** **Liberal Construction.** The provisions of this division shall be liberally construed to effectively carry out its intent and purpose in the interest of the public health, safety, welfare and convenience.
- 2.7.7.7.2** **Severability.** If any section, phrase, sentence or portion of this division is for any reason held invalid unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion.

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ARTICLE 3

DEVELOPMENT REQUIREMENTS

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DIV. 3.1 GENERAL.

SEC. 3.1.1 OVERVIEW. This article establishes the development requirements for fourteen (14) types of development processes in the County: subdivisions, site development plans, explosives, excavation, well construction, soil erosion control, environmental impact statements, vegetation removal, protection and preservation, sea turtle protection, endangered, threatened or listed species protection, coastal zone management, coastal construction setback line variance, vehicles on the beach, and adequate public facilities.

In this regard, this article is organized into fifteen (15) divisions. Division 3.1 provides an overview on the organization of this article. Divisions 3.2 through 3.15 provide development review procedures, submission requirements and development standards for each of the development processes listed above.

Therefore, in addition to the provisions of general applicability contained in this Division 3.1, each development process contained in this article is shown next to the division in which it may be found:

Division 3.2	Subdivisions
Division 3.3	Site Development Plans
Division 3.4	Explosives
Division 3.5	Excavation
Division 3.6	Well Construction
Division 3.7	Soil Erosion Control
Division 3.8	Environmental Impact Statements
Division 3.9	Vegetation Removal, Protection and Preservation
Division 3.10	Sea Turtle Protection
Division 3.11	Endangered, Threatened or Listed Species Protection
Division 3.12	Coastal Zone Management
Division 3.13	Coastal Construction Setback Line Variance
Division 3.14	Vehicles on the Beach
Division 3.15	Adequate Public Facilities

SEC. 3.1.2 FEES. The Board of County Commissioners shall establish a schedule of fees pursuant to the requirements of Div. 1.10, Fees, for review, approval, permitting, inspection and like matters pertaining to the various development requirements addressed in Sec. 3.1.1. It is the intent of these fees that the County shall not be required to bear any part of the cost of applications, submissions, permits or the like made under this Article and that the fees represent the actual cost of required legal advertising, postage, clerical, filing, review, inspection, recording and other costs involved in the processing of development activities addressed in Article 3 of this Code. Until the applicable fees have been paid in full, no action of any type or kind shall be taken on an application or permit filed pursuant to this Article.

DIV. 3.2 SUBDIVISIONS.

- SEC. 3.2.1 TITLE AND CITATION.** This Division shall be known as and may be cited as the "Collier County Subdivision Code".
- SEC. 3.2.2 PURPOSE.** The purpose of this Division is to establish procedures and standards for the development and subdivision of real estate within the unincorporated areas of Collier County, Florida, in an effort to, among other things, ensure proper legal description, identification, documentation and recording of real estate boundaries; aid in the coordination of land development in Collier County in accordance with orderly physical patterns to encourage state of the art and innovative design; discourage haphazard, premature, uneconomic or scattered land development, ensure an economically stable and healthy community; ensure adequate public facilities and utilities; maintain the community's quality of life by properly preserving and conserving natural resource features; prevent periodic and seasonal flooding by providing protective flood control and drainage facilities; provide open spaces for recreation; ensure land development with installation of adequate and necessary public facilities and physical improvements; ensure that the citizens and taxpayers of Collier County will not have to bear the costs resulting from haphazard subdivision of land; provide the County with the authority to require installation by the developer of adequate and necessary physical improvements so that the taxpayers and citizens of Collier County will not have to bear the costs for the same; ensure to the purchasers of subdivided land that necessary improvements of lasting quality have been installed; comply with Ch. 177, F.S., as amended. Furthermore, the purpose of this Division is to carry out the goals, policies and objectives of the Collier County Growth Management Plan.
- SEC. 3.2.3 APPLICABILITY.** This Division shall apply to all division of land and all subdivisions in the total unincorporated area of Collier County, except to the extent as expressly provided in Sec. 3.2.4.
- SEC. 3.2.4 EXEMPTIONS.** Before any property or development proposed to be exempted from the terms of this Division may be considered for exemption, a written request for exemption shall be submitted to the Development Services Director. After a determination of completeness, the Development Services Director shall approve, approve with conditions or disapprove the request for exemption based on the terms of the applicable exemptions. To the extent indicated, the following shall be exempt from the applicability of this Division.
- 3.2.4.1 Active Agricultural Uses.** Agriculturally related development as identified in the permitted and accessory uses allowed in the Rural Agricultural District "A" and located within any area designated as Agricultural on the Future Land Use Map of the Collier County Growth Management Plan and the Collier County Official Zoning Atlas, except single family dwellings and farm labor housing subject to Sec. 2.6.25, shall be exempt from the requirements and procedures for preliminary subdivision plats and improvements plans; provided, however, nothing contained herein shall exempt such active agricultural uses from the requirements and procedures for final subdivision plats, and where required subdivision improvements are contemplated, the posting of Subdivision Performance Security.
- 3.2.4.2 Minor Subdivisions for Single Family Detached and Duplex Residential Development.** A minor subdivision, as defined in Art. 6, for single family detached and duplex residential

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development shall be exempt from the requirements and procedures for preliminary subdivision plats; provided, however, nothing contained herein shall exempt such minor subdivision from the requirements and procedures for improvement plans and final subdivision plats, and where required subdivision improvements are contemplated, the posting of Subdivision Performance Security. No building permits shall be issued prior to recordation of the final subdivision plat.

3.2.4.3

Minor Subdivisions for Multi-Family Residential and Non-Residential Development. A minor subdivision, as defined in Art. 6, for multiple family residential development and all non-residential development shall be exempt from the requirements and procedures for preliminary subdivision plats and improvement plans; provided, however, nothing contained herein shall exempt such minor subdivision from the requirements and procedures for design requirements for access under Sec. 3.2.8.4.1, water management plans under Sec. 3.2.8.4.22, final subdivision plats under Sec. 3.2.9, and site development plans under Div. 3.3, and where required subdivision improvements are contemplated, the posting of Subdivision Performance Security. No building permits shall be issued prior to recordation of the final subdivision plat.

3.2.4.4

Integrated Phased Developments. An integrated phased development, as defined in Article 6 and which has been previously approved in accordance with Sec. 3.2.7.4, shall be exempt from the requirements, standards and procedures for preliminary subdivision plats (Sec. 3.2.7) and improvement plans (Sec. 3.2.8); provided, however, nothing contained herein shall exempt such integrated phased development from the requirements and procedures for design requirements for access under Sec. 3.2.8.4.1, water management plans under Sec. 3.2.8.4.22, final subdivision plats and Subdivision Performance Security under Sec. 3.2.9, and major site development plans under Division 3.3. No building permits shall be issued prior to recordation of the final subdivision plat. These provisions shall not require that the interior access within an integrated phased development be different from the conditions in Division 3.3 applicable to Site Development Plans.

3.2.4.5

Cemeteries. The division of land into cemetery lots or parcels shall be exempt from the requirements and procedures for preliminary subdivision plats and improvement plans; provided, however, nothing contained herein shall exempt such division of land into cemetery lots or parcels from the requirements and procedures for final subdivision plats and, where required subdivision improvements are contemplated, the posting of Subdivision Performance Security; and provided, further, that such division of land into cemetery lots or parcels shall be subject to and comply with the requirements and procedures for site development plans under Div. 3.3, and shall obtain site development plan approval for the entire property proposed for such division of land into cemetery lots or parcels.

3.2.4.6

Eminent Domain or Operation of Law. The division of land which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court, shall be exempt from this Division; if and only if the Development Services Director and the County Attorney are given timely written notice of any such pending action and given the opportunity to signify that the County be joined as a party in interest in such proceeding for the purpose of raising the issue of whether or not such action would circumvent or otherwise avoid the purposes or provisions of this Division, i.e., the subdivision regulations, prior to the entry of any court order; and, if and only if an appropriate pleading is not filed on behalf of the County within twenty (20) days after receipt of such notice. However, if a pleading is filed on behalf of

the County within twenty (20) days after receipt of such notice, such division of land created by the court shall not be exempt from this Division.

- 3.2.4.7 **Oil, Gas, and Mineral Rights.** The division of land which creates an interest or interests in oil, gas, or minerals which are now or hereafter severed from the surface ownership of real property shall be exempt from this Division.
- 3.2.4.8 **Lot Line Adjustment.** An adjustment of a lot line between contiguous lots which are under separate ownership shall be exempt from this Division if all of the following conditions are met in a written request to the Development Services Director:
- 3.2.4.8.1 It is demonstrated that the request is to correct an engineering or surveying error in a recorded plat or is to permit an insubstantial boundary change between adjacent parcels; and
- 3.2.4.8.2 Both landowners whose lot lines are being adjusted provide written consent to the lot line adjustment; and
- 3.2.4.8.3 Instrument(s) evidencing the lot line adjustment shall be filed in the official records of Collier County, Florida, upon approval, and shall indicate that the result of the lot line adjustment will meet the standards of, and conforms to, the requirements of this Code, including the dimensional requirements of the zoning district and the subdivision in which the lots are located. However, in cases of an existing nonconforming lot, the adjustment shall not increase the nonconformity of the lot; and
- 3.2.4.8.4 It is demonstrated that the lot line adjustment will not affect the development rights or permitted density or intensity of use of the affected lots by providing the opportunity to create a new lot(s) for resale or development.
- 3.2.4.9 **Prior Subdivision.** All division of land occurring prior to the effective date of this Code and conforming to the purposes of this Division, shall be exempt from this Division; provided, however, that any property so divided which is resubdivided or further divided on or after January 10, 1989, shall not be exempt from this Division.

SEC. 3.2.5 **GENERAL REQUIREMENTS.**

- 3.2.5.1 It shall be unlawful for any person to create a subdivision of, or to subdivide, or to otherwise divide, any land in the total unincorporated area of Collier County, except in strict conformance with the provisions of this Division and any applicable provisions of the Growth Management Plan and this code.
- 3.2.5.2 No land shall be divided or subdivided, nor shall any subdivision occur or be created, platted, recorded or left unrecorded, nor shall any building permit for any structure to be constructed upon any land so subdivided be issued, and unless such subdivision meets all of the provisions of this Division and all of the provisions of any applicable federal, state and local laws, including any applicable provisions of the Growth Management Plan and this Code, unless otherwise approved by the Board of County Commissioners.

3.2.5.3 It shall be unlawful for any person to transfer, sell, or otherwise convey, to sell any land by reference to, exhibition of, or other use of, a plat of a subdivision of such land without having submitted a final subdivision plat of such land for approval to the Board of County Commissioners as required by this Division and without having recorded the approved final subdivision plat as required in this Division.

3.2.5.4 No approval of the final subdivision plat, improvement plans or authorization to proceed with construction activities in compliance with the same shall require Collier County to issue a development order or building permit if 1) it can be shown that issuance of said development order or building permit will result in a reduction in the level of service for any public facility below the level of service established in the Collier County Growth Management Plan, or 2) if issuance of said development order or building permit is inconsistent with the Growth Management Plan. Anything in this Division to the contrary notwithstanding, all subdivision and development shall comply with the Collier County Adequate Public Facilities Ordinance and the Growth Management Plan.

SEC. 3.2.6 **SUBDIVISION REVIEW PROCEDURES.**

3.2.6.1 **Preapplication Conference.** Prior to formal filing of a preliminary subdivision plat, an applicant shall confer with the Development Services Director to obtain information and guidance. The purpose of such a conference is to permit the applicant and the Development Services Director to review informally a proposed development and determine the most efficient method of development review before substantial commitments of time and money are made in the preparation and submission of the preliminary subdivision plat, improvement plans, final subdivision plat, and related documents.

3.2.6.1.1 **Preapplication.** A written preapplication shall be submitted to the Development Services Director at any time prior to the review of a proposed preliminary subdivision plat. The written application shall contain the following:

1. **Written Statement.** Ten (10) copies, unless otherwise specified by the Development Services Director, of a written statement generally describing the condition of the property and the proposed development of the entire subdivision. This statement shall include but is not necessarily limited to data on existing covenants or restrictions, location of utility facilities and public facilities, general soil characteristics, and other information describing the subdivision proposed, such as number of parcels, lots, or tracts; typical lot or other parcel configuration; water retention areas; public areas; anticipated utility sources; zoning classifications; and any other information needed for preparation and review of the preliminary subdivision plat.
2. **Plan.** Ten (10) copies, unless otherwise specified by the Development Services Director, of a plan including the following: a location plan showing the location of the land to be subdivided; approximate acreage; natural features such as native habitat identified by vegetative cover and depicted in aerial imagery; low or swampy areas; water bodies, streams, lakes, canals or the like; identification of adjacent lands; a brief description of the land to be subdivided; name, telephone number and address of owner and developer and its representatives; date; northpoint; street; general lot and block layout; layout of

all adjoining streets; zoning classification of the property proposed for subdivision and adjacent properties; location of existing improvements; and any other significant features.

3. Aerial Photograph with Overlay. Current aerial photograph of not less than 1:200 scale, with clear film overlay with proposed subdivision configuration superimposed upon it. In the rural, less populated areas of the County, a minimum scale of 1:400 will be acceptable, upon request to the Development Service Director, if the 1:200 scale is not readily available.

3.2.6.1.2

Issues of Discussion. Issues that shall be discussed at the preapplication conference shall include but are not limited to the following:

1. Proposed Development. The applicant should describe the general nature of the proposed development, including, if applicable, proposed land uses and their densities; proposed placement of buildings, structures, and other improvements; character and location of common open space or treatment of public uses; preservation of natural features; protection of environmentally sensitive areas; proposed off-street parking and internal traffic circulation; and total ground coverage of paved areas and structures.
2. Review Procedures. The Development Services Director shall identify procedural review requirements for the proposed development and applicable review requirements and standards in terms of this Division that apply to the review of the proposed development. This should include identifying which decision-making body or bodies will review the application and the approximate length of the development review procedure.
3. Referral Agencies. The Development Services Director will make a good faith effort to identify the federal, state and local agencies that may be required to review the proposed development, and if possible identify for the applicant the name and title of persons at these agencies to contact about review procedures, and generally describe the information which will be needed to satisfy the concerns of the relevant federal, state and local agencies.
4. Application Contents. In conformance with the requirements of this Division, the Development Services Director shall establish the contents of the preliminary subdivision plat required to be submitted for the proposed development. This shall include descriptions of the types of reports and drawings required, the general form which the preliminary subdivision plat shall take, and the information which shall be contained within the preliminary subdivision plat and supporting documentation.
5. Application copies and fees. The Development Services Director shall identify the number of copies of the preliminary subdivision plat application that are required to be submitted for the proposed development, along with the amount of the fees needed to defray the cost of processing the application.

3.2.6.1.3

Summary. At the conclusion of the preapplication conference, the applicant shall be presented with a written summary or checklist of the meeting by the Development Services Director.

3.2.6.2 Procedures for Preliminary Subdivision Plat.

3.2.6.2.1 Initiation. In order to initiate an application for a preliminary subdivision plat, the applicant shall prepare and submit to the Development Services Director a preliminary subdivision plat which meets the requirements contained in Sec. 3.2.7.

3.2.6.2.2 Review and Recommendation by Development Services Director. After receipt of a completed preliminary subdivision plat, the Development Services Director shall review and evaluate the preliminary subdivision plat in conformance with the preliminary subdivision plat requirements established in Sec. 3.2.7. Based on the review and evaluation, the Development Services Director shall recommend to the Planning Commission that it approve, approve with conditions, or deny the preliminary subdivision plat. The recommendation shall be submitted to the Planning Commission in writing. If the Development Services Director recommends that the Planning Commission should deny or place conditions on the preliminary subdivision plat, he shall state in writing reasons for such recommendation of denial or conditions, and shall cite the applicable code or regulatory basis for the conditions or denial.

3.2.6.2.3 Review and Determination by Planning Commission. Within thirty (30) days after receipt by the Planning Commission of the Development Services Director's recommendation, and after due notice of the public hearing, the Planning Commission shall hold a public hearing on the preliminary subdivision plat. At the public hearing, the Planning Commission shall consider the Development Services Director's recommendation and shall take evidence and testimony in regard to the preliminary subdivision plat requirements set forth in this section and Sec. 3.2.7. The Planning Commission shall approve, approve with conditions or deny the preliminary subdivision plat. If the Planning Commission denies or places conditions on the preliminary subdivision plat, it shall state reasons for such denial or conditions.

3.2.6.3 Procedures for Improvement Plans and Final Subdivision Plat.

3.2.6.3.1 Initiation. Within two (2) years after the date of written approval or approval with conditions of the preliminary subdivision plat, the applicant shall prepare and submit to the Development Services Director the improvement plans and final subdivision plat for at least the first phase of the proposed subdivision. Each subsequent phase shall be submitted within two (2) years after the date of written approval of the final subdivision plat for the immediately preceding phase of the proposed subdivision. Two (2) 2-year extensions to submit the improvement plans and final subdivision plat shall be granted for good cause shown upon written application submitted to the Development Services Director prior to expiration of the preceding approval. When extending the preliminary subdivision plat approval, the Development Services Director shall require the approval to be modified to bring the project into compliance with any new provisions of Div. 3.2 of this Code in effect at the time of the extension request.

3.2.6.3.2 Review, Determination and Recommendation by Development Services Director. After receipt of completed improvement plans and final subdivision plat, the Development Services Director shall review and evaluate the improvement plans in light of Sec. 3.2.8, including the general requirements established in Sec. 3.2.8.1, the improvement plans submission requirements established in Sec. 3.2.8.2, the required improvements established in Sec. 3.2.8.3, and the design requirements established in Sec. 3.2.8.4, and shall review and evaluate the final subdivision plat

in light of the final subdivision plat requirements established in Sec. 3.2.9. Based on the review and evaluation, the Development Services Director shall approve, approve with conditions, or deny the improvement plans. If the improvement plans are denied, then the final subdivision plat shall not be submitted to the Board of County Commissioners unless and until the improvement plans have been approved or approved with conditions by the Development Services Director. If the improvement plans are approved or approved with conditions, the Development Services Director shall recommend that the Board of County Commissioners consent to, consent with conditions or deny the final subdivision plat. The determinations regarding the improvement plans and the recommendation regarding the final subdivision plat shall be in writing. If the Development Services Director denies or places conditions on the improvement plans or recommends denial or conditions on the final subdivision plat, he shall state reasons for such denial or conditions, or recommendation of denial or conditions and shall cite the applicable code or regulatory basis for the conditions of denial.

3.2.6.3.3

Consent to Final Subdivision Plat by Board of County Commissioners. Within thirty (30) days after approval or approval with conditions of the improvement plans, the Development Services Director shall submit his recommendation to the Board of County Commissioners to consent to, consent to with conditions, or deny the final subdivision plat. After receipt by the Board of County Commissioners of the Development Services Director's recommendation, the Board of County Commissioners shall place the final subdivision plat on the consent agenda for its next available regularly scheduled meeting. If all members of the Board of County Commissioners consent to the recommendation of the Development Services Director, then the recommendation of the Development Services Director on the final subdivision plat shall remain on the consent agenda and the final subdivision plat shall be approved therewith. If any member of the Board of County Commissioners objects to the recommendation of the Development Services Director or otherwise requests discussion on the recommendation, then the recommendation shall be taken off the consent agenda and may be discussed or scheduled for a subsequent hearing date. After due notice of the hearing to the applicant, the Board of County Commissioners shall hold a hearing on the final subdivision plat. At the hearing, the Board of County Commissioners shall consider the Development Services Director's recommendation and shall take evidence and testimony in regard to the final subdivision plat requirements set forth in Sec. 3.2.9. The Board of County Commissioners shall approve, approve with conditions, or deny the final subdivision plat. If the Board of County Commissioners denies or places conditions on the final subdivision plat, it shall state reasons for such denial or conditions.

3.2.6.3.4

Recordation of Final Subdivision Plat.

1. General. No building permits for habitable structures shall be issued prior to approval by the Board of County Commissioners and recordation of the final subdivision plat.
2. Posting of Subdivision Performance Security. Approval of the final subdivision plat shall not entitle the final subdivision plat to be recorded unless the required improvements have been completed by or for the applicant and accepted by the County, or the required subdivision performance security for the construction of the required improvements, both on-site and off-site, has been posted by the applicant, in a format approved by the County Attorney, and approved and accepted by the Board of County Commissioners.

3. **Recordation Procedure.** After approval of the final subdivision plat by the Board of County Commissioners, but prior to the Development Services Director's recording of the final subdivision plat with the Clerk of the Circuit Court, all of the following shall occur:

- a. The applicant shall obtain all of the signatures on the original plat cover sheet(s) that are associated with the applicant's obligations or that are otherwise required.
- b. The applicant shall submit the original final subdivision plat to the Development Services Director after obtaining the signatures required above. The Development Services Director shall obtain all County related signatures required on the final subdivision plat.
- c. Simultaneously with the submission of the fully executed final subdivision plat to the Development Services Director, the applicant shall also submit, at no expense to the County, either a title opinion or certificate from a licensed attorney authorized to practice in the State of Florida, as supporting title information.

The effective date of the supporting title information must be no more than thirty (30) days prior to the submission of the final subdivision plat to the Development Services Director and must contain all of the following:

- 1) a legal description of the lands being platted;
 - 2) a statement that the attorney is licensed to practice in the State of Florida and that the attorney has examined title to the subject real property, if a title opinion is being provided;
 - 3) identification of the exact name of the person who is the record owner of the subject real property and a specific citation to the Official Records book and page, where the record legal owner obtained title to the subject real property. The supporting title information shall have attached thereto a copy of said instrument(s) of conveyance;
 - 4) identification of liens, encumbrances, easements, or matters shown or that should be shown as exclusions to coverage on a title insurance policy. If applicable, the supporting title information shall have attached in a neatly bound fashion, and make citation to the recording information of, all referenced liens, encumbrances, easements, or exclusions. The supporting title information shall have attached thereto a copy of any such instruments.
4. The recording and copy fees specified in this section must be verified as correct and paid by the applicant. Upon verification and payment, the Development Services Director shall record the final subdivision plat with the Clerk of the Circuit Court in the official records of Collier County, Florida, and then

proceed to produce three (3) copies and one (1) mylar of the recorded final subdivision plat and accompanying documents which are required for the Clerk of the Circuit Court.

5. If any dedications, grants, conveyances, easements, consents, reservations, covenants, or other like instruments are to be recorded simultaneously with the final subdivision plat, appropriate fees and original documentation must be provided to the Development Services Director for processing by the Clerk of Court prior to the recording of the final subdivision plat.
6. If the applicant or its professional surveyor or engineer of record wishes to obtain additional copies or mylars of the recorded document(s) at the time of recording, arrangements shall be made through the Development Services Director and coordinated with the Transportation Services Division prior to recording and payment of fees.
7. The required improvements shall be completed prior to recordation of the final subdivision plat unless the applicant shall file with the County a subdivision performance security in a manner and form prescribed in this Division to assure the installation of the required improvements.
8. Within sixty (60) days of recordation of the final subdivision plat in the Official Records of Collier County, Florida, the applicant, at no expense to the County, shall submit to the Development Services Director either a title opinion or certificate from a licensed attorney authorized to practice in the State of Florida as final supporting title information in order to induce the Collier County Board of County Commissioners to conduct final acceptance of the subdivision improvements as required by this Division. The final supporting title information shall be a condition precedent to acceptance of subdivision improvements.

The effective date of the supporting title information must be through the date of recordation of the final subdivision plat and must contain the following:

- a. a legal description of the lands which were platted;
- b. a statement that the attorney is licensed to practice in the State of Florida and that the attorney has examined title to the subject real property through the date the final subdivision plat was recorded, if a title opinion is provided;
- c. identification of the exact name of the person or entity who is the record owner of the subject property and a specific citation to the official records book and page where the record legal owner obtained title to the platted lands. This supporting title information shall have attached thereto a copy of said instruments of conveyance;

- d. identification of the holders of any estates, liens, encumbrances or easements which have not properly joined in the dedication on the final subdivision plat;
- e. identification of liens, encumbrances, easements, or matters shown or that should be shown as exclusions to coverage on a title insurance policy. If applicable, the supporting title information shall have attached in a neatly bound fashion, and make citation to the recording information, of all referenced liens, encumbrances, easements, or exclusions. The supporting title information shall have attached thereto a copy of any such instruments not provided in connection with previous submittals.

3.2.6.3.5

Relationship and Amendments to Preliminary Subdivision Plat. The improvement plans and final subdivision plat shall be consistent with the preliminary subdivision plat. Any amendment to the approved preliminary subdivision plat desired by the applicant shall be reviewed and determined to be acceptable by the Development Services Director prior to the processing of the improvement plans and final subdivision plat. The Development Services Director shall have the authority to approve amendments to the approved preliminary subdivision plat provided those amendments are based on generally accepted, sound, professional engineering principles and practices in the State. Requests for amendments shall be in writing in the form of an amended preliminary subdivision plat and shall provide clear and convincing documentation and citations to professional engineering studies, reports or other generally accepted professional engineering services in the state to substantiate the amendment requested.

3.2.6.3.6

Model Homes, Review and Determination. Following approval of the Final Subdivision Plat and construction documents in a project where permission to construct prior to recording of the final plat is granted to the applicant, building permits for model homes may be issued to the applicant only, provided:

- 1. When permission to construct prior to recording of the final plat has been granted in a subdivision with private rights-of-way or rights-of-way to be dedicated to the public upon recordation of the final subdivision plat, a Collier County model home building permit approved in accordance with all standard building permit procedures shall be issued and a certificate of occupancy issued for each model home provided all of the following additional stipulations are complied with:
 - a. A site development plan prepared in compliance with Div. 3.3 shall be submitted and approved for each model home parcel prior to submission of a model home building permit application. The boundary on the site development plan must conform with the configuration and boundaries of the approved Final Subdivision Plat;
 - b. The parcels on which the model homes are located must abut a privately owned and maintained road, temporary in nature or permanently constructed to Collier County roadway design standards;

- c. No more than five (5) model home permits per subdivision phase shall be issued to the applicant in this manner; and
 - d. All zoning conditions and regulations must be followed (See Sec. 2.6.33); or
2. The proposed lot(s) has frontage on an already platted publicly owned and maintained road and all infrastructure to support construction of structures is in place. No more than five (5) model home permits per subdivision phase shall be issued in this manner. All zoning conditions and regulations must be followed and the provisions of Sec. 3.2.6.3.6.1 must be complied with.

3.2.6.4 Construction of Required Improvements.

3.2.6.4.1 Construction Specifications. Construction specifications shall be those prescribed in the design requirements of this Division, those prescribed by the Florida Department of Transportation Standard Specifications for Road and Bridge Construction, as amended, where applicable as approved by the Development Services Director, and those contained in the approved technical specifications prepared by the applicant's professional engineer for each subdivision or development which may amend or supersede FDOT standards on a project by project basis.

3.2.6.4.2 Administration of Construction. After approval of the final subdivision plat and improvement plans, and upon posting of the subdivision performance security when required, the applicant shall construct the required improvements subject to obtaining and submitting to the Development Services Director all required federal, state and local development orders and permits. The Development Services Director shall be notified in writing at least 48 hours in advance of the date of commencement of such construction. Construction shall be performed under the general direction and observation of, and shall at all times be subject to, review by the Development Services Director; however, this in no way shall relieve the applicant of the responsibility for final compliance with the approved improvement plans and all of the requirements of this Division. Final certification of the construction of the required improvements from the applicant's professional engineer shall be filed with the Development Services Director. Construction observation is required to observe that the required improvements have been installed in compliance with the approved improvement plans.

3.2.6.4.3 Observation of Construction. The applicant shall have the professional engineer or engineer's representative make periodic site visits at intervals appropriate to the various stages of required improvement construction to observe the contractor's compliance with the approved plans and specifications. At the time of preliminary acceptance, the applicant's professional engineer shall submit a completion certificate for those required improvements completed. Any discrepancy shall be resolved to the satisfaction of the Development Services Director prior to preliminary acceptance of the improvements.

3.2.6.4.4 Construction Scheduling. Upon approval by the Development Services Director of the improvement plans and prior to the commencement of construction of the required improvements, a preconstruction meeting shall be conducted. The preconstruction meeting shall be conducted by the owner and attended by representatives of the County, utility companies, the applicant's professional engineer of record, the contractor and the developer. At the preconstruction meeting,

a schedule of construction and copies of all applicable state and federal permits shall be provided to the Development Services Director. At least forty-eight (48) hours written notice shall be provided for scheduling the preconstruction meeting with the Development Services Director. Should any construction commence on a project prior to the preconstruction meeting, the Development Services Director shall have the right to require partial or full exposure of all completed work for observation, inspection and verification that it was installed in accordance with the approved improvement plans. All required improvements constructed in proposed roadway areas shall be completed in accordance with the approved improvement plans prior to proceeding with the stabilization of the roadway subgrade. Installation of improvements which would complicate corrective work on the required improvements shall be considered in scheduling all adjoining or related phases of the construction. The Development Services Director shall be notified within twenty-four (24) hours, with written follow-up, of any problems and conflicts with the actual construction of required improvements as compared to the completion of the required improvements in substantial compliance with the approved improvement plans.

All segments of the underground utility and water management facilities that lie beneath the pavement shall be completed, tested, and found to be in conformance with the approved improvement plans prior to the installation of pavement. All provisions associated with any water and sewer facilities construction shall be in compliance with the requirements of Collier County Ordinance 88-76, as amended, and all other applicable federal, state and local regulations and laws.

3.2.6.4.5

Construction Inspections by the Development Services Director. Upon approval of improvement plans by the Development Services Director, the applicant's professional engineer of record shall be provided with a list of standard inspections which require the presence of the Development Services Director. Notification of all required inspections shall be contained in the County's approval letter for the development. Based on the scheduling and progress of construction, the applicant shall be responsible to notify the Development Services Director prior to the time these inspections are required. At least forty-eight (48) hours notice shall be provided to the Development Services Director to allow scheduling of an inspection. Verbal confirmation of inspection time or a request for rescheduling will be made by the Development Services Director on each notification made.

From time to time, the Development Services Director shall inspect the progress of construction. Should special inspections be required, they shall be coordinated through the applicant.

The foregoing notwithstanding, routine spot inspections by the Development Services Director may be carried out without notice on all construction to ensure compliance with the approved improvement plans. During the on-site inspection process, if the Development Services Director finds construction in progress which does not comply with the procedures, policies and requirements contained in this Division or the approved improvement plans, he shall have the full authority to issue a stop work order for the portion of work not in compliance. If a stop work order is issued, it shall remain in full effect with respect to the defective work until such time as the documented discrepancies have been corrected to the full satisfaction of the Development Services Director.

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3.2.6.4.6

Design Modification. Deviations from the approved improvement plans due to field related conditions or circumstances shall be submitted via the applicant and approved by the Development Services Director. Initial contact with the Development Services Director may be by verbal contact whereby a Development Services Director's Field Representative may recommend approval to the DSD based on a field inspection of the deviation and based on its equivalency to the approved design. However, if required by the Development Services Director, a detailed written description of the proposed deviations or requested design modifications, the reasons for the deviations or modification, and revised improvement plans shall be submitted to the Development Services Director for approval. The Development Services Director may require written approval for specific deviations or modifications to be issued by him before construction of those items may commence.

3.2.6.4.7

Measurements and Tests. After construction, the applicant's professional engineer of record shall submit a report to the Development Services Director which documents the dates of inspection, all measurements, field tests, laboratory tests and observations required to be performed during the construction.

3.2.6.4.8

Expiration. All required improvements associated with the construction maintenance agreement shall be completed within thirty-six (36) months from the date of recording of the final subdivision plat, or, if construction of required improvements is undertaken prior to recording the final subdivision plat, within thirty-six (36) months from the date of approval of the final subdivision plat by the Board of County Commissioners. If improvements are not completed within the prescribed time period and a subdivision performance security has been submitted, the Development Services Director may recommend to the Board that it draw upon the subdivision performance security or otherwise cause the subdivision performance security to be used to complete the construction, repair, and maintenance of the required improvements.

3.2.6.4.9

County Completion of Required Improvements. When a final subdivision plat has been recorded and the applicant fails to complete, repair, or maintain the required improvements as required by this Division, the Board of County Commissioners may authorize and undertake completion, repair, and maintenance of the required improvements under the subdivision performance security provided by the applicant. If no sale of lots or issuance of building permits has occurred, the Board of County Commissioners may declare all approvals for the subdivision and all documents for the subdivision to be null and void; provided, any vacations of plat shall be in accordance with Chapter 177, Florida Statutes. In such case, the Board of County Commissioners shall direct the Development Services Director to call upon the subdivision performance security to secure satisfactory completion, repair, and maintenance of the required improvements, to make his best efforts to restore the property to its pre-development condition, or to otherwise take action to mitigate the consequences of the failure to complete, repair, or maintain the required improvements. Upon the completion of the required improvements, the Development Services Director shall report to the Board of County Commissioners and the Board shall accept by Resolution the dedication and maintenance responsibility as indicated on the final subdivision plat. In such case, the remaining subdivision performance security posted by the applicant shall be retained for the warranty period between preliminary and final acceptance in lieu of the required maintenance agreement and subdivision performance security to provide funds for any repairs, maintenance, and defects occurring during this warranty period.

3.2.6.4.10 Failure to Complete Unrecorded Subdivisions. Where an applicant has elected to construct, install, and complete the required improvements prior to recordation of the final subdivision plat and fails to complete such improvements within the time limitations of this Division, all approvals for the subdivision shall be null and void. No reference shall be made to the preliminary subdivision plat or the final subdivision plat with respect to the sale of lots or issuance of building permits, unless and until the preliminary and final subdivision plats have been resubmitted with all of the supplementary documents and material, and all approvals required in this Division have been granted. Under these circumstances, the applicant shall be required to compensate the County through the payment of new review and inspection fees, as through the development were being submitted for its initial review and approval.

3.2.6.5 Completion and Acceptance of Required Improvements.

3.2.6.5.1 General. The required improvements constructed under the policies, procedures, guidelines, and requirements established in this Division shall be accepted by the Board of County Commissioners as prescribed in this Sec. 3.2.6.5. All applicable completed water and sewer facilities shall simultaneously be conveyed to Collier County, or to Collier County Water-Sewer District or its dependent water-sewer districts, where appropriate, or the appropriate Water-Sewer District in conformance with the provisions of Collier County Ordinance No. 88-76, as amended. This Sec. 3.2.6.5 describes the policies, procedures and data required to obtain approval and acceptance of all required improvements constructed.

3.2.6.5.2 Acceptance of Required Improvements. Upon completion of all required improvements contained in the approved improvement plans, the required improvements must be approved and accepted by the Board of County Commissioners. Required improvements must receive preliminary acceptance and final acceptance as required in Secs. 3.2.6.5.6 and 3.2.6.5.7. The preliminary acceptance of the required improvements shall be indicated by a resolution adopted by the Board of County Commissioners indicating that the applicant has attested that all the required improvements meet or exceed the standards established in this Division. All water and sewer facilities accepted in this fashion and required to be maintained by Collier County shall be conveyed to the County pursuant to the provisions set forth in Collier County Ordinance No. 88-76, as amended. A maintenance agreement and the posting of subdivision performance security for the maintenance of the required improvements shall be required prior to the preliminary acceptance of the completed required improvements.

3.2.6.5.3 Procedures for Acceptance of Required Improvements. The applicant shall submit the following data, certifications, inspections and documents for review and approval by the Development Services Director prior to the Board of County Commissioners denying, granting, or granting with conditions preliminary acceptance of any completed required improvements and prior to authorizing the Development Services Director to issue any building permits for structures to be constructed within a subdivision or development.

1. Maintenance Agreement and Subdivision Performance Security. The applicant shall execute a maintenance agreement guaranteeing the required improvements against defect in workmanship and material for the period beginning upon preliminary acceptance of all completed required improvements by the Board of County Commissioners and ending upon final acceptance of the required improvements. The maintenance agreement shall

be submitted to the Development Services Director along with the completion certificate, development records and subdivision performance security for maintenance of the required improvements in an amount equal to ten percent (10%) of the cost of required improvements. The subdivision performance security shall be in a form established by the Development Services Director from time to time and as shown in Appendix A. The maintenance agreement and security shall be approved by the County Attorney prior to acceptance by the Board of County Commissioners.

2. **Acceptance of Dedication and Maintenance of Improvements.** The dedication of public spaces, parks, rights-of-way, easements, or required improvements shall not constitute an acceptance of the dedication by the County. The acceptance of the dedication shall be indicated by a resolution adopted by the Board of County Commissioners indicating that the applicant has attested that all required improvements meet or exceed the standards established by this Division. Such resolution shall be prepared by the Development Services Director after all of the procedures and requirements for preliminary acceptance of the required improvements have been met to the satisfaction of the Development Services Director.
3. **Completion Certificate, Record Improvement Plans and Supportive Documents.** The required improvements shall not be considered complete until a statement of substantial completion by the applicant's professional engineer of record along with the final development records have been furnished to, reviewed and approved by the Development Services Director for compliance with this Division. The applicant's professional engineer of record shall also furnish one (1) set of record improvement plans on a mylar or similar acceptable material, with a minimum of two (2) mil thickness, and two (2) sets of certified prints acceptable to the Development Services Director, showing the original design in comparison to the actual finished work. The mylars shall be labeled as record drawings on each sheet prior to printing of the required sets of prints. In addition, a copy of applicable measurements, tests and reports made on the work and material during the progress of the construction must be furnished. The record construction data shall be certified by the applicant's professional engineer and professional land surveyor and shall include but not be limited to the following items which have been obtained through surveys performed on the completed required improvements:
 - a. Roadway centerline elevations at all intersections and at a minimum at all points of vertical intersection (PVI) along the roadway.
 - b. Invert and inlet elevations of all water management structures, including catchbasins, all junction boxes, headwalls, inlets, and the like.
 - c. All record drawing data for water and sewer facilities pursuant to the provisions of Collier County Ordinance No. 88-76, as amended.
 - d. Centerline inverts on all open swales at high and low points and at one hundred foot (100') stations along centerline.

- e. The following data shall be submitted in report form for the acceptance of streets, roadways, alleys or the like for maintenance purposes:

- (1) Name of subdivision, block, plat book and page of recording.
- (2) Name of each street proposed to be accepted for maintenance purposes.
- (3) The beginning and ending point for each street proposed to be accepted.
- (4) The centerline length of for each street proposed to be accepted
- (5) The number of lanes for each street proposed to be accepted.

3.2.6.5.4 Recordation of Final Subdivision Plat Required. If the final subdivision plat has not been previously recorded in conformance with the required review and approval process established in this Division, the original approved final subdivision plat, with all required signatures, other than those from Collier County, shall be submitted for recordation at the time of preliminary acceptance of required improvements.

3.2.6.5.5 Inspections. Preliminary and final inspections of all required improvements satisfactory to the County shall be required. Preliminary inspection of the completed required improvements shall be required prior to any conveyance to or acceptance by the Board of County Commissioners of any required improvements and the granting of preliminary acceptance. During preliminary inspection, the required improvements will be checked for compliance with the approved improvement plans. In addition, revisions or deviations from the approved improvement plans shall be identified and explained in writing by the applicant's professional engineer of record. All required improvements shall be in full compliance with the approved improvement plans and record improvement plans prior to submission to the Board.

The final inspection shall be conducted no earlier than one (1) year after preliminary acceptance of the required improvements by the Board. During final inspection the required improvements will be examined for any defect in materials and workmanship and for physical and operational compliance with the record improvement plans. See Sec. 3.2.6.5.7 regarding the procedure required to obtain final acceptance of the required improvements.

3.2.6.5.6 Preliminary Acceptance. Upon satisfactory completion of the required improvements, as evidenced by the compliance with Secs. 3.2.6.5.1 through 3.2.6.5.5, the Development Services Director, shall, if in agreement, certify that the applicant has complied with all of the provisions of this Division. Upon such recommendation from the Development Services Director, the Board of County Commissioners by resolution shall preliminarily accept the required improvements, acknowledge the dedications of the final subdivision plat, establish the responsibilities for maintenance of the completed improvements through the execution with the applicant of a maintenance agreement and the posting of a subdivision performance security for maintenance of required improvements in an amount equal to ten percent (10%) of the sum of the construction costs for all on-site and off-site required improvements based on the applicant's engineer's opinion of probable construction costs or contract bid price and grant preliminary acceptance of the completed required improvements. The date of this action shall designate the commencement of

the required maintenance period pursuant to Sec. 3.2.6.5.3. Until preliminary acceptance is granted, Final Certificates of Occupancy shall not be issued by the Development Services Director.

3.2.6.5.7 Final Acceptance. Upon expiration of the minimum one (1) year maintenance period and after satisfactory completion of all final inspections, the Development Services Director shall notify the applicant in writing that final acceptance of the required improvements has been granted, notify all affected County agencies of their final maintenance responsibilities, and instruct the Clerk of the Court to return the remaining maintenance security held by the County.

3.2.6.6 Vacation and Annulment of Subdivision Plats. Vacation and annulment of a subdivision plat shall be in accordance with Sec. 177.101, Florida Statutes, as amended.

SEC. 3.2.7 PRELIMINARY SUBDIVISION PLAT.

3.2.7.1 Preliminary Subdivision Plat Submission Requirements. A preliminary subdivision plat application shall be submitted for the entire property to be subdivided in the form established by the Development Services Director and shall, at a minimum, include ten (10) copies of the preliminary subdivision plat unless otherwise specified by the Development Services Director. The preliminary subdivision plat shall be prepared by the applicant's engineer and surveyor. Land planners, landscape architects, architects, and other technical and professional persons may assist in the preparation of the preliminary subdivision plat. The preliminary subdivision plat shall be coordinated with the major utility suppliers and public facility providers applicable to the development. Provisions shall be made for placement of all utilities underground, where possible. Exceptions for overhead installations may be considered upon submission of sound justification documenting the need for such installation. The preliminary subdivision plat shall include or provide, at a minimum, the following information and materials:

3.2.7.1.1 A preliminary subdivision plat shall consist of a series of mapped information sheets on only standard size 24" x 36" sheets to include, but not be limited to, the following:

1. Cover Map Sheet;
2. Boundary and Topographic Survey;
3. Preliminary Subdivision Plat with right-of-way and lot configurations ;
4. Natural Features and Vegetative Cover Map;
5. Master Utilities and Water Management (Drainage) Plans;
6. Aerial Map;
7. Standard right-of-way cross-sections and appropriate design details.

The above mapped information may be combined on one or more maps if determined appropriate by the Development Services Director.

- 3.2.7.1.2 Name of subdivision or identifying title which shall not duplicate or closely approximate the name of any other subdivision in the incorporated or unincorporated area of Collier County.
- 3.2.7.1.3 A vicinity plan showing the location of the tract in reference to other areas of the County.
- 3.2.7.1.4 North arrow, graphic scale and date.
- 3.2.7.1.5 Name, address and telephone number of the developer, along with the name and address of the registered engineer and registered surveyor responsible for the plat and supporting data.
- 3.2.7.1.6 The location and names of adjacent subdivisions, if any, and plat book and page reference.
- 3.2.7.1.7 The tract boundary with bearings and distances along with written description and location relative to section corners.
- 3.2.7.1.8 Topographical conditions on the tract including all the existing watercourses, drainage ditches and bodies of water, marshes, wetlands, possible archaeological sites and other significant features.
- 3.2.7.1.9 All existing streets and alleys of record on or adjacent to the tract including name, right-of-way width, street or pavement width and established centerline elevation. Existing streets shall be dimensioned to the tract boundary.
- 3.2.7.1.10 All existing property lines, easements and rights-of-way of record, their purpose, and their effect on the property to be subdivided.
- 3.2.7.1.11 The location and width of all proposed streets, alleys, rights-of-way, easements and their purpose along with the proposed layout of the lots and blocks. Proposed street names shall be identified on all public or private thoroughfares. Typical right-of-way and pavement cross-sections shall be graphically illustrated on the preliminary subdivision plat, showing the location of sidewalks, bike paths and utilities.
- 3.2.7.1.12 The incorporation and compatible development of present and future streets as shown on the Transportation Element of the Collier County Growth Management Plan, when such present or future streets are affected by the proposed subdivision.
- 3.2.7.1.13 Access points to collector and arterial streets showing their compliance to the access requirements established by this Division or a zoning action previously approved by the Board of County Commissioners.
- 3.2.7.1.14 Ground elevations based on the NGVD. However, information pursuant to Sec. 3.2.7.1.8 may suffice for this information requirement where spot elevations have been provided in sufficient number and distribution on a boundary survey map.
- 3.2.7.1.15 All existing drainage district facilities and their ultimate right-of-way requirements as they affect the property to be subdivided.

- 3.2.7.1.16 Generalized statement of subsurface conditions on the property, location and results of tests made to ascertain subsurface soil conditions and ground water depth.
- 3.2.7.1.17 Zoning classification of the tract and all contiguous properties, and, if applicable, a reference to the planned unit development or zoning ordinance, by project name and ordinance number, shall be shown.
- 3.2.7.1.18 Utilities such as telephone, power, water, sewer, gas, and the like, on or adjacent to the tract including existing or proposed water and sewage treatment plants. The preliminary subdivision plat shall contain a statement that all utility services shall be available and have been coordinated with all required utilities. Evidence of such utility availability shall be provided in writing from each utility proposed to service the subdivision.
- 3.2.7.1.19 Sites proposed for parks, recreational areas, and school sites or the like in accordance with any existing ordinances requiring such a dedication.
- 3.2.7.1.20 Typical lot configurations shall be illustrated and the minimum area of the lots required by the approved zoning classification shall be referenced by note. Lot areas and lot dimensions may be shown on a legend as opposed to notation on each lot.
- 3.2.7.1.21 An environmental impact statement pursuant to the appropriate section of this Code, except that the applicant may request an administrative waiver of this provision where it is apparent that no environmental degradation will result from the development of the land or where a prior environmental impact assessment was prepared for the same area of land within five (5) years from the date of submission of the preliminary subdivision plat.
- 3.2.7.1.22 Locations of all wetlands, archaeological sites, endangered or threatened species, on the parcel. The following Natural Feature Map shall be provided, as required, based on the nature of the property in question:
- 3.2.7.1.22.1 A map of all wetland area locations as delineated by all agencies having jurisdiction over such wetlands;
- 3.2.7.1.22.2 A map of all archaeological site locations as delineated by a professional archaeologist, a regulatory agency or a state-recognized archaeological group
- 3.2.7.1.22.3 A map of all locations of other natural features as required by Development Services Director or any other regulatory agency having jurisdiction over such features.
- 3.2.7.1.22.4 A map of all locations of colonies, burrows and nest trees of all endangered, threatened, or species of special concern. Such map shall be based upon delineation criteria of the appropriate governmental or regulatory agencies for such species.
- 3.2.7.1.23 The location of buffered areas required by Subsection 3.2.8.3.4 shall be illustrated and dimensioned if appropriate at this time.

- 3.2.7.1.24 A subdivision that generates one thousand (1,000) ADT (Average Daily Trips) or one hundred and fifty (150) vehicles per hour, peak hour/peak season shall submit a traffic impact analysis. The traffic impact analysis shall be prepared by an engineer and shall be used to determine the number of lanes and capacity of the street system proposed or affected by the development, based on ultimate permitted development.
- 3.2.7.1.25 A master water management plan outlining the existing and proposed surface water courses and their principal tributary drainage facilities needed for proper drainage, water management and development of the subdivision. The master water management plan for projects that are 40 acres or less shall consist of a plan and report with preliminary design calculations indicating the method of drainage, existing water elevations, recurring high water elevations, the proposed design water elevations, drainage structures, canals, ditches, delineated wetlands, and any other pertinent information pertaining to the control of storm and ground water. For projects that are greater than 40 acres, a South Florida Water Management District Conceptual Permit submittal or Staff Report with plan, or above equivalent, shall be required. The master water management plan and data submitted shall be consistent with the "Content of Application" submissions required by the South Florida Water Management District (See Rule 40E, F.A.C., as amended). In cases where modifications or improvements are not planned for existing major water courses and their principal tributary drainage facilities, this requirement may be accomplished by so indicating on the preliminary subdivision plat.
- 3.2.7.2 Conditions. The Development Services Director has the authority to approve requests for substitutions to the design standards contained in Sec. 3.2.8.4 provided those requests are based on generally accepted, sound and safe, professional engineering principles and practices. Requests for substitutions shall be made in writing and shall provide clear and convincing documentation and citations to professional engineering studies, reports or other generally accepted professional engineering sources to substantiate the substitution requested.
- 3.2.7.3 Effect and Limitation of Approval of Preliminary Subdivision Plat.
- 3.2.7.3.1 Pre-Condition for Improvement Plans and Final Subdivision Plat. Only after approval of the preliminary subdivision plat shall the applicant be entitled to submit to the County the improvement plans and final subdivision plat as required by this Division. No improvement plans or final subdivision plat shall be accepted for review unless the preliminary subdivision plat has been approved and remains valid and in effect.
- 3.2.7.3.2 No Vested Rights. It is hereby expressly declared that the intent of this Division is to create no vested rights in the applicant or owner of property which obtains approval of a preliminary subdivision plat, and the County shall not be estopped to subsequently deny approval of the improvement plans and final subdivision plat based on changes in federal, state or local laws or regulations, or upon any other facts or circumstances subsequently arising or considered which would adversely affect the feasibility or desirability of the preliminary subdivision plat, nor shall the County be estopped to deny any rezoning in which a preliminary subdivision plat is submitted in support of such rezoning.
- 3.2.7.3.3 Time Limitations. Refer to the provisions of Sec. 3.2.6.3.

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- 3.2.7.3.4 **Relationship to Site Development Plans.** Anything contained elsewhere in this Code to the contrary notwithstanding, no major final or minor site development plan shall be accepted for review prior to preliminary subdivision plat approval, except where no preliminary subdivision plat is required under a minor subdivision. Further, no final site development plan (whether minor or final) shall be approved prior to recordation of the final subdivision plat.
- 3.2.7.3.5 **Relationship to Zoning and Planned Unit Developments.** Anything contained elsewhere in this Code to the contrary notwithstanding, no preliminary subdivision plat shall be approved prior to final approval of the zoning or planned unit development for the proposed subdivision; provided, however, the zoning or planned unit development application and the preliminary subdivision plat may be processed concurrently at the written request of the applicant to the Development Services Director. No improvement plans or final subdivision plat shall be accepted for review prior to final approval of the zoning or planned unit development for the proposed subdivision and approval of the preliminary subdivision plat.
- 3.2.7.3.6 **Approval of Improvement Plans and Final Subdivision Plat Required Prior to Development.** Anything contained elsewhere in this Code to the contrary notwithstanding, no development shall be allowed pursuant to a preliminary subdivision plat prior to the approval of improvement plans and final subdivision plat submitted for the same without the written approval of the Development Services Director.
- 3.2.7.4 **Integrated Phased Developments.** A preliminary subdivision plat application shall be submitted in accordance with Sec. 3.2.7 for any integrated phased development, unless the Integrated Phased Development is within an area which has been previously approved as part of a preliminary subdivision plat and the final subdivision plat thereof has been recorded. Any individual phase of an integrated phased development shall be reviewed in accordance with Sec. 3.2.4.4.
- SEC. 3.2.8 **IMPROVEMENT PLANS.**
- 3.2.8.1 **General Requirements.** Improvement Plans for all of the improvements required by this Division shall be prepared, signed, and sealed by the applicant's professional engineer. A minimum of five (5) sets of improvement plans shall be submitted to the Development Services Director and shall include, but not be limited to, construction drawings, written technical specifications, the professional engineer's opinion of probable cost to construct the required improvements, design computations, all necessary supportive documentation, and any other information set forth in this Sec. 3.2.8. The improvement plans and other required submissions shall be so complete that from them a thorough review and analysis may be made. The improvement plans shall be transmitted under one cover for the following improvements, where applicable:
- 3.2.8.1.1 Streets, paving, grading, and water management (drainage);
- 3.2.8.1.2 Bridges;
- 3.2.8.1.3 Water and sewerage systems, including, where applicable, water reuse/irrigation pumping, storage and transmission/distribution systems;

- 3.2.8.1.4 Street lighting, landscaping within public rights-of-way, parks, recreational areas and parking areas. Plans for street lights shall bear the approval of the requisite utility authorities involved. If the street lighting system is to be privately owned and maintained by a property owners association or similar entity, it shall be designed by the applicant's engineer.
- 3.2.8.2 **Improvement Plans Submission Requirements.** The improvement plans shall be prepared on 24" x 36" sheets and shall, at a minimum include, but not be limited to:
- 3.2.8.2.1 A cover sheet, including a location plan.
- 3.2.8.2.2 Improvement plans, design reports and specifications detailing/showing complete configurations of all required improvements including, but not limited to, all water, sewer, roads, water management systems, and all appurtenant facilities, public or private. The complete calculations used to design these facilities shall be included with the improvement plans. If the development is intended to be in phases, each phase boundary shall be clearly delineated.
- 3.2.8.2.3 A detailed water management plan in accordance with the master water management plan approved in the preliminary subdivision plat showing the complete water management system including, but not limited to, closed drainage areas, design high water, recurring high water, acreage, and the compatibility of drainage of surface waters into adjacent or larger water management systems. The complete calculations used to design the system shall be provided for projects 40 acres or less. For projects greater than 40 acres the Applicant shall initially provide with the submission the SFWMD Construction Permit Submittal. Prior to approval the applicant shall provide the staff report and early work permit or construction permit.
- 3.2.8.2.4 Typical design sections (e.g., roadway cross-sections) and summary of quantities and sizes of required improvements.
- 3.2.8.2.5 Construction details showing compliance with applicable federal, state and local standards.
- 3.2.8.2.6 Plan and profile sheets, showing roads, water, sewer, conflict crossings, drainage and other unique situations.
- 3.2.8.2.7 A clearing plan for those areas where improvements are to be constructed, with a maximum limit of ten feet (10') beyond any approved rights-of-way line or five feet (5') beyond any easement line, unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2.
- 3.2.8.2.8 Bench mark, based on NOAA datum (N.G.V.D.).
- 3.2.8.2.9 Soil analysis, showing the locations and results of test borings of the subsurface condition of the tract to be developed.
- 3.2.8.2.10 The improvement plans and attachments shall address special conditions pertaining to the subdivision in note form on the improvement plans, including statements indicating:
- 3.2.8.2.10.1 Required compliance with special conditions of this Division.

- 3.2.8.2.10.2 Where applicable, required compliance with federal, state and local standards as currently adopted.
- 3.2.8.2.10.3 Source of water and sewer service.
- 3.2.8.2.10.4 Required installation of subsurface construction such as water lines, sewer lines, public utilities and storm drainage prior to compaction of subgrade and roadway construction.
- 3.2.8.2.11 Detailed written technical specifications for all improvements required shall be submitted in a separate bound document, signed, and sealed by applicant's professional engineer.
- 3.2.8.2.12 All development orders, development permits and construction permits (i.e., development orders or permits issued by local, state or federal agencies) which require approval or signature by a County official, with the appropriate number of copies, shall be submitted with the improvement plans.
- 3.2.8.2.13 Detailed hydraulic design calculations utilized to design the water and sewer facilities regulated by the County and water management facilities for the subdivision or development.
- 3.2.8.2.14 The final subdivision plat, prepared in conformance with the approved preliminary subdivision plat and the final subdivision plat requirements contained in Sec. 3.2.9, pursuant to the provisions of Sec. 3.2.6.3.2.
- 3.2.8.2.15 Status of all other required permits including copies of information and data submitted to the appropriate permitting agencies.
- 3.2.8.2.16 Factual information and data relating to previous zoning actions affecting the project site.
- 3.2.8.2.17 A soil erosion and sediment control plan pursuant to Div. 3.7.
- 3.2.8.3 **Required Improvements.** The following improvements in this Sec. 3.2.8.3 are required in conjunction with the subdivision and development of any and all property pursuant to Div. 3.3 within the unincorporated areas of Collier County. The required improvements shall be completed prior to recordation of the final subdivision plat unless the applicant shall file with the County a subdivision performance security in one of the forms prescribed in this Division to assure the installation of the required improvements. Any required improvements shall be designed and constructed in accordance with the design requirements and specifications of the entity having responsibility for approval, including all federal, state, and local agencies. Where approval of a final subdivision plat and improvement plans will lead to the level of service for any public facility being reduced below the level established by the Growth Management Plan for Collier County, the County shall deny approval to proceed with development until the requirements of the Collier County Adequate Public Facilities Ordinance or its successor in function are met.
- 3.2.8.3.1 **Access to Public Roads.** The street system of a subdivision approved pursuant to this Division shall be connected to a public road, which is state or county maintained, with adequate capacity as defined by the Growth Management Plan to accept the traffic volumes generated by the proposed development. Proposed developments accessing public roads shall be subject to the requirements of the Collier County Adequate Public Facilities Ordinance. The connection of any

property to a public or private road shall be carried out in conformance with Collier County Ordinance No. 82-91, as amended.

- 3.2.8.3.2 **Alleys.** Alleys may be provided in industrial and commercial subdivisions when they are determined necessary because of prior contiguous development. Otherwise, the provision of alleys is optional. Alleys shall be for one-way traffic only and shall have the appropriate directional and instruction signage installed. Alleys shall only be utilized for traffic circulation flow to or from any property to be developed for deliveries, solid waste collection, employee parking and the like.
- 3.2.8.3.3 **Bridges and Culverts.** Where a subdivision or development includes or requires access across canals, water courses, lakes, streams, waterways, channels, or the like, bridges or culverts shall be provided to implement the proposed street system. The bridge or culvert design shall be prepared by a professional engineer.
- 3.2.8.3.4 **Buffer Areas.** Subdivisions or developments shall be buffered for the protection of property owners from surrounding land uses as required per Division 2.4, which shall be shown and designated on the plat as a tract or easement. All landscape buffer areas shall be required, designed and constructed in compliance with Div. 2.4. These landscape buffer areas shall not be located on any public or private right-of-way. The ability to locate buffers within a platted or recorded easement shall be determined pursuant to the provisions of Division 2.4. Buffers adjacent to protected/preserve areas shall conform to the requirements established by the agency requiring such buffer. If acceptable to the initiating agency, such buffers may be included within the boundaries of development parcels or lots, which shall be shown and designated on the plat as a tract or easement.
- 3.2.8.3.5 **Canals.** Any canal which forms a part of the public water management system shall be dedicated for care and maintenance per the requirements of the governmental agency which has jurisdiction. Canals located entirely within the subdivision and which do not form a part of the public water management system shall be dedicated to the public, without the responsibility for maintenance, as a drainage easement. A maintenance easement, of a size acceptable to the Development Services Director or other Governmental agency with maintenance responsibility, shall be provided adjacent to the established drainage easement, or the drainage easement created must be of a size suitable for the proposed canal and its maintenance.
- 3.2.8.3.6 **Clearing, Grading and Filling.** A site clearing plan shall be submitted to the Development Services Director for review and approval prior to any clearing, grading or filling on the property. This plan may be submitted in phases to coincide with the development schedule. The site clearing plan shall clearly depict how the improvement plans incorporate and retain native vegetation.
- 3.2.8.3.7 **Drainage (Water Management).** An adequate water management system, including necessary open swales, ditches, storm sewers, drain inlets, manholes, headwalls, endwalls, culverts, bridges, retention basins, water level control structures and other appurtenances shall be required in all subdivisions or developments for the management of surface water and groundwater. The water management system shall provide for stormwaters affecting the subdivision or development and shall be in compliance with applicable federal, state and local design regulations and specifications.

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- 3.2.8.3.8 **Easements.** If applicable, easements shall be provided along lot lines or along the alignment of the improvements requiring easements in accordance with all design requirements so as to provide for proper access to, and construction and maintenance of, the improvements. All such easements shall be properly identified on the preliminary subdivision plat and dedicated on the final subdivision plat.
- 3.2.8.3.9 **Elevation, Land Filling, Excavation and Demolition.** The elevation of all building sites and public or private roadways included within a subdivision or development for which a use other than conservation or recreation is proposed shall be not less than five and one-half feet (5½') NGVD when completed, or to such minimum elevations above the established NGVD datum as adopted by the Board of County Commissioners, FEMA/FIRM, or the South Florida Water Management District. All lawful regulations with reference to bulkhead lines, salt barrier lines, and other appropriate regulations regarding land filling, conservation, excavations, demolition, and related regulations shall be observed during the construction of any improvements within Collier County.
- 3.2.8.3.10 **Fire Hydrants.** Fire hydrants shall be provided at no cost to the County in all subdivisions and developments. In all cases, fire hydrants shall be provided and spaced in the manner prescribed by the design requirements of this Division.
- 3.2.8.3.11 **Monuments and Control Points.** Permanent monuments and control points shall be set as prescribed by Chapter 177, Florida Statutes, as amended. Details pertaining to their type and location shall be in full compliance with the provisions set forth by these regulations and those prescribed by Chapter 177, Florida Statutes, as amended.
- 3.2.8.3.12 **Parks, Protected Areas, Preservation Areas, Conservation Areas, Recreational Areas, and School Sites.**
1. **Parks, Protected Areas, Preservation Areas, Conservation Areas.** Parks, protected areas, preservation areas and conservation areas shall be dedicated and/or conveyed in accordance with applicable mandatory dedication requirements and regulations of federal, state and local agencies.
 2. **Recreational Areas.** Recreational areas shall be dedicated and/or conveyed in accordance with applicable mandatory dedication and/or conveyance requirements and regulations of federal, state and local agencies.
 3. **School Sites.** School sites shall be dedicated and/or conveyed in accordance with applicable mandatory dedication and/or conveyance requirements and regulations of federal, state and local agencies.
- 3.2.8.3.13 **Plantings, Trees, and Grass.** All rights-of-way and easements for streets, avenues, roads, drives, and the like shall be planted with trees, grass or other suitable vegetation on both sides in accordance with the specifications, limitations, procedures, types and intervals set forth in the appropriate County regulations and requirements, including but not limited to Div. 2.4 and the Right-of-Way Construction Handbook, Collier County Ordinance No. 82-91, as amended. All unpaved areas within rights-of-way shall be stabilized by seed or sodding of cultivated grass

species suitable to the area. The sodding of a one foot (1') wide strip along the back of curb or edge of pavement shall be mandatory for all roadway construction. The flowline of all swale sections approved for use by the Development Services Director shall also be sodded as required for erosion control.

3.2.8.3.14

Polling Places. Any residential development or subdivision which will have a clubhouse, community recreation/public building/public room or similar common facility, shall not refuse to allow such facility to be utilized as a polling place for County, State, City and/or Federal elections on the day of said election. Said facility shall be restricted to voting only and shall not include ballot tabulation or the announcement of vote totals. Duly qualified electors who are non-residents of the development shall be allowed entrance to a "residents only" development for voting purposes only.

This commitment shall be guaranteed through an agreement recorded in the official records of the Clerk of the Circuit Court of Collier County, which shall be binding upon any and all successors in interest that acquire ownership of such common areas including, but not limited to, condominium associations, homeowners associations, or tenants associations. This agreement shall provide for said clubhouse, community recreation/public building/public room or similar common facility to be used for a polling place if determined to be necessary by the Supervisor of Elections.

The Supervisor of Elections shall be responsible for arranging use of said clubhouse, community recreation/public building/public room or other common facility for a polling place with the entity who controls said common facility prior to the election.

3.2.8.3.15

Sanitary Sewer System. A complete sewage collection and transmission system and interim sewage treatment and disposal facilities, if required, shall be provided by the applicant, for all subdivisions and other types of development. All facilities shall be designed in accordance with federal, state and local requirements. When required, the sewage collection and transmission facilities shall be conveyed to Collier County, or the Collier County Water-Sewer District or other dependent district where appropriate, upon completion of construction pursuant to County Ordinance 88-76, as amended.

If County central sewer facilities are not available to connect with, the sewage collection and transmission facilities conveyed to the County shall be leased to the applicant of the interim sewage treatment facilities, with operation and maintenance responsibilities, until the County's central sewer facilities are available for connections. All sewer facilities shall be maintained and operated at no cost to the County, in a manner equal to the operation and maintenance standards for sewage collection and transmission facilities and sewage treatment facilities maintained by Collier County or the Collier County Water-Sewer District, until connection to the County's central facilities is made. Any interim sewage treatment facilities owned, operated and maintained by the applicant, or their successors and assigns, shall be abandoned in accordance with an agreement entered into between the County or the Collier County Water-Sewer District and the applicant prior to the approval of improvement plans pursuant to this Division and to the requirements of Collier County Ordinance 88-76, as amended.

In the event individual sewage facilities designed in accordance with Chapter 10D-6, F.A.C., i.e. septic systems, are allowed under required state and local regulations on an interim basis, the

Developer shall construct a "dry" sewage collection and transmission system for future connection to the County's central sewer facilities, when available to serve the subdivision or development. Any such "dry" sewer facilities shall be designed and constructed in accordance with the requirements of the County Ordinance 88-76, as amended. Operation and maintenance responsibilities for the "dry" facilities shall be specified pursuant to a lease agreement with Collier County or where applicable the Collier County Water-Sewer District. When County central sewer facilities are available to connect the "dry" system, connection shall be completed within 90 days from approval of improvement plans for those facilities by the County Utilities Division. The terms and conditions controlling the connection shall be contained in an agreement between Collier County, or the Collier County Water-Sewer District where appropriate, and the applicant which must be entered into prior to the approval of the improvement plans. Upon connection to the County's central sewer facilities, all individual sewage systems shall be abandoned in the manner required by federal, state and local regulations.

Onsite sewage disposal systems may be utilized if permitted by the Collier County Growth Management Plan and where the conditions of FAC 10D-6 can be satisfied. In the event the lots are sized such that 10D-6 does not require central sewer or water, or if the lots are sized such that only central water and no sewer is required, construction of a "dry system" will not be required unless Collier County can confirm future service within 5 years.

All sewage collection and transmission systems, and treatment and disposal facilities shall be designed by the applicant's engineer.

3.2.8.3.16

Shoreline and Waterway Alterations and Additions. All requests for the construction of seawalls, bulkheads, shoreline and waterway alterations and additions shall be submitted to the Development Services Director. After review by the Development Services Director the proposed facility or alteration shall be approved, approved with conditions or denied. The use of vertical seawalls as a method of protecting shorelines and lands adjacent to waterways shall be discouraged except for development lakes, and applicants shall be encouraged to utilize alternate methods of accomplishing shoreline protection and waterway facilities installation. Whenever possible, all proposed construction of seawalls, bulkheads, shoreline and waterway alterations and additions shall be designed to afford the maximum protection to the environment of the area. Any state or federal permits required for construction must be submitted to the Development Services Director prior to the commencement of construction.

3.2.8.3.17

Sidewalks/Bikepaths. Sidewalks/Bikepaths shall be provided for public and private roadways in conformance with the following criteria:

1. Both sides of any street classified higher than a local street (i.e. - collector, arterial).
2. Both sides of any local street longer than one thousand feet (1000') in length or when the local street connects two local streets (or streets of a higher classification).
3. One side of all other local streets.
4. One side of any cul-de-sac longer than three hundred feet (300') in length.

5. Sidewalks shall not be required on cul-de-sacs shorter than three hundred (300) feet in length.
6. All sidewalks and bikepaths along public and private roadways shall be constructed in accordance with design specifications identified in Section 3.2.8.4.14 of this Code.
7. Alternative designs for sidewalks and bikepaths in developments with public or private roadways may be provided, subject to approval by the Development Services Director and may utilize, but not be limited to, the following analysis:
 - a. A design that matches the land use density and intensity of the development along the street or cul-de-sac.
 - b. A design that matches the expected traffic volumes on the street or cul-de-sac.
 - c. Design that does not create a safety hazard caused by vehicles parked across the sidewalk or directing pedestrians or cyclists into high traffic areas.
 - d. Design that does not encourage additional landscape area due to clearing for the installation, aesthetic softening or additional hardscape, additional softening of unnatural linear concrete strips, or similar features.
 - e. Design that matches the expected demographics of the development, including but not limited to considerations such as expected amount of school age children and active adults.
 - f. Design that matches reduced speed streets and cul-de-sacs.
 - g. Design that matches expected amount of utilization by joggers, walkers and cyclists.
 - h. Design that matches the character of the development i.e., golf course/country club community, affordable housing, private gated communities, etc.
 - i. Criteria pursuant to the provisions of Section 3.2.7.2.
8. Developments fronting on existing roads shall be required to provide its fair share portion of the cost of the sidewalks/bikepaths along the frontage of the development in conformance with the County's Bikeways Program. Developments that provide an internal bike path system which connects with existing public bicycle paths may be exempt from this requirement by the County's Transportation Services Division if the alternative system functionally operates equal to the standards of the County's bikeways, interconnects with the existing or proposed County bikeway system and will be perpetually open to the public.
9. Eight foot wide bicycle paths may be provided in lieu of a sidewalk, if not located within the right-of-way clear zone required in the traffic safety guidelines established by FDOT.

10. All residential projects having public or private roadways located within a one and one half (1.5) mile radius from the center of an activity center comprised of commercial, office, service or recreational activity shall provide its fair share portional cost of the sidewalks and bikepaths from the development to the activity center in conformance with the County's Bikeways Program, subject to approval by the Collier County Transportation Services Department.
11. Developments providing interconnections to existing and future developments pursuant to the Density Rating System Section of the Collier County Growth Management Plan's Future Land Use Element, shall include sufficient right-of-way to accommodate the roadway, sidewalks and/or bikepaths. Bike paths and sidewalks shall be constructed concurrently with the roadway interconnection.

3.2.8.3.18

Streets and Access Improvements.

1. All subdivision streets, access improvements and related facilities, whether public or private, required to serve the proposed development shall be constructed by the applicant. The design and construction of all subdivision streets, access improvements and related facilities shall be in conformance with the design requirements, regulations and standards established in this Division and shall include but not be limited to the pavement structure, drainage, sidewalks and traffic control/safety devices.
2. The arrangement, character and location of all streets shall conform to the Collier County Growth Management Plan and shall be considered in their relation to existing and proposed streets, topographical conditions, public convenience, safety and in their appropriate relation to the proposed uses of the land to be served by such streets.
 - a. Rural type roadway cross-sections shall only be considered for permitting on a case by case basis. The design of a rural cross-section and its required right-of-way width shall be based on the drainage characteristics of the required swale section and the relationship of the maximum stormwater flow line to the bottom of the subbase course of the roadway. A detailed design report documenting these considerations shall be submitted for review and approval by the Development Services Director prior to the approval of a rural roadway cross-sections.
 - b. All existing and future public and private rights-of-way that are designed parallel to each other or to the boundary of a subdivision or development, with no building lots separating them from other rights-of-way or the project boundary, shall be separated by a landscape buffer, pursuant to Div. 2.4. The buffer area in these cases shall be separately designated on the final subdivision plat as a tract or easement and shall be dedicated on the final subdivision plat cover sheet to the appropriate property owners association or like entity for operation, maintenance and upkeep purposes.
 - c. All public and private streets requiring a design capacity which exceeds the roadway cross-sections established herein for a minor collector shall be

coordinated by the Development Services Director with and reviewed and approved by the Transportation Services Division prior to the approval of the project's improvement plans and final subdivision plat by the Development Services Director.

3. As applicable, the installation of turn lanes, storage lanes, deceleration lanes, parallel service lanes or any other traffic control improvements necessary to provide safe internal movements or ingress and egress from the subdivision or development to any existing or proposed street or highway shall be required.
 - a. If applicable, review and written approval by the Florida Department of Transportation of the subdivision or development traffic systems for ingress or egress to state maintained roads shall be necessary prior to approval of any final subdivision plat and improvement plans by the Development Services Director.

3.2.8.3.19 Street Names, Markers and Traffic Control Devices. Street name markers and traffic control devices shall be provided by the developer at intersections and locations designated by the Development Services Director for all affected streets, whether the streets are existing or proposed. Such markers and traffic control devices shall be installed and constructed by the applicant to the applicant's engineer's specifications approved by the Development Services Director for private streets or in conformance with standards and recommendations set forth in the latest edition of the U.S.D.O.T.F.H.W.A. Manual on Uniform Traffic Control Devices for public streets. The Development Services Director shall accept alternative specifications on public streets signage where an acceptable maintenance agreement has been provided. . Alternate specifications for private street signage where a property owners association or other entity has maintenance responsibility shall be approved by the Development Services Director.

Proposed streets which are in alignment with other existing and named streets shall bear the same name of the existing street. All street names shall have a suffix (i.e., street, avenue, boulevard, drive, place, court, etc.) and in no case, except as indicated in the preceding sentence, shall the name of the proposed street duplicate or be phonetically similar to existing street name regardless of the use of the suffix.

All street names shall be subject to approval by the Development Services Director during the preliminary subdivision plat approval process.

Pavement painting and striping and/or appropriate reflective edge of public roadway markings shall be provided by the developer as required by the U.S.D.O.T.F.H.W.A. Manual on Uniform Traffic Control Devices. Where concrete valley gutters border the edge of pavement and for private roadways, this requirement may be waived by the Development Services Director.

3.2.8.3.20 Street Lighting. Street lights shall be designed and installed utilizing the guidelines of the IES standards for each street intersection, at required intervals along each street not to exceed 400 feet (400') and at the end of each cul-de-sac, and may be required at intervals along each street. Such lights may be required on interior streets, alleys, boundary streets, access paths, and the like.

Wherever, in the opinion of the Development Services Director, based on an engineer's determination, a dangerous condition is created by sharp curves, irregularities in street alignment, or other similar circumstances, additional lights may be required. Street lights and mounting poles shall be wired for underground service. All conduits and casing to be placed under the roadway required for the lights must be installed during each construction phase prior to roadway subbase completion. Street lights shall be designed and installed in either of two (2) ways:

1. Where street lights are to be installed on private streets, the developer, through an electrical engineer registered in the State of Florida, shall design and install the street lighting system subject to the approval of the Development Services Director. Upon completion of the street light, they shall be owned, operated and maintained by the property owners' association, a condominium association, cooperative association, or other similar entity, or the public utility furnishing the electric service.
2. Where the street lights are to be installed on public streets, the developer may elect to initiate a municipal services benefit or taxing unit in coordination with the County Transportation Services Division in order to provide street lighting. If the municipal services benefit or taxing unit is approved by the Board of County Commissioners, the Transportation Services Director shall authorize the public utility to design, install, and maintain the street lighting system at no cost to the County's general fund. If no benefit or taxing unit is created for public streets, the provision of Sec. 3.2.8.3.20.1 above shall govern the design, construction and maintenance of street lights.

3.2.8.3.21 Traffic Signals. Traffic signals shall be provided by the developer when one (1) or more traffic warrants as specified in the Manual on Uniform Traffic Control Devices are satisfied, and an engineering study indicates signalization is justified at any arterial, major collector, or minor collector street intersections within the subdivision or development or where the additional traffic flow results from the proposed subdivision or development.

If more than one development or subdivision is involved, each shall be required to make a pro rata contribution for the installation cost of the traffic signals.

The cost of all required traffic signals shall be included in the amount of subdivision performance security furnished for the required improvements.

3.2.8.3.22 Trees and Shrubs. On a corner lot, no fence, wall, hedge, planting, or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of three (3) feet to eight (8) feet above the centerline grades of the intersecting streets in the area bounded by the street lines (edge of pavement) of such corner lots and a line joining points along said street lines forty feet (40') from the point of intersection. Parking shall also be prohibited in this area. However, trees shall be permitted, so long as the foliage is cut away and maintained within the three (3) foot and eight (8) foot clearance requirement. Posts for illuminating fixtures, traffic control, and street name signs shall also be permitted, so long as the sign or equipment is not within the prescribed clear space.

The developer shall comply with all of the provisions of the applicable landscape requirements and Div. 2.4 at the time of subdivision or development approval or when applicable.

3.2.8.3.23 Utilities. Utilities, including franchised utilities, power and light, telephone, water, sewer, cable television, wiring to street lights, gas, and the like shall be in conformance with the design requirements of Sec. 3.2.8.4.

3.2.8.3.24 Utility Casings. Subdivisions or developments providing water services shall install no less than three (3") inch conduits to each alternate lot on the opposite side of the street from the main distribution line for each street prior to the completion of roadway construction or as required by applicable utility. Additionally, all casings for irrigation facilities, street lighting and other utility services such as electric, telephone, cable television, and the like shall be placed under all proposed streets prior to the completion of the stabilized subgrade.

3.2.8.3.25 Water System, Central. A complete water distribution and transmission system, and interim water treatment or interim water treatment and supply facilities, if required, shall be provided or employed by the applicant, at no cost to Collier County, for all subdivisions and developments. All facilities shall be constructed in accordance with federal, state and local regulations. When required, the water distribution and transmission facilities shall be conveyed to Collier County, or the Collier County Water-Sewer District or other dependent district where appropriate, upon completion of construction pursuant to County Ordinance 88-76, as amended.

If County central water facilities are not available for connection, the water distribution and transmission facilities conveyed to the County shall be leased to the applicant of the interim water treatment facilities, with operation and maintenance responsibilities, until the County's central water facilities are available for connection. All water facilities shall be maintained and operated at no cost to the County, in a manner equal to the operation and maintenance standards for water distribution and transmission facilities and water treatment and supply facilities maintained by Collier County or the Collier County Water-Sewer District, until connection to the County's central facilities is made. Any interim water treatment facilities owned, operated and maintained by the applicant, or their assigns or successors, shall be abandoned in accordance with an agreement entered into between the County or the Collier County Water-Sewer District and the applicant prior to the approval of improvement plans pursuant to this Division and the requirements of Collier County Ordinance 88-76, as amended.

When County central water facilities become available for connection, connection shall be completed within ninety (90) days from approval of improvement plans for those facilities by the County Utilities Division. The terms and conditions controlling the connection shall be contained in an Agreement between Collier County or the Collier County Water-Sewer District, where appropriate, and the applicant which will be entered into prior to the approval of the project's improvement plans. Upon connection to the County's central water facilities, the interim water supply source shall be abandoned in the manner consistent with applicable federal, state and local standards.

All water distribution and transmission systems and treatment and supply facilities shall be designed by an engineer in accordance with all federal, state and local regulations and coordinated with the Development Services Director and the County Utilities Division.

3.2.8.4 Design Requirements. The design of the required improvements for all subdivisions and developments pursuant to Div. 3.3 within Collier County shall be in accordance with generally

accepted professional engineering principles and practices. The standards established in this Division are intended only as minimum guidelines for the design engineer and are not intended to deprive the engineer of their responsibility for the technical adequacy of his design or freedom to use his engineering judgment and discretion in the practice of his profession.

Design data, such as calculations or analyses, shall be submitted along with the subdivision and development improvement plans covering important features affecting design or construction prior to the issuance of any required County development orders, permits or approvals. Such calculations and analyses may include, but not be limited to: low and high water elevations, utility hydraulic and drainage calculations, sub-surface soil data, alternate pavement and sub-grade types and centerline elevations when the minimum standards of Florida Department of Transportation or the American Association of State Highway and Transportation Officials are inadequate, inappropriate or not applicable.

The design of all required improvements shall be equivalent to the County design requirements established in this Sec. 3.2.8.4.

3.2.8.4.1

Access. Access to lots within a subdivision shall be designed to accomplish access to the lots by use of local streets. Access to residential lots shall be in accordance with Ordinance 82-91, the County Right-of-Way Handbook, but shall be no less than thirty feet (30') from intersecting right-of-way lines on local to local street intersections; One hundred feet (100') for local to minor collector intersections; and One hundred and eighty (180') feet from intersecting right-of-way lines on all other streets of higher classifications. Local or minor collector street connections to major collector or arterial streets shall be a minimum of 660 feet apart and major collector street connections to arterial streets shall be a minimum of 1,320 feet apart. Where residential or non-residential access is desired along a major collector or arterial street, it may be provided by means of a marginal access road. The first point of access to the marginal access road from an intersection of collector streets and/or arterial streets shall be a minimum of 330 feet from intersecting right-of-way lines. Intermittent access points to the marginal access road shall be a minimum of 660 feet apart. Access points to marginal access roads shall be provided with appropriate turn lanes, signalization or other necessary traffic control measures. When double frontage lots are created adjacent to a collector or arterial street and a local street, they shall front on the local street, which shall provide access to said lot. Access to the lot shall not be provided by means of the major collector or arterial street. In such cases, the lot shall be buffered as required herein. Access management regulations as required by the Growth Management Act, when implemented, shall supersede this section where applicable.

All lots or parcels created within a subdivision, whether residential or non-residential, must have direct frontage on a public or private right-of-way. However, in the case of commercial or industrial subdivisions which contain or include parcels that are separated by common parking area or other common area, sometimes referred to as "outparcels," "anchor store parcels," or "fee simple footprint parcels," or an integrated phased development as defined in Article 6, access shall be created through an internal access provision documented on the final subdivision plat. Internal access provisions shown on the final subdivision plat shall include by way of example, but not be limited to, cross-covenants, cross-easements, dedicated access tracts, or the like, and shall clearly and specifically identify the dominant and servient estates involved, and the scope and duration of such internal access provision. This provision shall be acceptable to the Development Services

Director and the County Attorney and satisfy the zoning requirements for the zoning district in which the subdivision is located.

3.2.8.4.2

Alleys. Alleys shall be paved twenty feet (20') wide in a minimum twenty five feet (25') right-of-way for commercial and industrial use.

Alleys must have appropriate radii for the intended use, with a minimum centerline radius of forty feet (40').

Alley grades shall not exceed five percent (5%) or be less than three-tenths of a percent (0.3%). Alley intersections shall be avoided and dead-end alleys are prohibited.

All alleys created shall be owned and maintained by a property owners association or other similar entity and shall be so dedicated on the final plat.

3.2.8.4.3

Blocks. The length, width and shape of blocks shall be determined with due regard to:

1. Zoning requirements as to lot size and dimensions.
2. Need for convenient access, circulation, control and safety of vehicular and pedestrian traffic.
3. Limitations and opportunities of topography, including all natural and preserved features identified.

Block lengths shall not exceed one thousand, three hundred and twenty feet (1,320') between intersecting streets except where special topographical conditions exist. However, greater lengths may be approved by the Development Services Director pursuant to Sec. 3.2.7.2.

In blocks nine hundred feet (900') in length or over, crosswalks not less than ten feet (10') wide may be required between streets where essential to provide circulation or access to schools, playgrounds, shopping centers, and other community facilities.

3.2.8.4.4

Bridges. Bridges shall be designed in accordance with current Florida Department of Transportation practices or appropriate specifications by the applicant's structural engineer and may be required to include provisions for utility installations and sidewalks on both sides of the bridge. The bridge shall be designed by a Florida professional engineer and is subject to the approval of the Development Services Director and those other agencies having jurisdiction over the proposed facilities. Generally, bridges shall be designed as reinforced concrete, however, other low maintenance materials may be used upon request and approval, when supported by a design report prepared by the developer's professional engineer which provides particular assurance relative to the integrity of the materials to be utilized.

At a minimum, the width of all bridges shall be required to incorporate a clear roadway width equaling the travel lane width plus two feet (2') to the curb and six foot (6') sidewalks; however, variations may be considered pursuant to Sec. 3.2.7.2. Bridge width shall vary with the

classification of the roadway section to be carried. All bridge structures shall be designed for H-20 loading, incorporating adequate corrosion and erosion protection.

3.2.8.4.5 Buffers. Landscape buffers, when required by this Code, Div. 2.4, or other County regulation shall be in addition to the required right-of-way width and shall be designated as a separate buffer tract or easement on the final subdivision plat. The minimum buffer width shall be in conformance with Div. 2.4. In no case shall the required buffer be constructed to reduce cross-corner or stopping sight distances. All buffer tracts or easements shall be owned and maintained by a property owners association or other similar entity and shall be so dedicated on the final subdivision plat.

3.2.8.4.6 Canals. Any navigable canal or waterway designed as part of a development or subdivision, intended to serve two (2) or more properties, shall be designed in compliance with the requirements of the County's Water Management Master Plan and Div. 3.5, or other governmental entities with jurisdiction, where applicable. The slopes of the canal banks shall be stabilized with suitable rip-rap, native vegetation or other proven erosion control measures. .

3.2.8.4.7 Easements.

1. Utility Easements. Utility easements no less than ten feet (10') wide, unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2, shall be provided to accommodate all required utilities to, across, or along lots and, where possible, shall be centered on lot lines with convenient access for maintenance. Utility easements and drainage easements shall not be combined without prior approval of the Development Services Director; drainage easements shall take precedence and be so noted on the final subdivision plat.

All utility easements for water and sewer facilities that will be conveyed to the Collier County Water-Sewer District shall be separately identified and dedicated on the final subdivision plat as "County Utility Easement" (C.U.E.) and shall be a minimum of fifteen feet (15') wide unless otherwise approved by the Collier County Utility Division. Except when crossing other easements, such easements shall not be inconsistent with other existing utility easements, or later subjected to uses inconsistent with the use of the easement area for utility purposes unless otherwise approved by the Collier County Utility Division pursuant to the conditions in Sec. 3.2.7.2.

2. Drainage Easements. Drainage easements shall be provided to accommodate open drainage facilities at a width no less than a total of ten feet (10'). The actual size of the easement in excess of the ten foot (10') minimum shall be determined based on the hydraulic design of the flow way and the use of bank stabilization approved by the Development Services Director or minimum side slopes at a 4:1 ratio, without stabilization.

Where underground drainage structures are installed, the easement width shall be sized to accommodate construction, maintenance and replacement of said structures. In no case shall said easement be less than fifteen feet (15') in width, unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2.

When a subdivision or development includes or requires access across canals, water courses, water bodies, streams, drainage ways, channels, naturally occurring wetlands (that are to be preserved), or the like, a drainage easement and adjoining maintenance/access easement shall be provided which conforms substantially to the lines of such water courses unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2. Maintenance and access easements for the subdivision's or development's approved water management system shall be created and sized in compliance with the rules and regulations of the South Florida Water Management District, as amended. For canals or waterways maintenance/access easement shall be provided in accordance with requirements of the entity with responsibility for maintenance/access.

Drainage easements shall be created to provide for the flow of surface waters from contributory areas.

3. Protected/Preserve Area and Easements. A non-exclusive easement or tract in favor of Collier County, without any maintenance obligation, shall be provided for all "protected/preserve" areas required to be designated on the preliminary and final subdivision plats. Any buildable lot or parcel subject to or abutting a protected/preserve area required to be designated on the preliminary and final subdivision plats shall have a minimum twenty-five foot (25') setback from the boundary of such protected/preserve area in which no principle structure may be constructed. Further, the preliminary and final subdivision plats shall require that no alteration, including accessory structures, fill placement, grading, plant alteration or removal, or similar activity shall be permitted within such setback area without the prior written consent of the Development Services Director; provided, in no event shall these activities be permitted in such setback area within ten feet (10') of the protected/preserve area boundary, unless the above setbacks are accomplished through buffering pursuant to Sec. 3.2.8.3.4.

The boundaries of all required easements shall be dimensioned on the final subdivision plat. Required protected/preserve areas shall be identified as separate tracts or easements having access to them from a platted right of way. No individual residential or commercial lot or parcel lines may project into them when platted as a tract. If the protected/preserve area is determined to be jurisdictional in nature, verification must be provided which documents the approval of the boundary limits from the appropriate local, state or federal agencies having jurisdiction and when applicable pursuant to the requirements and provisions of the Growth Management Plan. All required easements or tracts for protected/preserve areas shall be dedicated and also establish the permitted uses for said easement(s) and/or tracts on the final subdivision plat to Collier County without the responsibility for maintenance and/or to a property owner's association or similar entity with maintenance responsibilities. An applicant who wishes to set aside, dedicate or grant additional protected preserve areas not otherwise required to be designated on the preliminary subdivision plat and final subdivision plats may do so by grant or dedication without being bound by the provisions of this section.

3.2.8.4.8

Fire Hydrants. All hydrants shall be connected to water systems having sufficient storage or emergency pumping facilities to provide for the minimum fire flows to be maintained for at least

four (4) hours or the current recommendation of the National Fire Underwriters, whichever is greater. Hydrants shall be placed on common lot lines within the approved right of way unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2.

Hydrants shall be installed and placed in a manner complying with the requirements set forth in the latest edition of N.F.P.A. No. 24 entitled "Standard for the Installation of Private Fire Service Mains and Their Appurtenances", published by the National Fire Protection Association. Hydrants to be installed within subdivided lots for fire protection purposes shall be evaluated during the site development plan review process as required in Division 3.3. Those installations shall be in compliance with the standards set forth in the latest edition of N.F.P.A. 1141 entitled "Standard for Fire Protection in Planned Building Grounds."

1. **Residential Land Development.** In one and two story land developments with not more than ten (10) dwelling units per acre, fire hydrants shall be spaced not greater than five hundred (500') feet apart and not more than two hundred fifty (250') feet from the center of any lot in the subdivision and shall be connected to mains no less than six (6") inches in diameter. The system shall provide capacity for fire flows of at least five hundred (500) gallons per minute or greater, as required, in addition to maximum day domestic requirements at residual pressures of not less than twenty (20) pounds per square inch unless otherwise required by the applicable fire code.
2. **Commercial, Industrial, Multi-Story & Multi-Family Developments.** Fire hydrants located in these areas shall be connected to water mains no less than eight inches (8") in diameter. In no case shall the spacing of hydrants be greater than five hundred feet (500') apart and not more than two hundred fifty feet (250') from the center of any lot in the subdivision. Hydrant spacing and size shall be capable of providing water flows adequate to meet the requirements for the Occupancy Classification as defined in the latest edition of the National Fire Code, Volume No. 6, published by the National Fire Protection Association. In no case shall the flow be less than seven hundred fifty (750) gallons per minute with the residual pressure of twenty (20) pounds per square inch at the most remote point of discharge.

3.2.8.4.9

Median Strips and Entranceways.

1. **Median Strips.** Median strips which are part of the publicly dedicated or deeded right-of-way shall not be utilized for any purpose other than by the County or a public utility. When an applicant desires to beautify a public median strip in a subdivision he may do so in accordance with the guidelines established in Division 2.4 of this Code to allow placing of grass, shrubs and trees in general within the median strip under a right-of-way permit after submission and approval of landscaping plans. Selection of landscaping within the public or private median shall be based on accepted traffic safety standards and the prevention of interference with maintenance requirements of utilities within a median. Upon completion of the median improvements, the landscaping shall be maintained by a property owner's association, a condominium association, cooperative association, or other like or similar entity.

2. **Subdivision or Land Development Entranceways.** Subdivision or development entranceways consisting of walls, fences, gates, rock piles or the like are not permitted within the median strip of a publicly dedicated right-of-way. Decorative entranceways may be constructed upon property adjacent to a right-of-way in compliance with the this Code and shall be placed so as to not interfere with any cross-corner or stopping sight distance or constitute a traffic hazard. Any improvements within private rights-of-way shall not be placed over any underground improvements without the prior written consent of the intended owner of the improvements. Upon completion of the entranceway, all improvements shall be maintained by the property owner's association, condominium association, cooperative association, or other similar entity.

3.2.8.4.10 **Monuments.** The design and location of Permanent Reference Monuments, "P.R.M.'s" and Permanent Control Points, "P.C.P.'s" shall be as prescribed by Chapter 177, Florida Statutes, as amended. Where monuments would occur within street pavement areas, they shall be installed utilizing appropriate offset monuments as prescribed by Chapter 177, Florida Statutes, as amended. All information pertaining to the location of "P.R.M.'s" shall be indicated in note form on the plat, such as underground installations and the like.

3.2.8.4.11 **Seawalls and Bulkheads.** When authorized, the water side of the concrete seawall cap shall be constructed landward of the property boundary and shall be in accordance with the seawall construction regulations, Collier County Ordinance No. 85-2, as amended.

The applicant shall have the prior approval and permit(s) of the Florida Department of Environmental Regulation (DER), the Florida Department of Natural Resources (DNR), and the U.S. Army Corps of Engineers (COE), where such approvals are necessary, prior to commencement of construction. A copy of such approval(s) and/or permit(s) must be filed with the Development Services Director upon receipt.

The construction of seawalls or bulkheads in association with water management system lake construction under jurisdiction of SFWMD shall be in compliance with South Florida Water Management District (SFWMD) criteria.

3.2.8.4.12 **Sanitary Sewage System, Central.** A complete central sewer system and interim wastewater treatment facility, if required, shall be designed and constructed to provide service to all lots and parcels within the subdivision or development. The system shall be designed, constructed, owned, operated and maintained pursuant to the requirements of the Utilities Standards and Procedures Ordinance, Collier County Ordinance No. 88-76, as amended or to specifications of the applicable service provider.

3.2.8.4.13 **Sanitary Sewage System, Individual.** Except as otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2, no subdivision or development shall be constructed utilizing individual sewage disposal system for each lot or parcel. Any exemption from this requirement shall be designed in conformance with Chapter 10D-6, F.A.C., and shall obtain the written approval of the County Environmental Health Division, Utilities Administrator and the Board of County Commissioners. Such exemption shall be in compliance with the provisions of the County's Growth Management Plan, and shall be approved by the Development Services Director.

3.2.8.4.14

Sidewalks and Bikepaths. All sidewalks and bikepaths shall be constructed of portland cement concrete, or the alternate asphalt sidewalk noted in these regulations, or an alternate approved by the Development Services Director pursuant to Sec. 3.2.7.2, in the locations illustrated on the standard right-of-way cross-sections contained in Appendix B.

1. Concrete sidewalks or bikepaths shall be four inch (4") thick, portland cement concrete with a twenty-eight (28) day compressive strength of 3,000 PSI. Expansion joints shall be 1/2 inch preformed bituminous conforming to the latest edition of ASTM. Contraction joints shall be saw-cut joints with longitudinal spacing equal to the width of the walk. The saw cut depth shall equal or exceed one-fourth the concrete thickness. All workmanship materials, methods of placement, curing, forms, foundations, finishing, etc. shall be in conformance to the latest edition of FDOT Standard Specifications for Road and Bridge Construction Sec. 522.
2. Asphalt sidewalks shall be constructed with an four inch (4") limerock base (primed) and one inch (1"), Type III asphaltic concrete. When used, asphalt sidewalks shall be a minimum of one foot wider than the specified width for concrete walks.
3. Bicycle paths shall be six feet (6') in width. It is preferred to have bicycle paths constructed of asphaltic concrete, however, portland cement concrete may be substituted with no reduction in width.
4. All bicycle lanes shall have signage and be marked in accordance with the latest edition of the Manual on Uniform Traffic Control Devices.

3.2.8.4.15

Soils. The construction plans for the subdivision or development shall show the location and results of test borings of the subsurface condition of the tract to be developed. If the soil investigations reveal that the area contains hardpan, other non-pervious soils, peat, muck, or other unstable materials, the Development Services Director shall require that adequate precautionary measures be included in the design and construction of the improvements to assure that proper drainage and development of the area can be accomplished, in a manner which will prevent premature deterioration of the improvements.

3.2.8.4.16

Streets. The street layout of all subdivisions or developments shall be coordinated with the street systems of the surrounding areas. Adjacent properties shall be provided with local street interconnections unless topography, other natural features or other ordinances/regulations do not allow or require said connections. All arterial or major collector streets shall be planned to conform to the Collier County Comprehensive Plan. Their location and right-of-way cross-section must be reviewed and approved by the County Transportation Services Division during the preliminary subdivision plat review process. All subdivisions shall provide rights-of-way in conformance with the Comprehensive Plan and the right-of-way cross-section contained in Appendix B. All streets shall be designed and constructed to provide for optimum vehicular and pedestrian safety, long service life and low cost of maintenance.

1. **Street Access.** Every subdivision or development shall have legal and adequate access to a street dedicated for public use and which has been accepted for maintenance by or dedicated to the State of Florida or Collier County. When a subdivision or development

does not immediately adjoin such a street, the applicant shall provide access to the development from a dedicated street in accordance with these regulations and provide legal documentation that access is available to the project site. All lots within a subdivision or development shall be provided legal access to a street dedicated for public use. All lots must front on a right-of-way.

2. Adjoining or proposed adjoining street systems. The arrangement of streets in subdivisions or developments may be required to make provision for the continuation of existing or proposed collector or arterial streets to and from adjoining properties, whether developed or undeveloped, and for their proper projection to ensure a coordinated and integrated street system per requirements of the Growth Management Plan, this Code or other ordinances and regulations. Where a subdivision or development abuts an existing or proposed public arterial or collector street, buffering shall be required per Division 2.4.
3. Local Streets. Local streets shall be so arranged that their use by through traffic will be discouraged.
4. Traffic Analysis. If the proposed land development or subdivision will generate traffic volumes in excess of one thousand (1,000) ADT (Average Daily Trips) or one hundred and fifty (150) vehicles per hour, peak hour/peak season, whichever is more restrictive, then a traffic analysis, prepared by a professional engineer, shall be provided by the developer.

The analysis shall show the impact on the proposed internal streets of the subdivision or development and existing externally affected streets. The analysis shall be used to determine the street classification, width and number of traffic lanes internal to the development and any requirements for off-site (external) improvements on the existing street system per the Collier County Growth Management Plan.

5. Street Right-of-Way Width. The minimum right-of-way widths to be utilized shall be as follows and, where applicable, shall be clarified by the cross-sections contained in Appendix B, and will be directly related to traffic volume as indicated in the definition of each street contained herein and where applicable clarified by the cross sections contained in Appendix B. Private street right-of-way widths and design may be determined on a case by case basis in accordance with Sec. 3.2.7.2.

STREET TYPE	R/W WIDTH	NUMBER OF LANES	LANE WIDTH
<u>All Streets</u>			
Cul-de-sac	50'	2	10'
Local	60'	2	12'
Minor Collector	80'	2	12'
Minor Collector (Divided)	As required for median and turn lanes	2	12'
Major Collector (Minor) Arterial*	135' min.	4	12'

NOTE: Any Rural cross-sections approved may require expanded right-of-way widths for additional shoulder and swale facilities. Design to be approved on a case-by-case basis.

*This is a minimum acceptable standard. All proposed right-of-way cross-sections meeting or exceeding this category must be reviewed and approved by the Transportation Services Division.

6. Dead-End Streets. Dead-End streets shall be prohibited except when designed as a cul-de-sac. When a street is designed to be extended when the adjacent property is developed, a temporary cul-de-sac and right-of-way shall be designed. Cul-de-sacs in excess of one-thousand feet (1000') shall not be permitted unless existing topographical conditions or other natural features preclude a street layout to avoid longer cul-de-sacs. When conflicts occur between the design standards of this Division and Collier County Ordinance 86-54, the County Fire Protection Code, or its successor ordinance, the standards of this division shall take precedent.

Cul-de-sacs shall have a minimum forty foot (40') pavement radius (to back of valley gutter) and fifty foot (50') right-of-way radius. If islands are to be installed within a cul-de-sac, they shall have a minimum forty-five foot (45') outside edge of pavement and an inside edge of pavement radius of no greater than twenty-five feet (25').

7. Curbs/Valley Gutter. All streets shall be provided with valley gutter or curbs to provide for drainage. Curbs shall be required at street intersections and, for those areas requiring additional vehicular protection. All required intersection curbs shall extend ten feet (10') beyond the radius.
8. Intersection Radii. Street intersections shall be provided with a minimum of a thirty foot (30') radius (face of curb) for local or cul-de-sac streets and forty feet (40') radius for collector, arterial and commercial/industrial streets. If two local or cul-de-sac streets intersect at less than ninety (90) degrees, a radius of greater than thirty feet (30') may

be required. Intersection right-of-way lines shall be provided with no less than a twenty-five foot (25') radius.

All intersections shall be provided with ramps where sidewalks are required.

9. **Intersections and Street Jogs.** Wherever feasible, streets shall be arranged so as to intersect at right angles. Two (2) streets shall not intersect at an angle less than sixty (60) degrees. When an intersection occurs on a curve, it should be made radially at the point of intersection, with a minimum seventy-five foot (75') tangent measured from intersecting centerlines. All local cross streets or stop streets should provide a minimum fifty foot (50') tangent measured from intersecting centerline. Any proposed deviation to the tangent requirements must be supported by design calculations submitted by the applicant's professional engineer. The calculations must be based on the roadway speed limit and the Florida Department of Transportation "Green Book" standards for degree of curvature. Streets classified higher than local shall be provided with appropriately larger tangents, supported by design calculations.

Street jogs, at intersections, shall be prohibited. In no case shall intersections be located closer than one-hundred feet (100') apart, as measured between closest right-of-way lines. The use of the one hundred foot (100') intersection separation criteria shall be used only when a traffic impact analysis indicated that neither intersection will require either turn lanes or signalization.

Intersections of more than two (2) streets shall be prohibited.

10. **Reverse Curves.** Tangents shall be provided for all streets, between reverse curves, according to the following, unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2:

<u>STREET CLASSIFICATION</u>	<u>TANGENT (MINIMUM)</u>
Cul-de-sac	25'
Local	50'
Minor Collector/Commercial/Industrial	75'
All other Streets	100'

11. **Construction in Muck or Clay Areas.** The design of street proposed in excessive muck areas shall be considered on an individual basis and may, where so directed by the Development Services Director, require the use of under drains. Alternate methods of construction may be considered by the Development Services Director based on a design study, containing soil testing data, and recommendations prepared by a geotechnical engineer licensed to practice in the State of Florida and supported by the applicant's professional engineer.
12. **Materials.** Streets shall include a stabilized subgrade, base and wearing surface in accordance with standards designated by the Development Services Director and as shown in the typical sections.

- a. **Subgrade and Shoulders.** All subgrade and shoulders shall be stabilized to a depth of twelve inches (12") and to the full width as shown on the typical section drawing. The stabilized area shall be free of muck, roots and other objectionable material. The subgrade and shoulders shall be stabilized and compacted to obtain the minimum Lime Rock Bearing Ratio (LBR) of 40 LBR and at least ninety-eight percent (98%) of maximum density as determined by AASHTO T180. If the bearing value of the natural soil is less than that specified, the subgrade and shoulders shall be stabilized in accordance with Sec. 160 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction (latest edition thereof). The construction of the subgrade and shoulders shall generally conform to Sections 160-8 and 160-9 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction (latest edition thereof).
- b. **Base.** The base shall be compacted limerock constructed to the thickness specified in the typical section drawing for the class and type of road to be constructed, and shall be built to the specified width and centered on the subgrade. Limerock used for the base shall meet the standard specifications for Grade No. 2 limerock and shall be compacted to obtain at least ninety-eight percent (98%) maximum density as determined by AASHTO T180. Construction and materials of the base shall conform to Section 200 and 911 of Florida Department of Transportation Standard Specifications for Road and Bridge Construction (latest edition thereof). Alternate base courses that meet FDOT specifications may be considered and approved by the Development Services Director.
- c. **Prime.** The base shall be primed with type RC-70 bituminous material of SS-1 (asphalt emulsion) and shall comply with Section 270-2 of the Standard Florida Department of Transportation Specifications.
- d. **Surface Course.** The surface course thickness and width shall be as specified in the typical section drawings. The processing of the mixture and construction of the surface course shall comply with Sections 320, 330 and 332 of the Standard Florida Department of Transportation Specifications.
- e. **Grass.** All areas within the right-of-way not receiving the surface course shall receive seed, fertilizer and mulch in accordance with Sections 570, 981, 982 and 983 of the Standard Florida Department of Transportation Specifications. Where sod is specified by the Development Services Director for erosion control, it shall be installed prior to preliminary acceptance of the roadway.
- f. **Maintenance.** The applicant shall be responsible for maintenance of the roads for the period between preliminary and final acceptance as specified herein. This includes workmanship, materials, and all repairs and maintenance.
- g. **Testing.** The applicant shall have the subgrade and shoulders tested for compaction and Lime Rock Bearing Ratio (LBR) at intervals set forth in the

latest edition of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction or as directed by the Development Services Director. The sub-grade and base shall be tested for compaction by a certified engineering testing laboratory. Prior to acceptance by the County, a copy of the test results along with a statement of compliance issued by the testing laboratory, shall be furnished to the Development Services Director.

- h. **Inspection.** During construction, a field inspection shall be made by the Development Services Director. It is the applicant's responsibility to provide written notice to the Development Services Director when construction is ready for inspection.
- i. **Signs.** The developer shall provide and install traffic control signs, street name and speed limit signs. All signs shall be of non-corrosive, reflective material construction or of a type approved by the Development Services Director.

One double sided street name signs of standard design as prescribed by current County standards shall be provided at each intersection for each named street unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2. A street sign shall be placed at a point eight feet (8') from the edge of pavement on a radial line that bisects the intersection radius curve unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2. All signs shall be designated on the construction plans prior to their approval by the Development Services Director.

- j. **Pavement Striping.** All work shall be in accordance with Section 711 of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction (latest edition thereof).

- 13. **Alternative Types of Pavement, Base & Subgrade.** Alternate types of pavement, base and subgrade determined by the Development Services Director and/or the Transportation Services Administrator to be equivalent to those specified in this Division may be approved. Application for such approval shall be accompanied by written data, calculations and analysis which show, by generally accepted engineering principles, that the alternate types are equal or superior to those specified.
- 14. **Street Grades.** Street grades shall be determined in relation to the drainage facilities for the subdivision and shall not exceed four percent (4%) nor be less than three-tenths of one percent (0.3%), unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2. Street grades shall be shown on the development plans by direction and percent of fall on the road profiles.
- 15. **Swales.** Swales shall not be permitted within the right-of-way in lieu of curbs or valley gutters unless the provision for a rural section specified in Sec. 3.2.8.3, Required Improvements, is justified. Swales may be permitted to convey rear-yard drainage and to collect street drainage.

16. Marginal Access Streets. Where a subdivision or development abuts or contains existing limited access highway, freeway or arterial street, and if access is desired to adjoining property other than street connections, a marginal access street to afford separation of through and local traffic may be required by the Development Services Director.
17. Half Streets. Half or partial streets shall not be permitted except where essential to the reasonable development of a property in conformance with the Circulation Plan, Comprehensive Plan or these regulations and where, in addition, dedication of the remaining part of the required street right-of-way is provided. Whenever a property to be developed borders on an existing half or partial street, the other part of the street shall be required to be dedicated and constructed within such property. A proposed development or subdivision that adjoins or includes an existing street which does not conform to the minimum right-of-way requirements of these regulations shall provide for the dedication of additional right-of-way along either one or both sides of said street so that the minimum right-of-way requirements of these regulations shall be established.
18. Limited Access Strips. Limited access strips controlling access to streets on adjacent parcels shall be prohibited except where approved by the Development Services Director pursuant to Sec. 3.2.7.2.
19. Clearance and Height. At least seventeen feet (17') of nominal clearance shall be provided over the full width of public streets, private streets, fire lanes, and other means of vehicular access. Overhead public utilities may require a greater height and will be evaluated on a case by case basis.

3.2.8.4.17 Street Lights. All street lighting plans shall be prepared by an electrical engineer .

3.2.8.4.18 Traffic Control Devices. The design and installation of traffic control devices shall be in accordance with the latest edition of the Manual on Uniform Traffic Control Devices.

3.2.8.4.19 Utilities. All permanent utilities, including franchised utilities, power and light, telephone, water, sewer, cable television, wiring to street lights and gas shall be installed underground. This section shall apply to all cables, conduits or wires within subdivisions or developments forming part of an electrical distribution system including service lines to individual properties and main distribution feeder electrical lines delivering power to local distribution systems. However, agricultural land, industrial land, commercial sites and residential lots larger than two (2) acres may be exempted from this requirement by the Development Services Director if costs for the utilities to be placed underground are demonstrated to be unreasonably prohibitive. This section does not apply to wires, conduits or associated apparatus and supporting structures whose exclusive function is for the transmission or distribution of electrical energy between developments or subdivisions, generating stations, substations and transmission lines of other utility systems, or along the perimeter line of subdivisions or developments. Appurtenances such as transformer boxes, pedestal mounted terminal boxes, meter cabinets, service terminals, telephone splice closures, pedestal type telephone terminals or other similar "on the ground" facilities normally used with and as a part of the underground distribution system may be placed above ground but shall be located so as not to constitute a traffic hazard. Easements shall be coordinated with the

appropriate public utility providers with verification to the Development Services Director before final subdivision plat and improvement plans approval. The installation of underground utilities or relocating existing facilities as prescribed by this Division shall be in conformance with the respective utility's rules and regulations.

3.2.8.4.20

Utility Installation. After the clearing, grubbing, and grading has been completed within six inches (6") of final sub-grade of the roadway for a street, all underground work for the water mains, sanitary sewers, storm sewers, gas mains, telephone, electrical power conduits and appurtenances and any other utility shall be installed across the width of the street to the sidewalk area, or provisions shall be made so that the roadway or right-of-way will not be disturbed by future utility installations. All underground improvements so installed for the purpose of future service connections shall be properly capped and backfilled.

3.2.8.4.21

Utility Casings. All casings to be installed within the roadway section of a project shall be located at a depth at least six inches (6") below the bottom elevation of the roadway stabilized base course. Unless approved by the Development Services Director pursuant to Sec. 3.2.7.2, all casings required for the complete service of underground utilities to the subdivision shall be installed during the construction phase of the project. Any casing which must be placed after completion of the roadway stabilization and paving shall have its method of installation approved by the Development Services Director.

3.2.8.4.22

Water Management.

1. **Scope.** A complete storm water management system shall be provided for all areas within the subdivision or development, including lots, streets and alleys. The system design shall meet the applicable provisions of the current Collier County Codes and Ordinances, South Florida Water Management District rules and regulations pursuant to Chapter 373, Florida Statutes and Chapter 17-40 and Title 40E, Florida Administrative Code, and any other affected state and federal agencies' rules and regulations in effect at the time of preliminary subdivision plat submission.

Where stormwater runoff from outside the subdivision or development historically passes on, passes over or through areas of the subdivision or development, such runoff shall be included in the stormwater system design. The system shall be designed for long life, low cost maintenance by normal methods and provide for optimal on-site detention of stormwater runoff and ground water recharge in accordance with applicable county and SFWMD regulations.

2. **Rainfall and Runoff Criteria.** The system shall be designed for "design floods" resulting from rain storms and antecedent conditions for all system components in accordance with current Collier County and South Florida Water Management District Criteria.

- a.. **Lakes.** Artificial lakes and retention basins proposed as part of a storm water retention system for on-site water management shall be designed and, when required by this Code or other ordinances or regulations of Collier County, State or Region, monitored for quality by the applicant pursuant to the County Excavation Regulations, at no cost to the County. All lakes shall be set back

from abutting roadways or intersections pursuant to the design standards established in Division 3.5, Sec. 3.5.7.1.1.

- b. Runoff Coefficients. Existing land usage shall be considered for the selection of proper runoff coefficients within the drainage basins involved, whether within the subdivision or development or not.

3. Storm Water Outfalls. Storm water runoff shall be conducted to positive outfalls that can be permanently maintained, practicably and legally. Outfalls to existing waterways, canals, preserve or conservation areas, lakes or storm sewers shall be acceptable provided it can be demonstrated through a professional engineering study to the Development Services Director that such receiving systems have adequate capacity to receive the proposed quantity and quality of the additional flow.

Side ditches or swales along public or private roads shall not be accepted as suitable positive outfalls except as may be specifically accepted under the provisions of this Code by the Development Services Director, County Transportation Services Division and by the Florida Department of Transportation if applicable. The storage of storm water runoff in other existing or proposed ditches or swales within a public or private right-of-way shall be permitted for volume storage when approved under South Florida Water Management District design criteria, but shall not be utilized to satisfy the storm water storage (quality) requirements of a development's master water management system.

Drainage wells or underdrains may be accepted as positive outfalls where adequate percolation volumes can be provided in locations capable of accepting the design quantities of water.

4. Major Waterway. Improvement or establishment of major waterways and canals shall be developed in full accord with applicable storm water management criteria. Engineering data, criteria and suitable calculations shall be submitted to the Development Services Director prior to approval of construction plans.

Roadways over major waterways shall be structures approved by the Development Services Director, sized to maintain flow capacity, designed to assure long life and minimal maintenance. Construction shall meet all current Florida Department of Transportation Standard Specifications for Road and Bridge Construction, unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2.

5. Outfall Ditches and Open Channels. Unless otherwise approved by the Development Services Director pursuant to Sec. 3.2.7.2, side slopes no steeper than four (4) to one (1) shall be allowed. Protection against scour and erosion shall be provided as required by the Development Services Director.

6. Roadside Swales.

- a. Design. In the interest of preserving the existing natural ground water levels, roadways shall not be designed so as to cause the significant lowering of the

water levels existing in the area prior to development. Roadside swales and ditches may be permitted within street rights-of-way where the use of roadside swales can be justified to the Development Services Director through a written report prepared by the applicant's professional engineer. Swales, where permissible, shall have side slopes no steeper than four to one (4:1) and they shall not be utilized to satisfy the storm water quality (volume) requirements of a project's master water management system. Where flow velocities in excess of four feet (4') per second are anticipated, urban right-of-way sections shall be required.

- b. **Erosion Protection.** All unpaved areas within the permanent right-of-way shall be provided with permanent erosion protection, such as native vegetation or turf. Swale ditches shall be sodded, sprigged or seeded a lateral distance extending from the road pavement to the top of the swale ditch backslope. Where valley guttered sections are used for drainage ways, turf protection shall be placed from the edge of the gutter to the outer limits of the right-of-way. If seeding is utilized, then mulching in accordance with the Florida Department of Transportation standards shall be required. Additionally, if seeding and mulching are utilized, then a strip of sod one foot (1') wide shall be placed along the face of the pavement or curb section and over the invert of any approved swale section within the runoff flowway. All swales subject to erosion velocities shall have adequate erosion protection in the form of rip rap or other applicable like methods.
- c. **Driveways Across Swale Ditches.** Driveways across permitted swale ditches shall have placed beneath them drainage pipes of adequate size and type approved by the Development Services Director, based on the capacity requirements calculated by the applicant's professional engineer for the development's master water management system.

- 7. **Street Drainage.** Street drainage within the road right-of-way through grassed swales shall be permitted for rural cross-sections only except where velocities in excess of four feet (4') per second are anticipated. The flow from these swales or other types of drainage facilities shall be diverted to natural percolation areas, artificial seepage basins or artificial lakes of at least sufficient capacity to comply with the criteria of Collier County and the South Florida Water Management District. Other equally effective methods of returning cleansed waters to the aquifer will be acceptable upon prior review and approval by the Development Services Director

Existing natural lakes may be used as detention areas provided that they have adequate storage capacity and that pretreatment measures approved by the Development Services Director are taken to prevent pollutant matter from entering the lake. Positive outfall drainage facilities shall be provided away from all percolation areas, seepage basins, detention areas and artificial lakes to handle the runoff from storms which exceed the required design storm event in duration and/or severity.

8. **Percolation Areas.** The actual area required will depend on the percolation rate for the soils at the specific site and the manner in which the site is developed in accordance with Collier County and South Florida Water Management District criteria. All percolation areas shall be grassed in accordance with requirements of this Code and shall be planted in trees, shrubs, or other plants capable of taking up large volumes of nutrients.
9. **Underground Drainage.** Where drainage plans provide for, or it is so directed by the Development Services Director, the collection of storm water in underground pipes, inlets and other appurtenances for conveyance to an intermediate or ultimate outfall, the following minimum design criteria shall be observed:
- a. The minimum pipe used within a publicly maintained the storm water collection system shall be fifteen inches (15") in diameter.
 - b. Inlets shall be spaced at such intervals and in such a manner to allow for the acceptance of one hundred percent (100%) of the ten (10) year, one (1) hour storm runoff.
 - c. The distance between terminating and intermediate structures shall not exceed those required by the Florida Department of Transportation, pursuant to Florida Department of Transportation Drainage Manual, Volumes 1-4 (1987 Edition or latest revision).
 - d. The storm water, underground collection system, shall be so designed that the elevation of the hydraulic gradient during a ten (10) year, one (1) hour storm event is never higher than the crown elevation of any publicly maintained roadway in the system.
 - e. The pipes shall be designed to minimize sediment deposits.
 - f. The pipe materials shall meet the requirements set forth in Sections 943-948 inclusive of the current Edition of the Florida Department of Transportation Standard Specification for Road and Bridge Construction. Only concrete pipe or other pipe materials approved by the Development Services Director may be used in tidal or salt waters.
 - g. All drainage pipes shall be fitted with headwalls, endwalls, inlets and other appropriate terminating and intermediate structures.
10. **Storm Water Disposal.** The method of ultimate disposal of storm waters will be dependent upon the soil characteristic underlying the development or subdivision. All storm waters will be subjected to treatment for the removal of petroleum residues, oils, suspended solids and other pollutants found in storm water runoff. The method of treatment will be determined by the applicant's professional engineer responsible for the preparation of the storm water management plans and specifications, and shall be subject to the approval of the Development Services Director and the concerned state agencies.

11. **Plans & Specifications.** As a pre-condition for approval of improvement plans, the developer shall deliver to the Development Services Director complete plans and specifications in report form prepared by a registered professional engineer licensed to practice in the State of Florida, which shall include, but may not be limited to, the following:
- a. A topographic map of the land development related to N.G.V.D. with sufficient spot elevations to accurately delineate the site topography, prepared by a professional surveyor.
 - b. A drainage map of the entire basins within which the development or subdivision lies. This map may be combined with the above topographic data in a manner acceptable to the Development Services Director. All ridges lying within the basins and the area of the basins stated in acres, of all the existing and proposed drainage areas shall be shown and related to corresponding points of flow concentration.
 - c. Flow paths shall be indicated throughout including final outfalls from the development and basins, existing water elevations, all connected and isolated wetlands, recurring high water elevations, proposed design water elevations, and other related hydrologic data.
 - d. Drainage data, assumed criteria and hydraulic calculations, consistent with the criteria and design method established by the South Florida Water Management District.
 - e. Plans showing proposed design features and typical sections of canals, swales and all other open channels, storm sewers, all drainage structures, roads and curbs, and other proposed development construction.
 - f. Plans and profiles of all proposed roads. Where proposed roads intersect existing roads, elevations and other pertinent details shall be shown for existing roads.
 - g. Where additional ditches, canals or other watercourses are required to accommodate contributory surface waters, sufficient right-of-way shall be provided by the developer or subdivider to accommodate these and future needs.
 - h. For projects which require a construction permit to be issued by the South Florida Water Management District, approval of improvement plans and the final subdivision plat shall not be granted by the Development Services Director until a copy of the permit or an acceptable "early work" permit is submitted to the Development Services Director.

3.2.8.4.23

Water System, Central. A complete central water system and interim water supply and treatment facility, if required, shall be designed and constructed to provide service to all of the lots and parcels within the subdivision or development. Any such system shall be designed, constructed, owned, operated and maintained pursuant to the requirements of Collier County Ordinance 88-76,



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the Utilities Standards and Procedures Ordinance, as amended.

3.2.8.4.24 Water System, Individual. Where authorized in compliance with the Collier County Growth Management Plan, an individual water system shall be designed in conformance with Chapter 10D-4, F.A.C., and shall require the prior written approval of the County Environmental Health Director, Utilities Administrator and the Board of County Commissioners. Any such exemption shall be in compliance with the provisions of the Collier County Growth Management Plan.

3.2.8.4.25 Prohibited Exotic Plants. All prohibited exotic plants, as defined in Div. 3.9 shall be removed during each phase of construction from development areas, open space areas, and preserve areas pursuant to Div. 3.9. Following site development, a maintenance program shall be implemented to prevent reinvasion of the site by prohibited exotic species. This plan shall describe control techniques and inspection intervals, shall be filed with, and be approved by, the Development Services Director prior to approval of the improvement plans and final subdivision plat. Flexibility, in the form of area trade-offs or mitigation may be allowed in the determination of areas within developments to be preserved.

3.2.8.4.26 Native Habitats. Developments shall identify, protect, conserve, incorporate and use native vegetative communities pursuant to Div. 3.9 and identify, protect and conserve wildlife habitat.

SEC. 3.2.9 FINAL SUBDIVISION PLAT.

3.2.9.1 General Requirements.

3.2.9.1.1 Seven (7) prints of the final subdivision plat shall be submitted along with the improvement plans. No final subdivision plat shall be approved unless the improvement plans shall have been reviewed and accepted by the Development Services Director.

3.2.9.1.2 The final subdivision plat shall conform to the approved preliminary subdivision plat pursuant to Sec. 3.2.6.3.2 and shall constitute only that portion of the approved preliminary subdivision plat which the applicant proposes to construct within a finite period not to exceed thirty-six (36) months. The improvements required by this Division which apply to the final subdivision plat shall be completed within thirty-six (36) months from the date of approval of the final plat unless a written extension request is approved by the Board of County Commissioners at the time of final subdivision plat approval. The applicant shall enter into a construction and maintenance agreement with the County, in a form acceptable to the County Attorney, which establishes the terms and conditions for the construction and maintenance of the improvements required during the 36 month construction period (unless a written extension request is approved by the Board of County Commissioners at the time of final subdivision plat approval), whether the final plat is approved only or approved and recorded with the posting of a subdivision performance security. This agreement shall be submitted with the final plat for review and approval and executed by all parties at the time of final plat approval per Sec. 3.2.9.1.3.

3.2.9.1.3 At the time of submission of the final subdivision plat, the applicant shall submit a statement indicating whether the required improvements are to be constructed prior to the recording of the final subdivision plat or after recording under subdivision performance security posted with the County as provided for in this Division. When the required improvements are to be completed

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after recording under guarantees as provided in this Division, the final subdivision plat upon submittal shall be accompanied by the following:

- 3.2.9.1.4 An opinion of probable construction cost prepared by the applicant's professional engineer, or the actual contractor's bid, which includes the cost of all required improvements
- 3.2.9.1.5 Subdivision performance security, as further described herein, in an amount equal to one hundred and ten percent (110%) of the sum of construction costs for all on-site and off-site required improvements based on the applicant's professional engineer's opinion or contract bid price. The subdivision performance security shall be in one of the following forms:
1. Cash Deposit Agreement with the County
 2. Irrevocable Standby Letter of Credit
 3. Surety Bond
 4. Escrow Agreement with the First Mortgagee of the entire final subdivision plat
- 3.2.9.1.6 After the final subdivision plat has been approved by the Development Services Director for compliance with this Code as provided in this Division, the applicant shall resubmit five (5) certified sets of the previously approved improvement plans along with approved copies of all required County, state and federal construction permits. The applicant shall also submit a computer disk containing the drawing file in Auto CAD software format, or a similar format, which is translatable to Auto CAD and acceptable to the Development Services Director, or alternatively, the applicant may submit a dimensionally stable 1"=100' plate containing all dimensions otherwise suitable for digitization. All construction permits required from local, state and federal agencies must be submitted to the Development Services Director prior to commencing development within any phase of a project requiring such permits.
- 3.2.9.1.7 Approval of the final subdivision plat shall not constitute acceptance of the dedicated facilities or areas. Acceptance of any such dedicated facilities or areas and responsibility for their maintenance shall be by separate resolution of the Board of County Commissioners.
- 3.2.9.1.8 All conveyance instruments shall be in a form approved by the County Attorney prior to their submission to the Board of Commissioners for acceptance. If requested by the Development Services Director, the grantee shall provide, at no cost to the County, a title opinion, or certificate in a form promulgated by the Florida Insurance Commissioner, which is in conformance with the County's procedures for acquiring real property interests. No conveyance instrument shall be recorded prior to recordation of the final subdivision plat and formal acceptance of the conveyance by the Board of Commissioners.
- 3.2.9.2 **Final Subdivision Plat Submission Requirements.** The final plat shall be drawn on only standard size 24 inch x 36 inch sheets of mylar or other approved material in conformance with Chapter 177, Florida Statutes. The final plat shall be prepared by a land surveyor currently registered in the State of Florida and is to be clearly and legibly drawn with black permanent drawing ink or a photographic silver emulsion mylar to a scale of not smaller than 1 inch = 100 feet. The final

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plat shall be prepared in accordance with the provisions of Chapter 177, Florida Statutes, as amended, and shall conform, at a minimum, to the following requirements:

- 3.2.9.2.1 **Name of Subdivision.** The plat shall have a title or name acceptable to the Development Services Director. When the plat is a new subdivision, the name of the subdivision shall not duplicate or be phonetically similar to the name of any existing subdivision. When the plat is an additional unit or section by the same developer or successor in title to a recorded subdivision, it shall carry the same name as the existing subdivision and as necessary a sequential numeric or alphabetic symbol to denote and identify the new plat from the original plat. If the name of the subdivision is not consistent with the name utilized for any zoning action for the subject property, a general note shall be added to the plat cover sheet which identifies the zoning action name and ordinance number which approved such action.
- 3.2.9.2.2 **Title.** The plat shall have a title printed in bold legible letters on each sheet containing the name of the subdivision. The subtitle shall include the name of the County and State; the section, township and range as applicable or if in a land grant, so stated; and if the plat is a replat, amendment or addition to an existing subdivision, it shall include the words "section", "unit", "replat", "amendment", or the like.
- 3.2.9.2.3 **Description.** There shall be lettered or printed upon the plat a full and detailed description of the land embraced in the plat. The description shall show the section, township and range in which the lands are situated or if a land grant, so stated, and shall be so complete that from it without reference to the map the starting point can be determined and the boundaries identified.
- 3.2.9.2.4 **Index.** The plat shall contain a sheet index on Page 1, showing the entire subdivision on the sheet indexing the area shown on each succeeding sheet and each sheet shall contain an index delineating that portion of the subdivision shown on that sheet in relation to the entire subdivision. When more than one sheet shall be used to accurately portray the lands subdivided, each sheet shall show the particular number of that sheet and the total number of sheets included as well as clearly labeled match lines to each sheet.
- 3.2.9.2.5 **Survey Data.** The final plat shall comply with Chapter 177, Fla Stat., and shall show the length of all arcs together with central angles, radii, chord bearing, chord length and points of curvature. Sufficient survey data shall be shown to positively describe the boundary of each lot, block, right-of-way, easement, required conservation or preserve area and all other like or similar areas shown on the plat or within the boundary of the plat as shown in the description. The survey data contained on the plat shall also include:
1. The scale, both stated and graphically illustrated, on each graphic sheet.
 2. A north arrow shall be drawn on each sheet that shows the geometric layout and the configuration of the property to be platted. The north direction shall be at the top or left margin of the map where practicable.
 3. The points of beginning and the commencement shall be boldly shown for any metes and bounds description.

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4. All intersecting street right-of-way lines shall be joined by a curve with a minimum radius of 25 feet
5. All adjoining property shall be identified by a subdivision title, plat book and page or if unplatted, the land shall be so designated.
6. Permanent reference monuments shall be shown in the manner prescribed by Chapter 177, Florida Statutes, as amended, and shall be installed prior to recording of the final plat.
7. There shall be reserved a space in the upper right hand corner of each sheet for the words "Plat Book ----" and "Page ----" with the minimum letter size of 1/4 inch. On the line directly below, a space for "Sheet ---- of ----".
8. The map shall mathematically close and when practical shall be tied to all Section, Township and Range lines occurring within the subdivision by distance and bearing where applicable.
9. The cover sheet or first page of the plat shall show a location plan, showing the subdivision's location in reference to other areas of the County.
10. The minimum size for any letter or numeral shall be 1/10 inch.
11. All line and curve tables are to be shown on the same sheet as the graphic drawing they relate to. When possible, dimensions shall be shown directly on the map.

3.2.9.2.6. **Lot and Block Identification.** Each lot, block, or other like or similar parcel, however described, shall be numbered or lettered. All lots shall be numbered or lettered by progressive numbers or letters individually throughout the subdivision or progressively numbered or lettered in each block, not necessarily starting with the number "One" ("1") or letter "A". Parcels and blocks in each incremental plat shall be numbered or lettered consecutively throughout a subdivision. All parcels which constitute a protected/preserve area shall be labelled as an easement or tract. All protected/preserve area easements or tracts shall be dedicated on the final subdivision plat to Collier County without the responsibility for maintenance and to a property owner's association or similar entity with maintenance responsibilities pursuant to Sec. 3.2.8.4.7.3.

3.2.9.2.7. **Street Names.** The plat shall contain the name of each street shown on the plat in conformance with the design requirements of this Division.

3.2.9.2.8. **Outparcels.** All interior excepted parcels shall be clearly indicated and labelled "Not a Part of this Plat".

3.2.9.2.9. **Rights-of-Way and Easements.** All right-of-way and easement widths and dimensions shall be shown on the plat. No easement of any type shall be utilized to gain access to any platted lot unless expressly allowed through a minor subdivision. All lots must have frontage on a public or private right-of-way in conformance with the design requirements of this Division.

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3.2.9.2.10

Restrictions, Reservations and Restrictive Covenants. Restrictions pertaining to the type and use of water supply, type and use of sanitary facilities; use, responsibility of maintenance and benefits of water or water management areas, canals, preserve and conservation areas, and other open spaces; odd-shaped and sub-standard parcels; restrictions controlling building lines; establishment and maintenance of buffer strips and walls; and restrictions of similar nature shall require the establishment of restrictive covenants and the existence of such covenants shall be noted on the plat by reference to Official Record Book and page numbers in the Public Records of Collier County. Documents pertaining to restrictive covenants shall be submitted with the final plat.

3.2.9.2.11

Private Streets and Related Facilities. All streets and their related facilities designed to serve more than one property owner shall be dedicated to the public use; however private streets shall be permitted within property under single ownership or control of a property owners' association a condominium or cooperative association or other like or similar entity. Where private streets are permitted, ownership and maintenance association documents shall be submitted with the final plat and the dedication contained on the plat shall clearly dedicate the roads and maintenance responsibility to the association without responsibility to the County or any other public agency. The rights-of-way and related facilities shall be identified as tracts for roads and other purposes under specific ownership. All private streets shall be constructed in the same manner as public streets and the submission of improvement plans with required information shall apply equally to private streets pursuant to Div. 3.2.8.4.16.

3.2.9.2.12

Certification and Approvals. The plat shall contain on the first page the following certifications and approvals, acknowledged if required by law, all being in the form set forth in Appendix C to this Code. The geometric layout and configuration of the property to be platted shall not be shown on the page(s) containing the certifications, approvals and other textual data associated with the plat when practical.

1. **Dedications.** The purpose of all reserved areas shown on the plat shall be defined in the dedication on the plat. All areas dedicated for use by the residents of the subdivision shall be so designated and all areas dedicated for public use, such as parks, rights-of-ways, easements for drainage and conservation purposes and any other area, however designated, shall be dedicated by the owner of the land at the time the plat is recorded. Such dedication and the responsibility for their maintenance shall require a separate acceptance by resolution of the Board of County Commissioners. No dedications items shall be included in the General Note for the Plat.
2. **Mortgagee's Consent and Approval.** Identification of all mortgages and appropriate recording information together with all Mortgagees' consents and approvals of the dedication shall be required on all plats where mortgages encumber the land to be platted. The signature(s) of the mortgagee or mortgagees, as the case may be, must be witnessed and the execution must be acknowledged in the same manner as deeds are required to be witnessed and acknowledged. In case the mortgagee is a corporation, the consent and approval shall be signed on behalf of the corporation by the president, vice president or chief executive officer.

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3. **Certification of Surveyor.** The plat shall contain the signature, registration number and official seal of the land surveyor, certifying that the plat is a representation of the land surveyed under his responsible direction and supervision and that the survey data compiled and shown on the plat complies with all of the requirements of Chapter 177, Florida Statutes, as amended, and this Division. The certification shall also state that permanent reference monuments, "P.R.M.", have been set in compliance with Chapter 177, Florida Statutes, as amended, and this Division, and that P.C.P.'s will be set under the direction and supervision of the surveyor within two (2) months after completion of required improvements. Upon installation of the P.C.P.'s, the surveyor must submit to the Development Services Director written certification that the installation work has been properly completed. When required improvements have been completed prior to the recording of a plat, the certification shall state the P.C.P.'s have been set in compliance with the laws of the State of Florida and ordinances of Collier County. When plats are recorded and improvements are to be accomplished under performance security posted as provided for by this Division, the required improvements and performance guarantee shall include P.C.P.'s.
4. **Signature Block for Board of County Commissioners and Clerk of Circuit Court.** The plat shall contain the approval and signature block for the Board of County Commissioners and the acknowledgement and signature block of the Clerk of Circuit Court.
5. **Signature Block for Development Services Director.** The plat shall contain the approval and the signature block of the Development Services Director.
6. **Signature Block for Director of Environmental Health, Utilities Engineering Director and County Attorney.** The plat shall contain the approval and signature block for the Director of the Environmental Health Department, Utilities Engineering Director, and also for the County Attorney.
7. **Certification of Title.** A title certification shall be submitted with the plat. The title certification shall state or describe: (1) that the lands as described and shown on the plat are in the name, and record title is held by the person, persons or organization executing the dedication, (2) that all taxes have been paid on said lands, (3) all mortgages on the land and indicate the Official Record Book and page number of each mortgage. The title certification shall be an opinion by an attorney at law licensed in Florida, or other entity approved under Chapter 177.041, Florida Statutes.
8. **Instrument Prepared By.** The name, street and mailing address of the natural person who prepared the plat shall be shown on each sheet. The name and address shall be in statement form consisting of the words, "This instrument was prepared by (name), (address)."

3.2.9.2.13

The name of the Section, Township, Range, and if applicable City, Town, Village, County and State in which the land being platted is situated shall appear under the name of the plat on each sheet. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded

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subdivision, the fact of its being a resubdivision shall be stated as a subtitle following the name of the subdivision wherever it appears on the plat.

- 3.2.9.2.14 The surveyor of record shall sign and seal copies of the plat submitted for approval
- 3.2.9.2.15 The basis of bearings must be clearly stated, i.e., whether to "True North"; "Grid North as established by the NOS"; "Assumed North," etc., and must be based on a well defined line.
- 3.2.9.2.16 Existing or Recorded Streets. The plat shall show the name, location and width of all existing or recorded streets intersecting or contiguous to the boundary of the plat, accurately tied to the boundary of the plat by bearings and distances.

DIV 3.3 SITE DEVELOPMENT PLANS.

SEC. 3.3.1 TITLE AND CITATION. This division shall be known and may be cited as the "Collier County Site Development Plan Code."

SEC. 3.3.2 PURPOSE. The intent of this Division is to ensure compliance with the appropriate land development regulations prior to the issuance of a building permit. This Division is further intended to ensure that the proposed development complies with fundamental planning and design principles such as: consistency with the County's Growth Management Plan; the layout and arrangement of buildings and open spaces; the configuration of the traffic circulation system, including driveways, parking areas and emergency access; the availability and capacity of drainage and utility facilities; and, overall compatibility with adjacent development within the jurisdiction of Collier County and consideration of natural resources and proposed impacts thereon.

SEC. 3.3.3 APPLICABILITY. All development, with the exception of a single lot or parcel proposing a single family detached unit or a duplex unit, shall be subject to site development plan review and approval. A preliminary site development plan, when required, shall be reviewed and approved prior to the submittal of a final site development plan.

SEC. 3.3.4 EXEMPTIONS. Due to its location or minimal impact on surrounding properties and probable minimal impacts under the site development plan review standard contained in Sec. 3.3.6, standard application requirements as described in Secs. 3.3.5.4 and 3.3.5.5 may be waived in part or in full by the Development Services Director for agriculturally related development as identified in the permitted and accessory uses in the Rural Agricultural District and located within any area designated Agricultural on the Future Land Use Map of the Collier County Growth Management Plan and the Collier County Official Zoning Atlas.

Waiver of standard application requirements as identified within Secs. 3.3.5.4 and 3.3.5.5 shall be requested by the applicant prior to actual submission of a site development plan and shall be accompanied with a sketch or conceptual plan of the proposed development which will identify the total acreage of the site, a vegetation survey utilizing the FLUCCS code categories, a soils map, contiguous property under the ownership of the applicant, proposed and existing uses on the site, number of users of the facility and traffic circulation which will be used to determine potential impact on adjacent properties.

SEC. 3.3.5 SITE DEVELOPMENT PLAN REVIEW PROCEDURES. A mandatory pre-application meeting shall be conducted by the Development Services Director to determine the type of review process of all site development plan proposals. Submittal of a site development plan shall conform to one of the following review procedures:

3.3.5.1 Minor Site Development Plan Review. Submittal of a site development plan under the minor review process shall be in conformance with Secs. 3.3.5.5, final site development plan applications, together with the following preliminary site development plan application requirements: Secs. 3.3.5.4.1, 3.3.5.4.2.1 - 3.3.5.4.2.5, 3.3.5.4.2.6.b-f, 3.3.5.4.2.7.a-f, 3.3.5.4.2.8.b, f, h, 3.3.5.4.2.8.k-m, 3.3.5.4.3-3.3.5.4.6. A site development plan may be

reviewed under the Minor SDP review process if the plan submittal meets the following conditions:

- 3.3.5.1.1 The project does not require a South Florida Water Management District permit and/or modification to an existing permit unless pre-approved and submitted with the SDP application.
- 3.3.5.1.2 Central sewer and water are available at the property line or the ability to use well and septic tank systems exists.
- 3.3.5.1.3 Approval for encroachment into any easement(s) is submitted with any SDP application. Where an encroachment on or into an easement over the lands for which the SDP has been submitted clearly appears to be consistent with all existing easements affected, the requirement for approval from the easement holder(s) may be waived. Any such waiver shall not be construed as legal advice nor does it mean that any applicant or owner is otherwise relieved of the necessity or obligation to comply with or be subject to any law or rights of third parties, including easement rights held by Collier County, relative to the encroachment.
- 3.3.5.1.4 No standpipe or sprinkler system required.
- 3.3.5.1.5 No areas on site with existing ST overlay.
- 3.3.5.1.6 If no Environmental Impact Statement is required or an Environmental Impact Statement has been previously waived.
- 3.3.5.1.7 SDP is for entire site with no phasing of infrastructure and required site improvements.
- 3.3.5.2 **Major Site Development Plan Review (Non-Phased).** Submittal of a site development plan for a development in which all site related improvements will be completed for the entire property shall conform to the following preliminary and final site development plan application requirements:
 - 3.3.5.2.1 Preliminary site development plan application requirements, Sec. 3.3.5.4.
 - 3.3.5.2.2 Final site development plan application requirements, Sec. 3.3.5.5, for the phase requesting final site development plan approval.
- 3.3.5.3 **Major Site Development Plan Review (Phased).** A modified two-step preliminary and final site development plan application process may be utilized for a development to be developed in phases in conformance with Sec. 3.3.5.4, for preliminary site development plan application as amended below for the entire property and Sec. 3.3.5.5, for the final site development plan application for each separate phase of the project depicted on the preliminary site development plan approval:
 - 3.3.5.3.1 Preliminary site development application requirements, Sec. 3.3.5.4, and the following additional information for the site plan proposed pursuant to Sec. 3.3.5.4.2:
 - 1. Site plan must show phasing of development for infrastructure and structures such that each phase can be designed and constructed to stand on its own and be subsequently

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interconnected with other phases on the property.

2. Provide Master Water Management Plan and design calculations which depict the water management system for the entire property. The system shall be designed to meet the phasing plan proposed.
3. Provide a Utilities Master Plan with design calculations which depict the size and general location of the water distribution and sewage collection and transmission system for the entire property. The system shall be designed to meet the phasing plan proposed.

3.3.5.3.2 Final site development plan application requirements, Sec. 3.3.5.5.

3.3.5.4 Preliminary Site Development Plan Application Requirements. A pre-application meeting shall be conducted by the Development Services Director to determine all applicable submittal requirements which shall include the following, if applicable:

3.3.5.4.1 Ownership. A copy of the deed, contract for sale or agreement for sale or a notarized statement of ownership clearly demonstrating ownership and control of the subject lot or parcel of land.

3.3.5.4.2 Site Development Plan. A site development plan prepared on a maximum size sheet measuring 24" X 36" drawn to scale and setting forth the following information:

1. The project title and the name, address and phone number of the firm or agent preparing the plans and the name, address and telephone number of the property owner.
2. Zoning designation and land uses on the subject and adjacent properties.
3. North arrow, scale and date.
4. Vicinity map clearly identifying the location of the development and its relationship to the surrounding community.
5. A narrative statement on the plan identifying provisions of ownership and maintenance of all common areas, open space, private streets and easements.
6. A site summary in chart form which shall include the following:
 - a. Total site acreage.
 - b. Total square footage of impervious area (including all parking areas, drive-aisles, and internal streets) and its percentage of the total site area.
 - c. Total square footage of impervious area (including all parking areas, driveways, loading areas, drive-aisles, and internal streets) and its percentage of the total site area.



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- d. Total square footage of landscape area/open space and its percentage of the total site area.
 - e. For residential projects, total number of units, units per acre, and a unit breakdown by square footage and number of bedrooms.
 - f. For non-residential projects, total building square footage, and a square footage breakdown by use (i.e., office, retail, storage, etc.) and its percentage of the total building.
7. A parking summary in matrix form which shall include:
- a. Type of use.
 - b. Total square footage per use.
 - c. Required parking ratio.
 - d. Number of spaces required per use.
 - e. Number of spaces provided per use.
 - f. Total number of required and provided spaces including regular, handicapped and reserved spaces.
8. Illustrative information accurately depicted on the site development plan shall be as follows unless waived at the pre-application meeting:
- a. A boundary survey, prepared by a professional surveyor, showing the location and dimensions of all property lines, existing streets or roads, easements, rights-of-way, and areas dedicated to the public.
 - b. Name, alignment and existing/proposed right-of-way of all streets which border the development (including raised islands, striping, right/left turn lanes, median cuts and nearby intersections), and the location of all existing driveways or access points on the opposite sides of all streets which border the development.
 - c. Location and configuration of all development ingress and egress points.
 - d. Location and arrangement of all proposed buildings (including existing buildings that are to remain).
 - e. Location and configuration of all parking and loading areas.
 - f. Name, alignment and existing/proposed right-of-way of all internal streets and alleys.

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- g. Directional movement of internal vehicular traffic and its separation from pedestrian traffic.
- h. Location and configuration of recreational facilities (including related buildings, golf course areas, tennis courts, pools, etc.).
- i. Location and general configuration of all water and drainage retention/detention areas as well as all existing and proposed easements, and water and sewer lines intended to serve the development.
- j. Location and general configuration of such natural features as preservation/conservation areas, water bodies, and wetlands.
- k. Location of emergency access lanes, fire hydrants and fire lanes.
- l. Location of all handicapped parking spaces.
- m. Location of trash enclosures.
- n. Location and heights of proposed walls or fences.
- o. Accurate dimensions which include the following:
 - (1) All building setbacks.
 - (2) Distance between buildings and accessory structures.
 - (3) Width of all internal streets.
 - (4) All parking areas and drive aisles.
 - (5) Landscape areas adjacent to all vehicular drives, interior property lines and all parking areas.
- p. Any additional relevant information as may be required by the Development Services Director.

3.3.5.4.3

Landscape Calculations. Landscape calculations in chart form which shall include the following:

- 1. Buffering and screening requirements adjacent to vehicular rights-of-way pursuant to Sec. 2.4.7.
- 2. Buffering and screening requirements adjacent to interior property lines pursuant to Sec. 2.4.7.
- 3. Landscape requirements for the development interior pursuant to Sec. 2.4.5.2.

4. Native species requirement pursuant to Sec. 2.4.4.1.

3.3.5.4.4

Vegetation Inventory. A generalized vegetation inventory of the property shall be required to the extent necessary, as determined at the mandatory pre-application meeting, indicating the approximate location, densities and species of the following:

1. Upland, wetland and estuarine vegetation including exotic vegetation prohibited by Div. 3.9, mapped using FLUCCS terminology.
2. Any type vegetation identified for preservation.
3. Projects containing the following shall provide a survey identifying species and locations on a current aerial photograph (1" = 200' or larger scale) or be superimposed on the site plan:
 - a. Plants specified in an applicable PUD or petitioners agreement to remain in place or to be transplanted to other locations on the property.
 - b. Specimen trees designated by the Board of County Commissioners, pursuant to Sec. 3.9.6.7.
 - c. State or federal rare, threatened or endangered plant species surveyed according to accepted Florida Game and Fresh Water Fish Commission or U.S. Fish and Wildlife methods.
 - d. Existing trees that may be credited toward the development's landscaping.

3.3.5.4.5

Structure Heights. Heights of proposed structures on the property.

3.3.5.4.6

Aerial Photo. A recent aerial photo may be provided at the same scale as the plan delineating the development boundaries.

3.3.5.4.7

Density Bonus. In the event a residential or commercial bonus is requested, as provided for in the Growth Management Plan, a certified survey that clearly illustrates the location and relationship of the development to the appropriate activity center and the related activity band shall be required.

3.3.5.5

Final Site Development Plan Application Requirements. The development illustrated on the final site development plan shall be in substantial compliance with the approved preliminary site development plan, when such review is required. The following information shall be required for all final site development plan applications as may be applicable:

3.3.5.5.1

SDP. A detailed site development plan prepared on a maximum size sheet measuring 24" x 36", drawn to scale and setting forth all required on-site and off-site improvements and provisions to include the following:

1. Complete legal description including boundary survey.

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2. Lot dimensions, acreage.
3. All building and structures, location, size, height and proposed use.
4. Yard setbacks and distances between structures.
5. Walls and fences including location and heights.
6. Off Street parking; location, parking layout dimensions, on-site traffic circulation, and landscaping, including all handicap parking and access provisions.
7. Access for pedestrian, vehicular and service. Points of ingress and egress.
8. The proposed location, size and height of all traffic control signs. For other development signage see Division 2.5.
9. Loading location, dimensions and number of loading spaces.
10. Lighting location, heights and design of all street and parking lot light fixtures.
11. Street dedication and improvements.
12. Drainage and grading plan for the development which shows the proposed finished floor elevations, drainage flow and required water management features.
13. Solid waste disposal facilities.
14. Existing and proposed easements including, but not limited to ingress/egress, water management and public/County utilities.
15. Buffer areas.
16. Environmentally sensitive preserve and conservation areas, i.e. wildlife corridors.
17. The location and configuration of septic systems, with required open area, or interim wastewater treatment facility, if required.
18. The location of potable water wells, if existing or proposed.
19. Water and sewer system connection points and configuration on-site.

3.3.5.5.2

Landscaping Plan. A landscape plan which shall contain the following:

1. Landscape summary in matrix form which shall include:
 - a. Graphic symbol to indicate each type of plant material.

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- b. Botanical name.
- c. Common name.
- d. Total number of each type of plant material.
- e. Height and spread of each type of plant material.
- f. Spacing of each type of plant material.

2. **Illustrative Information.** Illustrative information consisting of the following shall be accurately depicted on the landscape plan:

- a. The location, configuration and arrangement of all proposed buildings, internal streets and parking areas as reflected on the site plan.
- b. The location and dimensions of all proposed landscaped areas with appropriate graphic symbols including existing trees that are being credited toward the development's landscaping.
- c. Location and configuration of all special or textured paving areas.
- d. Provisions for site irrigation.
- e. Any additional relevant information as may be required by the Development Services Director.

3.3.5.5.3 **Building Plans.** Plans showing proposed building footprints, configuration and building heights.

3.3.5.5.4 **Soil Erosion and Sediment Control Plan.** A Soil Erosion and Sediment Control Plan pursuant to Div. 3.7.

3.3.5.5.5 **Infrastructure Improvement Plans.** Detailed on-site and off-site infrastructure improvement plans and construction documents prepared in conformance with the design standards of Div. 3.2 and any current County ordinances, regulations, policies and procedures which consists of, but are not limited to, the following items:

- 1. A cover sheet setting forth the development name, applicant name, name of engineering firm, and vicinity map.
- 2. Improvements for water and sewer service as needed or as may have been specified during a preliminary site development plan review prepared in conformance with Collier County Ordinance No. 88-76, as amended.
- 3. Improvements for roadway, traffic circulation, ingress and egress, parking and other transportation needs required or as may have been specified during the preliminary site development plan review, prepared in conformance with Sec. 3.2.8.4 subdivision design

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requirements (For purposes of this requirement, all references in Sec. 3.2.8.4 to "subdivision" should be read to mean development, where applicable and appropriate).

4. Improvements for water management as needed or as may have been specified during the preliminary site development plan review, prepared in conformance with Sec. 3.2.8.4 subdivision design requirements (for purposes of this requirement, all references in Sec. 3.2.8.4 to "subdivision" should be read to mean development, where applicable and appropriate), and pursuant to South Florida Water Management District Rules, Chapter 40E-4, 40E-40 and 40E-41, Florida Administrative Code.
5. All necessary standard and special details associated with Secs. 3.3.5.5.2 through 3.3.5.5.4 above.
6. Written technical specifications for all infrastructure improvements to be performed.
7. Engineering design computations and reports for water, sewer, roads and water management facilities, as required by federal, state and local laws and regulations.
8. Topographical map of the property which shall include the following:
 - a. Existing features, such as, water courses, drainage ditches, lakes, marshes.
 - b. Existing contours or representative ground elevations at spot locations and minimum of fifty feet (50') beyond property line.
 - c. Benchmark locations and elevation (NGVD).
9. Site clearing plan and method of vegetation disposal.

3.3.5.5.6

Permits. All necessary permits or applications requiring County approval and other appurtenant permitting and construction related items including but not limited to the following shall be submitted and approved with the site development plan, except as noted below:

1. Florida Department of Environmental Regulation water and sewer facilities construction permit application.
2. Excavation permits application.
3. Florida Department of Transportation utilities construction application and/or rights-of-way construction permits.
4. Collier County rights-of-way permit at the time of building permit approval.
5. Blasting permit prior to commencement of any blasting operation.
6. South Florida Water Management District permit, if required, or, Collier County general permit for water management prior to site development plan approval.

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7. Interim wastewater and/or water treatment plant construction or interim septic system and/or private well permits prior to building permit approval.
8. Any additional state and federal permits which may be required prior to commencement of construction, including impacts on jurisdictional wetlands and habitat involving protected species.
9. Any specific agreements specified between the applicant and the County during the preliminary site development plan process prior to site development plan approval.
10. All other pertinent data, computations, plans, reports, and the like necessary for the proper design and construction of the development submitted for consideration.
11. All necessary performance securities required by Collier County ordinances in effect at the time of construction.
12. The applicant shall submit evidence that all necessary land development related permits have been issued prior to the commencement of construction for the phase requesting approval.

SEC. 3.3.6 **SITE DEVELOPMENT PLAN STANDARDS.** The Development Services Director shall review and consider all preliminary and final site development plans. In reaching a decision to approve, approve with conditions, or to disapprove, the Development Services Director shall evaluate the preliminary and final site development plans by the following standards:

- 3.3.6.1 Statements regarding ownership and control of the property and the development as well as sufficiency of conditions regarding ownership and control, use and permanent maintenance of common open space, common facilities, conservation/preservation areas, or common lands to ensure preservation of such lands and facilities will not become a future liability of the County.
- 3.3.6.2 Development compliance with all appropriate zoning regulations.
- 3.3.6.3 The ingress and egress to the proposed development and its proposed improvements, vehicular and pedestrian safety, separation of vehicular traffic from pedestrian and other traffic, traffic flow and control, provision of services and servicing of utilities and refuse collection, and access in case of fire, catastrophe or other emergency.
- 3.3.6.4 The location and relationship of parking and loading facilities to thoroughfares and internal traffic patterns within the proposed development, considering vehicular and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscaping.
- 3.3.6.5 Adequacy of recreation facilities and open spaces considering the size, location, and development of these areas with regard to adequacy, effect on the privacy of adjacent and nearby properties as well as uses within the proposed development, and the relationship to community-wide open spaces and recreation facilities.

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- 3.3.6.6 Adequacy of the proposed landscape screens and buffers considering preservation of the development's internal land uses as well as compatibility with adjacent land uses.
- 3.3.6.7 Water management master plan on the property, considering its effect on adjacent and nearby properties and the consequences of such water management master plan on overall County capacities.
- 3.3.6.8 Adequacy of utility service, considering hook-in location and availability and capacity for the uses projected.
- 3.3.6.9 Such other standards as may be imposed by this Code, the Growth Management Plan or other applicable regulations for the particular use or activity proposed.
- 3.3.6.10 Signage proposed for the project shall be in conformity with Collier County Sign Code, Division 2.5, and shall not be reviewed and approved as part of the site development plan process.

SEC. 3.3.7 AMENDMENTS.

- 3.3.7.1 Any proposed change or amendment to a previously approved site development plan shall be subject to review and approval by the Development Services Director. Upon submittal of a plan clearly illustrating the proposed change, the Development Services Director shall determine whether or not it constitutes a substantial change. In the event a substantial change is identified, both the preliminary (if required) and the final site development plan shall be amended to reflect the change and shall follow the same review procedure as set forth for a new site development plan application (refer to Sec. 3.3.5 and 3.3.6). A substantial change shall be defined as:
- 3.3.7.1.1 Any change which substantially affects existing transportation circulation, parking or building arrangements, drainage, landscaping, buffering, identified preservation/conservation areas and other site development plan considerations; or
- 3.3.7.1.2 Any other change the Development Services Director may determine as significantly altering the general layout, configuration and arrangement of the project.
- 3.3.7.2 In the event the Development Services Director determines the change to be less than substantial, both the preliminary, if required, and final site development plan shall be amended to reflect the change, but shall not be required to follow the review procedure as set forth for a new site development plan.

- SEC. 3.3.8 SITE DEVELOPMENT PLAN TIME LIMITS.** Approved Final Site Development plans shall remain in force for two (2) years. If no development (actual construction) has commenced within two years, the Site Development Plan shall expire. One (1) one-year extension may be granted for good cause shown upon written application submitted to the Development Services Director prior to expiration of the preceding approval. When extending the Final Site Development Plan approval, the Development Services Director shall require the approval to be modified to bring the plan into compliance with any new provision of of this Code in effect at the time of the extension request.

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SEC. 3.3.9 **VIOLATIONS.** No building permit or certificate of occupancy shall be issued except in compliance with the approved final site development plan. Violation of the terms identified in the approved final site development plan shall constitute a violation of this Code.

DIV. 3.4 EXPLOSIVES.

SEC. 3.4.1 TITLE AND CITATION. This Division shall be known and may be cited as the "Collier County Explosives Regulations."

SEC. 3.4.2 PURPOSE. This Division is intended to control and regulate explosives in Collier County for the protection of the public health, safety, and welfare of its citizens, and to prevent damage to property, personal injury and loss of life resulting from detonations of explosives. Further this division is intended to prevent the possession and use of explosives by unauthorized persons in the unincorporated areas of Collier County, or in roadways maintained by Collier County but which lie within municipal boundaries of Collier County, and to protect the structural and physical integrity of private and public facilities and materials along such roadways. It is to be liberally construed to accomplish such intent and purpose. Further, it is the intent of this division to recognize that a "User of Explosives License" and "Blaster Permit" must be approved and issued by the State of Florida and that, in addition to the requirements of this division, the User and Blaster is responsible for compliance with State or Federal Explosive Regulations including, but not limited to, the following:

3.4.2.1 The United States Department of Labor Occupational Safety and Health Administration, Occupational Safety and Health Standards Subpart H "Explosives and Blasting Agents", Section 1910.109 and Subpart U "Blasting and the Use of Explosive B", Section 1926.900 through and including Section 1926.914.

3.4.2.2 The State of Florida enactment of Chapter 552 of the Florida Statutes and the State Fire Marshal's regulatory rules designated as Chapter 4A-2, Florida Administrative Code.

3.4.2.3 The National Fire Protection Association 495, Code for the Manufacture, Transportation, Storage and Use of Explosive Materials 1985 Edition.

SEC. 3.4.3 APPLICABILITY: PERMIT REQUIRED. It shall be unlawful for any person to acquire, possess, handle, dispose of, store or use an explosive in Collier County without first obtaining a Collier County "User/Blaster Permit" (hereinafter referred to as "Permit") issued pursuant to the provisions of this division. A Permit obtained by a User in accordance with provisions of this division shall be sufficient to authorize those blasters and handlers who are employed or engaged by the User and who are fully disclosed to Collier County in accordance with Permit application requirements and conditions of this division.

SEC. 3.4.4 EXEMPTIONS FROM PERMIT REQUIREMENTS. The following are exempt from the provisions of this division:

3.4.4.1 The United States Department of the Interior Bureau of Mines, the Federal Bureau of Investigation, the United States Secret Service or the Collier County Sheriff's designated employee/personnel and all other law enforcement officials acting in their respective official capacities in performance of their duties. This exemption shall be applicable only to the personnel of these agencies and shall not apply to private contractors and subcontractors employed by these agencies.

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- 3.4.4.2 The sale and delivery of explosives and the sale or use of pyrotechnics (fireworks) in accordance with applicable Collier County ordinances.
- 3.4.4.3 The transportation of explosives through Collier County under regulations of the Federal Department of Transportation 49CFR (Code of Federal Regulations) Parts 100 to 177.
- 3.4.4.4 The Armed Forces of the United States or the State Militia.
- 3.4.4.5 The possession, transportation and use of small arms ammunition and supplies such as black powder and smokeless powder.

SEC. 3.4.5 PERMIT APPLICATION REQUIREMENTS AND CONDITIONS.

- 3.4.5.1 **General Application Requirements.** Application for the Collier County User/Blaster Permit shall be pursuant to a letter of application for the permit signed by the User and filed with the Development Services Department. The application letter shall detail the purpose of the permit and shall include, but shall not be limited to, the following data and information or, where applicable, shall have such data and information submitted as an attachment. It is not the intent of this division to require an applicant who has previously obtained a State of Florida "User of Explosives" License or "Explosive Blaster Permit" to again produce original data and information (other than the originals requested in Sec. 3.4.5.1.1 through 3.4.5.1.6 below) that was supplied as part of the application process for the State license or permit and which original data and information is on file with the Development Services Department. In the event that application data or information required by this Section has been previously supplied to the Department of Natural Resources, the applicant may supply copies of such information to Collier County to fulfill the specific data or information requirement.
- 3.4.5.1.1 A Collier County fingerprint information card which has been completed by the User (or its legal representative), all blasters and handlers.
- 3.4.5.1.2 Full name, address and the telephone number of the User or its representatives.
- 3.4.5.1.3 A physical description of the User and all blasters and handlers.
- 3.4.5.1.4 Fingerprints of the User and all blasters and handlers.
- 3.4.5.1.5 The signature of the User and all blasters and handlers.
- 3.4.5.1.6 Recent photographs of the User and all blasters and handlers.
- 3.4.5.1.7 A legal description of the site at which blasting will occur, including Section, Township, and Range.
- 3.4.5.1.8 The dates on which the blasting is expected to commence and terminate and a detailed explanation of the reason and purpose of the blasting.
- 3.4.5.1.9 Copies of the User's State of Florida "User of Explosives" and "Explosive Blaster Permit"

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licenses and when applicable "Manufacturer Distributor of Explosives" State of Florida Explosive License.

3.4.5.1.10 Distance between the blasting site and all neighboring properties.

3.4.5.1.11 Written authorization or proof of authorization from the owner of the site, setting forth the name, address and telephone number of the owner(s) and providing:

1. Authorization to blast on the property; and
2. Authorization for the County's personnel to enter upon the property from time to time in order to carry out inspections and verify compliance with the provisions of this division and the blasting permit.
3. For geophysical seismic operations, legal permission, which may be in the form of a lease, written permission of an owner of the minerals, or an affidavit of the applicant affirming that he will obtain permission to conduct geophysical seismic operations using explosives for oil, gas, or minerals underlying the lands.
4. Evidence of compliance with the insurance requirements as set forth in Sec. 3.4.10 of this division.
5. Evidence of permit approvals, where applicable, from the State of Florida Department of Natural Resources, or other federal, state or local agencies having jurisdiction over the proposed work.
6. A written statement that the User has read this division and agrees to conduct all blasting activities in accordance with this division and all applicable County and State codes and laws.
7. The name, address, and telephone number of the seismologist whose services will be used if conditions warrant for the duration of the blasting activities.
8. Verification of project development approval by Collier County when the blasting is to be done in conjunction with such development.

3.4.5.1.12 Any other information or data reasonably required and requested by the Development Services Director in order to fully review or evaluate any special circumstances or considerations for permit application approval applicable to specific blasting site(s). (Other information or data required and requested by the Development Services Director is not intended to require the submission of Geophysical information or data when the confidentiality of such information or data is protected by Common Law, State Statute or an Administrative Rule promulgated thereunder.)

3.4.5.2 Blasting/Explosives Information.

3.4.5.2.1 A site plan showing the intended blasting locations and expected pattern of explosions. For geophysical seismic blasting a location map shall be submitted in place of the site plan.

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3.4.5.2.2

A full description of the following blasting information: (in cases where a manufacturer, distributor or dealer who is acting as a User in conjunction with a commercial excavation and that site's representative(s) is purchasing explosives and has a User's license, it shall be the responsibility of the site's User or blaster to supply the appropriate information contained below to the Development Services Director for review and approval prior to placement of explosives within the ground).

1. Depth and number of holes.
2. Size of the holes.
3. Size of the explosive charges.
4. Maximum number of pounds of explosives per hole; maximum pounds per delay.
5. Number of holes which are planned to be shot each day.
6. Type of initiation device to be utilized, i.e., blasting caps, detonating cord, etc.
7. The hour of the day when blasting will occur.
8. The pounds per shot when underwater "Doby" detonation is performed (if such information is applicable to the blasting activity.)

3.4.5.2.3

When geophysical seismic blasting is to occur, the application shall include a list of the names, addresses, social security numbers and telephone numbers of all employees of the geophysical seismic parties.

1. The User shall update the list and applicable information should it become necessary during the geophysical seismic operation.
2. The User shall provide a statement that all blasters and handlers are employed by the User and that the User accepts full responsibility for the actions of all blasters and handlers while engaged in the course and scope of their employment by User.
3. The User shall file with the Development Services Director, at the time of permit application, the name, address, telephone number and business affiliation of a third party observer(s) who meets all requirements of this division.

SEC. 3.4.6

OBLIGATION OF USER TO UTILITIES.

Prior to Permit issuance, the User shall make appropriate arrangements with all utility companies which may be affected by the blasting to minimize the chance of damage to utility facilities. The User shall notify, at least twenty-four (24) hours prior to blasting, all utility companies which have facilities or equipment which may be affected by the blasting.

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SEC. 3.4.7 PERMIT APPLICATION REVIEW PROCEDURES.

- 3.4.7.1 Upon submittal of the letter of application to the office of the Development Services Director, processing shall commence.
- 3.4.7.1.1 A field review of the site may be required at the discretion of the Development Services Director.
- 3.4.7.1.2 Checks may be performed by law enforcement officials on all permit requests and on the User, blaster or handler.
- 3.4.7.1.3 Prior to detonation of explosives, the need for any pre-blast inspection survey(s) shall be solely the responsibility and at the discretion of the User or blaster.
- 3.4.7.1.4 If the User or blaster has a preblast inspection survey(s) performed, a written listing of structures inspected shall be provided to the Development Services Director.
- 3.4.7.2 Within ten (10) working days after a letter of application has been fully completed, as determined by the Development Services Director, and submitted to the Development Services Director, the Development Services Director shall:
- 3.4.7.2.1 Approve the letter of application and issue a Permit with such conditions, if any, which may be deemed necessary; or
- 3.4.7.2.2 Notify the Permit applicant, in writing, of the reason(s) for the delay or denial of the Permit.
1. If a delay is necessary, the reason(s) for the delay and any additional required application information necessary to meet the purpose and requirements of this division shall be explained to the applicant, in writing, and shall be forwarded by certified mail, return receipt requested;
 2. If additional required information consistent with the intent and purpose of this division is requested and is not supplied by the applicant within thirty (30) days after being notified, the notification of delay shall constitute a Notice of Denial.
- 3.4.7.2.3 When a Permit application has been denied by the Development Services Director or when a Permit has been issued subject to conditions, the applicant may appeal such decision by filing a written Notice of Appeal with the Board, with a copy to the Development Services Director, within ten (10) working days after notification of such denial or conditions. Within forty-five (45) days a public hearing shall be scheduled before the Board at which time the Board shall review those facts presented by the applicant and the Development Services Director and shall thereafter determine whether the application is sufficient and in compliance with the provisions of this division. Thereafter, the Board shall either render a decision upholding the decision of the Development Services Director or shall direct the Development Services Director to issue the Permit with such stipulations, if any, as may be deemed necessary by the Board.



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SEC. 3.4.8 ISSUANCE OF PERMIT: PROHIBITIONS.

- 3.4.8.1 Each Permit issued by the County shall set forth, at a minimum, the full name, date of birth, address and telephone number of the User and any conditions or restrictions placed upon the Permit by the County.
- 3.4.8.2 A Permit shall be valid solely for the use by the permittee and shall not be transferred or assigned without written Board approval.
- 3.4.8.3 No Permit shall be issued or be allowed to remain in effect for any natural person:
- 3.4.8.3.1 Who is under eighteen (18) years of age; or
- 3.4.8.3.2 Who has been convicted of a felony and has not been pardoned or had his civil rights restored; or
- 3.4.8.3.3 Who has been adjudicated mentally incompetent and has not had his civil rights restored.

SEC. 3.4.9 LIMITATIONS AND CONDITIONS.

- 3.4.9.1 The Development Services Director shall, in determining and imposing reasonable limitations and conditions, consider the prevention of personal injury, loss of life and damage to property, as well as the general considerations of public health, safety and welfare.
- 3.4.9.2 The Development Services Director may impose limitations and conditions for each permit issued including, but not limited to, the following:
- 3.4.9.2.1 A Cash or Surety Bond or Letter of Credit in such amount as may be deemed necessary by the Development Services Director or the Board for the financial protection of adjacent or nearby public property or facilities. The Bond or Letter of Credit shall be drawn in favor of Collier County and the terms of the instrument shall be such that it provides for forfeiture of the Bond or Credit upon written demand by the Development Services Director specifying the public property or facilities damaged and the amount of damage. In the event that the applicant has provided a Cash or Surety Bond or Letter of Credit to the State of Florida in fulfillment of State license bond requirements and the Development Services Director determines that such security is in effect in such amount and type so as to provide the financial protection required by this Section, the Development Services Director shall permit the applicant to provide such current security with an endorsement or rider in favor of Collier County.
- 3.4.9.2.2 A condition limiting the amount and type of explosive which may be used at any one time, whether fired or detonated instantaneously as a single charge or by a delay series charge, as may be deemed by him reasonable under the conditions existing in the locale for which the Permit is issued.
- 3.4.9.2.3 A condition requiring the User to conduct a series of test shots to determine that vibrations are within required limitations.

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- 3.4.9.2.4 From time to time to change, amend, modify or impose more restrictive conditions and limitations if circumstances and conditions at and surrounding the site area concerned so warrant or prove to be necessary in order to carry out the purpose for which the conditions and limitations were imposed.
- 3.4.9.3 If such conditions and limitations are found by the Development Services Director to be too restrictive, he may modify them accordingly within the bounds of the purposes for which they were imposed; provided, however, the imposed limitations and conditions as to the amount of explosives permitted in any Permit shall not be increased by the Development Services Director until and unless the permittee shall first demonstrate to the satisfaction of the Development Services Director by due and proper proof that the desired increase would not in any event result in a "resultant peak particle velocity" in excess of that prescribed in Sec. 3.4.13.5.1.
- 3.4.9.4 To verify the use of an amount of explosive which will result in vibrations up to but not exceeding the required limits of this division, the Development Services Director shall require that the User provide a minimum of one (1) continuous monitoring seismic instrument for use during the daily blasting segments to ascertain that described limits are not exceeded at the nearest building or structure. The User shall be responsible for all costs incurred in providing such monitoring.
- 3.4.9.4.1 The seismic instrument shall be placed at a location either on the blasting site or the instrument may be relocated to an off site location.
- 3.4.9.4.2 The Development Services Director shall be advised of the instrument's location.
- 3.4.9.4.3 The results from the seismic instrument shall be provided to and analyzed by a seismologist who shall sign the results of his analysis.
- 3.4.9.4.4 All original records of the seismic analysis will be the property of the User but a copy of the seismic results and/or analysis shall be furnished to the Development Services Director with full and complete and supporting data at monthly intervals or upon demand.
- 3.4.9.4.5 Each instrument shall be frequently checked to insure proper operation and shall be calibrated annually. Notification of the calibration date shall be supplied to the Development Services Director.
- 3.4.9.4.6 The Development Services Director is authorized to waive the requirement for a continuous monitoring seismic instrument if the Development Services Director determines that the instrument is unnecessary as a result of existing monitoring data or in the event that there are no probable adverse impacts due to the remote and isolated location of the blasting.

SEC. 3.4.10 INSURANCE.

- 3.4.10.1 The Development Services Director, as a condition to the issuance of a Permit, shall require evidence of insurance coverage to protect the applicant, Collier County and the public as follows:
- 3.4.10.1.1 Workers' Compensation as required by Florida Law.

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3.4.10.1.2 Comprehensive General Liability (including, but not limited to Explosive Hazard, Collapse Hazard, Underground Property Damage, Contractual Liability) - bodily injury, personal injury: \$500,000.00 each occurrence and aggregate; property damage: \$500,000.00 each occurrence and aggregate.

3.4.10.1.3 Additional coverage as may be required depending on special circumstances.

3.4.10.2 A Certificate of Insurance shall be provided to the Development Services Director to confirm that the above insurance coverage will be in effect during the entire period of blasting. The insurance coverage shall not be canceled or changed without a minimum of thirty (30) days prior written notice to the Development Services Director.

SEC. 3.4.11 FEES.

3.4.11.1 The following non-refundable, non-transferable permit application fees shall be applicable to all permit applications submitted after the effective date of this division:

3.4.11.1.1 A fee set by resolution per site will be charged for issuance of a 30-day Permit.

3.4.11.1.2 A fee set by resolution, per site will be charged for issuance of a 90-day permit.

3.4.11.1.3 A fee set by resolution per site will be charged for issuance of a yearly permit.

3.4.11.1.4 A fee set by resolution will be charged for each handler who assists the User or blaster in the use of explosives. It shall be the User and blaster's responsibility to ensure the handler's permits are kept current with the Development Services Director.

3.4.11.1.5 If it is necessary to renew a permit, a renewal fee, set by resolution, per permit will be charged. The renewal shall be for only 30 days and shall only be renewed twice for the same permit.

3.4.11.1.6 Permit fees may be waived in those cases where blasting is to be performed for a governmental agency.

3.4.11.2 An After-the-Fact Permit may be granted, at the sole discretion of the Development Services Director, where it is verified that the applicant has submitted all application information required by this division and said applicant would have been granted a Permit pursuant to an original application. The following fees and conditions shall be applicable to an After-the-Fact Permit:

3.4.11.2.1 A fee set by resolution for the issuance of the Permit; and

3.4.11.2.2 A fine set by resolution per detonated shot; and

3.4.11.2.3 Correction of all applicable damages caused by the blasting; and

3.4.11.2.4 A six (6) month moratorium for the User and blaster on future Permit application requests within Collier County;

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The issuance of an After-the-Fact Permit or the payment of an After-the-Fact Permit fee shall not prevent or prohibit the County from imposing or pursuing such other administrative, civil or criminal penalties as may be deemed appropriate.

SEC. 3.4.12 INFORMATION AND REQUIREMENTS DURING AND SUBSEQUENT TO GEOPHYSICAL SEISMIC BLASTING.

- 3.4.12.1.** For geophysical seismic blasting and under such other circumstances as may be specified by the Development Services Director, the following requirements shall be applicable during blasting operations:
- 3.4.12.1.1** The User shall provide a location map of all intended shot points along all survey lines to the Development Services Director prior to drilling and loading any shot holes. The location map shall be appropriately keyed with symbols and shall be on a aerial photographic base at a scale of one inch (1") equals 400 feet.
- 3.4.12.1.2** The User shall provide, at his expense, an independent third party observer(s) who shall be thoroughly familiar with applicable County ordinances, the rules of the State Fire Marshal and current State of Florida Department of Natural Resources geophysical rules and shall, when practical, meet all Florida State Police Board Standards. The third party observer(s) shall witness the drilling, loading, shooting and plugging of all holes detonated by the User and shall maintain a shooting log book as required by the Department of Natural Resources. In addition, no remedial operations to neutralize an undetonated shot hole shall take place without the observer(s) also witnessing the activity. The name, address and telephone number of the independent third party observer(s) shall be provided to the Development Services Director prior to the commencement of blasting operations. Where any requirement of this Subsection is mandated by State Statute or Administrative Rule as part of State licensing requirements, the applicant may comply with the requirements of this Subsection by providing copies of materials or data supplied to the State of Florida in fulfillment of the State's requirement.
- 3.4.12.1.3** Appropriate signs shall be placed at intervals along the shot line to advise all persons of an explosive hazard.
- 3.4.12.1.4** Complete copies of files on the number of blasting caps used and pounds of explosives used on each shot line shall be provided to the Development Services Director.
- 3.4.12.1.5** Where necessary due to terrain or unusual geographic conditions, transportation to and from the blast site shall be provided by the User for any County official acting in their respective official capacities in performance of their duties that is required to visit the site for any purpose.
- 3.4.12.2** The following requirements shall be applicable subsequent to blasting operations:
- 3.4.12.2.1** Within fifteen (15) days after completion of each shot line, a survey base line and exact shot points must be established for future relocation of each shot hole. The survey must have a minimum closure of 1:5,000. Such survey shall be made in relation to the nearest section line or other appropriate line of demarcation so as to insure proper relocation of shot holes in the future. Legible copies of all field books and computations shall be submitted to and retained by the

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Development Services Director. In the event that survey data reveals that blasting has occurred at other than the permitted location, the Development Services Director is authorized to require an After-the-Fact Permit application for the area where the blasting has taken place and to require any and all actions by the User to comply with the intent and purpose of this division. The Development Services Director is further authorized, however, to waive the permit fee for an After-the-Fact Permit application where it is determined that the User has relied in good faith on inaccurate survey data or if the Development Services Director determines that specific site conditions render the fee inapplicable or unnecessary.

- 3.4.12.2.2 The User shall certify in writing that the State of Florida's Bureau of Geology's field office representative is satisfied that all owners on whose property blasting operations have occurred, have been properly restored including, but not limited to, removal of pin flags, wire and trash from the site, and that all detonated holes and ruts have been backfilled to surrounding grades.

SEC. 3.4.13 RESTRICTIONS FOR THE USE AND HANDLING OF EXPLOSIVES.

- 3.4.13.1 Detonation of explosives shall normally be limited to the hours between 8:00 a.m. and 5:00 p.m. The Development Services Director may reduce or waive this time frame due to existing site conditions/locations or may extend this time frame to all daylight hours for sites remote from residential development.
- 3.4.13.2 Detonation of explosives shall not occur on Sundays or legal holidays. An exception may be granted for geophysical seismic operations or when justification is submitted in writing by the User and is subsequently reviewed and approved by the Development Services Director.
- 3.4.13.3 Should structures which are expected to receive a resultant peak particle velocity in excess of acceptable standards as indicated below require evacuation or in other circumstances in which evacuation for an extended period of time (more than two (2) hours) is required, the User shall notify the Collier County Sheriff's Office by telephone a minimum of twelve (12) hours prior to commencement of the evacuation.
- 3.4.13.4 Twenty-four (24) hours prior to detonation of explosives or applicable segments thereof, the User or blaster shall orally notify the Development Services Director and specify the location and proposed time of such blasting. This time limit may be waived by the Development Services Director under special circumstances such as underwater doby detonations.
- 3.4.13.5 **Resultant Peak Particle Velocity.**
- 3.4.13.5.1 Except as noted below, it shall be unlawful for any person to blast, fire, detonate or use any amount of explosives which would result in a "resultant peak particle velocity" exceeding the requirements shown below on the following properties:

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Measured at:Maximum Velocity

Nearest residence or
unoccupied detached
structure (shed, barn, garage)
not owned or controlled by the
User

0.75 inch per second

Nearest commercial bldg.

0.75 " " "

Nearest ground water level
monitor well or production
water well

0.75 " " "

Nearest permanent structure
other than (a and b) above
(bridge, tunnel, tower,
pipeline, water control
structure, etc.)

1.5 " " "

3.4.13.5.2

Exception. Upon written request, the Development Services Director may authorize the "resultant peak particle velocity" exceeding the aforementioned limits when vibration levels specified in the Alternative Blasting Criteria of the United States Bureau of Mines Report and Investigations No. 8507, Structure Response and Damage Produced by Ground Vibration from Surface Mine Blasting are used.

3.4.13.5.3

Explosives shall not be abandoned or left in an unsecured location.

3.4.13.5.4

In the event that a charged/loaded hole does not detonate the User or blaster shall take whatever action is necessary under the conditions prevailing at the site to neutralize the misfire the same date as placed and prior to the continuance of loading/drilling more holes. Should the depth of the explosive be such as to prohibit recovery or neutralization the same date as placed and the explosive is irretrievable or neutralization is impracticable, the User shall ensure that the charged/loaded hole's location shall be documented and noted utilizing existing landmarks to facilitate return to the location as necessary, and with the actual pinpoint location by survey provided to the Development Services Director.

3.4.13.5.5

Prior to the detonation of any explosives within commercial excavations and during the course of the day's blasting activities, a warning signal such as a horn or siren, audible at adjacent properties, shall be sounded a minimum of one (1) minute prior to detonation and an all-clear signal shall also be sounded upon completion of the blast(s). This warning signal shall be of sufficient duration (a minimum of thirty (30) seconds) to allow complete alert of all individuals adjacent to the blast area.

3.4.13.5.6

Blasting caps shall not be loaded through the Drill Steel, also known as the "Kelly Bar".

- 3.4.13.5.7 A record of blast data shall be recorded on daily blasting logs. The logs shall be maintained by the User or blaster on an approved form with copies of the completed logs submitted to the Development Services Director monthly unless otherwise requested.
- 3.4.13.5.8 Overspray from all detonations shall be contained at the blast site.
- 3.4.13.5.9 All explosives placed in the ground must be detonated the same date as placed and must not be left in the ground overnight. If conditions so warrant and with justification the Development Services Director may authorize "sleepers" provided, however,
1. The Development Services Director receives verbal and followed by written approval from the Bureau of Explosives and Fire Equipment Office of the State Fire Marshal, Tallahassee, Florida; and
 2. The Collier County Sheriff's Office receives verbal information confirming the location/condition of such "sleepers"; and
 3. The User utilizes night security along with taking other appropriate protective safeguards.
 - a. Exception for Geophysical Seismic Users - For geophysical seismic operations, overnight security shall not be required when the explosives are loaded at a depth that avoids deformation of the ground surface upon detonation; provided, however, that the explosives are locked in the hole at the intended depth of burial with a borehole anchor and/or a sealing material to prevent removal.

SEC. 3.4.14. SALE OR DISPOSAL; INVENTORY; THEFT OR ILLEGAL USE.

3.4.14.1 Sale or disposal to person without Permit. It shall be unlawful:

1. For any person to sell or otherwise dispose of any explosive to any other person who does not have a valid Permit.
2. To dispose of any explosive not owned by the User, without providing a minimum of twenty-four (24) hours prior notice to the Collier County Sheriff's Office and the Development Services Director.

3.4.14.2 Inventory. Every User having any explosive in his possession, dominion or control shall have on file a schedule or inventory form accurately setting forth the quantity and description of such explosives.

3.4.14.3 Reports of theft, illegal use or loss.

3.4.14.3.1 In the event any explosive is stolen, misplaced or lost or there are unexplained shortages, such occurrences shall be reported immediately after discovery to the Collier County Sheriff's Office and the Development Services Director. Within twelve (12) hours after discovery, in accordance with Florida Statutes 522.113, notification shall be given to the Bureau of Explosives and Fire Equipment Office of the State Fire Marshal Tallahassee, Florida and within twenty-four (24) hours

after discovery notification shall also be given to the Federal Bureau of Alcohol, Tobacco and Firearms' nearest office.

- 3.4.14.3.2 The area in which the incident occurred shall be secured until an investigation has been made and the scene released by the investigating agency.

SEC. 3.4.15. REVOCATION AND/OR SUSPENSION OF PERMIT.

- 3.4.15.1 Permits may be revoked and/or suspended by the Development Services Director for the following reasons:
- 3.4.15.1.1 Noncompliance by the User, his agents or employees with any directive of the Development Services Director relating to the, Permits the permitting process, Permit limitations, stipulations or conditions, or any related matter.
- 3.4.15.1.2 The Development Services Director determines that the blasting has caused actual personal or real property damage to a party other than the User or Blaster and determines that a suspension or revocation of the permit is necessary to investigate and/or remedy the blasting activities resulting in the damage.
- 3.4.15.1.3 In the event that false information was given or a misrepresentation was made to obtain the Permit.
- 3.4.15.1.4 In the event the permittee is a fugitive from justice.
- 3.4.15.1.5 In the event the permittee has been judicially determined to be mentally incompetent.
- 3.4.15.1.6 Violation by the permittee of any provision of any explosives law or regulation or provision in this division.
- 3.4.15.2 When a Permit is revoked and/or suspended by the Development Services Director, the Permittee shall be notified of the revocation and/or suspension and the reasons therefore, in writing by certified mail, return receipt requested, or such notification may be hand-delivered to the User or blaster at the blasting site. Such revocation and/or suspension shall be effective immediately upon receipt, if by mail, or immediately upon hand delivery. In the event, however, the Development Services Director deems it necessary to protect the health, safety or welfare of the public or to prevent probable damage to private or public property the Development Services Director may orally direct the suspension and/or revocation of a Permit. Such revocation and/or suspension shall be effective immediately and written notice shall be provided to the Permittee by certified mail within five (5) working days thereafter.
- 3.4.15.3 Upon such revocation and/or suspension of Permit, the Development Services Director shall provide notice to the Collier County Sheriff's Office and such other agencies as he may deem appropriate.
- 3.4.15.4 When a Permit has been revoked and/or suspended by the Development Services Director, the Permittee may appeal such decision by filing a written Notice of Appeal with the Board, with a

copy to the Development Services Director, within ten (10) working days after notification of such revocation and/or suspension. Within forty-five (45) days after the filing of the Notice of Appeal. A public hearing shall be scheduled before the Board. At such hearing the Board shall review those facts presented by the Permittee and the Development Services Director and the Board shall thereafter determine whether the revocation and/or suspension was in accordance with the provisions of this division. The Board shall render a decision upholding the decision of the Development Services Director or shall direct the Development Services Director to lift and remove the revocation and/or suspension of the Permit.

- 3.4.15.5 In the event that a Permit is revoked and/or suspended by the Development Services Director and, if appealed, such revocation and/or suspension is upheld by the Board, it shall be necessary that a new application be submitted to and approved by the Development Services Director. Such approval shall be in accordance with the provisions of this division unless the Development Services Director determines, in writing, that such new application is unnecessary and does not further the intent and purposes of this division. Such determination by the Development Services Director shall become part of the permanent permit file.

SEC. 3.4.16 AUTHORITY VESTED IN THE DEVELOPMENT SERVICES DIRECTOR.

- 3.4.16.1 The Development Services Director is vested with the authority to administer and enforce the provisions of this division and is authorized and directed to take any action authorized by or contemplated by this division to insure compliance with or prevent violation of the provisions of this division.

- SEC. 3.4.17 **PENALTIES.** Any firm, partnership, corporation, individual or other entity who violates the provisions of this division, or fails to comply with any requirement of this division, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined or imprisoned, or both, as provided by law, and in addition shall pay all costs and expenses incurred in the prosecution of such violation. Each violation and each day that a violation continues shall constitute a separate offense. In addition, and as an alternative means of enforcement, Collier County may enforce the provisions or requirements of this division by means of any available civil remedy in a court of competent jurisdiction.

- SEC. 3.4.18 **PREVIOUSLY ISSUED PERMITS.** The provisions of the division shall govern all Permits issued after the effective date of this division.

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DIV. 3.5 EXCAVATION.

SEC. 3.5.1 TITLE AND CITATION. This division shall be known and may be cited as the "Collier County Excavation Regulations."

SEC. 3.5.2 PURPOSE.

The purpose of this division is to establish a reasonable regulatory framework to regulate excavations within the County so as to minimize any potentially adverse impacts of the excavation activity on public health, safety and welfare of the citizens of this County and its natural resources.

SEC. 3.5.3 APPLICABILITY; PERMIT REQUIRED.

It shall be unlawful for any person, association, corporation or other entity to create, attempt to create, or alter an excavation without having obtained a permit therefore, except as provided herein.

SEC. 3.5.4 EXEMPTIONS.

The following activities, to the extent specified herein, are exempt from the requirements of this division, provided that no excavated material is removed off-site, but are subject to compliance with all other applicable laws and County ordinances:

- 3.5.4.1 Earth moving in conjunction with any routine maintenance activity which restores the excavation to the final, and previously excavated, slope and depth configuration approved by the Board, or with the installation of an underground utility which is to be backfilled.
- 3.5.4.2 Foundations of any building or structure, providing the excavation will be confined to the area of the structure only.
- 3.5.4.3 Excavations relating to the accessory use of property which by nature are of limited duration and designed to be filled upon completion, i.e., graves, septic tanks, swimming pools, fuel storage tanks, etc.
- 3.5.4.4 The regrading only of any property for aesthetic purposes that does not create a body of water or affect existing drainage patterns or remove native vegetation in excess of County standards.
- 3.5.4.5 Agricultural drainage and irrigation work incidental to agricultural operations.
- 3.5.4.6 The grading, filling, and moving of earth in conjunction with road construction within the limits of the right-of-way or construction easement when the construction plans have been approved by the Collier County or State Department of Transportation.
- 3.5.4.7 Farm animal watering ponds or excavations located on single-family lots/tracts where the net property size is 5 acres or less are exempt from the permitting procedures contained in this

Division, but must comply with all the construction standards of this Division. Such exemptions apply only if:

3.5.4.7.1 Excavation does not exceed 1 acre in area and 12 feet in depth;

3.5.4.7.2 No excavated material is removed from the property.

SEC. 3.5.5 EXCAVATION REVIEW PROCEDURES.

3.5.5.1 Types of Excavation Permits. The permits required by this division shall be issued by the Development Services Director in accordance with the procedures set forth herein and shall come under one of the following categories:

3.5.5.1.1 Private excavations. Private excavations are considered to be an excavation where the excavated material is not removed from the property and where the disturbed surface area at grade does not exceed 2 acres. Where more than one excavation is proposed for the same piece of property or properties under common ownership and the combined disturbed surface area exceeds 2 acres, the permits shall not be issued as a private excavation.

3.5.5.1.2 Commercial excavations. Commercial excavations are considered to be any excavation wherein the excavated material is removed from the subject property.

3.5.5.1.3 Development excavations. Development excavations are considered to be any excavation located within the boundaries of a Planned Unit Development, Subdivision Development, or where the disturbed area of an excavation exceeds two (2) acres, but no fill is removed from the subject property for whatever purpose provided that:

1. The excavations were clearly defined and detailed as to location, size, shape, depth and side slopes during the development's review process and, if applicable, approved by the Board after appropriate public hearings.
2. If approved by the Board during the rezone and/or Preliminary Subdivision Plat process, excavated material in an amount up to 10% (to a maximum of 20,000 cubic yards) of the total volume excavated may be removed from the development. Intentions to remove material must be clearly stated during the development's review and approval process. The design depth of the excavation shall be adjusted accordingly to minimize off-site removal of surplus material.

3.5.5.2 Issuance of Permits.

3.5.5.2.1 Issuance of Private and Development Excavation Permits. The Development Services Director may administratively approve and issue Private and Development Excavation Permits where all of the applicable standards of this division have been met. When, in his opinion, the standards have not been met, the application shall be submitted to the Environmental Advisory Board for recommendation with ultimate approval or denial required of the Board.

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- 3.5.5.2.2** Issuance of Commercial Excavation Permits. Applications for Commercial Excavation Permits shall be reviewed by the Development Services Director and by the Environmental Advisory Board for recommendation and approved by the Board.
- 3.5.5.3** Notice of Meeting. The Development Services Director shall give prior written notice of the Environmental Advisory Board meeting, by first class mail, as noted in Sec. 3.5.6.1.3.4, to all adjacent property owners as determined by reference to the latest official tax rolls.
- 3.5.5.4** Excavation Permit Criteria. Approval by the Development Services Director and the Board shall be granted only upon competent and substantial evidence submitted by the Applicant, that:
- 3.5.5.4.1** The excavation will not interfere with the natural function of any sanitary, storm or drainage system, or natural flowage way, whether public or private, so as to create flooding or public health hazards or jeopardize the functions of the natural resources and environment of Collier County.
- 3.5.5.4.2** Dust or noise generated by the excavation will not cause a violation of any applicable provisions of Article 2 of this Code. Rock crushing operations or material stockpiles that will be adjacent to any existing residential area may require separate County approval.
- 3.5.5.4.3** The excavation will not adversely affect groundwater levels, water quality, hydroperiod or surface water flowways. The Development Services Director may require the Applicant to monitor the quality of the water in the excavation and adjacent ground and surface waters. Under no circumstances shall the excavation be conducted in such a manner as to violate Collier County or applicable State of Florida water quality standards.
- 3.5.5.4.4** The excavation will be constructed so as not to cause an apparent safety hazard to persons or property.
- 3.5.5.4.5** The excavation does not conflict with the Growth Management Plan or land development regulations adopted pursuant thereto, nor does it conflict with existing Zoning Regulations. The Applicant shall provide written statements to this effect from the Growth Planning Director and Planning Services Manager prior to the issuance of the permit. Special criteria and approval procedures may be necessary for projects within the Big Cypress Area of Critical State Concern.
- 3.5.5.4.6** In cases where a wetland is no longer capable of performing environmental functions or providing environmental values or in cases where it is determined that no reasonable alternative exists other than disrupting a wetland, certain alterations may be allowed, except as otherwise authorized through previous county review processes.
- 3.5.5.4.7** Flow of water within and through preserved wetlands shall not be impeded.
- 3.5.5.4.8** Appropriate sediment control devices (hay bales, silt screens, etc.) shall be employed to prevent sedimentation within the wetland pursuant to the design requirements of Div. 3.7. Any building site adjacent to a wetland and elevated by filling, must employ the same erosion control devices.

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Fill must be stabilized using sod, or seed and mulch if an acceptable growth provides for stabilization.

- 3.5.5.5 **Other Permits Required.** All appropriate state and federal permits or approvals for work in jurisdictional areas shall be provided the Development Services Director prior to issuance of an excavation permit.

- 3.5.5.6 **Fees and Guarantees.** Upon Development Services Director or Board approval, the Applicant will, within 60 days of written notification from the Development Services Director, pay the required permit fee, and post, if required, the appropriate performance guarantee. In addition, the Applicant shall provide written proof of payment of road impact fees in accordance with Sec. 3.5.9.3, if required.

Failure to pay the fees and post the guarantee, within this time period shall constitute abandonment of the excavation permit application and will require complete reapplication and review in accordance with all requirements in effect at the time of reapplication, with the following exceptions:

- 3.5.5.6.1 Upon receipt of an Applicant's written request with sufficient justification, as determined by the Development Services Director, and payment of a time extension fee, the Development Services Director may, one time only, authorize the extension of the permit issuance time for up to an additional 60 days.

- 3.5.5.6.2 All previously approved excavation permits that have yet to be issued by the Development Services Director become eligible for the above time extensions upon the effective date of this division.

3.5.5.7 **Duration of Excavation Permits.**

- 3.5.5.7.1 Private Excavation permits shall be valid for a period of 12 months from the date of issuance. If the work is not completed in that time, a second application, with a reapplication fee must be submitted to the Development Services Director, requesting up to an additional 12 months to complete the excavation. If the Development Services Director finds sufficient good cause to grant the request, a permit extension will be issued.

- 3.5.5.7.2 Commercial and Development Excavation permits will be of indefinite duration or until the excavation reaches the limits of the permitted size, provided the excavating operation remains active in accordance with the requirements of this division.

SEC. 3.5.6 **APPLICATION REQUIREMENTS FOR EXCAVATION PERMITS.**

- 3.5.6.1 Unless otherwise directed, one copy of all required application documents shall be submitted to the Development Services Director on a form to be supplied by Collier County. The application shall include, but not be limited to, the following information:

- 3.5.6.1.1 The name, address and telephone number of the Applicant or his agent, and, if known, the excavator.

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3.5.6.1.2

Proof of ownership, legal description and location of the property involved. A small location map, drawn on 8 1/2" x 11" paper, shall accompany the application, clearly showing the location of the proposed excavation(s) in relation to commonly recognized landmarks.

3.5.6.1.3

A signed statement by the Applicant or his agent which includes:

1. A statement that he has read this division and agrees to conduct the excavation in accordance with this division, this Code and other County and State codes and laws.
2. A statement of purpose of excavation and intended use of the excavated material.
3. Exhibits prepared and sealed by the project's surveyor/engineer showing:
 - a. The boundaries of the property.
 - b. Existing grades on the property.
 - c. The level of the mean annual high and low water table.
 - d. The grades which will exist following the completion of the excavation.
 - e. The volume of the excavation as measured from the natural grade.
 - f. Easements, existing utilities, roads and setbacks, and zoning.
 - g. Drainage and flow ways.
 - h. Aerial limits of any special site vegetation such as mangrove, cypress or other wetland species.
 - i. Logs of soil auger borings with field classification shall be provided, unless existing recent data is available and provided to the Development Services Director, for use in determining minimum and maximum depths and appropriate side slope configurations and evidence of any confining layers, this latter to determine if on-site or adjacent wetlands are "perched". The depth of the soil auger borings shall extend to a point at least 1 foot below the proposed bottom elevation of the excavation, and shall be of at least the following density according to size of each excavation: 0-.9 acre/two locations; 1-4.9 acres/three locations; 5-9.9 acres/four locations; 10 acres or more/four locations for 1st 10 acres plus one for each additional ten acres or fractional part thereof.
4. If the project is to be submitted to the Environmental Advisory Board, a list of the names and addresses, obtained from the latest official tax rolls, of all owners or owner associations of property within 1/4 mile of the excavation or on-site vehicle access route or within 300 feet of the property lines of the property on which the excavation is to be performed, whichever is less. The Applicant shall also furnish the Development Services Director with said owners' names and addresses on pre-addressed 4" x 9 1/2" envelopes

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with first class, plus an additional ounce, postage ready for mailing.

5. Water Management Plan detailing methods for the conservation of existing on-site and off-site surface drainage systems and groundwater resources. Copies of an appropriate Surface Water Management Permit and/or Water Use Permit (Dewatering) as required and issued by the South Florida Water Management District shall be provided to the Development Services Director prior to commencing the excavation operation.
6. If excavated material will be removed from the property, and unless, due to site-specific circumstances, the requirement is waived by Transportation Services Director, a traffic and road impact analysis will be made by the County Transportation Department to address the following:
 - a. Identifying the project's zone of influence, that is, the distance from the site that traffic is either generated from or attracted to.
 - b. The existing condition of the road system within the excavation project's zone of influence.
 - c. The capacity of the road system within the zone of influence to handle existing traffic, normal growth in the traffic, and additional traffic generated from the excavation project in consideration of the time frame of the traffic generation and the wheel loadings of such traffic.
 - d. The site-specific road work within the zone of influence which are necessary prior to the start of the project and which are necessary during the project so as to assure that premature road failure and/or severe road damage will not occur.
 - e. Road work to be undertaken by the County and road work to be undertaken by the Applicant to mitigate adverse road impacts along with confirmation of the security, if applicable, to be provided by the Applicant to assure completion of the identified road work. Any and all security and/or performance guarantee required in excess of \$100,000 as set forth in the road impact analysis shall be secured or guaranteed in accordance with Sec. 3.5.10.

Should there not be concurrence by Transportation Services Director and the Applicant of the improvements, maintenance, performance guarantee and/or other requirements on the part of both parties based on the road impact analysis, the permit application along with applicable information shall be subject to review and recommendation by the Environmental Advisory Board followed by review and action by the Board.

3.5.6.2

Should blasting be necessary in conjunction with the excavation, all blasting shall be done under an approved Collier County User/Blaster Permit with no overburden removed prior to blasting from the area planned for excavation unless otherwise approved by the Development Services Director. Said permits shall be obtained from the Collier County Development Services Department. Should approval for blasting not be granted to the Applicant, the Applicant shall

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remain responsible to meet any and all requirements of an approved Excavation Permit unless the subject Excavation Permit is modified in accordance with this division.

- 3.5.6.3 If trees are to be removed as a result of the excavating operation, a Tree Removal Permit shall be obtained from the Development Services Director before work shall commence.
- 3.5.6.4 If the application is made by any person or firm other than the owner of the property involved, a written and notarized approval from the property owner shall be submitted prior to processing of the application.

SEC. 3.5.7 CONSTRUCTION REQUIREMENTS FOR THE CONSTRUCTION OF EXCAVATIONS.

- 3.5.7.1 **Setbacks.** Excavations shall be located so that the top-of-bank of the excavation shall adhere to the following minimum setback requirements:
- 3.5.7.1.1 One hundred (100') feet from the right-of-way line or easement line of any existing or proposed, private or public, street, road, highway or access easement. Exceptions to the above-referenced setbacks may be developed and shall be subject to final approval by the Development Services Director. Said exceptions shall be based upon recognized standards for traffic engineering and road design (AASHTO) and shall incorporate such factors as road alignment, travel speed, bank slope, road cross-section, and need for barriers. However, lakes immediately adjacent to "T-intersections" shall be located based on a specific design analysis by the applicant's engineer which provides for safety and traffic considerations at the intersection.
- 3.5.7.1.2 Fifty feet (50') from side, rear or abutting property lines, except where the excavation is located in agriculturally or industrially zoned districts abutting a residentially zoned district, the setback shall be 100 feet from the residentially zoned property.
- 3.5.7.1.3 From jurisdictional wetlands using standards set by SFWMD.
- 3.5.7.2 **Side Slopes.** The finished side slopes of the excavated area, expressed as the ratio of the horizontal distance in feet to 1 foot of vertical drop, shall be as follows :
- A 4.0:1 slope shall be graded from the top-of-bank to a "break-point" at least 3 feet below the mean annual low water level. Below this "breakpoint", slopes shall be no steeper than 2.0:1.
- 3.5.7.2.1 All governing side slopes shall be considered from the top-of-bank of the resulting excavation, whether said top-of-bank is at the surface of adjacent fill material or at existing ground level.
- 3.5.7.2.2 If rock, homogenous to the bottom of the excavation, is encountered at any elevation above the "break-point", then the remaining slope below the "break-point" shall be no steeper than 0.5:1. If said homogenous rock is encountered below the "break-point", then the slope below the "break-point" shall be no steeper than 2.0:1 to the rock elevation, and no steeper than 0.5:1 from the rock elevation to the bottom of the excavation. However, in no case shall the 0.5:1 slope originate less than 6 feet below the mean annual low water level.

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- 3.5.7.2.3 In the event that property where a Commercial Excavation was previously excavated is rezoned/developed for uses other than agriculture, the excavation shall be modified to the standards for development excavations in accordance with the requirements of Sec. 3.5.7.2 proper, or other criteria as may be more stringent.
- 3.5.7.2.4 Exceptions to the side slope requirements that may be justified by such alternatives as artificial slope protection or vertical bulkheads shall be approved in advance by the Development Services Director.
- 3.5.7.2.5 Ten percent (10%) of the finished lake banks shall be planted with natural aquatic vegetation on a littoral shelf located three (3) feet vertically, with two-thirds (2/3) below and one-third (1/3) above the control elevation. Littoral planting zones should be adjacent to and waterward of control structures when possible.
- 3.5.7.2.6 No Building Construction Permits will be issued for any proposed construction around the perimeter of any excavation where the minimum clearance between the excavation top-of-bank and the proposed building foundation is less than 30 feet, unless and until all side slopes adjacent to the proposed construction have been completed and approved by the Development Services Director. Exceptions to this requirement will be made in those instances where the perimeter of the excavation will be bulkheaded in accordance with the provisions of Sec. 3.5.7.2.4.
- 3.5.7.3 Depths. Unless site conditions, water quality or soil information indicates otherwise, the excavation depths as measured from the permitted control elevation shall be as follows:
- 3.5.7.3.1 Maximum. Private and Development Excavations shall not exceed 12 feet in depth unless computations using the "fetch formula" of maximum depth = 5 feet + (0.015) x (mean fetch in feet) indicate that deeper depths are feasible. The mean fetch shall be computed as follows: $(\text{"A"} + \text{"B"})/2$ where "A" is the average length parallel to the long axis of the excavation and "B" is the average width of the excavation as measured at right angles to the long axis. Commercial Excavations shall not exceed 20 feet in depth unless otherwise supported by the "fetch formula", or if it can be shown from a comparative water quality study that depths in excess of 20 feet will not, because of aquifer conditions or relative location to coastal saline waters, have a detrimental effect on the groundwater resources in the surrounding area.
- 3.5.7.3.2 Minimum. In order to assure that unsightly conditions or undesirable aquatic growth will not occur in wet retention areas during the dry season of the year, the bottom elevation of these excavations shall be at least 6 feet below the mean annual low water level.
- 3.5.7.3.3 Over Excavation. In those instances where the excavator over-excavates the depth of the excavation by more than an average of 10%, written justification shall be submitted to the Development Services Director by the project's surveyor/engineer providing an assessment of the impact of the over-excavation on the water quality of the excavation. If, upon review of the assessment statement by the Development Services Director and Advisory Board, the increased depth is found to be unacceptable, the Permittee shall be required to fill the excavation to the permitted depth with materials and methods approved by the Development Services Director. If the increased depth is deemed acceptable by the Development Services Director and approved by the Environmental Advisory Board, a penalty will be assessed against the Permittee for the volume

of the over-excavated material. The penalty shall be set by resolution for each additional cubic yard of excavated material.

- 3.5.7.4 **Fencing.** If, at any time, the Development Services Director finds that the location and conditions of an excavation are not in, or able to be brought into, compliance with all requirements of this division, the excavation shall be buffered with a minimum of a 4 foot high fence with "No Trespassing" signs as deemed appropriate by the Development Services Director to deter passage of persons.
- 3.5.7.5 **Hours of Operation.** Hours of equipment and blasting operations shall be regulated by appropriate County Ordinances and State laws. Unless otherwise approved by the Development Services Director, all excavation operations, with the exception of dewatering pumps, which are within 1000 feet of developed residential property, shall be limited to operating hours between 7:00 A.M. and 6:00 P.M., Monday through Saturday. Additionally, such excavation operations shall be in compliance with any and all County ordinances which establish operating controls by hours, days, noise level, or other parameters relating to public health, safety and welfare.
- 3.5.7.6 **Restoration.** Upon completion of the excavation operation, the subject property shall be restored as required by the 1986 State of Florida Resource Extraction Reclamation Act (Chapter 378, Part IV, Florida Statutes). Reclamation shall mean the reasonable rehabilitation of the total disturbed area where the resource extraction has occurred, and shall meet the reclamation performance standards established by the State. All disturbed areas, including the excavation side slopes above the water line and a 20 foot wide area around the entire perimeter of the excavation, shall be sodded or fertilized and seeded with a "quick-catch" seed variety approved by the Development Services Director within 60 days of the final side slope shaping in order to minimize the potential for erosion.
- 3.5.7.7 **Discontinuance of Operations.** If the excavating operation is inactive for a period of 90 consecutive days, except due to strikes or Acts of God, all side slopes, including the working face, shall conform with this division and a report so stating, prepared and sealed by the project's surveyor/engineer shall be submitted to the Development Services Director. Recommencement shall also be reported to the Development Services Director. If the excavating operation is never started or if discontinued for a period of 1 year, that permit is void unless a written request is made by the Permittee with sufficient justification for a time extension in which case the Development Services Director may authorize a permit extension for up to 180 days. A new permit must be approved prior to commencement.
- SEC. 3.5.8 **INSPECTION AND REPORTING REQUIREMENTS.**
- 3.5.8.1 **Inspection.**
- 3.5.8.1.1 Collier County personnel, having given reasonable advance notice, shall have the right to enter the property permitted for excavation and may from time to time carry out inspections of the excavation site including the collection of water samples to determine compliance with the provisions of this division and any special conditions attached to the Excavation Permit as issued by Collier County.

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3.5.8.1.2 Upon reasonable notice from Collier County personnel that an inspection is to be conducted which requires the assistance and/or presence of the Permittee or his representative, the Permittee or his representative shall be available to assist and/or accompany County personnel in the inspection of the excavation site.

3.5.8.1.3 Collier County personnel is not obligated to carry out a detailed topographic survey to determine compliance with this division. Upon a finding violation of this division or the special conditions of the Excavation Permit, the Development Services Director shall advise the Permittee in writing by Certified Letter. The Permittee shall, within 15 days of receipt of such notice, have either the violation corrected or submit in writing why such correction cannot be accomplished within the 15 day period. Such written communication shall also state when the violation is to be corrected. If, in the opinion of the Development Services Director, the delay in correcting the violation is excessive, he may recommend to the Board that the Excavation Permit be temporarily suspended or permanently revoked. Upon correction of the violation, the Permittee may be required by the Development Services Director to have an appropriate report, letter and/or survey, whichever is applicable, prepared, sealed and submitted to the Collier County by the project's engineer/surveyor. Failure to do so shall be cause for revoking the permit.

3.5.8.2 Reporting.

3.5.8.2.1 Status Reports. The Permittee shall provide the Development Services Director with an excavation activities status report as follows:

1. Private Excavations. A Final Status Report within 30 days after the final completion of the excavation.
2. Development and Commercial Excavations. An Annual Status Report every 12 months over the duration of the permit and a Final Status Report within 30 days after the final completion of each phase of the excavation. If a Final Status Report will be filed within 4 months of the required Annual Status Report, then the need for the preceding Annual Status Report shall be waived.

The Final or Annual Status Report shall consist of no less than the following information, and such other information as may be deemed necessary by the Development Services Director, to accurately determine the status of the excavation, its compliance with this division and the special conditions of the Excavation Permit:

- a. A sealed topographic survey prepared by the project's surveyor/ engineer, containing the following:
 - (1) A base line along the top of the perimeter of the excavation, clearly referenced to known points and adjacent property or tract lines, if appropriate, with right angle cross-sections taken which clearly show the "as-built" side slope and depth of the excavation at each station. Unless otherwise approved by the Development Services Director, cross-sections shall be taken every 100 feet on excavations less than 5 acres, and every 300 feet on excavations over 5 acres. Partial

cross-sections showing the "as-built" side slopes will be necessary on the ends of the excavation and around the perimeter of the excavation where due to its irregular shape, the base line right angle cross-sections do not accurately depict the actual constructed slopes. The cross section survey data shall be plotted at an appropriate scale and the "as-built" side slope ratio computed for each of the segments between the survey data points. The approved design cross-section, including the "break-points" shall be superimposed on each "as-built" cross-section to facilitate visual verification of substantial compliance with provisions of this division. Side slopes shall be graded to within a reasonable tolerance as will be determined by the Development Services Director, depending upon local site conditions.

- (2) On all Planned Unit Development or Subdivision projects, the outline of the excavations top-of-bank shall be accurately plotted and referenced to known control points in order that:
 - (a) The surface area can be verified as meeting size and retention/detention storage needs. The computed surface area at control elevation shall be shown to the nearest tenth of an acre.
 - (b) It can be determined that the excavation was constructed within easements dedicated for that purpose.
 - (3) The location of all excavated materials stockpiled on the property.
 - (4) Calculation of volume of excavated material as follows:
$$\text{Cubic yards used on site} + \text{cubic yards removed from site} + \text{cubic yards remaining on site in stockpiles} = \text{total cubic yards excavated during reporting period.}$$
- b. A certification from the project's surveyor/engineer stating that they have visually inspected all dikes around any dewatering storage areas, if any, and have alerted the Permittee of any apparent weak spots or failures which shall be promptly corrected by the Permittee to assure that there will be no potential for dike rupture that would cause off-site flooding.
 - c. A certification from the project's surveyor/engineer shall accompany all final completion status reports stating that, based on their observations and surveys, all work on the excavation(s) was completed within reasonably acceptable standards of this division and any special stipulations placed upon the Excavation Permit.
 - d. If the excavation is incomplete, a written statement by the Permittee stating the anticipated date of final completion of the excavation.

SEC. 3.5.9 FEES.

- 3.5.9.1 Application Fee.** A non-refundable and nontransferable application fee shall be paid at the time of application for Private, Commercial or Development Excavation permits to cover the costs of processing the application. Should a Road Impact Analysis be required in accordance with Sec. 3.5.6.1.3.6 of this Division, the application fee shall be increased to cover the cost of the road impact analysis.
- 3.5.9.2 Permit Fee.** Within 60 days after approval notification and prior to its issuance, an additional non-refundable and nontransferable permit fee to cover the cost of excavation monitoring shall be paid
- 3.5.9.3 Road Impact Fee.** If excavated material is to be removed from the subject property, appropriate road impact fees in accordance with Ordinance No. 85-55, as succeeded or amended, shall be paid prior to the issuance of a Permit under this division. A site specific traffic impact statement may be required to determine the lane mile impacts and the appropriate fee in accordance with Ordinance 85-55, as succeeded or amended. Upon completion of off-site removal of material, the amount of any impact fees paid will be credited to the future site development activities in accordance with applicable agreement(s) which may be agreed upon by the County and the developer (property owner).
- 3.5.9.4 Time Extension Fee.** Each written request for the extension of permit issuance time shall be accompanied by a non-refundable time extension fee to cover the costs of processing the request and the Development Services Director shall not consider the request received until this extension fee is "paid in full".
- 3.5.9.5 Reapplication Fee.** If a Private Excavation is not completed within a 12 month period, a second application and a non-refundable reapplication fee must be submitted to the Development Services Director.
- 3.5.9.6 Annual Renewal Fee.** Annual status reports filed on Development or Commercial Excavations shall be accompanied by an annual non-refundable renewal fee to cover the cost of reviewing the Annual Status Report.

SEC. 3.5.10 PERFORMANCE GUARANTEE REQUIREMENTS.

- 3.5.10.1** Upon approval of any commercial or development excavation permit, but prior to the issuance thereof, the Applicant shall, after notification that the permit has been approved, execute an agreement that he will comply with the provisions of this division and the permit. Governmental entities shall be exempt from this requirement. This agreement shall be guaranteed by one of the following two methods:
- 3.5.10.1.1** Excavations performed in conjunction with a Planned Unit Development or Subdivision Development where excavated materials are not removed from the boundary of the development and the plan for revised topography has been approved by the Development Services Director may be guaranteed by a Subdivision Completion Bond in accordance with Div. 3.2 governing the final platting of a Subdivision.

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- 3.5.10.1.2 All other excavations shall, within 60 days after approval notification, have their performance guaranteed by: (a) a cash deposit or Certificate of Deposit assigned to the Board; or (b) an irrevocable Letter of Credit. Unless otherwise approved by the Development Services Director, Certificate Assignments or Letters of Credit shall be documented on forms to be provided by Collier County. The performance guarantee posted for on-site excavation activities shall be in an amount of no less than \$10,000.00 nor more than \$100,000.00 computed at the rate of 20¢ per cubic yard to be excavated to ensure compliance with the provisions of this division but such performance guarantee shall not act to limit any guarantees required for off-site road impacts that may be necessary in accordance with Sec. 3.5.6.1.3.6.
- 3.5.10.2 The performance guarantee shall be executed by a person or entity with a legal or financial interest in the property and shall remain in effect until the excavation is completed in accordance with this division. Performance guarantees may be recorded in the official records of the County and title to the property shall not be transferred until the performance guarantee is released by the Development Services Director.
- 3.5.10.3 All performance guarantees shall be kept in continuous effect and shall not be allowed to terminate without the written consent of the Development Services Director.
- 3.5.10.4 Should the County find it necessary to utilize the performance guarantee to undertake any corrective work on the excavation, or to complete the excavation under the terms of this division, or to correct any off-site impacts of the excavation, the Permittee shall be financially responsible for all legal fees and associated costs incurred by Collier County in recovering its expenses from the firm, corporation or institution that provided the performance guarantee.
- SEC. 3.5.11 APPEALS. All actions of the Development Services Director shall, if at all, be appealed to the Board. Any Applicant who is aggrieved by the action of the Board relative to the issuance of a permit, or any person adversely affected by the issuance of a permit may challenge said action or issuance by appropriate action in a tribunal or court of competent jurisdiction within 30 days from the date of said issuance or action. Failure to file an appropriate action within the prescribed time limit shall operate as a bar to, and waiver of, any claim for relief.
- SEC. 3.5.12 PENALTIES AND ENFORCEMENT.
- In addition to the over-excavation penalty provided in Sec. 3.5.7.3.3, any person who violates any section of this division shall be prosecuted and punished as provided by Section 125.69 of the Florida Statutes. Each day a violation exists shall be considered a separate offense. The Board or any persons whose interests are adversely affected may bring suit, in the Circuit Court of Collier County, for damages or to restrain, enjoin or otherwise prevent the violation of this division. The Development Services Director is vested with the authority to administer and enforce the provisions of this division and is authorized to take action to ensure compliance with, or prevent violation of, the provisions of this division, and shall have authority to issue administrative stay orders. Failure to file timely status reports with accompanying permit renewal fees, or failure to keep the performance guarantee in continuous effect shall be cause for the Development Services Director to issue "Stop Work" Orders on all excavation-related activities taking place or planned for the subject property.

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SEC. 3.5.13 SEVERABILITY.

It is the intention of the Board that each separate provision of this division shall be deemed independent of all other provisions herein, and it is further the intention of the Board that if any provisions of this division be declared to be invalid, all other provisions thereof shall remain valid and enforceable.

SEC. 3.5.14 COMPLIANCE WITH STATE AND FEDERAL PERMITS.

The issuance of a permit in accordance with the provisions of this division is not intended to preclude the right or authority of any other Federal or State agency from requiring separate permits in accordance with rules and regulations of that agency. In a case where multiple permits are required, the most stringent stipulations and requirements of each permit shall govern the work permitted under this division.

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DIV. 3.6 WELL CONSTRUCTION.**SEC. 3.6.1 TITLE AND CITATION.**

This division shall be known and may be cited as the "Collier County Well Construction Code".

SEC. 3.6.2 PURPOSE.

The Board does hereby make the following findings: That it is necessary and in the public interest to regulate the location, construction, alteration, repair, equipment, maintenance, and plugging of wells in Collier County and is in the interest of the public health, safety and welfare. It is therefore the purpose of this division to bring about public awareness of proper well construction methods and to initiate and enforce regulation relating to well construction. Regulation of well construction is necessary because improperly constructed, repaired, or abandoned wells, test holes, or hydraulic elevator shafts have the capacity to create hazards to the health, welfare and safety of the citizens of Collier County and to pollute or otherwise adversely affect the quality of water resources of Collier County.

SEC. 3.6.3 APPLICABILITY.

This division shall apply to and be enforced in all areas of Collier County.

SEC. 3.6.4 REGULATION OF WELLS.

3.6.4.1 Scope. The regulations in this section relate to the permitting requirements applicable to the construction, repair or abandonment of wells. All wells must be permitted prior to construction, repair or abandonment and must be constructed, repaired or abandoned by a licensed water well contractor. This does not relieve the applicant from obtaining permits from the South Florida Water Management District which may be required under Chapter 40E-2 (Consumptive Use), Chapter 40E-4 (Surface Water Management), Chapter 40E-20 (General Water Use Permits) or Chapter 40E-40 (General Surface Water Management Permits), Florida Administrative Code.

3.6.4.2 Permits Required.

3.6.4.2.1 Unless expressly exempt in subsection 3.6.4.3, a permit must be obtained from the County prior to the construction, repair or abandonment of any well, test hole, or hydraulic elevator shaft within Collier County. Any well drilled without a permit shall be plugged by the contractor at the contractor's expense.

3.6.4.2.2 A well construction permit must be obtained prior to the construction of any gang well, regardless of the size or depth of the individual wells comprising such gang well, for the purpose of procuring or obtaining water other than for temporary dewatering.

3.6.4.2.3 No test hole shall be converted to a water well until a well construction permit is obtained.

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- 3.6.4.2.4 No monitoring or observation well shall be converted to a production well until a well construction permit or modification thereof is obtained for each production well.
- 3.6.4.3 **Exemptions.** The following wells are exempt from the requirements of Secs. 3.6.4.5 and 3.6.4.6. This exemption does not relieve the applicant from obtaining permits which may be required under Chapter 40E-2 (Consumptive Use), Chapter 40E-4 (Surface Water Management), Chapter 40E-20 (General Water Use Permits) or Chapter 40E-40 (General Surface Water Management Permits), Florida Administrative Code, from the South Florida Water Management District.
- 3.6.4.3.1 No well in existence on the effective date of this division shall be required to conform to the provisions of Secs. 3.6.4 or 3.6.5 or any rules or regulations adopted pursuant hereto. However, any well now or hereafter abandoned or repaired as defined pursuant to this division and any applicable rules or regulations with respect to abandonment of wells, and any well which is determined by the County to be a hazard to the ground water resources must comply with the provisions of this division and applicable rules and regulations within a reasonable time after notification of such determination has been given.
- 3.6.4.3.2 Nothing in this division shall prevent a person who has not obtained a water well contractor's license from constructing a well that is two (2) inches or less in diameter, on his own property, intended for use only in a single family house which is his residence, or intended for use only for farming purposes on his own farm, and when the waters to be produced are not intended for use by the public or any residence other than his own. Such person shall comply with all rules and regulations as to the construction of wells adopted under this division.
- 3.6.4.3.3 Wells used for the temporary dewatering of subsurface formations for mining, quarrying, or construction purposes.
- 3.6.4.4 **Exceptions and Variances.** An exception or variance effecting the permit requirements of this division shall occur when:
- 3.6.4.4.1 The County finds that compliance with all the requirements of Sec. 3.6.4 may result in an undue hardship for the construction, repair or abandonment of certain wells.
- 3.6.4.4.2 Any affected person may request an exemption from any or all of these rules for an individual well by making written request to the County which must include those specific requirements for which an exemption is requested, any alternate or substitute methods or conditions considered appropriate, and reasons why the exemption is considered necessary.
- 3.6.4.4.3 The County may grant the exemption by way of a variance if the accepted public health and sanitary engineering principles and practices will not adversely affect the water resource. The variance shall be the minimum necessary to ameliorate the hardship.
- 3.6.4.4.4 Written variance requests from the contractors will be received and written decisions rendered by the County when, in the opinion of the County, an emergency situation exists and warrants such a request and decision.

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3.6.4.4.5 If the request is for a variance from the requirement of obtaining a South Florida Water Management District water use permit, the applicant must demonstrate that an application has been filed or a compelling necessity exists to commence the construction, repair or modification of a well while an application for a water use permit is pending. Issuance of the variance will not be evidence of any entitlement to the water use permit.

3.6.4.4.6 Upon issuance of a variance, the County may impose such special conditions as may be necessary to protect the purpose and intent of this division.

3.6.4.5 Application and Issuance of Permits.

3.6.4.5.1 Permits will only be issued to the owner or his agent on whose property the well is located.

3.6.4.5.2 Applications for permits required by this division shall be filed with the County. The application shall contain:

1. Form "0123" Application to the South Florida Water Management District or an approved Collier County form, for the construction, repair or abandonment of all wells, test holes, and hydraulic elevator shafts.
2. The name, address, telephone number and license number of the licensed contractor who will be constructing the wells.
3. The name, address and telephone number of the property owner and his agent, if applicable, on whose property the well is to be drilled.
4. The location of the well (to the nearest one-quarter of the one-quarter section (1/4 of 1/4), or latitude and longitude to the nearest second, or Florida coordinate system (state planar coordinates) to the nearest one hundred feet, or a legal description that includes the township, range, section, unit block and lot number, and site map of the well location depicting land marks and providing a scale.
5. The expected depth of the well.
6. The proposed use of the well.
7. The estimated daily volume of the proposed use.
8. The specification for well construction including the size(s) of the casing to be used, the proposed construction, repair, or abandonment specifications including casing types, diameters and depths; open hole or screened intervals, sizes and screen openings; and proposed grouting materials.
9. The proposed method of construction and completion of the well, or the method of plugging and abandonment of the well, or the method of repair, where appropriate.
10. The proposed maximum pump capacity in gallons per minute (gpm).

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11. The anticipated starting date.
12. The South Florida Water Management District water use permit number or the water use application number, if applicable.
13. A well completion report and log for any hole which becomes a water well.
14. A single permit shall be issued for all test holes located on one site.
15. Likewise a single permit shall be issued for all monitoring wells located on one site.

3.6.4.5.3 The application must be signed by the owner or his authorized agent, if applicable, and a licensed water well contractor. An owner may delegate to an agent authority to apply for and receive a permit application providing the agent supplies a notarized letter of authorization from the owner.

3.6.4.5.4 The fee required pursuant to Sec. 3.6.4.6 shall be submitted with the permit application.

3.6.4.6 **Permit Application and Reinspection Fees.** The Board of County Commissioners shall establish, by Resolution, a schedule of fees and charges for matters pertaining to this division and allied matters. It is the intent of these regulations that the County shall not be required to bear any part of the cost of applications made under this division. The schedule of fees and charges shall be posted in the office of the Building Department and the Resolution establishing such fees shall be on file with the clerk to the Board. The charges listed may be changed by resolution of the Board of County Commissioners and are not subject to the procedure for amendment of this division.

3.6.4.7 **Conditions for Issuance of Permits.**

3.6.4.7.1 In order to obtain a permit under this division, an applicant must:

1. Submit a permit application as specified in Sec. 3.6.4.5.
2. The permit application fee shall accompany the original application according to the fee schedule provided for in Sec. 3.6.4.6.
3. Submit proof of a State of Florida, water well contractor license issued by the South Florida Water Management District, in force, and any subsequent county contractor license, must be provided by the applicant at the time of application for a well construction permit.

3.6.4.7.2 A State of Florida contractor license is not required for test holes, test borings, foundation holes, or hydraulic elevator shafts. If however, a specialty license is required by the County, proof of licensure must be provided by the applicant with submittal of the permit application.

3.6.4.7.3 If the applicant is the landowner, evidence of Contractor's name and proof of license issued by the South Florida Water Management District and/or Collier County, in force, must be provided to the County prior to any work commencing on the permitted well.

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3.6.4.7.4 An applicant must certify that:

1. the proposed well will comply with the construction criteria set forth in Sec. 3.6.4.
2. The applicant or owner has obtained a South Florida Water Management District water use permit under Chapters 40E-2 or 40E-20, Florida Administrative Code, if applicable.
3. The proposed well will not otherwise adversely affect the water resources.

3.6.4.7.5 The application must be complete and meet all the requirements of this division.**3.6.4.7.6** Upon issuance of a permit, the County may impose such special conditions thereon as may be necessary to protect the purpose and intent of this division.**3.6.4.8** Duration of Permits. Each permit shall be valid for a period of nine (9) months. In the event construction, repair, or abandonment is not completed within that time, the County may extend the time limit an additional three (3) months upon written request by the permittee, provided that the conditions of the original permit application have not changed.**3.6.4.9** Suspension and Revocation of Permits. The County may suspend or revoke a permit to construct, repair or abandon a well by written notice to the permittee under any of the following circumstances:**3.6.4.9.1** Material misstatement or misrepresentation in the application for a permit;**3.6.4.9.2** Failure to comply with the provisions set forth in the permit;**3.6.4.9.3** Disregard or violation of any provisions of these rules and regulations; or**3.6.4.9.4** Unforeseen circumstances which may create a danger to the water resources or the public health, safety or welfare if the well is constructed as permitted.**3.6.4.10** Well Completion Report.**3.6.4.10.1** Well completion reports are required for the construction, repair or abandonment of all wells regardless of whether a permit application is required under Sec. 3.6.4.5. Well completion reports shall be filed with the County within thirty (30) days of the completion of work.**3.6.4.10.2** The water well contractor shall keep or cause to be kept by a registered driller in his employ an accurate log of all construction, repair or abandonment activities at the site of construction. Such logs shall be available for inspection at the site during all times when work is in progress.**3.6.4.10.3** If no work is performed or if the well is not completed, a report shall be filed within thirty (30) days of the expiration of the permit stating that no well construction was performed under the permit or outlining the status of the incomplete well. **C49** PAGE **442**

3.6.4.10.4 The County may also require that samples be taken during construction and furnished to the County with the completion report. If samples are required, the County shall provide containers and instructions.

3.6.4.11 Emergency Authorization.

3.6.4.11.1 Emergency permits may be issued by the County when one of the following conditions exist that justify the issuance:

1. An existing well supplying a particular use has failed and must be immediately replaced;
2. The health, safety, or general welfare of the people of the County would be jeopardized without such authorization;
3. Emergency authorization is needed to immediately mitigate or resolve potentially hazardous degradation of water resources; or
4. A serious set of unforeseen, and unforeseeable circumstances exists which creates the emergency.

3.6.4.11.2 Emergency permits shall be applied for in writing and issued in writing. Mere carelessness or lack of planning on the part of the applicant, contractor or driller will not constitute sufficient cause for the issuance of an emergency permit.

3.6.4.11.3 The applicant for an emergency permit shall submit the application and fee in accordance with Sec. 3.6.4.5 and any other requested information within twenty-four hours after making emergency application.

3.6.4.11.4 Secs. 3.6.4.10 and 3.6.5 shall apply to all construction performed under an emergency permit, except for those conditions that may be specifically waived by the County upon written request by the applicant.

3.6.4.12 Inspection.

3.6.4.12.1 The County is authorized to inspect any well or abandoned well, including those wells permitted under Sec. 3.6.5 within its jurisdiction, as it deems necessary to insure conformity with applicable standards. Such inspection may include but not be limited to geophysical logging, water level measurements, or other methods. Duly authorized representatives of the County may, upon proper identification and at reasonable times, enter upon and shall be given access to any premises for the purpose of such inspection.

3.6.4.12.2 If, upon the basis of such inspection, the County finds the standards of Secs. 3.6.4 and 3.6.5 have not been met, the County shall give the owner and contractor, if applicable, a written notice stating which rules have been violated and shall order that necessary corrective action be taken within a reasonable length of time to be prescribed in such order but not to exceed ten (10) days.

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- 3.6.4.12.3 A site inspection may be conducted by an authorized representative of the County prior to issuing a permit for construction, repair, or abandonment of any well test hole, foundation hole, or hydraulic elevator shaft.
- 3.6.4.12.4 The County shall be notified by the contractor at least 24 hours in advance of the commencement of well construction, repair, or abandonment for all wells. A County representative may be on site to observe the grouting and other construction activities. If the County is properly notified and a representative is not at the site at the appointed time, the grouting may be accomplished in his absence.
- 3.6.4.12.5 If, upon basis of an inspection, the County finds any well is an abandoned well, the well shall be plugged at the owner's expense in accordance with the methods of abandonment as set forth in Sec. 3.6.5.

SEC. 3.6.5 CONSTRUCTION, REPAIR AND ABANDONMENT STANDARDS.

- 3.6.5.1 **Scope.** The regulations in this section relate to the standards and criteria for the construction, repair and abandonment of wells. All wells within the County unless specifically exempted under Sec. 3.6.4.3 must comply with these standards regardless of whether a permit is required under Sec. 3.6.4.
- 3.6.5.2 **Construction methods.** Wells must be so constructed, cased, grouted, plugged, capped, or sealed as to prevent uncontrolled surface flow, uncontrolled movement of water from one aquifer or zone to another, contamination of ground water or surface water resources, or other adverse impacts. The following shall apply to all construction, repair, or abandonment of wells in Collier County, except for:
- 3.6.5.2.1 Public water supply wells which shall be constructed, repaired or abandoned in accordance with Chapter 17-22, Florida Administrative Code.
- 3.6.5.2.2 Injection wells which have received a permit under Chapter 17-28, Florida Administrative Code, provided the applicable standards of construction are met under Chapter 17-28, Florida Administrative Code.
- 3.6.5.3 **Location.** Wells shall be located so as not to pose a threat of contamination to the water resource and shall be located within the appropriate distance established by Chapter 10D-4, and Chapter 10D-6, Florida Administrative Code. Wells located either landward or seaward of the salt water barrier line shall conform to the well construction requirements as provided herein:
- 3.6.5.3.1 Landward of the salt water barrier line: all wells shall conform to the requirements of this division as set forth in the following construction standards as established in Secs. 3.6.5.4 and 3.6.5.9.
- 3.6.5.3.2 Seaward of the salt water barrier line: all wells shall be constructed either double-cased with bentonite grout placed between the inner and outer casing or, if single-string is utilized, the Contractor shall use Polyvinyl Chloride (PVC) well casing/screen and shall provide a minimum of two (2) inches of bentonite grout, or other approved material, around the outside of the casing. In single-string construction, the bentonite, or other approved material, shall extend from the

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bottom of the casing to the ground surface. In double-cased wells, the bentonite shall extend from ten (10') feet into the confining unit (clay or marl) which separates the aquifers to the ground surface. Shaft holes for hydraulic lifts shall be double-cased with a minimum of two (2) inches of bentonite grout, or other approved material, in the annular spaces outside and between casing strings. The shaft hole shall be cemented a minimum of five (5) feet below the bottom of the inner casing.

3.6.5.4 Casing and Liner Pipe Standards.

3.6.5.4.1 Well casing and liner pipe shall be new. Such casing or pipe shall not be used unless it is free of leaks, corrosion, and dents; is straight and true, and is not out of round. Welded or seamless black or galvanized pipe or casing, or stainless steel pipe or casing, or approved types of nonmetallic pipe shall be used for well casing or liner pipe. Well casing installed by driving shall not have less than the dimensions and weights specified in Table 1 hereof unless otherwise approved by the County and shall conform to the American Society for Testing and Materials (ASTM) A53-77A Type S, Grade A except as noted herein.

3.6.5.4.2 Black or galvanized steel casing or liner pipe set into place without driving shall not have less than the dimensions and weights specified in Table 2 hereof and shall conform to the American Petroleum Institute (API) Standard 5L, Grade A.

TABLE 1

MINIMUM DIMENSIONS AND WEIGHTS FOR BLACK OR GALVANIZED STEEL CASING OR LINER PIPE INSTALLED BY DRIVING

nominal size (in.)	outside diameter (in.)	wall thickness (in.)	plain end weight (lbs/ft)
2	2.375	0.154	3.65
2.5	2.875	0.203	5.79
3	3.500	0.216	7.58
3.5	4.000	0.226	9.11
4	4.500	0.237	10.79
		or .188 or	8.62
5	5.563	0.258	14.62
6	6.625	0.280	18.97
8	8.625	0.280	24.70
10	10.750	0.307	31.20
12	12.750	0.330	43.77

3.6.5.4.3 Black or galvanized steel casing installed by driving with a nominal size between 12 and 30 inches shall have a minimum wall thickness of 0.375 inches and shall be of weights as specified by

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American National Standards for Wrought Steel and Wrought Iron Pipe ANSI B36.10 1970, for standard pipe. Pipe larger than 30 inches shall have a minimum wall thickness of 0.500 inches and shall be of weights as specified by American National Standards for Wrought Steel and Wrought Iron Pipe ANSI B36.10 1970, for standard pipe.

3.6.5.4.4

Four inch nominal size pipe with a wall thickness of 0.188 shall be certified by the manufacturer to be in accordance with American Petroleum Institute (API) Standard 5L or ASTM A589-73, A120-77, A53-77A, A252-77A Grade 2.

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TABLE 2

**MINIMUM DIMENSIONS AND WEIGHTS FOR
BLACK OR GALVANIZED STEEL CASING OR
LINER PIPE SET INTO PLACE WITHOUT DRIVING**

nominal size (in.)	outside diameter (in.)	wall thickness (in.)	plain end weight (lbs/ft)
2	2.375	0.154	3.65
3	3.500	0.125	4.51
3.5	4.000	0.134	5.53
4	4.500	0.142	6.61
5	5.500	0.154	8.79
5.5	6.000	0.164	10.22
6	6.625	0.185	12.72
8	8.625	0.188	16.90

3.6.5.4.5 Black or galvanized steel casing or liner pipe set into place without driving, with an outside diameter less than 3.500 inches shall have a wall thickness of not less than 0.125 inches. Black or galvanized steel casing or liner pipe with a nominal size between 8 and 16 inches shall have a wall thickness of not less than 0.250 inches. Steel casing or liner pipe with a nominal size of 16 inches or more shall have a wall thickness of not less than 0.375 inches.

3.6.5.4.6 Stainless steel pipe used for casing or liner pipe shall be Schedule 108 of the American National Standards Institute (ANSI B 36.19-1976), or stronger classification.

3.6.5.4.7 Polyvinyl Chloride (PVC) pipe may be used for well casing or liner pipe. Any PVC pipe used to construct a water well shall have been marked by the manufacturer, under a method specified by the National Sanitation Foundation, Ann Arbor, Michigan, as suitable for use in well construction. Any PVC pipe larger than 4.5 inches outside diameter used for well construction or repair shall have a working pressure rating of not less than 200 p.s.i. at 73 degrees Fahrenheit or shall be ASA Schedule 40. Other nonmetallic pipe may be approved by the County.

3.6.5.4.8 Steel well casing and liner pipe may be joined in a watertight manner by threaded couplings or electrical welding methods. PVC pipe shall be joined by solvent bonded or threaded couplings or other approved method which shall meet the strength requirements of casing as specified in Sec. 3.6.5.4.6.

3.6.5.4.9 Nonmetallic and stainless steel well casing or liner pipe shall not be installed or seated by driving unless prior approval is obtained from the County.

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3.6.5.4.9.1 For well casing or liner pipe installed by driving, the casing or pipe shall not butt together inside the threaded couplings unless the joint is electrically welded so as to be completely water tight. A drive shoe is required for use on casing or pipe installed by driving unless exempted by the County.

3.6.5.5 Well Construction Requirements.

3.6.5.5.1 In the construction of a well, every reasonable caution shall be taken to maintain the premises in sanitary condition and to minimize the entrance of contaminants into the water resource. Water and materials used in construction shall be free of contamination.

3.6.5.5.2 For wells which penetrate multiple aquifers or zones, the well shall be completed so as to prevent cross contamination of different aquifers or zones and to prevent leakage of water from one aquifer zone to another aquifer zone.

3.6.5.5.3 For wells finished into unconsolidated aquifers, the casing shall extend from above top of grade to the well screen.

1. The well screen shall be attached to the casing with a watertight seal; or
2. Sealed against the casing with a packer; or
3. The screen assembly shall overlap the casing by at least ten (10) feet.
4. For wells finished into consolidated aquifers, a continuous casing shall extend from above top of grade into the top of the aquifer. For artisan wells, the casing shall penetrate the entire thickness of the overlying formations above the aquifer or producing zone within the aquifer.
5. In all cases, casing shall extend from land surface to a minimum of three (3) feet below land surface.
6. All wells shall be left and maintained twelve (12) inches above finished grade, unless otherwise permitted.

3.6.5.6 Grouting and Sealing. Wells shall be grouted and sealed to protect the water resource from degradation caused by movement of waters along the well annulus either from the surface to the aquifer or between aquifers, and to prevent loss of artisan pressure in artisan aquifers. All wells shall be constructed and sealed using a method which insures that an open or unnaturally permeable annular space does not remain when a well is completed.

3.6.5.6.1 The casing shall be centered in the borehole prior to grouting and sealing. Centering guides shall be used in all grouted wells, not less than one guide for each forty (40) feet of casing installed. Integrity of the borehole shall be maintained by those methods necessary to ensure proper placement of the grout in the annular space. In those cases where, during grouting operations, circulation of the grout is lost so that the annular space being grouted cannot be filled in one continuous operation, a tremie pipe shall be installed in the annular space to a point immediately

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above the zone of lost circulation and the annulus shall be bridged at that point by sand and other approved material introduced through the pipe. Grouting or sealing of the annular space shall be completed using the pipe or other approved methods. A tremie pipe, or other approved method, may also be used to complete grouting when the total volume of grout to be replaced exceeds that which can be safely replaced in one continuous operation. Wells shall be grouted by pumping cement through the casing or through a tremie pipe outside the casing only after the annular space is flushed clean of debris. Grouting under gravity pressure will not be allowed. The minimal set time for grouting of casing before drilling operations may continue, shall be twelve (12) hours.

- 3.6.5.6.2 All wells must have an annular space equal to or greater than two inches for grouting.
- 3.6.5.6.3 Wells constructed in unconsolidated formations by any method which creates an annular space shall be grouted no more than ten (10) feet above the top of the screen to land surface.
- 3.6.5.6.4 All other wells shall be grouted from the bottom of the casing to land surface.
- 3.6.5.6.5 Grouting and sealing of water wells shall be accomplished by the practices and methods recommended by section A1-8.4 of AWWA A100-66, AWWA Standard for Deep Wells, American Water Works Association, Inc., or other methods approved by the County.
- 3.6.5.6.6 Galvanized steel casing shall be grouted by using bentonite grout or some other acceptable material without the addition of cement.
- 3.6.5.6.7 Wells constructed by methods which require driven well casing are exempt from Sec. 3.6.5.6.2 and 3.6.5.6.3, provided all of the following conditions are met:
1. Casing shall be driven from land surface to its final depth in a borehole smaller in diameter than nominal outside diameter of the casing used, or be driven from land surface to its final depth ahead of the drill bit;
 2. A drive shoe is used;
 3. No annular space exists after casing is installed;
 4. The uppermost three feet of the casing must be grouted to provide protection from contaminated surface water;
 5. The well is sealed in accordance with Secs. 3.6.5.6.8 and 3.6.5.6.9;
 6. All other requirements of this subsection are met.
- 3.6.5.6.8 **Temporary Well Seal.** Whenever there is a temporary interruption in work on the well during construction, repair, or abandonment, the well opening shall be sealed with a substantial watertight cover, except for those areas of Collier County in which pumping equipment is installed seasonally or periodically. Whenever pumping equipment is not installed, the well shall be capped with a watertight cap or valve. If a temporary well seal is installed, an unobstructed inspection port must be provided for wells four (4) inches or greater in diameter.



- 3.6.5.6.9 Permanent Well Seals.** Wells located on ground subject to flooding shall be properly sealed to prevent the movement of contaminants and surface water into the well. The upper end of the well casing shall include a watertight seal with any vent above the 100-year flood level. Pumping equipment and any necessary pipe or electrical connections shall be so installed as to prevent inadvertent introduction of contaminants into the well. Pumping equipment and any necessary piping or electrical connections installed within the casing shall be installed through a well seal. An unobstructed inspection port equipped with a temporary removable plug shall be provided and accessible at the wellhead for wells four (4) inches or greater in diameter.
- 3.6.5.7 Explosives.** The use of explosives in well construction or development is prohibited unless specifically approved pursuant to Sec. 3.6.4.4.
- 3.6.5.8 Flowing wells.** If the well flows at land surface, each well shall be provided with a valve pursuant to Section 373.206, Florida Statutes.
- 3.6.5.9 Abandoned Well and Test Hole Plugging.**
- 3.6.5.9.1** Any well which was not constructed in accordance with the standards of Sec. 3.6.5 and fails to be corrected upon written notice in accordance with Sec. 3.6.4.12.2 shall be deemed an abandoned well.
- 3.6.5.9.2** Any well which is an abandoned artisan well under Section 373.203(3), Florida Statutes, or its successor, shall be plugged in accordance with Sec. 3.6.5.9.3 below.
- 3.6.5.9.3** All abandoned wells shall be plugged by filling them from bottom to top with neat cement grout or other approved method within a time specified by the County, unless otherwise provided in writing by the County. The plugging shall be to restore or improve the hydrologic conditions which existed before the well was constructed. The work shall be accomplished by a licensed water well contractor.
- 3.6.5.9.4** A request to abandon a well shall be submitted on the application form provided by the County.
- 3.6.5.9.5** Test holes for the purpose of obtaining data for engineering studies, seismographic, geophysical or geological exploration or prospecting for minerals but not for the purpose of either producing or disposing of water shall be plugged by filling them from bottom to top with a neat cement grout or other approved grouting material immediately upon completion of tests. The Contractor shall be responsible for the proper plugging of such test holes.

SEC. 3.6.6 CONTRACTOR LICENSING AND EQUIPMENT REGISTRATION.

Chapter 17-20, Florida Administrative Code, or its successor, which requires the licensing of water well contractors and registration of drilling equipment, is adopted by reference and made part of this division. Any hereafter required County water well contractor license must be obtained by the water well contractor prior to request for a well construction permit or commencement of well construction. Although persons engaged in the installation of elevator shafts, foundation holes, and/or test borings may or may not have a license issued by the South Florida Water Management District, any County license required under a County ordinance must be obtained by



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such person(s) prior to the submittal of the permit application or the commencement of any work related to the installation of elevator shafts, foundation holes, and/or test borings.

SEC. 3.6.7 ADMINISTRATION.

This division shall be administered by the County Manager or any other person or agency designated by the Board of County Commissioners. In making this delegation, the County Manager may designate specific staff members to carry out various tasks, but overall supervision and responsibility shall rest with the County Manager. The County manager is expressly authorized to enforce and issue permits under this division.

SEC. 3.6.8 PENALTIES.

If any person fails or refuses to obey or comply with or violates any of the provisions of this division, such person upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment not to exceed sixty (60) days in the county jail, or both, in the discretion of the court. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense. Nothing herein contained shall prevent or restrict the County from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, equitable action for injunctive relief or an action at law for damages. Further, nothing in this division shall be construed to prohibit the County from prosecuting any violation of this division by means of a Code Enforcement Board established pursuant to the authority of Chapter 162, Florida Statutes. All remedies and penalties provided for in this division shall be cumulative and independently available to the County and the County shall be authorized to pursue any and all remedies set forth in this division to the full extent allowed by law.

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DIV. 3.7 SOIL EROSION CONTROL.

SEC. 3.7.1 TITLE AND CITATION. This division shall be known and may be cited as the Collier County Soil Erosion Control Regulations."

SEC. 3.7.2 PURPOSE.

The purpose of this division is to establish guidelines and design criteria for controlling and reducing soil erosion and sediment transport for construction and other non-agricultural land disturbing activities permitted pursuant to the provisions of Divisions 3.2 and 3.3 of this Code.

SEC. 3.7.3 SOIL EROSION AND SEDIMENT CONTROL PLAN REQUIRED.

For new and existing development and construction approved pursuant to the provisions of Divisions 3.2 and 3.3, a Soil Erosion and Sediment Control Plan shall be prepared and submitted for approval with the required construction documents for each proposed project as prescribed by Objective 5.4 and Policies 5.4.1 through 5.4.4 of the Conservation and Coastal Management Element of the Collier County Growth Management Plan. Each Plan shall be prepared in accordance with the following standards:

- 3.7.3.1 The Florida Development Manual: A Guide to Sound Land and Water Management, Department of Environmental Regulation, State of Florida, June 1988 - Chapter 6: Stormwater and Erosion and Sediment Control Best Management Practices for Developing Areas, Guidelines for Using Erosion and Sediment Control Practices ES BMP 1.01 - 1.67, pp. 6-301 through 6-500.
- 3.7.3.2 Turbidity values surrounding discharge from projects shall not violate water quality criteria contained in 17-302.510(r) F.A.C.
- 3.7.3.3 Any irrigation system utilized to implement an erosion control plan shall be designed and installed pursuant to: USDA SCS Field Office Technical Guide, Section IV, Codes 441, 442, 449 and all subsequent supplements thereto.

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DIV. 3.8 ENVIRONMENTAL IMPACT STATEMENTS (EIS).

SEC. 3.8.1 TITLE AND CITATION. This division shall be known and may be cited as the "Collier County Environmental Impact Statement Regulations."

SEC. 3.8.2 PURPOSE.

3.8.2.1 The purpose of this division is to provide a method to objectively evaluate the impact of a proposed development, site alteration, or project upon the resources and environmental quality of the project area and the community and to insure that planning and zoning decisions are made with a complete understanding of the impact of such decisions upon the environment. To encourage projects and developments that will:

1. Protect, conserve and enhance, but not degrade, the environmental quality and resources of the particular project or development site, the general area and the greater community.
2. Minimize the future reduction in property values likely to result, or be caused by improperly designed and executed projects and developments.
3. Reduce the necessity for expenditure of public funds in the future for rehabilitating the environmental quality of areas of environmental sensitivity.

3.8.2.2 Further, it is the purpose of this division to attain the widest range of beneficial uses of the environment without degradation of environmental advantages and , risk to public health , safety, welfare and other undesirable consequences.

3.8.2.3 It is also the purpose of this division to optimize a balance between population and resource use to permit high standards of living and a wide sharing of resources and amenities among all citizens and residents of and visitors to Collier County during the present and future generations.

SEC. 3.8.3 APPLICABILITY: ENVIRONMENTAL IMPACT STATEMENT (EIS) REQUIRED.

Without first obtaining approval of an EIS, or exemption pursuant to Sec. 3.8.9, as required by this Code it shall be unlawful and no building permit, conditional use, zoning change, subdivision or condominium plat or unplatted subdivision approval or other County permit or approval of or for development or site alteration shall be issued to cause the development of or site alteration of:

1. Any site with a ST or ACSC-ST overlay.
2. All sites seaward of the Coastal Management Boundary that are two and one half (2.5) or more acres .
3. All sites landward of the Coastal Management Boundary that are ten (10) or more acres.
4. Any other development or site alteration which in the opinion of the Development Services Director, would have substantial impact upon environmental quality and which is not specifically exempted in this code. In determining whether such a project would have substantial environmental impact the Development Services Director shall base his decision on the terms and conditions described in this Code and on the project's consistency with the Growth Management Plan.

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SEC. 3.8.4 SUBMISSION AND REVIEW OF EIS.

A completed EIS, signed by the property owner or his designated agent, shall be submitted to Development Services Director for approval, denial or approval with modifications. No development or site alteration will be started without this approval and permits required by law. Failure to provide full and complete information shall be grounds for denial of the application. The author(s) of the EIS shall provide evidence, by academic credentials or experience, of his/her expertise in the area of environmental sciences or natural resource management. Academic credentials shall be a Bachelors or higher degree in one of the biological sciences. Experience shall reflect at least three (3) years, two (2) years of which shall be in the State of Florida, of ecological or biological professional experience if substituting for academic credentials.

SEC. 3.8.5 INFORMATION REQUIRED FOR APPLICATION.**3.8.5.1 Applicant Information.**

1. Responsible owner(s)/agent(s) who wrote the EIS and his/her education and job related environmental experience.
2. Owner(s)/agent(s) name, address.
3. Affidavit of proof of authorized agent.

3.8.5.2 Development and Site Alteration Information.

1. Description of proposed use.
2. Legal description of site.
3. Location and address description.

3.8.5.3 Mapping and support graphics.

1. General location map.
2. Native habitats and their boundaries shall be identified on an aerial photograph of the site extending at least two hundred (200) feet outside the parcel boundary. This does not mean the applicant is required to go on to adjacent properties. Habitat identification will be consistent with the Florida Department of Transportation - Florida Land Use Cover and Forms Classification System and shall be depicted on an aerial photograph having a scale of one inch equal to at least 200 feet when available from the county, otherwise, a scale of at least one inch equal to 400 feet is acceptable. Information obtained by ground-truthing surveys shall have precedence over information presented through photographic evidence.
3. Topographic map showing upland, bathymetric contours and existing drainage patterns if applicable.
4. Existing land use of site and surrounding area.
5. Soils map at scale consistent with that used for Florida Department of Transportation - Florida Land Use Cover and Forms Classification System determinations.
6. Proposed drainage plan indicating basic flow patterns, outfall and off-site drainage.
7. Development plan including phasing program, service area of existing and proposed public facilities, and existing and proposed transportation network in the impact area.

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3.8.5.4 Impact Categories.**3.8.5.4.1 Bio-physical****1. Air quality**

- a. Changes in level of air pollutants as defined by current regulations.
- b. Number of people that will be affected by air pollution resulting from the project.
- c. Procedures that will be use to reduce adverse impacts of air pollution.

2. Water quality

- a. Changes in levels and types of water pollution as defined by current regulations.
- b. Inventory of water uses that are restricted or precluded because of pollution levels resulting from this project.
- c. Person affected by water pollution resulting from the project.
- d. Project designs and actions which will reduce adverse impacts of water pollution.

3. Physiography and geology

- a. A description of the soil types found in the project area.
- b. Aerial extent of proposed topographic modification through excavation, dredging and filling.
- c. Removal and/or disturbance of natural barriers to storm waves and flooding.
- d. Proposed modifications to natural drainage patterns.
- e. Extent of impervious surface and percent of groundwater recharge area to be covered.
- f. Annual drawdown of groundwater level resulting from use.
- g. Increased siltation in natural water bodies resulting from the proposed use.

4. Wetlands

- a. Define number of acres of Collier County jurisdictional wetlands (pursuant to the Collier County Growth Management Plan) by vegetation type (species), vegetation composition (canopy, midstory and groundcover), vegetation abundance (dominant, common and occasional), and their wetland functions.
- b. Determine present seasonal high water levels and historical high water levels by utilizing lichen lines or other biological indicators.
- c. Indicate how the project design improves/affects pre-development hydroperiods.
- d. Indicate proposed percent of defined wetlands to be impacted and the effects of proposed impacts on functions of wetland areas.
- e. Indicate how the project design minimizes impacts on wetlands.

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- f. Indicate how the project design shall compensate for the wetland impacts pursuant to the Collier County Growth Management Plan .
5. Upland utilization and species of special status.
- a. Define number of acres of uplands by vegetative type (species), vegetation composition (canopy, midstory, and groundcover), vegetation abundance (dominant, common and occasional) and their upland functions.
 - b. Indicate proposed percent of defined uplands to be impacted and the effects of proposed impacts on functions of upland areas.
 - c. Indicate how the project design minimizes impacts on uplands.
 - d. Provide a plant and animal species survey to include at a minimum, species of special status that are known to inhabit biological communities similar to those existing on site and conducted in accordance with the guidelines of the Florida Game and Fresh Water Fish Commission.
 - e. Indicate how the project design minimizes impacts on species of special status.
6. Marine and estuarine resources
- a. Provide current State of Florida Classification of the Waters (Florida Administrative Code, Chapter 17-3).
 - b. Define number of acres of marine and estuarine resources by submerged grass beds, breeding areas and nursery areas and their marine and estuarine functions.
 - c. Indicate proposed percent of defined marine and estuarine resources to be impacted and the effects of proposed impacts on functions of marine and estuarine resources.
 - d. Estimate changes in the dockside landing of commercial fish and shellfish.
 - e. Estimate changes in the sport fishing effort and catch.
 - f. Provide past history of any environmental impacts to the area including oil spills.
 - g. Indicate how the project design minimizes impacts on marine and estuarine resources.
 - h. Indicate how the project design shall replace the lost marine and estuarine functions.
7. Noise
- a. Describe the changes in decibels and duration of noise generated during and after the project (both day and night) that will exceed Collier County regulations.
 - b. Describe steps that will be taken to reduce noise levels during and after the project.
 - c. Protect compliance with Federal Aid Highway Program Manual 7-7-3.

3.8.5.4.2 Public Facilities and Services

1. Wastewater management

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- a. Describe existing treatment facilities as to capacity, percent capacity being used, type of treatment and degree of treatment.
 - b. If applicable, describe similar features of proposed new treatment facilities.
 - c. Describe the character and fate of both liquid and solid effluents.
2. Water supply
 - a. Estimate of average daily potable and non-potable water demands by the project.
 - b. Source of the raw water supply.
 - c. Analysis of on-site treatment systems relative to State and County standards.
3. Solid wastes
 - a. Estimate of average daily volume of solid wastes.
 - b. Proposed method of disposal of solid wastes.
 - c. Any plans for recycling or resource recovery.
4. Recreation and open spaces
 - a. Acreage and facilities demand resulting from the new use.
 - b. Amount of public park/recreation land donated by the developer.
 - c. Management plans for any open water areas if one-half acre or more within the project.
 - d. Plans for recreational development by the developer on dedicated lands.
 - e. Amount of public recreation lands removed from inventory by the new use.
 - f. Development and/or blockage of access to public beaches and waters.
5. Aesthetic and Cultural Factors
 - a. Provide documentation from the Florida Master Site File, Florida Department of State and any printed historic archaeological surveys that have been conducted on the project area.
 - b. Locate any known historic or archaeological sites and their relationships to the proposed project design.
 - c. Demonstrate how the project design preserves the historic/archaeological integrity of the site.
 - d. Indicate any natural scenic features that might be modified by the project design and explain what actions shall be utilized to preserve aesthetic values.
 - e. Provide the basic architectural and landscaping designs.
6. Monitoring
 - a. Describe the design and procedures of any proposed monitoring during and after site preparation and development.

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SEC. 3.8.6 SPECIFICS TO ADDRESS.

3.8.6.1 General. The statement should specifically address the following:

3.8.6.1.1 Indicate how the proposed project has incorporated the natural, aesthetic and cultural resources and other environmental considerations in the planning and design of the proposed project.

3.8.6.1.2 List the environmental impact(s) of the proposed action and the reason(s) that the impact(s) are unavoidable and that the impact(s) represent the minimum impacts possible to the environmental quality of the site and/or the surrounding area, which might be affected by the proposed use.

3.8.6.1.3 Provide substantiated alternatives to the proposed project so that reasons for the choice of a course of action are clear, not arbitrary or capricious.

3.8.6.1.4 List immediate short-term and long-term impacts to the environment.

3.8.6.1.5 List any irreversible and irretrievable commitments of natural resources which would be involved in the proposed action should it be implemented.

SEC. 3.8.7 ADDITIONAL DATA.

The Development Services Director may require any additional data or information necessary in order to make a thorough and exact evaluation of the EIS.

SEC. 3.8.8 RELATION BETWEEN EIS AND DEVELOPMENT OF REGIONAL IMPACT (DRI).

In any instance where the proposed project requires both an EIS and a DRI, their data may be embodied in one report provided such report includes all the required information on both the EIS and DRI.

SEC. 3.8.9 EXEMPTIONS.

3.8.9.1 Single family or duplex use on a single lot or parcel. Exemption shall not apply to any parcel with a ST or ACSC-ST overlay.

3.8.9.2 Any area or parcel of land which is not, in the opinion of the Development Services Director, an area of environmental sensitivity. Prior to making such a finding, the Development Services Director designee shall inspect the site and write a report, which shall be filed in the public records, that determines how the proposed project relates to each of the following criteria:

3.8.9.2.1 The subject property has already been altered through past usage, prior to the adoption of this code, in such a manner that the proposed use will not further degrade the environmental quality of the site or the surrounding areas which might be affected by the proposed use.

3.8.9.2.2 The major flora and fauna features have been altered or removed to such an extent as to preclude their reasonable regeneration or useful ecological purpose. An example would be in the case of

an industrial park or a commercial development where most of the flora and fauna were removed prior to the passage of this Code.

3.8.9.2.3 The surface and/or natural drainage or recharge capacity of the project site has been paved or channeled, or otherwise altered or improved prior to the adoption of this Code, and will not be further degraded as a result of the proposed use or development.

3.8.9.2.4 The use and/or development of the subject property will definitely improve and correct ecological deficiencies which resulted from use and/or development which took place prior to the passage of this Code. An example would be where the developer proposes to reforest the area, provide additional open space, replace natural drainage for channeled drainage, and/or reduce density.

3.8.9.2.5 The use or development will utilize existing buildings and structures and will not require any major alteration or modification of the existing land forms, drainage, or flora and fauna elements of the property.

3.8.9.3 All lands lying within all incorporated municipalities in Collier County.

SEC. 3.8.10 FEES.

In order to implement, maintain and enforce this Code, the cost upon submission of the Environmental Impact Statement shall be as established by resolution. Until this fee has been paid in full no action of any type shall be taken.

SEC. 3.8.11 APPEALS.

Any person aggrieved by the decision of the Development Services Director regarding any section of this Code may file a written request for appeal, not later than ten (10) days after said decision, with the Environmental Advisory Board or their successor organization. The Environmental Advisory Board will notify the aggrieved person and the Development Services Director of the date, time and place that such appeal shall be heard; such notification will be given twenty-one (21) days prior to the hearing unless all parties waive this requirement. The appeal will be heard by the Environmental Advisory Board within sixty (60) days of the submission of the appeal. Ten (10) days prior to the hearing the aggrieved person shall submit to the Environmental Advisory Board and to the Development Services Director copies of the data and information he intends to use in his appeal.

Upon conclusion of the hearing the Environmental Advisory Board will submit to the Board of County Commissioners their facts, findings and recommendations. The Board of County Commissioners, in regular session, will make the final decision to affirm, overrule or modify the decision of the Development Services Director in light of the recommendations of the Environmental Advisory Board.

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DIV. 3.9 VEGETATION REMOVAL, PROTECTION AND PRESERVATION.

SEC. 3.9.1 TITLE AND CITATION. This division shall be known and may be cited as the "Collier County Vegetation Removal, Protection and Preservation Regulations."

SEC. 3.9.2 PURPOSE.

The purpose of this division is the protection of vegetation within Collier County by regulating its removal; to assist in the control of flooding, soil erosion, dust, heat, air pollution and noise and to maintain property, aesthetic and health values within Collier County; to limit the use of irrigation water in open space areas by promoting the preservation of existing plant communities. To limit the removal of existing viable vegetation in advance of the approval of land development plans; to limit the removal of existing viable vegetation when no landscape plan has been prepared for the site. It is not the intent of this division to restrict the mowing of non-protected vegetation in order to meet the requirements of other sections of this code.

SEC. 3.9.3 APPLICABILITY; UNLAWFUL TO REMOVE VEGETATION.

It shall be unlawful for any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, group, or unit of Federal, State, County, or Municipal government to remove or cause to be removed, vegetation without first obtaining a vegetation removal permit from the Development Services Director except as hereinafter exempted.

SEC. 3.9.4 APPLICATION REQUIREMENTS.

3.9.4.1 Other Permits Required. No vegetation removal permit shall be issued by the Development Services Director until all applicable Federal and State, and County approvals as designated by the Development Services Director have been obtained. These approvals may include, but are not limited to:

- building permits
- special treatment (ST) development permits
- U. S. Army Corps of Engineers permits or exemptions
- Florida Department of Environmental Regulation permits or exemptions
- Florida Department of Natural Resources permits or exemptions
- South Florida Water Management District permits or exemptions
- other applicable agency reviews or permits or exemptions
- other County approvals.

3.9.4.2 Application Contents. Application for a vegetation removal permit shall be submitted to the Development Services Director in writing on a form provided by the Development Services Department.

The application shall include the following information:

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3.9.4.2.1 A generalized vegetation inventory which includes.

1. **Generalized Vegetation Inventory:** A generalized vegetation inventory shall show the approximate location and extent of vegetation upon the site. The inventory shall be based upon the most current available information. For non-residential and multi-family development, the inventory may be in the form of an aerial or a field survey, and may be accompanied by photographs or videotapes illustrating typical areas of vegetation referenced to positions on the aerial or survey, but shall clearly indicate habitat types and protected vegetation, and may be accompanied by photographs or videotapes illustrating typical areas of vegetation referenced to positions on the aerial or survey. The generalized vegetation inventory shall be prepared in some manner which clearly illustrates the relationships between the areas of vegetation and the proposed site improvements.
2. **Generalized written assessment and evaluation:** The generalized vegetation inventory shall be accompanied by a brief written assessment of the plant communities which have been identified on the site. The assessment shall include an evaluation of character and quality of the plant communities identified, including their rarity, viability, and such other physical characteristics and factors which may affect their preservation. The inventory assessment and evaluation shall be prepared by a person knowledgeable in the identification and evaluation of vegetative resources, such as a forester, biologist, ecologist, horticulturist, landscape architect, or certified nurseryman.
3. **Reasonable additional information:** The Development Services Director may require that the application include such additional information which is reasonable and necessary for adequate administration of this Division.

3.9.4.2.2 A site plan which includes:

1. Property dimensions.
2. Location of existing infrastructure and alterations.
3. Location of proposed structures, infrastructure and alterations.
4. The location and species of all protected vegetation. Large stands of a single species, such as cypress heads, may be indicated as a group with an approximate number or area.
5. Specific identification of all specimen trees.
6. Designation of all protected vegetation proposed for removal.
7. Location and details of protective barricading of the vegetation to be retained.

3.9.4.2.3 An executed statement which includes:

1. Name, address, and phone of property owner.
2. Name, address, and phone of authorized agent and on-site representative.
3. Proof of ownership.
4. Legal description.
5. Reason for proposed removal.
6. Method to distinguish vegetation to be removed from vegetation to be preserved and

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method of removal. It should be noted that the root system of the vegetation shall also be protected.

7. Signature of property owner or copy of a specific contract signed by property owner.

3.9.4.2.4 Vegetation Relocation Plan.

If vegetation relocation is proposed by the applicant prior to Site Development Plan, construction plan or other final approvals, a vegetation relocation permit (vegetation removal permit) may be issued by the Development Services Director provided that it can be demonstrated that early transplantation will enhance the survival of the relocated vegetation. The vegetation relocation plan shall document methods of relocation, timing of relocation, watering provisions, maintenance and other information as required by the Development Services Director.

SEC. 3.9.5 VEGETATION REMOVAL, PROTECTION AND PRESERVATION STANDARDS.

3.9.5.1 Vegetation Protection.

- 3.9.5.1.1 General. During construction, all reasonable steps necessary to prevent the destruction or damaging of vegetation shall be taken, including the installation of protective barriers. Vegetation destroyed or receiving major damage must be replaced by vegetation of equal environmental value, as specified by the Development Services Department, before occupancy or use unless approval for their removal has been granted under permit.

- 3.9.5.1.2 Filling and Construction Debris. During construction, unless otherwise authorized by the vegetation removal permit, no excess soil, additional fill, equipment, liquids, or construction debris, shall be placed within the drip line of any vegetation that is required to be preserved in its present location.

- 3.9.5.1.3 Attachments. Unless otherwise authorized by the vegetation removal permit, no attachments or wires other than those of a protective or non-damaging nature shall be attached to any vegetation during construction.

- 3.9.5.1.4 Excavation. Unless otherwise authorized by the vegetation removal permit, no soil is to be removed from within the dripline of any vegetation that is to remain in its original location.

3.9.5.1.5 Protective Barriers.

1. Installation of protective barriers. All protective barriers shall be installed and maintained for the period of time beginning with the commencement of any phase of land clearing or building operations and ending with the completion of that phase of the construction work on the site, unless otherwise approved to be removed by the Development Services Director's field representative. All protective barriers shall be installed pursuant to the Tree Protection Manual for Builders and Developers - Division of Forestry, State of Florida or other methods approved by the Development Services Director.

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2. Applicant's representative required. The applicant for a vegetation removal permit shall, at the time of application, designate representative(s):
 - a. Who shall be responsible for the installation and the maintenance of all tree protection barriers.
 - b. Who shall be responsible for supervising the removal of all existing vegetation permitted to be removed.
3. Protection of all areas of vegetation. Areas to be preserved shall be protected during land alteration and construction activities by placing a continuous barrier around the perimeter of the area of vegetation to be preserved. This barrier shall be highly visible and constructed of wood stakes set a maximum of ten (10) feet apart, at a height range of two (2) to four (4) feet, all covered continuously with brightly colored, all weather mesh material or equal type barrier method. An equivalent method may be substituted with the approval of the Development Services Director.
4. Protection of individual trees. When the retention of single trees is required by this Code, a protective barrier, similar to that required in 3.9.5.1.5.3, shall be placed around the tree at a distance from the trunk of six (6) feet or beyond the dripline, whichever is greater, or as otherwise approved by the Development Services Director's field representative.

3.9.5.2 Criteria for Removal of Protected Vegetation. The Development Services Director may approve an application for vegetation removal permit based on the following criteria:

- 3.9.5.2.1 Protected vegetation is a safety hazard to pedestrian or vehicular traffic, public services, utilities, or to an existing structure, and has been requested to be removed by a public law enforcement agency or utility.
- 3.9.5.2.2 Diseased or otherwise unhealthy vegetation as determined by standard horticultural practices and if required, a site inspection by the Development Services Director's field representative.
- 3.9.5.2.3 A final local development order has been issued which requires removal of the protected vegetation.
- 3.9.5.2.4 Compliance with other codes and/or ordinances may involve protected vegetation removal.
- 3.9.5.2.5 The approval for an application involving vegetation removal activity shall be granted only if the Development Services Director finds that reasonable efforts have been undertaken in the layout and design of the proposed development to preserve existing vegetation and to otherwise enhance the aesthetic appearance of the development by the incorporation of existing vegetation in the design process. Relocation or replacement of vegetation may be required as a condition to the issuance of an approval in accordance with the criteria set forth in this division.

3.9.5.3 Management Plan Required.

For all individual areas of preserved plant communities larger than one half (1/2) acre in area, the

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owner shall submit, for the approval of the Development Services Director, a narrative management plan indicating the manner in which the owner will preserve the native plant communities. The narrative shall include:

- 3.9.5.3.1 Whether or not the existing vegetation is to be preserved in the existing species composition.
- 3.9.5.3.2 If applicable, the manner in which the composition of existing plant material is to be preserved (hand removal of invasive species, prescribed burning, etc.).
- 3.9.5.3.3 The maintenance schedule for the removal of invasive species.
- 3.9.5.3.4 The maintenance schedule for the removal of debris.
- 3.9.5.3.5 Other information that may be required by the Development Services Director that is reasonable and necessary to determine if the management plan meets the requirements of this Code.
- 3.9.5.4 On-Site Inspection. The Development Services Director's field representative may conduct an on-site inspection to determine if the proposed vegetation removal meets the criteria in Sec. 3.9.5.2 and conforms to the preservation standards in Sec. 3.9.5.5 below.
- 3.9.5.5 Preservation Standards.
 - 3.9.5.5.1 All development not specifically exempted by this ordinance shall incorporate at a minimum the preservation standards contained within this section.
 - 3.9.5.5.2 All new developments, shall retain existing native vegetation to the maximum extent possible. Existing viable native vegetation shall be retained unless necessary grade changes, required infrastructure, stormwater management system design or approved construction footprints necessitate its removal. The need to remove existing native trees shall be demonstrated by the applicant as part of the vegetation removal review process. When required to be removed, existing viable native trees shall be transplanted into site landscaping unless the applicant can demonstrate, that transplanting is not feasible or appropriate. Retained areas of vegetation shall be preserved in their entirety with all trees, understory, and ground covers left intact and undisturbed, except for prohibited exotic species removal, enhancement with native plant material and pruning and maintenance.
 - 3.9.5.5.3 All new residential or mixed use developments greater than two and one half (2.5) acres in the Coastal Management Area as defined in the 1989 edition of the Future Land Use Element of the County Growth Management Plan and greater than twenty (20) acres in the Coastal Urban Designated Area as defined in the General Plan Requirements section (6.4.6) of the Adoption Notebook of the 1989 edition of the Future Land Use Element of the County Growth Management Plan shall retain twenty-five percent (25%) of the viable naturally functioning native vegetation on site including both the understory and the ground cover emphasizing the largest contiguous area possible. When several different native plant communities exist on site, the development plans will reasonably attempt to preserve examples of all of them, if possible. Areas of landscaping and open space which are planted with native species shall be included in the twenty-five percent (25%) requirement considering canopy understory and groundcover, providing that in such areas of

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credit, groundcover constitutes no more than twenty percent (20%) of the landscaped area. Where a project has included open space, recreational amenities or preserved wetlands that meet or exceed the minimum open space criteria of Collier County, this policy shall not be construed to require a larger percentage of open space set aside to meet the twenty-five percent (25%) native vegetation policy. This policy shall not be interpreted to allow development in wetlands, should the wetlands alone constitute more than twenty-five (25%) of the site. Exceptions shall be granted for parcels that cannot reasonably accommodate both the native vegetation and the proposed activity.

3.9.5.5.4 All other types of new development not referenced in Sec. 3.9.5.5.3 above shall be required to preserve an appropriate portion of the native vegetation on the site as determined through the County development review process. Preservation of different contiguous habitats is to be encouraged. When several native plant communities exist on site the development plans will reasonably attempt to preserve examples of all of them, if possible. However, this policy shall not be interpreted to allow development in wetlands, should wetlands alone constitute more than the portion of the site required to be preserved. Exceptions shall be granted for parcels which can not reasonably accommodate both the preservation area and the proposed activity.

3.9.5.5.5 Agriculture shall be exempt from the above preservation requirements provided that any new clearing of land for agriculture shall not be converted to non-agricultural development for at least ten (10) years and meets the requirements of Sec. 2.6.24. For any such conversions in less than ten (10) years, the converted land will be restored with native vegetation to the degree required by this Code at the time the clearing occurred.

SEC. 3.9.6 **REVIEW PROCEDURES.**

3.9.6.1 **Issuance of Permit.** Based on the information contained in the application and obtained from the on-site inspection, the Development Services Director may approve or deny an application. An approved vegetation removal permit is valid for a period not to exceed one hundred eighty (180) days. An extension requested prior to expiration of the original permit may be granted for good cause shown upon written application to the Development Services Director. The Development Services Director may attach conditions to the permit relative to the methods of designating and protecting vegetation not proposed for removal. A violation of these conditions shall cause to void the vegetation removal permit.

3.9.6.2 **Denial of Permit.** In the event an application is denied by the Development Services Director, the reason(s) shall be noted on the application and returned promptly.

3.9.6.3 **Permit Fees.** All vegetation removal and agricultural clearing permit applications requiring review and approval shall be charged a review fee unless specifically exempted by the Development Services Director pursuant to this Code. The Board of County Commissioners shall establish and adopt, by Resolution, a schedule of fees for vegetation removal, review and approval permits. The schedule of fees and the Resolution establishing such fees shall be on file with the Clerk to the Board. The schedule of fees may be changed by resolution of the Board of County Commissioners.

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3.9.6.4 Exceptions.

3.9.6.4.1 A vegetation removal fee is not required to remove the following prohibited exotic vegetation from developed property or from undeveloped property after a vegetation removal permit has been issued:

- 1) Australian pine (Casuarina spp.)
- 2) Melaleuca (Melaleuca spp.)
- 3) Brazilian pepper (Schinus terebinthifolius)
- 4) Earleaf Acacia (Acacia auriculiformis)
- 5) Catclaw mimosa (Mimosa pigra)
- 6) Java plum (Syzygium cumini)
- 7) Downy Rosemyrtle (Rhodomyrtus tomentosus)
- 8) Women's Tongue (Albizia lebbek)

3.9.6.4.2 Except for lots on undeveloped coastal barrier islands, a vegetation removal permit for clearing one (1) acre or less of land is not required for the removal of protected vegetation, other than a specimen tree on a parcel of land zoned residential, single-family (RSF), Village Residential (VR), or Estates (E), where the following conditions have been met:

- 1) A building permit has been issued for the permitted principal structure (the building permit serves as the clearing permit), or
- 2) The permitted principal structure has been constructed, and the property owner or authorized agent is conducting the removal.

3.9.6.4.3 A vegetation removal permit is not required for the removal of vegetation other than a specimen tree from property zoned Agriculture (A) where the following conditions have been met:

- 1) The property is to be used for a bona fide agricultural use as defined by this Code and application for an agricultural clearing permit has been filed with and approved by the Development Services Director prior to the removal of any protected vegetation pursuant to this Code.

3.9.6.4.4 A vegetation removal permit is not required for the removal of protected vegetation other than a specimen tree, when a site plan and vegetation protection plans have been reviewed and approved by the Development Services Director as part of the final development order.

3.9.6.4.5 A vegetation removal permit is not required for the removal of protected vegetation other than a specimen tree from the property of a Florida licensed tree farm/nursery, where such vegetation is intended for sale in the ordinary course of the licensee's business and was planted for the described purpose.

3.9.6.4.6 A vegetation removal permit is not required for the removal of protected vegetation other than a specimen tree by a Florida Licensed Land Surveyor in the performance of his/her duties, provided such removal is for individual trees within a swatch less than three (3) feet in width.

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3.9.6.5

Agricultural Land Clearing. A permit for clearing of agriculturally zoned land for bona fide agricultural use may be granted by the Development Services Director if the following applicable conditions have been addressed:

- 1) If an ST or ACSC-ST overlay is attached to the zoning of the property, and an ST development permit has been issued by the Development Services Director.
- 2) The application, including generalized vegetation inventory and clearing plan as outlined in Sections 3.9.4.2.1, 3.9.4.2.2 and 3.9.4.2.3, and site visit (if required) confirm that the proposed use is consistent with the requirement of the zoning district as a bona fide agricultural use and the applicant has been informed of the rezoning restriction which granting the permit shall place on his property.
- 3) The applicant has obtained and produced for inspection a South Florida Water Management District consumptive water use permit or exemption.
- 4) The applicant has obtained and produced for inspection a South Florida Water Management District surface water management permit or exemption.
- 5) The property owner, or authorized agent, has filed an executed agreement with the Development Services Director, stating that within two (2) years from the date on which the notice of commencement (Agricultural Clearing Permit) is approved by the Development Services Director, the owner/agent will put the property into a bona fide agricultural use and pursue such activity in a manner conducive to the successful harvesting of its expected crops or products. The owner/agent may elect to allow the subject property to lie fallow after completing the bona fide agricultural use, for the remainder of the ten (10) year period required by Sec. 3.9.6.5(6).
- 6) The property owner, or authorized agent, has filed an executed agreement with the Development Services Director stating that the owner/agent is aware that the Collier County Board of County Commissioners will not rezone the property described in the notice of commencement (Agricultural Clearing Permit) for a period of ten (10) years from the date of approval of the notice of commencement (Agricultural Clearing Permit) by the Development Services Director.

3.9.6.6

Requirement for Removal of Prohibited Exotic Vegetation.

3.9.6.6.1

Prohibited exotic vegetation removal and methods of removal shall be conducted in accordance with the specific provisions regarding prohibited exotic vegetation removal in each local development order.

3.9.6.6.2

Protection of native vegetation, according to the applicable provisions of this Division shall be required during prohibited exotic vegetation removal.

3.9.6.6.3

Prohibited exotic vegetation shall be removed:

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- 1) from all right-of-ways, common area tracts not proposed for development and easements prior to preliminary acceptance of the phase of the required subdivision improvements;
- 2) from within the associated phase of the final Site Development Plan prior to the issuance of a Certificate of Occupancy.

3.9.6.6.4 Verification of prohibited exotic vegetation removal shall be performed by the Development Services Director's field representative.

3.9.6.6.5 A maintenance plan shall be submitted to the Development Services Director for review on sites which require prohibited exotic vegetation removal prior to the issuance of the local development order. This maintenance plan shall describe specific techniques to prevent reinvasion by prohibited exotic vegetation of the site in perpetuity. This maintenance plan shall be implemented on a yearly basis at a minimum. Issuance of the local development order shall be contingent upon approval of the maintenance plan. Non-compliance with this plan shall constitute violation of this Division. The Development Services Director's field representative shall inspect sites periodically after issuance of the certificate of occupancy, or other final acceptance, for compliance with this Division.

3.9.6.6.6 In addition to the other requirements of this Division, the applicant shall be required to remove on single family and two-family lots for all new principal dwelling units, all prohibited exotic vegetation before a Certificate of Occupancy is granted. This prohibited exotic vegetation is required to be continually removed for perpetuity.

3.9.6.6.7 Disposal of Exotic Vegetation.

The disposal of the prohibited exotic vegetation after removal shall be approved as a part of the local development order. Disposal sites may include, but not be limited to mulching facilities at the Collier County Landfill.

3.9.6.7 Designation of Specimen Tree.

By resolution of the Collier County Board of County Commissioners, a plant may be designated a "Specimen Tree" because of its historical significance, rarity in Collier County, age or extraordinary size. A public hearing shall be held with notice provided to the property owner by certified mail. The designation shall be recorded in the official records of the Clerk of the Circuit Court. All recording fees are the responsibility of the Collier County Board of County Commissioners.

3.9.6.8 Penalty.

- 1) The failure of a property owner or any other person to obtain an approved agricultural clearing permit as required in Sec. 3.9.6.4.3 shall constitute a misdemeanor and each acre of land from which protected vegetation is removed shall constitute a separate and distinct offense and upon conviction shall be punished by a fine not to exceed \$500.00 or by imprisonment in the County jail not to exceed sixty (60) days, or by both such fine and imprisonment. In imposing sentencing the Court may, in mitigation, consider the

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successful replacement of vegetation illegally removed and the degree of restoration of the water retention and drainage characteristics of the land to its original state.

- 2) The failure of a property owner or any other person to put the subject premises into a bona fide agricultural use as required in Sec. 3.9.6.5(5) shall constitute a misdemeanor for each acre of land for which the agricultural clearing permit was approved by the Development Services Director and each acre of land shall constitute a separate and distinct offense and upon conviction shall be punished by a fine not to exceed \$500.00/acre or by imprisonment in the County jail not to exceed sixty (60) days, or by both such fine and imprisonment. In imposing sentencing the Court may, in mitigation, consider the successful replacement of vegetation illegally removed and the degree of restoration of the water retention and drainage characteristics of the land to its original state.
- 3) Any person violating any provisions of this Code or the conditions of a permit issued hereunder, and not specifically covered in subsection (1) and subsection (2) of this Section, shall constitute a misdemeanor and each protected living, woody plant, constituting protective vegetation, removed in violation of this Code shall constitute a separate and distinct offense and upon conviction shall be punished by a fine not to exceed \$500.00/acre or by imprisonment in the County jail not to exceed sixty (60) days, or by both such fine and imprisonment. In imposing sentencing the Court may, in mitigation, consider the successful replacement of vegetative communities illegally removed and the degree of restoration of the water retention and drainage characteristics of the land to its original state. Each protected living, woody plant removed shall be a separate offense. In addition to or in lieu of the penalties provided by general law for violation of Ordinances, the Board of County Commissioners may bring injunctive action to enjoin the removal of vegetation in violation of this Code.

SEC. 3.9.7 APPEAL FROM ENFORCEMENT.

Any person who feels aggrieved by the application of this division, may file, within thirty (30) days after said grievance, a petition with the Development Services Director, to have the case reviewed by the Collier County Board of County Commissioners.

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DIV. 3.10 SEA TURTLE PROTECTION.

SEC. 3.10.1 TITLE AND CITATION. This division shall be known and may be cited as the "Collier County Sea Turtle Protection Regulations."

SEC. 3.10.2 PURPOSE. The purpose of this division is to protect the threatened and endangered sea turtles that nest along the beaches of Collier County, Florida, by safeguarding sea turtle hatchlings from sources of artificial light and adult and hatchling sea turtles from injury or harassment.

SEC. 3.10.3 NEW DEVELOPMENT. For new development, construction and building and electrical plans for construction of single family or multi-family dwellings, commercial or other structures including electrical plans associated with parking lots, dune walkovers or other outdoor lighting for real property if lighting associated with such construction or development, within 300 feet of the line of mean high water, shall be in compliance with the following:

3.10.3.1 Floodlights shall be prohibited. Wall mounted light fixtures shall be fitted with hoods so that light shall not illuminate the beach.

3.10.3.2 Pole lighting shall be shielded in such a way that no light illuminates the beach. Outdoor lighting within 300 feet of the nesting zone shall be held to the minimum necessary for security, convenience and safety.

3.10.3.3 Low profile luminaries shall be used in parking lots and such lighting shall be positioned so that no light illuminates the beach.

3.10.3.4 Dune crosswalks shall utilize low profile shielded luminaries.

3.10.3.5 Lights on balconies shall be fitted with hoods so that lights will not illuminate the beach.

3.10.3.6 Plates of tinted or filmed glass are recommended in windows facing the ocean above the first floor of multi-story structures.

3.10.3.7 Temporary security lights at construction sites shall not be mounted more than fifteen (15) feet above the ground. Illumination from the lights shall not illuminate the beach.

SEC. 3.10.4 EXEMPTIONS. The provisions of Sec. 3.10.3 shall not apply to any structure for which a building permit has been issued by the Collier County Building Department prior to the effective date of this division. However, all other provisions of this division shall be applicable to such structures. Coastal areas that do not have a beach landward of the line of mean high water shall be exempt from the provisions of Sec. 3.10.3.

SEC. 3.10.5 EXISTING DEVELOPMENT. For existing development, within four (4) months of the effective date of this division, lighting from existing structures which can be seen from the beach shall be in compliance with the following:

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- 3.10.5.1 Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened such that they are not visible from the beach, or shall be turned off after 9:30 P.M. between May 1st and October 31st, of each year.
- 3.10.5.2 Lights illuminating dune crosswalks of any areas seaward of the dune line shall be turned off after 9:30 P.M. between May 1st and October 31st, of each year, or; must be modified to conform to the requirements for new development.
- 3.10.5.3 Security and emergency exit lighting shall be permitted throughout the night so long as low profile luminaries are used and shielded in such a way that those lights do not illuminate the beach.
- 3.10.5.4 Window treatments in windows facing the ocean above the first floor of multi-story structures is recommended so that interior lights do not illuminate the beach.
- SEC. 3.10.6 **PUBLICLY OWNED LIGHTING.** Street lights and lighting at parks and other publicly owned beach access areas shall be subject to the following:
- 3.10.6.1 Street lights shall be located so that the bulk of their illumination will travel away from the beach. These lights shall be equipped with shades or shields that will prevent backlighting and render them not visible from the beach.
- 3.10.6.2 Lights at parks or other public beach access points shall be shielded or shaded or shall not be utilized after 9:30 P.M. between May 1st and October 31st, of each year.
- SEC. 3.10.7 **UNLAWFUL TO KILL, MOLEST, OR INJURE SEA TURTLES.** It shall be unlawful for any person, to kill, molest, or cause direct or indirect injury to any species of sea turtle in Collier County or within its jurisdictional waters. It shall be unlawful to collect or possess any part of an injured or dead sea turtle.
- SEC. 3.10.8 **CONSTRUCTION DURING NESTING SEASON.** It shall be unlawful to construct any structure, add any fill, mechanically clean any beach, or grade any dirt within 100 feet of the nesting zone of a beach where sea turtles nest or may nest, during the nesting season without obtaining a Construction in Sea Turtle Nesting Area Permit from the Development Services Director. If sea turtle nesting occurs within 100 yards of the construction measured parallel to the shoreline during permitted construction activities, the nest area will be flagged by the permittee and the Development Services Director informed within 8 hours. Depending on nest location in relation to intensive construction activities, the Development Services Director may require that the nest(s) be relocated by the applicant pursuant to Sec. 3.10.9.2 and Sec. 3.10.9.3.
- SEC. 3.10.9 **PERMITS AND FEES.**
- 3.10.9.1 **Construction in Sea Turtle Nesting Area Permit.** During the nesting season, the fee for a construction permit within 100 feet of the nesting zone of a beach where sea turtles nest or may nest shall be \$50.00. The Development Services Director shall inform the applicant about sea turtle crawls and nesting. It shall be the responsibility of the applicant to ensure that all persons working on the permitted construction are similarly informed. All other required state and federal permits shall be obtained prior to a Construction in Sea Turtle Nesting Area Permit being issued.

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3.10.9.2 Turtle Handling Permit. It shall be unlawful to relocate or possess a sea turtle without first obtaining a permit from the Development Services Director. The Development Services Director shall issue said permit only to persons who have obtained a Florida Marine Turtle permit from the State of Florida Department of Natural Resources prior to issuance of the Collier County permit.

3.10.9.3 Nest Relocation. If the Development Services Director finds that it is necessary for a nest to be relocated away from a construction area, then only the Development Services Director or an individual possessing a Turtle Handling Permit shall move the nest. If the Development Services Director, or his/her designee who possess a Florida Marine Turtle permit, moves a sea turtle nest, the cost shall be \$100.00 to the landowner. A nest that is more than 12 hours old shall not be relocated under any circumstances.

SEC. 3.10.10 PENALTIES FOR VIOLATION; RESORT TO OTHER REMEDIES. Violation of the provisions of this division or failure to comply with any of its requirements shall constitute a misdemeanor. Any person or firm who violates this division or fails to comply with any of its requirements shall upon conviction thereof be fined, or imprisoned, or both, as provided by law. Each day such violation continues shall be considered a separate offense. Each sea turtle killed, injured, or molested shall constitute a separate violation. Any other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. The County, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to injunctive action, to enforce the provisions of this division.

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DIV. 3.11 ENDANGERED, THREATENED OR LISTED SPECIES PROTECTION.

SEC. 3.11.1 TITLE AND CITATION. This division shall be known and may be cited as the "Collier County Endangered, Threatened, or Listed Species Protection Regulations."

SEC. 3.11.2 PURPOSE. The purpose of this division is to protect the species listed by the Florida Game and Freshwater Fish Commission (FGFWFC), United States Fish & Wildlife Service (USFWS) and Convention on International trade in Endangered Species of Wild Fauna and Flora (CITES) as endangered, threatened or of special concern or status in Collier County, Florida by including measures for protection and/or relocation of endangered, threatened, or species of special concern or status.

SEC. 3.11.3 NEW AND EXISTING DEVELOPMENT. For new and existing development and construction pursuant to Division 3.2 and 3.3 and the building code of Collier County, until permanent guidelines and standards are adopted by Collier County, the following shall apply as interim guidelines or standards for the protection of endangered, threatened or species of special concern or status as prescribed by Policy 7.3.3 of the Conservation and Coastal Management Element of the Collier County Growth Management Plan:

3.11.3.1 Plans shall be submitted for review and subject to approval by the Project Review Services Department of the Development Services Division, for the management of habitat and wildlife, including measures for protection and/or relocation of species of special status. Such plans shall comply with current federal, State and local policies.

3.11.3.2 Federal habitat management guidelines for the Bald Eagle (*Haliaeetus leucocephalus*) and the Woodstork (*Mycteria americana*) in the Southeast Region, published and issued by the USFWS, shall be adopted as guidelines for minimum standards to maintain or improve the environmental conditions that are required for the survival and well-being of Bald Eagles and Woodstorks.

3.11.3.3 Until the adoption of federal guidelines for the Red-cockaded Woodpecker (*Picoides borealis*) and Florida panther (*Felis concolor coryi*), the developer shall be responsible for the development of a protection plan for conservation and management of these species.

3.11.3.4 All such protection plans shall be subject to review and approval by the Project Review Services Department of the Development Services Division. The County may consider and utilize recommendations and letters of Technical Assistance of the Florida Game and Freshwater Fish Commission, and recommendations and guidelines of the USFWS, in issuing development orders on property containing wildlife species of special status.

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DIV. 3.12 COASTAL ZONE MANAGEMENT.

- SEC. 3.12.1 TITLE AND CITATION.** This division shall be known and may be cited as the "Collier County Coastal Management Zone Regulations."
- SEC. 3.12.2 PURPOSE.** The purpose of this division is to manage and conserve the habitats and species in the Collier County coastal zone as defined in the Collier County Growth Management Plan through the identification, protection, conservation, and appropriate use of native vegetative communities and wildlife habitats.
- SEC. 3.12.3 NEW AND EXISTING DEVELOPMENT.** New and existing development in the coastal zone shall be in compliance with the goals, objectives, and policies of the Conservation and Coastal Management Element of the Collier County Growth Management Plan until the formal adoption by Collier County of the Coastal Zone Management Plan as prescribed by Policies 1.3.2; 2.5.1, 2.5.3, 6.1.2, 11.6.1, 11.6.2, 11.6.3, 11.6.4 of the Conservation and Coastal Management Element of the Collier County Growth Management Plan.

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DIV. 3.13 COASTAL CONSTRUCTION SETBACK LINE VARIANCE.

SEC. 3.13.1 TITLE AND CITATION. This division shall be known and may be cited as the "Collier County Coastal Construction Setback Line Variance Regulations."

SEC. 3.13.2 ESTABLISHMENT OF SETBACK LINES. The Coastal Construction Setback Line shall be that Coastal Construction Setback Line established by the Department of Natural Resources of the State of Florida pursuant to Section 161.053 of the Florida Statutes and recorded in Coastal Setback Line Book 1, pages 1 through 12 inclusive, recorded October 31, 1974, as Clerk's Instrument No. 365665 of the Public Records of Collier County, Florida.

SEC. 3.13.3 REVIEW AND CHANGE OF SETBACK LINES. Setback lines established under this Code shall be reviewed upon petition of affected riparian upland owners. The Board of County Commissioners of Collier County shall decide, after due public notice and hearing, whether a change in the setback line is justified, and shall notify the petitioner in writing. The present setback lines are presumed to be correct, and no change in setback lines are presumed to be correct, and no change in setback lines shall be made except upon an affirmative showing by petitioner that any construction line established hereunder is a minimum of one hundred fifty feet (150') landward of the mean high water line or seventy five feet (75') landward of the vegetation line whichever is greater; and that considering ground elevations in relation to historical storm and hurricane tides, predicted maximum wave uprush, beach and offshore ground contours, the vegetation line, erosion trends, the dune or bluff line, if any exist, and existing upland development, that the general public health and welfare are preserved, upland properties protected, and beach and sand dune erosion controlled.

SEC. 3.13.4 PROHIBITED ACTIVITIES SEAWARD OF SETBACK LINES. It shall be unlawful for any person, firm, corporation, or agency, public or private, to construct, reconstruct, or change existing structures, make any excavation, remove any beach material or otherwise alter existing ground elevations, drive any vehicle on, over or across any sand dune, or damage or cause to be damaged any sand dune, or the vegetation growing thereon and/or seaward of said dune, seaward of the coastal construction setback line, except as hereinafter provided.

SEC. 3.13.5 VARIANCES.

3.13.5.1 If in the immediate contiguous or adjacent area a "number of existing structures" have established a reasonably continuous and uniform construction line closer to the line of mean high water than the line as herein established, and if said existing structures have not been unduly affected by erosion, a proposed structure may be permitted along such line if such proposed structure is also approved by the Board of County Commissioners.

3.13.5.2 The Board of County Commissioners may authorize the construction of pipelines or piers extending outward from the shoreline, unless it determines that the construction of such projects would cause erosion of the beach in the area of such structures.

3.13.5.3 Certain activities that may temporarily alter ground elevations such as artificial beach nourishment projects, excavation or maintenance dredging of inlet channels may be permitted seaward of the coastal construction setback line if said activity is in compliance with the Collier County Growth

Management Plan - Conservation and Coastal Management Element and also approved by the Board of County Commissioners.

SEC. 3.13.6 PROCEDURES FOR OBTAINING VARIANCE.

3.13.6.1 A written petition requesting a variance from the established setback line shall be filed with the Board of County Commissioners or their designee. The petition shall set forth:

1. A description of petitioner's property to include the information requested on a current Collier County request for a Coastal Construction Setback Line variance form;
2. A description of the established setback line and the line which petitioner wishes to be varied;
3. The justification upon which the petitioner relies for the granting of the variance, to include compliance with the Collier County Growth Management Plan - Conservation and Coastal Management Element.

3.13.6.2 The Board of County Commissioners shall within sixty (60) days of the filing of the petition, hold a public hearing thereon upon due public notice.

3.13.6.3 Due public notice shall mean at least fifteen (15) days notice of the time and place of such hearing published one time in a newspaper of general circulation in the area.

3.13.6.4 The Board of County Commissioners shall notify petitioner in writing of its decision within fifteen (15) days of the public hearing.

3.13.6.5 Any person aggrieved by a decision of the Board of County Commissioners granting or denying a variance may apply to the Circuit Court of the Circuit in which the property is located for judicial relief within thirty (30) days after rendition of the decision by the Board of County Commissioners. Review in the Circuit Court shall be by petition for a writ of certiorari and shall be governed by the Florida Appellate Rules.

SEC. 3.13.7 EXEMPTIONS.

Exemptions to Sec. 3.13.4 shall include:

3.13.7.1 The removal of Australian pine trees (Casuarina spp.), punk trees (Melaleuca spp.) and Brazilian pepper (Schinus terebinthifolius) or as otherwise hereinafter provided and defined as "exotic" by County Code.

3.13.7.2 Any modification, maintenance, or repair, to any existing structure within limits of the existing foundation, which does not require, involve, or include any additions to, or repair or modifications of, the existing foundation of that structure, excluding seawalls and any additions or enclosure added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure.

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- 3.13.7.3 Any structure(s) such as beach umbrellas, chairs, tents, that shall be removed daily from the beach and do not constitute fixed structure(s) that may or may not require a building permit and that upon review by the Director and/or his/her designee is/are determined not to present an actual or potential threat to the beach and the dune system and adjacent properties.

SEC. 3.13.8 PENALTY AND CIVIL REMEDIES.

- 3.13.8.1 Penalty. A violation of any provision of this Code is a misdemeanor and shall be prosecuted in the name of the State in the County Court by the Prosecuting Attorney, and upon conviction shall be punished by a fine not to exceed \$500.00 or by imprisonment in the County Jail not to exceed sixty (60) days, or by both such fine and imprisonment. Each violation and each day a violation continues shall constitute a separate offense. The Board of County Commissioners shall have the power to collaterally enforce the provisions of this Code by appropriate Judicial Writ or proceeding notwithstanding any prosecution as misdemeanor.

- 3.13.8.2 Civil Remedies. In addition to or in lieu of the penalties provided by general law for the violation of ordinances, the Board of County Commissioners may bring injunctive action to enjoin the construction or compel the removal of structures constructed in violation of this Code.

SEC. 3.13.9 SEVERANCE.

- 3.13.9.1 Severance. If any phrase or portion of this Division is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

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DIV. 3.14 VEHICLE ON THE BEACH REGULATIONS.

SEC. 3.14.1 TITLE AND CITATION. This division shall be known and may be cited as the "Collier County Vehicle on the Beach Regulations."

SEC. 3.14.2 UNLAWFUL TO DRIVE ON SAND DUNES OR BEACH OR TO DISTURB SAND DUNE.

- 1) To operate or cause to be operated a hand, animal, or engine driven wheel, track or other vehicle or implement on, over or across any part of the sand dunes, hill or ridge nearest the gulf, or the vegetation growing thereon or seaward thereof, or to operate or drive such a vehicle on the area seaward thereof, commonly referred to as "the beach" within Collier County, Florida.
- 2) To alter or cause to be altered any sand dune or the vegetation growing thereon or seaward thereof; make any excavation, remove any material; trees, grass or other vegetation or otherwise alter existing ground elevations or condition of such dune without first securing a permit as provided for in this Code.

SEC. 3.14.3 EXCEPTIONS: EXEMPTION CERTIFICATE.

- 1) Sheriff, City, State and Federal Police and Game and Fish Commission vehicles operated or authorized by officers of these departments operating under orders in the normal course of their duties shall be exempt from the provisions of this division.
- 2) Vehicles which must travel on the beaches in connection with environmental maintenance, conservation and/or environmental work, shall be exempt from the provisions of this division if an Exemption Certificate has been obtained from the Development Services Director of Collier County, Florida, or his designee, and said Exemption Certificate is prominently displayed on the windshield of such vehicle. The procedure for obtaining such an Exemption Certificate shall be by application to the Development Services Director in writing stating the reason or reasons why it is necessary for such vehicle or vehicles to be operated on the beaches in connection with an environmental maintenance, conservation and or environmental purpose, and Exemption Certificate for such vehicle or vehicles shall be issued by the Development Services Director if the Development Services Director is satisfied that a lawful and proper maintenance, conservation and/or environmental purpose will be served thereby.
- 3) Baby buggies (perambulators), toy vehicles, toy wagons, wheelchairs or similar devices, to aid disabled or non-ambulatory persons shall be exempt from the provisions of this division.

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SEC. 3.14.4 PERMIT FOR CONSTRUCTION.

Prior to beginning construction in proximity to a sand dune for any purpose whatsoever, including conservation, a temporary protective fence shall be installed a minimum of ten (10) feet landward of the dune. It shall be unlawful to cause or allow construction and related activity seaward of such fence. Each permit for such work shall clearly indicate the provisions of this Code and the protective measures to be taken.

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DIV. 3.15 ADEQUATE PUBLIC FACILITIES.**SEC. 3.15.1 GENERAL PROVISIONS.**

3.15.1.1 Short Title and Citation. This division shall be known and may be cited as the "Collier County Adequate Public Facilities Regulations."

3.15.1.2 Authority. The Board of County Commissioners of Collier County has the authority to adopt this division pursuant to Art. VIII, Sec. 1(f), Fla. Const., Sec. 125.01 et. seq., Fla. Stat., Sec. 163.3161 et seq., Fla. Stat., Sec. 163.3161(8), Fla. Stat., Sec. 163.3177(10)(h) and 163.3202(2)(g), Fla. Stat., and Rule 9J-5, F.A.C.

3.15.1.3 Applicability. This division shall apply to all development in the total unincorporated area of Collier County, and to all public facilities owned by Collier County in the incorporated or unincorporated areas of Collier County, and to all privately-owned public facilities where the level of service has been established by the County.

3.15.1.4 Purpose and Intent. This division is intended to implement and be consistent with the Collier County Growth Management Plan, Sec. 163.3161 et. seq., Fla. Stat., and Rule 9J-5, F.A.C., by ensuring that all development in Collier County be served by adequate Public Facilities.

This objective is accomplished by (1) establishing a management and monitoring system to evaluate and coordinate the timing and provision of the necessary Public Facilities to service development, and (2) by establishing a regulatory program that ensures that each Public Facility is available to serve development concurrent with when the impacts of development occur on the Public Facilities.

3.15.1.5 Minimum Requirements. The provisions of this division in their interpretation and application are declared to be the minimum requirements necessary to accomplish the stated intent, purposes, and objectives of this division.

SEC. 3.15.2 ESTABLISHMENT OF MANAGEMENT AND MONITORING PROGRAM AND REGULATORY PROGRAM: THE ANNUAL INVENTORY AND UPDATE REPORT, CIE AMENDMENTS, AND ANNUAL BUDGET.

In order to implement the mandate of the Collier County Growth Management Plan to ensure that adequate Potable Water, Sanitary Sewer, Solid Waste, Drainage, Park and Road Public Facilities are available to accommodate development in Collier County concurrent with when the impacts of development occur on such Public Facilities, the Board of County Commissioners establishes, pursuant to the terms of this division, (1) a management and monitoring program that evaluates the conditions of Public Facilities to ensure they are being adequately planned for and funded to maintain the LOS for each Public Facility, and (2) a regulatory program that ensures that each Public Facility is available to serve development concurrent with when the impacts of development occur or that development orders are conditioned on the availability of Public Facilities to serve the development concurrent with when the impacts of development occur.

SEC. 3.15.3 MANAGEMENT AND MONITORING PROGRAM.

3.15.3.1 General. In order to ensure that adequate Potable Water, Sanitary Sewer, Solid Waste, Drainage, Park and Road Public Facilities are available concurrent with when the impacts of development occur on such Public Facilities, the County shall establish the following management and monitoring practices. Their purpose is to evaluate and coordinate the timing, provision, and funding of Potable Water, Sanitary Sewer, Solid Waste, Drainage, Park and Road Public Facilities (1) to ensure adequate planning and funding to maintain the LOS for the Public Facilities, and (2) to evaluate the capacity of the Public Facilities for use in the regulatory program to ensure (a) that no development orders are issued unless adequate Public Facilities are available to serve the development concurrent with when the impacts of development are proposed to occur, or (b) that no development orders are issued unless they are conditioned on the availability of Public Facilities to serve the development concurrent with when the impacts of development occur.

3.15.3.2 Annual Update and Inventory Report on Public Facilities (AUIR). By May 1 of each year, the Growth Management Director shall complete an Annual Update and Inventory Report on Public Facilities (hereinafter "AUIR"). The AUIR shall determine the existing conditions of all Capital Potable Water, Capital Sanitary Sewer, Capital Solid Waste, Capital Drainage, Capital Park, and Capital Road Public Facilities, determine and summarize the available capacity of these Capital Improvements (Public Facilities) based on their LOS, and forecast the capacity of existing and planned Public Facilities identified in the Five (5) Year Capital Improvement Schedule for each of the five (5) succeeding years, and ten (10) succeeding years. The forecasts shall be based on the most recently updated schedule of Capital Improvements (Public Facilities) for each Public Facility. The AUIR shall be based on the most recent Bureau of Economic and Business Research (BEBR) population projections, updated Public Facility inventories, updated unit costs, and analysis of traffic count data.

The findings of the AUIR shall form the basis for the Annual Update to the CIE, any proposed projects to be included in the County's Tentative Annual Budget, the determination of any Area of Significant Influence (ASI) and the review of and issuance of development orders during the next year.

3.15.3.3 Annual Determination of Adequate "Category A" Public Facilities (Concurrency).

Based on the findings of the AUIR, by May 1 of each year, the Growth Management Director will report to the Board of County Commissioners concerning deficiencies or potential deficiencies in "Category A" Public Facilities and remedial action options including but not limited to the following:

1. Establishment of Areas of Significant Influence (ASI's);
2. Public Facility project additions to the CIE;
3. Deferral of development order issuance in affected areas pending:
 - a. Lowering of LOS via Growth Management Plan Amendment;
 - b. Inclusion of necessary Public Facility projects in the adopted Annual Budget and Annual CIE Update;
 - c. Approval of new or increased revenue sources for needed Public Facility projects by the Board of County Commissioners, the State Legislature or the County voters.

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3.15.3.4 Recommendations on the Annual CIE Update and Tentative Annual Budget.

Based upon analysis of the AUIR, the Growth Management Director shall propose to the Board of County Commissioners by July 15 of each year, the Annual Update to the CIE in conjunction with the release of the County's Tentative Annual Budget which will include the public facilities needed to maintain adopted Level of Service Standards. The Annual Budget, which is to be adopted by October 1 of each year will include projects and funding approved by the Board in the adopted Annual CIE Update.

3.15.3.5 Establishment of Area of Significant Influence (ASI) for Roads.

1. **Establishment of Area of Significant Influence (ASI).** If the findings of the AUIR identify additional needed road improvements they will be included in the road component of the proposed Annual CIE Update. The Growth Management Director will determine if there is either a deficient or potentially deficient road segment. The Growth Management Director shall propose and identify an Area of Significant Influence (ASI) around any deficient or potentially deficient road segment (except where such potentially deficient road segment is projected not to exceed its adopted LOS within the five (5) year Capital Improvement Schedule in the CIE) and the Annual Residual Capacity Trips that would be allocated to those applicants requesting Certificates of Public Facility Adequacy within the proposed ASI covering potentially deficient road segments during the year. The boundaries of an ASI shall be proposed by the Growth Management Director and forwarded to the Board of County Commissioners, along with the annual Residual Capacity Trips covering potentially deficient roadway segments for each ASI by May 1 of each year. The proposed ASI and Residual Capacity Trips shall become effective on June 1 of each year if the additional needed road improvements identified in the AUIR are not added to the CIE by June 1 of each year. No Residual Capacity trips shall be allotted for development in an ASI covering a deficient road segment.

2. **Standards in Establishing Area of Significant Influence (ASI) and Determining Annual Residual Capacity Trips.** The boundaries for the ASI shall be based upon accepted transportation planning practices, and shall include those areas surrounding a deficient or potentially deficient road segment where development may be expected to place an unreasonable number of new trips on the deficient or potentially deficient road segment. The Growth Management Director shall complete a detailed conditions analysis of the deficient or potentially deficient road segment within each proposed ASI boundary prior to proposing the boundaries of the ASI. The analysis shall take into consideration characteristics of the road segment (such as traffic control, signal spacing, timing, and phasing) using procedures documented in the 1985 Highway Capacity Manual (or its current edition). The Annual Residual Capacity Trips for the proposed ASI covering the potentially deficient road segment shall be based upon up to hundred percent (100%) of the potentially deficient road segment's remaining capacity, measured in peak hour trips. Thirty percent (30%) of the potentially deficient road segment's remaining capacity shall be reserved for only those land uses which generate one (1) peak hour trip per day or less, based on the most recent ITE Trip Generation Rate Manual.

3. **Review and Approval by Board of County Commissioners.** After receipt of the proposed boundaries of a potential ASI and the proposed Residual Capacity Trips of the ASI from the Growth Management Director, the Board of County Commissioners, by June 1 of each year, shall

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hold a public hearing noticed pursuant to the requirements of Sec. 125.66(5), Fla. Stat., and after consideration of the proposal and public comment, approve the boundaries (including a map of the boundaries) and the Annual Residual Capacity Trips of the ASI, with or without modifications, or determine that competent substantial evidence has been placed on the record to show that the road segment is not potentially deficient and determine that the establishment of an ASI is not necessary to ensure that development orders are served by adequate road Public Facilities. The approved boundaries and Annual Residual capacity Trip Allotments for each ASI will become effective on June 1 of each year if additional road improvements are not added to the Capital Improvement Element at that time.

4. Map of Areas of Significant Influence (ASI). A Map showing the boundaries of each ASI established by the Board of County Commissioners shall be kept in the Office of the Growth Management Director and the office of the Clerk to the Board of County Commissioners for review and inspection by the public during normal business hours.

5. Duration of Established Area of Significant Influence (ASI). Once the boundaries of an ASI are approved by the Board of County Commissioners, they are valid for one (1) year, unless otherwise dissolved.

6. Duration of Residual Capacity Trips. Once the Road Facility Residual Capacity Trips are approved by the Board of County Commissioners, they are valid for one (1) year.

7. Dissolution of Area of Significant Influence (ASI). If the additional needed road improvements identified in the AUIR are added to the CIE or funds are available for, and committed for construction of, the needed road improvements to eliminate the classification of a road as a deficient or potentially deficient road segment, then the Area of Significant Influence (ASI) established for that deficient or potentially deficient road segment shall be dissolved in the same manner in which it was established.

SEC. 3.15.4 REGULATORY PROGRAM: REVIEW OF DEVELOPMENT TO ENSURE ADEQUATE PUBLIC FACILITIES ARE AVAILABLE.

3.15.4.1 General. In order to ensure that adequate Potable Water, Sanitary Sewer, Solid Waste, Drainage, Park and Road Public Facilities are available concurrent with when the impacts of development occur on each Public Facility, Collier County shall establish the following development review procedures to ensure that no development orders are issued unless adequate Public Facilities are available to serve the proposed development, or that the development order is conditioned on the availability of Public Facilities to serve the development concurrent with when the impacts of development occur on the Public Facilities.

3.15.4.2 Exemptions. The following development orders and development shall be exempt from the terms of this division:

3.15.4.2.1 All valid, unexpired final Development of Regional Impact (DRI) development orders which were issued prior to adoption of this division except where:

1. Development conditions or stipulations applicable to concurrency, or the provision of adequate Public Facilities concurrent with the impacts of development, exist in the DRI development order;

2. Substantial deviations are sought for a DRI development order, and then, this division shall apply only to those portions of the development for which the deviation is sought;

3. An overriding concern for public health, safety, or welfare exists;

4. The County can demonstrate pursuant to Sec. 380.06, Florida Statutes, that substantial changes in the conditions underlying the approval of the development order have occurred or the development order was based on substantially inaccurate information provided by the developer or that the application of this division to the development order is clearly established to be essential to the public health, safety and welfare; or

5. The new requirements would not so change or alter a DRI development order that they would materially or substantially affect the developer's ability to complete the development authorized by the DRI development order.

3.15.4.2.2 All valid, unexpired final local development orders issued prior to adoption of this Code.

3.15.4.2.3 Construction of Public Facilities that are consistent with the Collier County Growth Management Plan.

3.15.4.2.4 Any development orders determined by the Growth Management Director not to impact Public Facilities.

3.15.4.2.5 Original temporary construction and development permits and any subsequent renewals not to exceed a cumulative period of one (1) year.

3.15.4.2.6 Development orders permitting replacement, reconstruction or repair of existing development consistent with all elements of the Growth Management Plan.

3.15.4.2.7 All temporary use permits.

3.15.4.2.8 Any development order or development whose current owner is entitled to receive, and who properly obtains, a determination of vested rights for adequate public facilities ("APF") in accordance with the provisions of this Sec. 3.15.4.2.8.

1. **Application.** An application for Determination of Vested Rights for APF shall be submitted in the form established by the Growth Management Director. An application fee in an amount to be determined by the Board of County Commissioners shall accompany and be part of the application. The application shall, at a minimum, include:

- a. Name, address, and telephone number of the owner and authorized applicant if other than the owner;
- b. Street address, legal description, and acreage of the property; and
- c. All factual information and knowledge reasonably available to the owner and applicant to address the criteria established in Sec. 3.15.4.2.8.7 below.

2. **Determination of Completeness.** After receipt of an Application for Determination of Vested Rights for APF, the Growth Management Director shall determine whether the



application submitted is complete. If he determines that the application is not complete, the Growth Management Director shall notify the applicant in writing of the deficiencies. The Growth Management Director shall take no further steps to process the application until the deficiencies have been remedied.

3. **Review and Determination or Recommendation by Growth Management Director and County Attorney.** After receipt of a completed Application for Determination of Vested Rights for APF, the Growth Management Director and the County Attorney shall review and evaluate the application in light of all of the criteria in Sec. 3.15.4.2.8.7. Based on the review and evaluation, the Growth Management Director and the County Attorney shall prepare a written recommendation to the Hearing Officer that the application should be denied, granted or granted with conditions by the Hearing Officer. Such recommendation shall include findings of fact for each of the criteria established in Sec. 3.15.4.2.8.7 to the extent that information is presented or obtained or inclusion is feasible or applicable. If the Growth Management Director and the County Attorney agree based on the review and evaluation that the Application for Determination of Vested Rights for APF so clearly should be granted or granted with conditions, then they may enter into a written Stipulated Determination of Vested Rights for APF with the owner, in lieu of the written recommendation to the Hearing Officer and the provisions in Secs. 3.15.4.2.8.4, 3.15.4.2.8.5, and 3.15.4.2.8.6. However, any such Stipulated Determination shall be in writing, signed by the Growth Management Director, the County Attorney and the owner, and shall include findings of fact based on the criteria established in Sec. 3.15.4.2.8.7, conclusions of law for such criteria, and the determination granting or granting with conditions, in whole or in part, the vested rights for adequate public facilities.
4. **Review and Determination of Vested Rights Determination for APF by Hearing Officer.** Upon receipt by the Hearing Officer of the Application for Determination of Vested Rights for APF and the written recommendation of the Growth Management Director and the County Attorney, the Hearing Officer shall hold a public hearing on the application. At the hearing, the Hearing Officer shall take evidence and sworn testimony in regard to the criteria set forth in Sec. 3.15.4.2.8.7, and shall follow the rules of procedure set forth in Sec. 120.57(1)(b), 4, 6, 7, and 8. Fla. Stat., and Sec. 120.58(1)(a),(d) and (f), Fla. Stat., and Sec. 120.58(1)(b), Fla. Stat., only to the extent that the Hearing Officer is empowered to swear witnesses and take testimony under oath. The Hearing Officer shall follow the procedures established for administrative hearings in Rules 221-6.009, 6.017, 6.020, 6.022, 6.023, 6.024, 6.025, 6.027, and 6.031, Florida Administrative Code except as expressly set forth herein. The parties before the Hearing Officer shall include the County, the owner or applicant, and the public. Testimony shall be limited to the matters directly relating to the standards set forth in Sec. 3.15.4.2.8.7. The County Attorney shall represent the County, shall attend the public hearing, and shall offer such evidence as is relevant to the proceedings. The owner of the property and its authorized agents, may offer such evidence at the public hearing as is relevant to the proceedings and criteria. The order of presentation before the Hearing Officer at the public hearing shall be as follows: 1) the County's summary of the application, written recommendation, witnesses and other evidence; 2) owner or applicant witnesses and evidence; 3) public witnesses and evidence; 4) County rebuttal, if any; and 5) applicant

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rebuttal, if any.

5. **Issuance of Vested Rights Determination for APF by Hearing Officer.** Within fifteen (15) working days after the completion of the public hearing under Sec. 3.15.4.2.8.4, the Hearing Officer shall consider the Application for Determination of Vested Rights for APF, the recommendation of the Growth Management Director and the County Attorney, and the evidence and testimony presented at the public hearing, in light of all of the criteria set forth in Sec. 3.15.4.2.8.7 and shall deny, grant, or grant with conditions the Application for Determination of Vested Rights for APF for the property or properties at issue. The determination shall be in writing and shall include findings of fact for each of the applicable criteria established in Sec. 3.15.4.2.8.7, conclusions of law for each of such criteria, and a determination denying, granting, or granting with conditions, in whole or in part, the vested rights for adequate public facilities.
6. **Appeal to the Board of County Commissioners.** Within thirty (30) days after issuance of the Hearing Officer's written determination of vested rights for APF, the County Attorney, the Growth Management Director, or the owner or its authorized attorney or agent, may appeal the determination of vested rights for APF of the Hearing Officer to the Board of County Commissioners. A fee for the application and processing of an owner-initiated appeal shall be established at a rate set by the Board of County Commissioners from time to time and shall be charged to and paid by the owner or its authorized agent. The Board of County Commissioners shall adopt the Hearing Officer's determination of vested rights for APF, with or without modifications or conditions, or reject the Hearing Officer's determination of vested rights for APF. The Board of County Commissioners shall not be authorized to modify or reject the Hearing Officer's determination of vested rights for APF unless the Board of County Commissioners finds that the Hearing Officer's determination is not supported by substantial competent evidence in the record of the Hearing Officer's public hearing or that the Hearing Officer's determination of vested rights for APF is contrary to the criteria established in Sec. 3.15.4.2.8.7.
7. **Criteria for Vested Rights.** This section is intended to strictly adhere to and implement existing case law and statutory law as they relate to the doctrine of vested rights and equitable estoppel as applied to a local government exercising its authority and powers in zoning, the provision of adequate public facilities concurrent with development (concurrency), and related matters. It is the express intent of Collier County to require application of the provisions of this Division to as much development and property in the unincorporated areas of the County as is legally possible without violating the legally vested rights which the owner may have obtained in accordance with Florida common law and statutory law, particularly Sec. 163.3167(8), Florida Statutes. The criteria herein provided shall be considered in rendering a vested rights determination under this section. It is intended that each case be decided on a case by case factual analysis. An owner shall be entitled to a positive determination of vested rights for APF only if he demonstrates by substantial competent evidence that he is entitled to complete his development without regard to the otherwise applicable provisions of this Division based on the provisions of Sec. 163.3167(8), Florida Statutes, or all three of the following requirements of the three-part test under Florida common law:

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- 1) Upon some act or omission of the County,
- 2) a property owner relying in good faith,
- 3) has made such a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights acquired.

8. Limitation on Determination of Vested Rights for APF. A Determination of Vested Rights for APF which grants an application for determination of vested rights for APF shall expire and be null and void unless construction is commenced pursuant to a final development order, final subdivision plat, or final site development plan, within two (2) years after the issuance of the determination of vested rights for APF under this Sec. 3.15.4.2.8, or unless substantial permanent buildings have been, or are being constructed or installed pursuant to a valid, unexpired, final development order of Collier County within two (2) years after issuance of the determination of vested rights for APF under this Sec. 3.15.4.2.8, and such development pursuant to a final development order, final subdivision plat, final site development plan, final subdivision master plan, or planned unit development master plan is continuing in good faith. The aforementioned two (2) year time limitation on the determination of vested rights for APF shall be stayed during any time periods within which commencement of construction pursuant to a final development order, final subdivision plat, or final site development plan is prohibited or deferred by the County solely as a result of lack of adequate public facilities to serve the property, pursuant to this Division.

3.15.4.3 Certificate of Public Facility Adequacy.

3.15.4.3.1 General.

1. After the effective date of this Division, a valid, unexpired Certificate of Public Facility Adequacy shall be obtained at the filing for the earliest or next to occur of final subdivision plat, final site development plan or building permit; provided, however, any development orders except a final local development order may be approved or issued provided they are expressly conditioned on the issuance of a Certificate of Public Facility Adequacy prior to building permit approval and provided the owner and applicant proceed at their own risk and expressly waive and release the County in writing from any and all future claims of vested rights and equitable estoppel resulting from such conditional approval or actions relying thereon.
2. At the applicant's request, the County shall review and approve, approve with conditions, or deny, an Application for a Certificate of Public Facility Adequacy prior to the consideration of an Application for Development Approval for any development order needed for a proposed development prior to receipt of a final subdivision plat approval, final site development plan approval, or building permit approval.
3. Where the proposed development has been issued final subdivision plat approval or final site development plan approval prior to the effective date of this Division, a Certificate of Public Facility Adequacy shall be obtained prior to approval of the next development order required for the proposed development.

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4. All applicable impact fees and system development fees for a development shall be paid to the County in the amount estimated to be due upon issuance of the final local development order(s) for the development upon or prior to issuance of a Certificate of Public Facility Adequacy for the development. The payment of the estimated impact and system development fees shall be applied as a credit towards the impact and system development fees calculated and due upon issuance of the final local development order(s) for the development. Such fees shall be otherwise paid in accordance with the applicable impact fee or system development fee ordinance, and shall be refundable pursuant to such ordinances only upon expiration of the Certificate of Public Facility Adequacy for that development.

3.15.4.3.2

Rules of General Applicability for Certificate of Public Facility Adequacy.

1. **Timing.** An Application for a Certificate of Public Facility Adequacy may be submitted at any time, subject to Sec. 3.15.4.3.1.1.
2. **Consolidated Application.** A building permit, final subdivision plat or final site development plan shall receive final approval only to the extent to which the proposed development receives a Certificate of Public Facility Adequacy. The Application for a Certificate of Public Facility Adequacy may be submitted with an Application for Development Approval, where appropriate under this Division.
3. **Assignability and Transferability.** A Certificate of Public Facility Adequacy shall run with the land, shall be assignable within a proposed development, and shall not be assignable or transferable to other development.
4. **Expiration.** A Certificate of Public Facility Adequacy shall expire three (3) years from the date of its approval except to the extent that building permits have been issued for the proposed development for which the Certificate is approved, and the proposed development is then completed pursuant to the terms of the Collier County Building Code, provided:
 - a. For development comprised of more than five hundred (500) residential dwelling units, or for a phased increment of development comprised of more than one hundred and fifty (150) residential dwelling units, or for a commercial/industrial development of more than 100,000 square feet of gross leasable area, a Certificate of Public Facility Adequacy shall expire five (5) years from the date of its approval except to the extent that building permits have been issued for the proposed development for which the Certificate is approved, and the proposed development is then completed pursuant to the terms of the Collier County Building Code, provided the certificate holder:
 - (1) Obtains approval of its Final Subdivision Plat and Final Site Development Plan, whichever is applicable, within twelve (12) months from the date of issuance of the Certificate of Public Facility Adequacy; and
 - (2) Commences construction of the infrastructure for the Final Subdivision Plat and Final Site Development Plan, whichever is applicable, within twenty-four

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(24) months from the date of issuance of the Certificate of Public Facility Adequacy; and

(3) Completes the construction of the infrastructure for the Final Subdivision Plat and Final Site Development Plan, whichever is applicable, and records the Final Subdivision Plat in the public records of Collier County, if applicable, within thirty-six (36) months from the date of issuance of the Certificate of Public Facility Adequacy.

b. For purposes of determining the expiration of a Certificate of Public Facility Adequacy for a mixed use development, the size of the mixed use development shall be determined by aggregating the percentage of the threshold for each land use component identified in Sec. 3.15.4.3.2.4.a that is proposed for the mixed use development.

5. **Effect.** Issuance of a Certificate of Public Facility Adequacy shall demonstrate proof of adequate Public Facilities to serve the development approved in the development order, subject to the conditions in the development order. A subsequent Application for Development Approval for development approved in a development order for which a Certificate of Public Facility Adequacy has been approved shall be determined to have adequate Public Facilities as long as the Certificate of Public Facility Adequacy is valid and unexpired. When a Certificate of Public Facility Adequacy expires, any subsequent Application for Development Approval shall require a new Certificate of Public Facility Adequacy to be issued pursuant to the terms of this section prior to approval of any subsequent development order for the proposed development.

6. Anything in this Division to the contrary notwithstanding, all Certificates of Public Facility Adequacy approved or issued from the date that the Growth Management Director releases the AUIR to the public through the date that the approved boundaries and the Annual Residual Capacity Trip Allotments for each ASI become effective shall be expressly conditioned upon any and all restrictions, limitations, provisions, boundaries and allotments adopted by the Board of County Commissioners pursuant to Sec. 3.15.3.5.3.

3.15.4.3.3

Effect of Development Agreement in Conjunction with a Certificate of Public Facility Adequacy. Upon approval by the Board of County Commissioners, any applicant may enter into a Development Agreement with Collier County pursuant to the provisions of Section 163.3220-3242, Florida Statutes (1989), in conjunction with the approval of a development order and/or a Certificate of Public Facility Adequacy. The effect of the Development Agreement shall be to bind the parties pursuant to the terms and conditions of the Development Agreement and the Certificate of Public Facility Adequacy in order to insure that adequate Public Facilities are available to serve the proposed development concurrent with when the impacts of the development occur on the Public Facilities. Development Agreements may address conditional development order approvals and conditions for renewal of the Certificate of Public Facility Adequacy beyond five (5) years, however, the duration of any Certificate of Public Facility Adequacy shall not exceed five (5) years. Development Agreements may also provide for private provision of public facilities or for a joint endeavor between the private sector and Collier County to provide public facilities. Any Public Facility in the Five (5) Year Schedule of Capital Improvements in the CIE on which such



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a Certificate of Adequate Public Facilities is made in conjunction with the approval of a development order and a Development Agreement shall not be delayed, deferred, or removed from the Five (5) Year Schedule of Improvements in the CIE.

3.15.4.3.4 Procedure for Review of Application.

1. **Submission of Application and Fee.** An Application for a Certificate of Public Facility Adequacy shall be submitted to the Growth Management Director. An application shall be submitted at the filing of the earliest or next to occur of final subdivision plat, final site development plan, or building permit. An application fee in an amount to be determined by the Board of County Commissioners shall accompany and be part of the application, except that no application fee shall be required for an Application of Public Facility Adequacy submitted in conjunction with an application for a final subdivision plat, a final site development plan, or a building permit.
2. **Application Contents.** The form and contents for the Application for Public Facility Adequacy shall be established by the Growth Management Director and shall be published and made available to the general public.
3. **Determination of Completeness and Review.** After receipt of an Application for Certificate of Public Facility Adequacy, the Growth Management Director shall determine whether it is complete within ten (10) days. If it is determined that the application is not complete, written notice shall be served on the applicant specifying the deficiencies. The Growth Management Director shall take no further action on the application unless the deficiencies are remedied. Within twenty (20) days after the application is determined to be complete, the Growth Management Director shall review and grant, grant with conditions, or deny each Public Facility component in the application pursuant to the standards established in Sec. 3.15.4.3.5.
4. **Appeal to Public Facilities Determination Appeal Committee.** Within thirty (30) days after issuance of the determination of the Growth Management Director on the Application for a Certificate of Public Facility Adequacy, the applicant may appeal the determination of the Growth Management Director on the Application for a Certificate of Public Facility Adequacy to the Public Facilities Determination Appeal Committee. A fee for the application and processing of an appeal shall be established at a rate set by the Board of County Commissioners from time to time and shall be charged to and paid by the applicant. The Public Facilities Determination Appeal Committee shall hold a hearing on the appeal and shall consider the determination of the Growth Management Director and public testimony in light of all the criteria set forth in Sec. 3.15.4.3.5. The Public Facilities Determination Appeal Committee shall adopt the Growth Management Director's determination on the Application for a Certificate of Public Facility Adequacy with or without modifications or conditions, or reject the Growth Management Director's determination. The Public Facilities Determination Appeal Committee shall not be authorized to modify or reject the Growth Management Director's determination unless the Public Facilities Determination Appeal Committee finds that the determination is not supported by substantial competent evidence or that the Growth Management Director's determination is contrary to the criteria established in Sec. 3.15.4.3.5. The decision of

the Public Facilities Determination Appeal Committee shall include findings of fact for each of the criteria.

5. Membership of Public Facilities Determination Appeal Committee. The Public Facilities Determination Appeal Committee shall be comprised of three (3) members: an Assistant to the County Manager; Metropolitan Planning Organization (MPO) Coordinator, or his designee; and the Project Review Services Manager, or his designee.

3.15.4.3.5

Standards for Review of Application. The following standards shall be used in the determination of whether to grant, grant with conditions, or deny a Certificate of Public Facility Adequacy. Before issuance of a Certificate of Public Facility Adequacy, the application shall fulfill the standards for each Public Facility component (Potable Water, Sanitary Sewer, Solid Waste, Drainage, Parks and Roads).

1. Potable Water Facilities.

- a. Beginning with the effective date of the Growth Management Plan Implementation through September 30, 1994, the Potable Water component shall be granted if any of the following conditions are met:

(1) The required public facilities are in place at the time a building permit is issued, or a building permit is issued subject to a condition that the necessary facilities will be in place when the impact of development occurs.

(2) The required Public Facilities are under construction at the time a building permit is issued.

(3) The required Public Facilities are the subject of a binding contract executed for the construction of those Public Facilities at the time a building permit is issued.

(4) The construction of required Public Facilities has been included in the County's adopted budget at the time a building permit is issued even though the Public Facilities are not yet the subject of a binding contract for their construction.

(5) The construction of Capital Potable Water Facilities required to accommodate the impact of development occurring before October 1, 1994, is scheduled in the County's Schedule of Capital Improvements prior to October 1, 1994. The Schedule of Capital Improvements shall be based on a realistic, financially feasible program of funding from existing revenue sources and shall be adopted as a part of the Growth Management Plan. A plan amendment is required to eliminate, defer or delay construction of any "Category A" Public Facility in the Schedule of Capital Improvements which is needed to maintain the adopted Level of Service standard. The development order issued pursuant to a Certificate of Public Facility Adequacy is expressly conditional so that the

development order shall be suspended and no further development shall be carried out in the event any of the following occur without a corresponding Growth Management Plan Amendment:

- (a) The required Capital Potable Water Facilities are delayed, deferred, or removed from the adopted Schedule of Capital Improvements.
 - (b) Annual funding is insufficient to maintain the Capital Potable Water Facilities Projects in the Schedule of Capital Improvements.
 - (c) Construction of the required Capital Potable Water facility or facilities is not undertaken in accordance with the adopted Schedule of Capital Improvements.
- (6) The construction of required Capital Potable Water facilities scheduled in the County's Schedule of Capital Improvements prior to October 1, 1994 will not be delayed, deferred or removed from the Capital Improvement Element if the facilities have been relied upon for the issuance of a development order.
- b. Effective October 1, 1994, the Potable Water component shall be granted if any of the following conditions are met:
- (1) Capital Potable Water Facilities are in place to provide the proposed development sufficient services based on the LOS for Capital Potable Water Facilities, and a commitment of capacity to serve the proposed development has been received from the Potable Water System that will service the proposed development;
 - (2) The Capital Potable Water Facilities that will provide the proposed development sufficient services based on the LOS for Capital Potable Water Facilities is under construction, a commitment of capacity to serve the proposed development upon completion of construction has been received from the appropriate Potable Water System, and commencement of construction of the proposed development is conditioned on the completion of the Capital Potable Water Facilities to service the proposed development;
 - (3) The required public facilities are the subject of a binding contract executed for the construction of these public facilities at the time a building permit is issued;
 - (4) The construction of the required public facilities has been included in the County's adopted budget at the time a building permit is issued even though the public facilities are not yet the subject of a binding contract for their construction;
 - (5) The Capital Potable Water Facilities that will provide the proposed

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development sufficient services based on the LOS for Capital Potable Water Facilities are committed to be provided by the applicant, and issuance of a building permit for any portion of the development is conditioned on the completion of the Capital Potable Water Facilities to service the proposed development; or

(6) Capital Potable Water Facilities are available to provide the proposed development sufficient services based on the LOS for Capital Potable Water Facilities, and issuance of a building permit for any portion of the development is conditioned on the demonstration of receipt of a commitment of capacity from the Potable Water System that will service the proposed development.

2. Sanitary Sewer Facilities.

a. Beginning with the effective date of the Growth Management Plan Implementation through September 30, 1994, the Sanitary Sewer component shall be granted if any of the following conditions are met:

- (1) The required public facilities are in place at the time a building permit is issued, or a building permit is issued subject to a condition that the necessary facilities will be in place when the impact of development occurs.
- (2) The required Public Facilities are under construction at the time a building permit is issued.
- (3) The required Public Facilities are the subject of a binding contract executed for the construction of those Public Facilities at the time a building permit is issued.
- (4) The construction of required Public Facilities has been included in the County's adopted budget at the time a building permit is issued even though the Public Facilities are not yet the subject of a binding contract for their construction.
- (5) The construction of Capital Sanitary Sewer Facilities required to accommodate the impact of development occurring before October 1, 1994, is scheduled in the County's Schedule of Capital Improvements prior to October 1, 1994. The Schedule of Capital Improvements shall be based on a realistic, financially feasible program of funding from existing revenue sources and shall be adopted as a part of the Growth Management Plan. A plan amendment is required to eliminate, defer or delay construction of any "Category A" Public Facility in the Schedule of Capital Improvements which is needed to maintain the adopted Level of Service standard. The development order issued pursuant to a Certificate of Public Facility Adequacy is expressly conditional so that the development order shall be suspended and no



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further development shall be carried out in the event any of the following occur without a corresponding Growth Management Plan Amendment:

- (a) The required Capital Sanitary Sewer Facilities are delayed, deferred, or removed from the adopted Schedule of Capital Improvements.
 - (b) Annual funding is insufficient to maintain the Capital Sanitary Sewer Facilities projects in the Schedule of Capital Improvements.
 - (c) Construction of the required Capital Sanitary Sewer facility or facilities is not undertaken in accordance with the adopted Schedule of Capital Improvements.
- (6) The construction of required Capital Sanitary Sewer facilities scheduled in the County's Schedule of Capital Improvements prior to October 1, 1994 will not be delayed, deferred or removed from the Capital Improvement Element if the facilities have been relied upon for the issuance of a development order.
- b. Effective October 1, 1994, the Sanitary Sewer component shall be granted if any of the following conditions are met:
- (1) Capital Sanitary Sewer Facilities are in place to provide the proposed development sufficient services based on the LOS for Capital Sanitary Sewer Facilities, and a commitment of capacity to serve the proposed development has been received from the Sanitary Sewer System that will service the proposed development;
 - (2) The Capital Sanitary Sewer Facilities that will provide the proposed development sufficient services based on the LOS for Capital Sanitary Sewer Facilities is under construction, a commitment of capacity to serve the proposed development upon completion of construction has been received from the appropriate Sanitary Sewer System, and commencement of construction of the proposed development is conditioned on the completion of the Capital Sanitary Sewer Facilities to service the proposed development;
 - (3) The required public facilities are the subject of a binding contract executed for the construction of these public facilities at the time a building permit is issued;
 - (4) The construction of the required public facilities has been included in the County's adopted budget at the time a building permit is issued even though the public facilities are not yet the subject of a binding contract for their construction;

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(5) The Capital Sanitary Sewer Facilities that will provide the proposed development sufficient services based on the LOS for Capital Sanitary Sewer Facilities are committed to be provided by the applicant, and issuance of a building permit for any portion of the development is conditioned on the completion of the Capital Sanitary Sewer Facilities to service the proposed development; or

(6) Capital Sanitary Sewer Facilities are available to provide the proposed development sufficient services based on the LOS for Capital Sanitary Sewer Facilities, and issuance of a building permit for any portion of the development is conditioned on the demonstration of receipt of a commitment of capacity from the sanitary sewer facilities that will service the proposed development.

3. Solid Waste Facilities.

a. Beginning with the effective date of the Growth Management Plan Implementation through September 30, 1994, the Solid Waste component shall be granted if any of the following conditions are met:

- (1) The required public facilities are in place at the time a building permit is issued, or a building permit is issued subject to a condition that the necessary facilities will be in place when the impact of development occurs.
- (2) The required Public Facilities are under construction at the time a building permit is issued.
- (3) The required Public Facilities are the subject of a binding contract executed for the construction of those Public Facilities at the time a building permit is issued.
- (4) The construction of required Public Facilities has been included in the County's adopted budget at the time a building permit is issued even though the Public Facilities are not yet the subject of a binding contract for their construction.
- (5) The construction of Capital Solid Waste Facilities required to accommodate the impact of development occurring before October 1, 1994, is scheduled in the County's Schedule of Capital Improvements prior to October 1, 1994. The Schedule of Capital Improvements shall be based on a realistic, financially feasible program of funding from existing revenue sources and shall be adopted as a part of the Growth Management Plan. A plan amendment is required to eliminate, defer or delay construction of any "Category A" Public Facility in the Schedule of Capital Improvements which is needed to maintain the adopted Level of Service standard. The development order issued

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pursuant to a Certificate of Public Facility Adequacy is expressly conditional so that the development order shall be suspended and no further development shall be carried out in the event any of the following occur without a corresponding Growth Management Plan Amendment:

- (a) The required Capital Solid Waste Facilities are delayed, deferred, or removed from the adopted Schedule of Capital Improvements.
- (b) Annual funding is insufficient to maintain the Capital Solid Waste Facilities Projects in the Schedule of Capital Improvements.
- (c) Construction of the required Capital Solid Waste facilities is not undertaken in accordance with the adopted Schedule of Capital Improvements.

(6) The construction of required Capital Solid Waste facilities scheduled in the County's Schedule of Capital Improvements prior to October 1, 1994 will not be delayed, deferred or removed from the Capital Improvement Element if the facilities have been relied upon for the issuance of a development order.

b. Effective October 1, 1994, the Solid Waste component shall be granted if any of the following conditions are met:

- (1) Capital Solid Waste Facilities are in place to provide the proposed development sufficient services based on the LOS for Capital Solid Waste Facilities, and a commitment of capacity to serve the proposed development has been received from the Environmental Services Division;
- (2) The Capital Solid Waste Facilities that will provide the proposed development sufficient services based on the LOS for Capital Solid Waste Facilities are under construction and a commitment of capacity to serve the proposed development upon completion of construction has been received from the Environmental Services Division; or
- (3) The required Public Facilities are the subject of a binding contract executed for the construction of those Public Facilities at the time a building permit is issued.
- (4) The construction of required Public Facilities has been included in the County's adopted budget at the time a building permit is issued even though the Public Facilities are not yet the subject of a binding contract for their construction.

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4. **Drainage Facilities.** The Drainage component shall be granted if the proposed development has a drainage and water management plan that has been approved by the Environmental Services Division that meets the LOS for Capital Drainage Facilities.
5. **Park and Recreation Facilities.**
 - a. Beginning with the effective date of the Growth Management Plan Implementation through September 30, 1994, the Parks and Recreation component shall be granted if any of the following conditions are met:
 - (1) The required public facilities are in place at the time a building permit is issued, or a building permit is issued subject to a condition that the necessary facilities will be in place when the impact of development occurs.
 - (2) The required Public Facilities are under construction at the time a building permit is issued.
 - (3) The required Public Facilities are the subject of a binding contract executed for the construction of those Public Facilities at the time a building permit is issued.
 - (4) The construction of required Public Facilities has been included in the County's adopted budget at the time a building permit is issued even though the Public Facilities are not yet the subject of a binding contract for their construction.
 - (5) The construction of Capital Park Facilities required to accommodate the impact of development occurring before October 1, 1994, is scheduled in the County's Schedule of Capital Improvements prior to October 1, 1994. The Schedule of Capital Improvements shall be based on a realistic, financially feasible program of funding from existing revenue sources and shall be adopted as a part of the Growth Management Plan. A plan amendment is required to eliminate, defer or delay construction of any "Category A" Public Facility in the Schedule of Capital Improvements which is needed to maintain the adopted Level of Service standard. The development order issued pursuant to a Certificate of Public Facility Adequacy is expressly conditional so that the development order shall be suspended and no further development shall be carried out in the event any of the following occur without a corresponding Growth Management Plan Amendment:
 - (a) The required Capital Park Facilities are delayed, deferred, or removed from the adopted Schedule of Capital Improvements.
 - (b) Annual funding is insufficient to maintain the Capital Park Facilities Projects in the Schedule of Capital Improvements.

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- (c) Construction of the required Capital Park facility or facilities is not undertaken in accordance with the adopted Schedule of Capital Improvements.
 - (6) The construction of required Capital Park facilities scheduled in the County's Schedule of Capital Improvements prior to October 1, 1994 will not be delayed, deferred or removed from the Capital Improvement Element if the facilities have been relied upon for the issuance of a development order.
- b. Effective October 1, 1994, the Park component shall be granted if any of the following conditions are met:
 - (1) Capital Park Facilities are in place to provide the proposed development sufficient services based on the LOS for Capital Park Facilities;
 - (2) The Capital Park Facilities that will provide the proposed development sufficient services based on the LOS for Capital Park Facilities are under construction;
 - (3) The required Public Facilities are the subject of a binding contract executed for the construction of those Public Facilities at the time a building permit is issued.
 - (4) The construction of required Public Facilities has been included in the County's adopted budget at the time a building permit is issued even though the Public Facilities are not yet the subject of a binding contract for their construction.
 - (5) The Capital Park Facilities that will provide the proposed development sufficient services based on the LOS for Capital Park Facilities are included in the Collier County adopted annual budget; or
- 6. **Road Facilities.** The Road component shall be considered based upon whether the proposed development is outside a designated ASI or within a designated ASI.
 - a. **Development Outside Designated Area of Significant Influence (ASD) or Where No ASI Exists.** For development outside a designated ASI, or where no ASI exists, the Road component shall be granted.
 - b. **Development Within Designated Area of Significant Influence (ASD).** For development within a designated ASI covering a potentially deficient road segment, the Road component shall be approved, subject to available capacity, if it is demonstrated the proposed development will not make the potentially deficient road segment within the ASI a deficient road segment. In the instance where the proposed development will create a deficient road segment, a Certificate of Public Facility Adequacy for the road component shall be

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approved only for that portion of the development that does not create the deficient road segment. For development within a designated ASI covering a deficient road segment, the road component shall be approved only for that portion of the development that does not increase the net trips on the deficient road segment and does not further degrade the LOS of the deficient road segment.

c. Capacity of Potentially Deficient Road.

- (1) Prior to October 1, 1994, in determining the capacity of a County road segment or a State road segment for the purpose of determining whether it is a potentially deficient road segment, the County shall consider:
 - (a) any Capital Road Improvement under construction or that will be under construction during the review period;
 - (b) any Capital Road Improvement that is the subject of a binding executed contract which provides for the commencement of construction during the review period;
 - (c) any Capital Road Improvement that is included in the State or Collier County adopted budget; and
 - (d) the construction of the required Capital Road Improvement is included in the State's Five (5) Year Work Program or the County's current five (5) year Capital Improvement Schedule adopted as part of the Growth Management Plan prior to October 1, 1994.
- (2) Effective October 1, 1994, in determining the capacity of a County road segment or a State road segment for the purpose of determining whether it is a potentially deficient road segment, the County shall consider:
 - (a) any Capital Road Improvement under construction or that will be under construction during the review period;
 - (b) any Capital Road Improvement that is the subject of a binding executed contract which provides for the commencement of construction during the review period;
 - (c) any Capital Road Improvement that is included in the State or Collier County adopted budget;
 - (d) the construction of the required Capital Road Improvement is included in the State's Five (5) Year Work Program or the



County's current five (5) year Capital Improvement Schedule adopted as part of the Growth Management Plan, and all of the following are met:

- i) The Board of County Commissioners has made an express finding, after a public hearing, that the current five (5) year capital improvement schedule is based on a realistic, financially feasible program of funding from existing revenue sources; and
- ii) The level of service (LOS) on all roads serving the development will not, at any time, operate below peak hour, peak season LOS "E"; and
- iii) The level of service (LOS) on any road serving the development will not operate at peak hour, peak season in LOS "E" for a period of more than two (2) years except where LOS "E" is the LOS established in the Growth Management Plan for a particular road.

d. Capacity of Deficient Road.

- (1) Prior to October 1, 1994, in determining the capacity of a County road segment or a State road segment for the purpose of determining whether it is a deficient road segment, the County shall consider:
 - (a) any Capital Road Improvement under construction or that will be under construction during the review period;
 - (b) any Capital Road Improvement that is the subject of a binding executed contract which provides for the commencement of construction during the review period;
 - (c) any Capital Road Improvement that is included in the State or Collier County adopted budget; and
 - (d) the construction of the required Capital Road Improvement is included in the State's Five (5) Year Work Program or the County's current five (5) year Capital Improvement Schedule adopted as part of the Growth Management Plan prior to October 1, 1994.
- (2) Effective October 1, 1994, in determining the capacity of a County road segment or a State road segment for the purpose of determining whether it is a deficient road segment, the County shall consider:

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- (a) any Capital Road Improvement under construction or that will be under construction during the review period;
 - (b) any Capital Road Improvement that is the subject of a binding executed contract which provides for the commencement of construction during the review period;
 - (c) any Capital Road Improvement that is included in the State or Collier County adopted budget;
 - (d) the construction of the required Capital Road Improvement is included in the State's Five (5) Year Work Program or the County's current five (5) year Capital Improvement Schedule adopted as part of the Growth Management Plan; and
 - i) The Board of County Commissioners has made an express finding, after a public hearing, that the current five (5) year capital improvement schedule is based on a realistic, financially feasible program of funding from existing revenue sources; and
 - ii) The level of service (LOS) on all roads serving the development will not, at any time, operate below peak hour, peak season LOS "E"; and
 - iii) The level of service (LOS) on any road serving the development will not operate at peak hour, peak season in LOS "E" for a period of more than two (2) years except where LOS "E" is the LOS established in the Growth Management Plan for a particular road.
- (3) Before determining that any road segment is a deficient road segment, the Growth Management Director shall undertake a detailed capacity analysis of the road segment to ensure that the road segment's operational conditions verify that it is a deficient road segment.

SEC. 3.15.5 LIBERAL CONSTRUCTION, SEVERABILITY, AND PENALTY PROVISION.

- 3.15.5.1 The provisions of this Division shall be liberally construed to effectively carry out its purpose in the interest of the public health, safety, welfare and convenience.
- 3.15.5.2 If any section, phrase, sentence or portion of this Division is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not effect the validity of the remaining portion.

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3.15.5.3

A violation of this Division shall be a misdemeanor punishable according to law; however, in addition to or in lieu of any criminal prosecution, Collier County shall have the power to sue in civil court to enforce the provisions of this Division.

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ARTICLE 4

IMPACT FEES

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DIV. 4.1 ROAD IMPACT FEES.

Provision for "road impact fees" in Collier County are contained in Collier County Ordinance 85-55, as may be amended from time to time, and should be referenced therein.

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DIV. 4.2 PARK AND RECREATIONAL IMPACT FEES.

Provision for "park and recreation fees" in Collier County are contained in Collier County Ordinance 88-96, as may be amended from time to time, and should be referenced therein.

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DIV. 4.3 LIBRARY SYSTEM IMPACT FEES.

Provision for "library system impact fees" in Collier County are contained in Collier County Ordinance 88-97, as may be amended from time to time, and should be referenced therein.

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DIV. 4.4 REGIONAL WATER SYSTEM IMPACT FEE.

Provision for "regional water system impact fee" in Collier County are contained in Collier County Ordinance 90-86, as may be amended from time to time, and should be referenced therein.

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DIV. 4.5 REGIONAL SEWER SYSTEM IMPACT FEE.

Provision for "regional sewer system impact fee" in Collier County are contained in Collier County Ordinance 90-87, as may be amended from time to time, and should be referenced therein.

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DIV. 5.1 BOARD OF COUNTY COMMISSIONERS.

SEC. 5.1.1 POWERS AND DUTIES. In addition to any authority granted to the Board of County Commissioners by general or special law, the Board of County Commissioners shall have the following powers and duties:

- 5.1.1.1** To initiate, hear, consider and adopt amendments to the text of the Collier County Growth Management Plan or the Land Development Code.
- 5.1.1.2** To initiate, hear, consider and adopt amendments to the Future Land Use Map of the Collier County Growth Management Plan or the Official Zoning Atlas of the Land Development Code.
- 5.1.1.3** To designate and appoint hearing officers to make decisions as the Board may deem appropriate.
- 5.1.1.4** To act to ensure compliance with development orders or permits as approved and issued.
- 5.1.1.5** To establish reasonable fees to be paid by applicants to recoup the County's expenses and other costs and to reimburse the County for the administrative time and effort spent in accepting, processing, reviewing, or enforcing development orders, development permits, or any other development approvals or applications.
- 5.1.1.6** To take such other action not delegated to the Planning Commission, the Board of Zoning Appeals, the Building Board of Adjustments and Appeals, or the heads of County Departments, County Divisions and County Sections as the Board of County Commissioners may deem desirable and necessary to implement the provisions of the Collier County Growth Management Plan, the Land Development Code, and any other legitimate governmental interest.

DIV. 5.2 PLANNING COMMISSION.**SEC. 5.2.1 ESTABLISHMENT AND PURPOSE.**

There is hereby established a Planning Commission.

SEC. 5.2.2 POWERS AND DUTIES.

The Planning Commission shall have the following powers and duties:

- 5.2.2.1 To serve as the Local Planning Agency (LPA), and Land Development Regulation Commission as required by Sections 163.3174 and 163.3194, Florida Statutes (1986).
- 5.2.2.2 To prepare or cause to be prepared the Collier County Growth Management Plan or element or portion thereof and to submit to the Board of County Commissioners an annual report recommending amendments to such plan, element or portion thereof.
- 5.2.2.3 To prepare or cause to be prepared the Land Development Regulations and Code to implement the Collier County Growth Management Plan, and to submit to the Board of County Commissioners an annual report recommending amendments to the Land Development Code.
- 5.2.2.4 To initiate, hear, consider and make recommendations to the Board of County Commissioners on applications for amendment to the text of the Collier County Growth Management Plan and the Land Development Code.
- 5.2.2.5 To initiate, review, hear and make recommendations to the Board of County Commissioners on applications for amendment to the Future Land Use Map of the Collier County Growth Management Plan or the Official Zoning Atlas of the Land Development Code.
- 5.2.2.6 To hear, consider, and make recommendations to the Board of County Commissioners on applications for conditional use permits.
- 5.2.2.7 To make its special knowledge and expertise available upon reasonable written request and authorization of the Board of County Commissioners to any official, department, board, commission or agency of the County, State or federal governments.
- 5.2.2.8 To recommend to the Board of County Commissioners additional or amended rules of procedure not inconsistent with this division to govern the Planning Commission's proceedings.
- 5.2.2.9 To perform those functions, powers and duties of the Planning Commission as set forth in Chapter 67-1246, Laws of Florida, incorporated herein and by reference made a part hereof, as said Chapter has been or may be amended.
- 5.2.2.10 To consider and take final action regarding preliminary subdivision plats processed pursuant to the provisions of Div. 3.2.

SEC. 5.2.3 COMMISSION MEMBERSHIP.**5.2.3.1**

Qualifications. Members of the Planning Commission shall be permanent residents and qualified electors of Collier County. Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or who have shown interest in the area of planning, zoning and related fields. Further consideration in the appointment of Planning Commission members shall be made so as to provide the Planning Commission with the needed technical, professional, business and/or administrative expertise to accomplish the duties and functions of the Planning Commission as set forth in this Code. The appointment of all members to the Planning Commission shall be by resolution of the Board of County Commissioners. In the event that any member is no longer a qualified elector or is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Planning Commission.

5.2.3.2

Appointment. The Planning Commission shall be composed of nine (9) members to be appointed by the Board of County Commissioners.

5.2.3.3

Initial Appointments. Initial appointments to the Planning Commission shall be made by selection from those members and/or alternates serving on the Coastal Area Planning Commission and those members and/or alternates serving on the Immokalee Area Planning Commission immediately prior to the effective date of Ordinance 85-51. The Board of County Commissioners shall designate seven (7) members from the regular members and/or alternates of the Coastal Area Planning Commission and two (2) members from the regular members and/or alternates of the Immokalee Area Planning Commission. If, for any reason, there is an insufficient number of regular and/or alternate members from which to designate the membership of the Planning Commission, the Board shall request and accept applications from the general public to complete the initial appointment of members to the Planning Commission. Initial members shall be appointed and designated pursuant to resolution of the Board of County Commissioners.

5.2.3.4

Reappointments. All reappointments to the Planning Commission shall be made so as to achieve the following geographical distribution of membership:

One member - County Commission District No. 4
(City of Naples)

Two members - County Commission District No. 1
(Marco and East Naples)

Two members - County Commission District No. 2
(North Naples)

Two members - County Commission District No. 3
(Golden Gate)

Two members - County Commission District No. 5
(Immokalee)

SEC. 5.2.4 TERMS OF OFFICE. The initial terms of office of the Planning Commission shall be as follows:

Three (3) members shall be appointed for a term of two (2) years.

Three (3) members shall be appointed for a term of three (3) years.

Three (3) members shall be appointed for a term of four (4) years.

Thereafter, each appointment or reappointment shall be for a term of four (4) years. Each appointment and reappointment shall be made so that the terms of any two (2) members from a single Commission District shall not expire in the same year.

At the first official meeting of the Planning Commission, the members of the Planning Commission shall decide, by mutual consent, and thereafter recommend to the Board of County Commissioners a term for each of the members that shall address the requirements of Sec. 3.2.3 of this Code. After consideration and approval of the recommendation of the Planning Commission, the Board of County Commissioners may set forth the recommendation in the form of a resolution. In the event that terms cannot be recommended for any reason, the Board shall adopt such resolution as it determines to be appropriate. The resolution adopted by the Board shall set forth the date of appointment, term and district for each member appointed.

A member may be reappointed by the Board of County Commissioners for only one (1) successive term, unless there are no other qualified applicants for the member's position. Appointments to fill any vacancy on the Planning Commission shall be for the remainder of the unexpired term of office.

SEC. 5.2.5 REMOVAL FROM OFFICE: FAILURE TO ATTEND MEETINGS.

5.2.5.1 Any member of the Planning Commission may be removed from office by a four-fifths (4/5ths) vote of the Board of County Commissioners, but such member shall be entitled to a public hearing and reconsideration of the vote if he so requests in writing within thirty (30) days of the date on which the vote is taken.

5.2.5.2 If any member of the Planning Commission fails to attend two (2) consecutive Planning Commission meetings without cause, the Planning Commission shall declare the member's office vacant and the vacancy shall be filled by the Board of County Commissioners.

SEC. 5.2.6 OFFICERS: QUORUM: RULES OF PROCEDURE.

5.2.6.1 At its earliest opportunity, the membership of the Planning Commission shall elect a chairman and vice chairman from among the members. Officers' terms shall be for one (1) year, with eligibility for re-election.

5.2.6.2 The presence of five (5) or more members shall constitute a quorum of the Planning Commission necessary to take action and transact business. In addition, a simple majority vote of at least five (5) members present and voting shall be necessary in order to forward a formal recommendation

of approval, approval with conditions, denial, or other recommendation to the Board of County Commissioners.

5.2.6.3

The Planning Commission shall, by a majority vote of the entire membership, adopt rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The Planning Commission may provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.

SEC. 5.2.7

COMPENSATION.

The members of the Planning Commission shall serve without compensation, but may be reimbursed for such travel, mileage and/or per diem expenses as may be authorized by the Board of County Commissioners.

SEC. 5.2.8

LOCATION OF MEETINGS.

In order to provide convenience and promote public participation, at least one (1) of every four (4) meetings of the Planning Commission shall be held in the Immokalee area; but only when matters pending before the Planning Commission concern or address Immokalee area planning and considerations. All other meetings shall be held at the Collier County Government Center, Naples, Florida, unless otherwise specified by the Planning Commission or Board of County Commissioners.

SEC. 5.2.9

STAFF.

The Community Development Services Division shall be the professional staff of the Planning Commission.

SEC. 5.2.10

MEETINGS.

5.2.10.1

The Planning Commission may, from time to time, adopt and amend bylaws and rules of procedure not inconsistent with the provisions of these regulations. Such proposed rules of procedure shall be considered as if they were amendments to this Article.

5.2.10.2

All meetings and hearings of the Planning Commission shall be open to the public.

5.2.10.3

Public hearings shall be set for a time certain after due public notice.

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DIV. 5.3 BOARD OF ZONING APPEALS.**SEC. 5.3.1 ESTABLISHMENT AND PURPOSE.**

There is hereby established a Board of Zoning Appeals.

SEC. 5.3.2 POWERS AND DUTIES.

The Board of Zoning Appeals shall have the following powers and duties:

- 5.3.2.1 To hear, review and approve, approve with conditions, or deny variances to the terms of these regulations.
- 5.3.2.2 To hear, review and approve, approve with conditions, or deny appeals from interpretations of the Growth Management Plan, the Future Land Use Map, the Code, or the Official Zoning Atlas by the Development Services Director or the Growth Planning Director.
- 5.3.2.3 To make its special knowledge and expertise available upon written request and authorization of the Board of County Commissioners to any official, department, board, or commission of the County.
- 5.3.2.4 To recommend to the Board of County Commissioners additional or amended rules of procedure not inconsistent with this division to govern the Board of Zoning Appeals' proceedings.
- 5.3.2.5 To perform those functions, powers and duties of the Board of Zoning Appeals as set forth in Chapter 67-1246, Laws of Florida, incorporated herein and by reference made a part hereof, as said Chapter has been or may be amended.

SEC. 5.3.3 BOARD MEMBERSHIP.

- 5.3.3.1 **Qualifications.** Members of the Board of Adjustment shall be qualified electors in Collier County and residents of the County for two (2) years prior to appointment. In the event that any member is no longer a qualified elector or is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such person as a member of the Board of Zoning Appeals.
- 5.3.3.2 **Appointment.** The Board of County Commissioners may appoint a Board or Boards of Zoning Appeals for its planning area or areas, or may act as such Board or Boards of Zoning Appeals itself. Boards of Zoning Appeals shall have not less than five (5) nor more than ten (10) members. Not more than two (2) members of a Board of Zoning Appeals may be members of a Planning Commission.

SEC. 5.3.4 TERMS OF OFFICE, REMOVAL AND VACANCIES.

Unless the Board of County Commissioners acts as a Board of Zoning Appeals, then terms of office, removal from office and vacancies shall be treated as follows:

5.3.4.1 **Terms.** Terms of office of members of the Board of Zoning Appeals shall be for not less than two (2) nor more than four (4) years, and not more than a minority of such members' terms shall expire in any one (1) year.

5.3.4.2 **Removal.** Any member of a Board of Zoning Appeals may be removed from office for just cause by four-fifths (4/5th's) vote of the full membership of the Board of County Commissioners, but such member shall be entitled to a public hearing if he so requests in writing within thirty (30) days of the date upon which the vote is taken.

5.3.4.3 **Vacancy.** Wherever a vacancy occurs on a Board of Zoning Appeals which reduces the membership of the Board of Zoning Appeals below five (5), the Board of County Commissioners shall fill such vacancy for the remainder of the term, within thirty (30) days after the vacancy occurs. No meetings of a Board of Zoning Appeals shall be held when the membership is less than five (5).

SEC. 5.3.5 OFFICERS, EMPLOYEES AND EXPENSES.

5.3.5.1 Boards of Zoning Appeals shall elect a chairman and vice-chairman from among the members, and may create and fill such other officers as are determined to be necessary. Terms of all offices shall be for one (1) year, with eligibility for re-election.

5.3.5.2 Boards of Zoning Appeals shall adopt rules for the transaction of business, and shall keep a record of resolutions, transactions, findings, and determinations. Boards of Zoning Appeals may provide for transcription of such hearings and proceedings, or portion of hearings and proceedings, as may be deemed necessary. All such records shall be public records.

5.3.5.3 Boards of Zoning Appeals may, subject to the approval of the Board of County Commissioners and within the financial limitations set by appropriations made or other funds available, employ such experts, technicians and staff as may be deemed proper, pay their salaries and make such other expenditures as are necessary to conduct the work of the Board of Zoning Appeals and effectuate its purposes.

5.3.5.4 Members of Boards of Zoning Appeals may receive such travel and other expenses while on official business for the Board as are made available by the Board of County Commissioners for these purposes.

SEC. 5.3.6 APPROPRIATIONS, FEES AND OTHER INCOME.

The Board of County Commissioners is hereby authorized and empowered to make such appropriations as it may see fit for the conduct of the work of the Board of Zoning Appeals. The Board of County Commissioners is authorized and empowered to establish a schedule of fees, charges and expenses, and a collection procedure therefor.

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SEC. 5.3.7 STAFF.

The Community Development Services Division shall be the professional staff of the Board of Adjustment.

SEC. 5.3.8 QUORUM AND VOTING.

No meeting of the Board of Zoning Appeals shall be called to order, nor may any business be transacted by the Board of Zoning Appeals without a quorum consisting of at least three (3) members of the Board of Zoning Appeals being present. All actions shall require a simple majority of the members of the Board of Zoning Appeals then present and voting except for conditional uses, which require four (4) affirmative votes.

SEC. 5.3.9 MEETINGS.

5.3.9.1 Meetings of the Board of Zoning Appeals shall be held as needed to dispose of matters properly before the Board and may be called by the Chairman or in writing by three (3) members of the Board of Zoning Appeals.

5.3.9.2 The location of meetings shall be in County Offices in Naples. If a matter is postponed due to lack of a quorum, the Chairman shall continue the meeting as a special meeting to be held within seven (7) days thereafter. In case of delays caused by other reasons, the hearing shall be rescheduled to the next Board of Zoning Appeals meeting. The Secretary shall notify all members of the date of the continued hearing and also shall notify all parties.

SEC. 5.3.10 OPERATING PROCEDURES.

5.3.10.1 The Board of Zoning Appeals may, from time to time, adopt and amend bylaws and rules of procedure not inconsistent with the provisions of these regulations. Such proposed rules of procedure shall be considered as if they were amendments to this Article.

5.3.10.2 All meetings and hearings of the Board of Adjustment shall be open to the public.

5.3.10.3 Public hearings shall be set for a time certain.

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DIV. 5.4 BUILDING BOARD OF ADJUSTMENTS AND APPEALS.**SEC. 5.4.1 ESTABLISHMENT AND PURPOSE.**

There is hereby established a Building Board of Adjustments and Appeals. The purpose of the Building Board of Adjustments and Appeals is to provide a decision-making body through which an owner of a building or structure, or his duly authorized agent, may appeal the rejections or refusal of the Building Official to approve the mode or manner of construction proposed to be followed or materials to be used in the erection or alteration of that building or structure, or when it is claimed that the provisions of the Collier County Standard Building Code, Collier County Electrical Code, Collier County Fire Prevention Code, Collier County Gas Code, Collier County Mechanical Code, Collier County Plumbing Code, or Collier County Swimming Pool Code do not apply, or that an equally good or more desirable form of construction can be employed in a specific case, or when it is claimed that the true intent and meaning of such codes or any of the regulations thereunder have been misconstrued or wrongly interpreted by the Building Official.

SEC. 5.4.2 POWERS AND DUTIES. The Building Board of Adjustments and Appeals shall have the following powers and duties:

- 5.4.2.1 To review and approve, with or without modifications or conditions, or deny an appeal from a decision of the Building Official with regard to a variance from the mode or manner of construction proposed to be followed or materials to be used in the erection or alteration of a building or structure, or when it is claimed that the provisions of the Collier County Standard Building Code, Collier County Electrical Code, Collier County Fire Prevention Code, Collier County Gas Code, Collier County Mechanical Code, Collier County Plumbing Code, or Collier County Swimming Pool Code do not apply or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of such building codes and technical codes or any of the regulations thereunder have been misconstrued or wrongly interpreted;
- 5.4.2.2 To accept appeals and render decisions pursuant to Interlocal Agreements between Collier County and independent fire districts which have entered into such agreements.
- 5.4.2.3 To recommend to the Board of County Commissioners additional or amended rules of procedure not inconsistent with this division to govern the Building Board of Adjustments and Appeals' proceedings.
- 5.4.2.4 To make its special knowledge and expertise available upon reasonable written request and authorization of the Board of County Commissioners to any official, department, board, commission or agency of the County, state or federal governments.

SEC. 5.4.3 BUILDING BOARD OF ADJUSTMENTS AND APPEALS MEMBERSHIP.

- 5.4.3.1 **Qualifications.** A Building Board of Adjustments and Appeals shall be composed of five (5) regular members appointed by the Board of County Commissioners. The Building Board of Adjustments and Appeals shall consist of members engaged in the following occupations who by reason of education, experience, and knowledge are deemed to be competent to sit in judgement

on matters concerning the Collier County Standard Building Code, Collier County Electrical Code, Collier County Fire Prevention Code, Collier County Gas Code, Collier County Mechanical Code, Collier County Plumbing Code, and Collier County Swimming Pool Code: one State Licensed architect or one structural engineer; one Class "A" general contractor; one State Certified fire protective equipment contractor or State Certified Fire Fighter with the rank of Lieutenant or higher or State Certified Fire Safety Inspector with the rank of lieutenant or higher; one licensed electrical contractor; and one licensed plumbing or mechanical contractor. The members shall serve for a term of four (4) years, except for initial appointees who shall serve as follows: two (2) for a term of one (1) year; two (2) for a term of two (2) years; one (1) for a term of three (3) years.

SEC. 5.4.4 QUORUM.

Three (3) members of the Building Board of Adjustments and Appeals shall constitute a quorum. In varying the application of any provision of the Collier County Standard Building Code, Collier County Electrical Code, Collier County Fire Prevention Code, Collier County Gas Code, Collier County Mechanical Code, Collier County Plumbing Code and Collier County Swimming Pool Code or in modifying an order of the Building Official or the Public Safety Administrator, an affirmative vote of not less than three (3) Building Board members shall be required.

SEC. 5.4.5 RECORDS.

The Building Official shall act as Secretary of the Building Board of Adjustments and Appeals and shall make a detailed record of all its proceedings which shall include, but shall not be limited to, all appeal decisions, the reasons for its decisions, the vote of each member participating therein, the absence of a member and any failure of a member to vote.

SEC. 5.4.6 GENERAL PROCEDURE.

The Building Board of Adjustments and Appeals shall establish rules and regulations for its own procedure not inconsistent with the provisions of the Collier County Building Code. The Building Board shall meet within fifteen (15) days after any notice of appeal has been received in order to hear such appeal.

SEC. 5.4.7 STANDARD APPEAL PROCEDURE; TIME LIMIT; FEE.

5.4.7.1

Whenever Building Official shall reject or refuse to approve the mode or manner of construction proposed to be followed or materials to be used in the erection or alteration of a building or structure, or when it is claimed that the provisions of Collier County Standard Building Code, Collier County Electrical Code, Collier County Fire Prevention Code, Collier County Gas Code, Collier County Mechanical Code, Collier County Plumbing Code or Collier County Swimming Pool Code do not apply, or than an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of the Collier County Standard Building Code, Collier County Electrical Code, Collier County Fire Prevention Code, Collier County Gas Code, Collier County Mechanical Code, Collier County Plumbing Code or Collier County Swimming Pool Code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly

authorized agent, may appeal from the decision of the authority having jurisdiction to the Building Board of Adjustments and Appeals. Notice of appeal shall be in writing and on appeal forms provided by the Secretary of the Building Board. Notice of appeal shall be filed at the Project Review Services Section of the Development Services Department within thirty (30) days after the decision to be appealed is rendered by the authority having jurisdiction, except as set forth in the Interlocal Agreement Appeals Procedure. A fee in an amount to be set by the Board of County Commissioners shall accompany any such notice of appeal filed pursuant to this section.

- 5.4.7.2 In the case of a building or structure which, in the opinion of the authority having jurisdiction, is unsafe or dangerous, the authority having jurisdiction may, in a written order to the owner, limit the maximum time period for filing such appeal to a shorter period, but in no event shall the appeal period be less than ten (10) days.

SEC. 5.4.8 INTERLOCAL AGREEMENT APPEAL PROCEDURE.

The Building Board of Adjustments and Appeals is hereby authorized to accept appeals and render decisions thereon, pursuant to Interlocal Agreements between Collier County and Independent Fire Districts which have entered into such agreements. The basis for such appeals shall be as set forth in, and in accordance with, the Interlocal Agreement. With regard to all other procedural requirements, such appeal shall adhere to the standard operating procedures and policies of the Building Board of Adjustments and Appeals.

SEC. 5.4.9 DECISIONS OF THE BUILDING BOARD OF ADJUSTMENTS AND APPEALS.

- 5.4.9.1 The Building Board of Adjustments and Appeals, when so appealed to and after a hearing, may vary the application of any provisions of the Collier County Standard Building Code, Collier County Electrical Code, Collier County Fire Prevention Code, Collier County Gas Code, Collier County Mechanical Code, Collier County Plumbing Code or Collier County Swimming Pool Code to any particular case when the Building Board determines that the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of the code or public interest, or when, the Building Board determines that the interpretation of the authority having jurisdiction should be modified or reversed.
- 5.4.9.2 The Building Board of Adjustments and Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay, but in no case shall a decision be rendered more than thirty (30) days from the hearing on the appeal.
- 5.4.9.3 A decision of the Building Board of Adjustments and Appeals to vary the application of any provision of applicable codes or to modify an order of the authority having jurisdiction shall specify in what manner such variation or modification is made, the conditions upon which it is made, and the reasons thereof.
- 5.4.9.4 Every decision of the Building Board of Adjustments and Appeals shall be final, subject however to such remedy as Collier County, any owner, or aggrieved party pursuant to an Interlocal Agreement, might have at law or in equity. The decision shall be in writing and shall indicate the vote of each member upon the decision. Every decision shall be promptly filed in the office of the authority having jurisdiction and shall be open to public inspection. A certified copy shall be sent

by mail or otherwise to the appellant within fifteen (15) days from the date of such decision and a copy shall be kept publicly posted in the office of the authority having jurisdiction for two (2) weeks after filing.

5.4.9.5

If a decision of the Building Board of Adjustments and Appeals reverses or modifies a refusal, order, or disallowance of the authority having jurisdiction or varies the application of any provision of applicable codes, the authority having jurisdiction shall immediately take action in accordance with such decision.

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DIV. 5.5 CODE ENFORCEMENT BOARD.**SEC. 5.5.1 ESTABLISHMENT AND PURPOSE.**

There is hereby established a Collier County Code Enforcement Board in accordance with the provisions of Section 162.01 et. seq., Florida Statutes (1986).

SEC. 5.5.2 POWERS AND DUTIES.

The Code Enforcement Board shall have the following powers and duties:

- 5.5.2.1 To hold hearings and to make findings of fact and conclusions of law as are necessary to enforce the provisions of the Growth Management Plan, Land Development Code, the occupational license, fire, building, electrical plumbing, animal control, and all other technical codes of Collier County except traffic violations.
- 5.5.2.2 To adopt rules of procedure for the conduct of hearings.
- 5.5.2.3 To issue subpoenas compelling the presence of persons at Code Enforcement Board hearings. Subpoenas may be served by the Collier County Sheriff's Department.
- 5.5.2.4 To issue subpoenas compelling the provision of evidence at Code Enforcement Board hearings.
- 5.5.2.5 To take testimony under oath.
- 5.5.2.6 To issue orders having the force of law commanding whatever steps are necessary to achieve compliance with the County's technical codes.
- 5.5.2.7 To levy fines not to exceed two hundred and fifty dollars (\$250.00) for each day a violation continues past a date set for compliance in a Board order.

SEC. 5.5.3 BOARD MEMBERSHIP.

- 5.5.3.1 Qualifications. Members of the Code Enforcement Board shall be qualified electors in Collier County. In the event that any member is no longer a qualified elector or is convicted of a felony or an offense involving moral turpitude while in office, the Board of County Commissioners shall terminate the appointment of such persons as a member of the Code Enforcement Board. The membership of the Code Enforcement Board shall, to the maximum extent possible, include an architect, a businessman, an engineer, a general contractor, a subcontractor, and a realtor.
- 5.5.3.2 Appointment. The Code Enforcement Board shall be composed of seven (7) members. Members of the Code Enforcement Board shall be appointed by the Board of County Commissioners.
- 5.5.3.3 Terms. All members shall serve a term of three (3) years. All members serving on the Code Enforcement Board on the effective date of the Land Development Regulations shall complete their terms according to their prior appointments.

5.5.3.4 Compensation. Members shall serve without compensation but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the Board of County Commissioners.

5.5.3.5 Removal. Any member who fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the Chairman shall automatically forfeit his appointment, and the Board of County Commissioners shall promptly fill such vacancy.

SEC. 5.5.4 OFFICERS.

5.5.4.1 At an annual organizational meeting, the members of the Code Enforcement Board shall elect one (1) of their members as Chairman and one (1) as Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall act as Chairman and shall have all powers of the Chairman. The Chairman shall serve a term of one (1) year. No member shall serve as Chairman for more than two (2) consecutive terms.

5.5.4.2 The Chairman shall administer oaths, shall be in charge of all proceedings before the Code Enforcement Board, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the Code Enforcement Board.

5.5.4.3 Secretary. The Code Enforcement Board shall appoint a Secretary. The Secretary shall keep minutes of all proceedings of the Code Enforcement Board, which minutes shall be a summary of all proceedings before the Board, attested to by the Secretary, and which shall include the vote of each member upon every question. The minutes shall be approved by a majority of the members of the Board voting. In addition, the Secretary shall maintain all records of the Board, meetings, hearings and proceedings, the correspondence of the Board, and a mailing list of persons wishing to receive notices of meetings, agendas or minutes and who have paid an annual fee set by the Board of County Commissioners to cover copying and mailing costs.

SEC. 5.5.5 STAFF.

The Community Development Services Division shall be the professional staff of the Code Enforcement Board.

SEC. 5.5.6 QUORUM AND NECESSARY VOTE.

No meeting of the Code Enforcement Board shall be called to order, nor may any business be transacted by the Code Enforcement Board, without a quorum consisting of at least four (4) members of the Board being present. At least four (4) members of the Code Enforcement Board must vote in order for an action to be official.

SEC. 5.5.7 MEETINGS.

5.5.7.1 Regular meetings of the Code Enforcement Board shall be held no less frequently than once every two (2) months. Special meetings may be called by the Chairman of the Code Enforcement Board, or in writing by four (4) members of the Board.

5.5.7.2 The location of meetings shall be at the County offices at Naples.

5.5.7.3 Hearings of the Code Enforcement Board may be called by the Chairman at the request of the Code Compliance Supervisor, or by written notice signed by at least three (3) members of the Code Enforcement Board.

SEC. 5.5.8 **OPERATING PROCEDURES.**

5.5.8.1 All cases brought before the Code Compliance Supervisor, the Licensing and Enforcement Supervisor, or the Building Official.

5.5.8.2 All meetings and hearings of the Code Enforcement Board shall be open to the public.

5.5.8.3 Public hearings shall be set for a time certain.

DIV. 5.6 BUILDING CONTRACTORS' LICENSING BOARD.**SEC. 5.6.1 CREATION AND APPOINTMENT.**

There is hereby established a Building Contractors' Licensing Board.

SEC. 5.6.2 POWERS AND DUTIES.

The Building Contractors' Licensing Board shall have the following powers and duties:

- 5.6.2.1** Upon reference by the Contractor Licensing Supervisor, determine the qualifications of applicants for the various categories of Contractors' Certificates of Competency as measured by standards stated in this division.
- 5.6.2.2** Hold hearings to determine if a Certificate of Competency of any contractor, master or journeyman should be disciplined under this division.
- 5.6.2.3** Direct a complaint to be filed for prosecution of a contractor or other person for the violation of this division.

SEC. 5.6.3 BOARD MEMBERSHIP.

- 5.6.3.1** Qualifications. The Contractors' Licensing Board shall be composed of nine (9) members who shall be appointed by the Board of County Commissioners. The Board of County Commissioners may also appoint alternate members as it deems appropriate. The nine (9) members of the Contractors' Licensing Board shall consist of a licensed architect, a licensed general contractor, a licensed engineer, a licensed electrical contractor, a licensed plumbing contractor, a licensed mechanical contractor, a licensed roofing contractor, a licensed residential or building contractor, and a licensed representative from one of the other trades or professions requiring a competency as provided in this division. This section is merely directory, and failure to have a member of each of these trades shall not be grounds for voiding any action of the board.
- 5.6.3.2** Terms of Office. Terms of office for each member of the Contractors' Licensing Board shall be two (2) years. Each member shall hold office under his successor has been appointed and has assumed his duties on the Board.
- 5.6.3.3** Removal. A member of the Contractors' Licensing Board may be removed from office for any cause by a majority vote of the Board of County Commissioners.
- 5.6.3.4** Vacancy. Any vacancy occurring during the unexpired term of office of any member of the Contractors' Licensing Board shall be filled by the Board of County Commissioners.
- 5.6.3.5** Officers. The Contractors' Licensing Board shall elect a chairman and vice-chairman from its membership.

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5.6.3.6 Secretary and staff. The Contractor Licensing Supervisor shall act as secretary to the Contractors' Licensing Board, and the Community Development Services Division shall be the professional staff of the Contractors' Licensing Board.

SEC. 5.6.4 QUORUM, NECESSARY VOTE AND MEETINGS.

The Contractors' Licensing Board shall hold not less than four (4) quarterly meetings. Regular meetings shall be called by the chairman of the board, and in his absence by the vice-chairman, or in his absence the board shall elect a temporary chairman. Five (5) members shall constitute a quorum for any meeting, and a majority vote of those present shall be required to make any decision.

SEC. 5.6.5 ISSUANCE OF COMPETENCY CARD.

When the Contractors' Licensing Board shall have determined that an applicant is qualified for a particular type of Certificate of Competency, the Competency Card shall be issued by the Contractor Licensing Supervisor.

SEC. 5.6.6 APPEAL OF A DECISION OF THE CONTRACTORS' LICENSING BOARD.

5.6.6.1 Any person aggrieved by an adverse decision of the Contractors' Licensing Board may appeal such decision to the Board of County Commissioners in writing, with attached verbatim record, supportive data, and a fee of twenty-five dollars (\$25.00) to defray the administrative cost of the appeal within fifteen (15) days after such aggrieved decision is rendered and reduced to writing by the Contractors' Licensing Board.

5.6.6.2 The Board of County Commissioners shall determine a date when such appeal shall be considered and notify the Contractors' Licensing Board, the appellant and the affected building contractor by return receipt requested mail.

5.6.6.3 The hearing by the Board of County Commissioners shall be based solely upon the record made before the Contractors' Licensing Board.

5.6.6.4 The failure of a licensed contractor or complainant to appeal a decision of the Contractors' Licensing Board within fifteen (15) days after such decision is rendered shall make such decision final.

SEC. 5.6.7 MISCONDUCT BY A CONTRACTOR.

The following actions by a licensed contractor shall constitute misconduct:

5.6.7.1 Combining or conspiring with an unapproved contractor by allowing one's certificate of competency to be used by an unlicensed contractor to evade the provisions of this division. When a licensed contractor acts as the qualifying agent for any firm without first making application under this division to present said firm, such act shall constitute prima facie evidence of a violation of the provisions of this division.

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- 5.6.7.2 Contract to do any work outside of the scope of his competency as listed on his competency card and as defined in this article or as restricted by the Contractors' Licensing Board.
- 5.6.7.3 Abandon without legal excuse a construction project or operation in which he is engaged or under contract as a contractor.
- 5.6.7.4 Divert funds or property received for the execution of a specific contract project or operation or divert funds earmarked for a specific purpose to any other use whatsoever.
- 5.6.7.5 Depart from or disregard in any material respect the plans or specifications of a construction job without the consent of the owner or his duly authorized representative.
- 5.6.7.6 Disregard or violate, in the performance of his contracting business, any of the building, safety, health, insurance or workmen's compensation laws of the State of Florida or ordinances of this County.
- 5.6.7.7 Falsify or misrepresent any material fact in his application and supporting papers for the purpose of obtaining a certificate of competency under this division.
- 5.6.7.8 Fail to fulfill his contractual obligation through inability to pay all creditors for material furnished or work or services performed in the operation of his business for which he is licensed hereunder.
- 5.6.7.9 Aid or abet an unlicensed person to evade the provisions of this division or allow his license to be used by an unlicensed person, or to act as an agent, partner or associate of an unlicensed person with the intent to evade the provisions of this division.
- 5.6.7.10 Do any fraudulent act as a contractor by which another is substantially injured.
- 5.6.7.11 Fail to make good faulty workmanship obviously performed or faulty materials obviously installed in evasion of performance of the contract or specifications agreed upon under the terms of the contract.
- 5.6.7.12 Failure to maintain at all times, with an insurance company authorized to do business in the State of Florida, the limits of liability insurance required by any other applicable law or authority having jurisdiction, but not less than one hundred thousand dollars (\$100,000.00) per person, one hundred thousand dollars (\$100,000.00) per occurrence, and twenty-five thousand dollars (\$25,000.00) property damage.
- 5.6.7.13 Failure to file certificates, signed by the qualified agent of the insurer, with the secretary of the Contractors' Licensing Board showing the type of policy issued, the policy number, the name of the insurer, the effective date of the policy, an agreement by the insurer to give thirty (30) days' written notice by mail to the secretary of the Contractors' Licensing Board of the intent to cancel the policy. Upon verification of cancellation of insurance, the secretary of the Contractors' Licensing Board shall suspend the certificate of competency and report the matter to the Contractors' Licensing Board.
- 5.6.7.14 Failure to accept certified mail directed to the contractor by the Contractors' Licensing Board.

- 5.6.7.15 Failure to maintain a current mailing address.
- 5.6.7.16 Failure to appear in person or through a duly authorized representative at any scheduled hearing on a complaint filed against the contractor.
- 5.6.7.17 Conviction of a felony relating to contracting.
- 5.6.7.18 Incompetence or negligence in conducting work which is in violation of existing codes.
- 5.6.7.19 Taking a qualifying exam for another.
- 5.6.7.20 Engaging in business during a period of suspension.

SEC. 5.6.8 DISCIPLINARY PROCEEDINGS.

- 5.6.8.1 Upon its own motion, the Contractors' Licensing Board may initiate disciplinary proceedings against a licensed contractor.
- 5.6.8.2 Any person who believes that a contractor holding a certificate of competency has violated Sec. 5.6.7 of this article may file a sworn complaint with the secretary to the Contractors' Licensing Board on a form provided by the secretary with a fee of fifty dollars (\$50.00) to defray the administration costs of the complaint. The complaining party shall state with particularity which portion of this article has been violated by the contractor. The complaint form shall be substantially as issued by the Contractor Licensing Supervisor. Upon receipt of a charge of misconduct by the Contractors' Licensing Board or a private party, the building director or his designee shall send, by certified mail, return receipt requested, a letter to the licensed contractor at his last-known address, as shown by the records of the Contractors' Licensing Board, indicating:
 - 5.6.8.2.1 The name of the complainant.
 - 5.6.8.2.2 The time of commission of the alleged offense.
 - 5.6.8.2.3 The section of this article alleged to be violated.
 - 5.6.8.2.4 The date, time and place at which the qualified contractor is to appear before the Contractors' Licensing Board for disposition of the complaint. The date scheduled shall be not sooner than twenty (20) days from the mailing date of the certified letter.
- 5.6.8.3 An administrative hearing shall be held concerning the complaint and it shall be open to the public. The hearing itself shall be governed by the following rules:
 - 5.6.8.3.1 The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting the transcript.
 - 5.6.8.3.1.1 Any party may have a court reporter present at the hearing at his own expense.

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5.6.8.3.1.2 Neither Collier County nor the Contractors' Licensing Board shall be responsible for any failure of recording equipment during the conduct of the hearing.

5.6.8.3.2 The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any evidence shall be admitted if the board finds it to be competent and reliable, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

5.6.8.3.3 Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses or any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify, and to rebut any evidence against him.

5.6.8.4 The Contractors' Licensing Board shall render a decision upon the complaint within five (5) working days after the close of the hearing. At the time of decision, the Contractors' Licensing Board shall state its findings of fact, conclusions of law, and the specific disposition of the complaint. The findings, conclusions and disposition shall be in substantially the following form:

Name of Complainant: _____

Name of Contractor: _____

Date of Hearing: _____

Sections of Ordinance _____ alleged to be violated.

Findings of Fact:

Contractor has violated the following sections of Ordinance _____.

The Contractor has not violated the following sections of Ordinance _____

Disposition:

1. Suspension: / /
2. Revocation: / /

Duration _____

ANY PARTY MAY APPEAL THIS DECISION WITHIN 15 DAYS AT ITS RENDITION.

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and the secretary to the Board shall, within five (5) working days after the disposition of the complaint, issue a copy of the findings to the licensed contractor and to the complainant by certified mail.

5.6.8.5 When disposing of a complaint, the Contractors' Licensing Board may revoke a contractor's certificate of competency, suspend a contractor's certificate of competency, impose any lesser penalty, or make a finding that there is no cause for punitive action. The Board is entitled to take no other disciplinary action.

5.6.8.6 Any disciplinary action taken by the Contractors' Licensing Board shall operate from the day the decision is rendered. The decision shall be considered rendered after a majority vote by the Contractors' Licensing Board in favor of such action, and after such decision is reduced to writing.

SEC. 5.6.9 PENALTIES FOR VIOLATION.

5.6.9.1 Any person or firm who violates this division or fails to comply with any of its requirements shall be punished as provided by law. Each day such violation continues shall be considered a separate offense.

5.6.9.2 The Board of County Commissioners may take any lawful action, including, but not limited to, resort to equitable action as is necessary to prevent or to remedy any violation of this division.

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DIV. 5.7 COUNTY MANAGER.**SEC. 5.7.1 CREATION AND APPOINTMENT.**

The County Manager shall be the head of the County Manager's office and the administrative branch of the County government and shall be appointed by and serve at the pleasure of the Board of County Commissioners.

SEC. 5.7.2 JURISDICTION, AUTHORITY AND DUTIES.

In addition to the jurisdiction, authority and duties which may be conferred upon the County Manager by other provisions of the County Code of Collier County, the County Manager shall have the following jurisdiction, authority and duties:

- 5.7.2.1** To provide the Board of County Commissioners and the Planning Commission with reports and recommendations with respect to matters before such bodies as directed by the Board of County Commissioners.
- 5.7.2.2** To appoint and dismiss all heads of County divisions, departments and sections.
- 5.7.2.3** To administer and manage all County divisions, departments, sections and staff, and oversee the preparation of the budget for the County.

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DIV. 5.8 GROWTH MANAGEMENT DEPARTMENT.

SEC. 5.8.1 CREATION AND APPOINTMENT OF THE GROWTH MANAGEMENT DIRECTOR. The Growth Management Director shall be the agency head of the Growth Management Department and shall be appointed by and serve at the pleasure of the County Manager.

SEC. 5.8.2 JURISDICTION, AUTHORITY AND DUTIES. In addition to the jurisdiction, authority and duties which may be conferred upon the Growth Management Director by other provisions of the County Code of Collier County, or the County Manager, the Growth Management Director shall have the following jurisdiction, authorities and duties:

5.8.2.1 To undertake the current and long range comprehensive planning responsibilities of the County under Chapter 163, Florida Statutes, as amended, including all planning for land use, public facilities, and environmental resources.

5.8.2.2 To review bi-annually the Collier County Growth Management Plan and the Land Development Regulations and recommend amendments to the Planning Commission and Board of County Commissioners.

5.8.2.3 To review bi-annually the Capital Improvement Element, Capital Improvement Program and Capital Improvement Schedule and recommend amendments or updates to the Planning Commission and the Board of County Commissioners.

5.8.2.4 To administer, manage, monitor and implement the adequate public facilities (concurrency) regulations and the concurrency management program and system.

5.8.2.5 To coordinate other local, regional and state planning and permitting processes affecting development in Collier County and to serve as liaison to such local, regional, and state planning agencies having jurisdiction over development in Collier County.

5.8.2.6 To provide the Community Development Services Administrator with reports, recommendations or other assistance with respect to matters assigned by the Community Development Services Administrator to the Growth Management Director.

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DIV. 5.9 COMMUNITY DEVELOPMENT SERVICES DIVISION.

SEC. 5.9.1 CREATION AND APPOINTMENT OF THE COMMUNITY DEVELOPMENT SERVICES ADMINISTRATOR.

The Community Development Services Administrator shall be the agency head of the Community Development Services Division and shall be appointed by and serve at the pleasure of the County Manager.

SEC. 5.9.2 JURISDICTION, AUTHORITY AND DUTIES.

In addition to the jurisdiction, authority and duties which may be conferred upon the Community Development Services Administrator by other provisions of the County Code of Collier County or the County Manager, the Community Development Services Administrator shall have the following jurisdiction, authority and duties:

5.9.2.1 To provide the Board of County Commissioners, the Planning Commission, the Board of Zoning Appeals, the Building Board of Adjustments and Appeals, the Code Enforcement Board, and the Contractors' Licensing Board, with reports and recommendations with respect to matters before such bodies as directed by the Board of County Commissioners or the County Manager.

5.9.2.2 To administer and manage the Development Services, Growth Planning, Growth Management and Housing and Urban Improvement Departments, and oversee the preparation of the budget for each.

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DIV. 5.10 DEVELOPMENT SERVICES DEPARTMENT.**SEC. 5.10.1 DEVELOPMENT SERVICES DIRECTOR.**

- 5.10.1.1** Creation and Appointment. The Development Services Director shall be the agency head of the Development Services Department and shall be appointed by and serve at the pleasure of the County Manager.
- 5.10.1.2** Jurisdiction, Authority and Duties. In addition to the jurisdiction, authority and duties which may be conferred upon the Development Services Director by other provisions of the County Code of Collier County, or the County Manager, the Development Services Director shall have the following jurisdiction, authority and duties:
- 5.10.1.2.1** To provide the Board of County Commissioners, the Planning Commission, the Board of Zoning Appeals, the Building Board of Adjustments and Appeals, the Code Enforcement Board, and the Contractors' Licensing Board with reports and recommendations with respect to matters before such bodies as directed by the Board of County Commissioners or the County Manager, and to serve as staff in the review of applications for development approval, the issuance of preapplication conference letters, the determination of the sufficiency of all public hearings, and the publication of notice of hearings.
- 5.10.1.2.2** To provide the Community Development Services Administrator with reports, recommendations or other assistance with respect to matters assigned by the Community Development Services Administrator to the Development Services Director.
- 5.10.1.2.3** To accept, review and render interpretations to the text of the Code and to the boundaries of the Official Zoning Atlas.
- 5.10.1.2.4** To administer the provisions and procedures of this Code as appropriate, and to delegate such duties to appropriate Sections in the interests of efficiency, expertise and service.
- 5.10.1.2.5** To administer and manage the Customer Services, Planning Services, Project Review Services, and Compliance Services Sections, and oversee the preparation of the budget for each.

SEC. 5.10.2 CUSTOMER SERVICES SECTION MANAGER.

- 5.10.2.1** Creation and Appointment. The Customer Services Section Manager shall be the administrative and functional head of the Customer Services Section and shall be appointed by and serve at the pleasure of the County Manager.
- 5.10.2.2** Jurisdiction, Authority and Duties. In addition to the jurisdiction, authority and duties which may be conferred on the Customer Service Section Manager by other provisions of the County Code of Collier County, the County Manager, or the Development Services Director, the Customer Services Section shall have the following jurisdiction authority and duties:

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- 5.10.2.2.1 To accept and issue all County final local development orders and associated permits in accordance with the procedures, requirements, and standards of this Code.
- 5.10.2.2.2 To be responsible for all archival and long range active files and records of the Development Services Department.
- 5.10.2.2.3 To be responsible for management of the Immokalee Branch, which serves as an annex to the Central Facility in Naples.
- 5.10.2.2.4 To collect application, development order, and permit fees in accordance with this Code and regulations adopted hereunder.
- 5.10.2.2.5 To administer and manage the Customer Services Section, including supervision of staff and preparation of section budget.

SEC. 5.10.3 PLANNING SERVICES SECTION MANAGER.

- 5.10.3.1 Creation and Appointment. The Planning Services Section Manager shall be the section head of the Planning Services Section of the Development Services Department and shall be appointed and serve at the pleasure of the County Manager.
- 5.10.3.2 Jurisdiction, Authority and Duties. In addition to the jurisdiction, authority and duties which may be conferred on the Planning Services Section Manager by other provisions of the County Code of Collier County, the County Manager, or the Development Services Director, the Planning Services Section Manager shall have the following jurisdiction, authority and duties:
 - 5.10.3.2.1 To provide processing and review of all rezonings, zoning variances, flood variances, alcohol variances, conditional uses and boat dock extension, fair and circus permit, nonconforming use alterations, planned unit development amendments, temporary use permit and Code amendments.
 - 5.10.3.2.2 To provide review of preliminary subdivision plats.
 - 5.10.3.2.3 To provide review of preliminary site development plan.
 - 5.10.3.2.4 To provide processing of all developments of regional impact (DRI's), DRI development orders and DRI development order amendments.
 - 5.10.3.2.5 To be responsible for the coordination of specific projects through the review and approval process.
 - 5.10.3.2.6 To assist the Board of County Commissioners and the Planning Commission in the review of applications for amendments to the text of the Collier County Land Development Code and the Official Zoning Atlas.
 - 5.10.3.2.7 To review annually the Collier Land Development Code and Official Zoning Atlas and recommend amendments to the same to the Planning Commission and Board of County Commissioners.

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5.10.3.2.8 To maintain the Official Zoning Atlas and to make an annual presentation of the Official Zoning Atlas to the Board of County Commissioners for certification.

5.10.3.2.9 To administer and manage the Planning Services Section, provide technical guidance, supervise staff, and prepare the section budget.

SEC. 5.10.4 **PROJECT REVIEW SERVICES SECTION MANAGER.**

5.10.4.1 **Creation and Appointment.** The Project Review Services Section Manager shall be the section head of the Project Review Services Section of the Development Services Department and shall be appointed and serve at the pleasure of the County Manager.

5.10.4.2 **Jurisdiction, Authority and Duties.** In addition to the jurisdiction, authority and duties which may be conferred on the Project Review Services Section Manager by other provisions of the County Code of Collier County, the County Manager, or the Development Services Director, the Project Review Services Section Manager shall have the following jurisdiction, authority and duties:

5.10.4.2.1 To provide final review and approval of all improvement plans (subdivision construction documents) as prescribed in these regulations.

5.10.4.2.2 To provide final site development plan review.

5.10.4.2.3 To provide minor site development plan review.

5.10.4.2.4 To provide final review for all multiple family, residential, commercial, institutional, industrial, and other non-residential building plans.

5.10.4.2.5 To provide final review of right-of-way, blasting and excavation permits.

5.10.4.2.6 To provide review of final subdivision plats.

5.10.4.2.7 To provide processing and review of all coastal construction control line variances.

5.10.4.2.8 To provide review of all tree removal plans.

5.10.4.2.9 To provide review of all sea turtle permits.

5.10.4.2.10 To provide review of all vehicle on the beach permits.

5.10.4.2.11 To administer and manage all environmental review functions.

5.10.4.2.12 To provide the Development Services Director with interpretations to the text of the Subdivision Code.

5.10.4.2.13 To administer and manage the final subdivision improvements and utilities facilities acceptance and conveyance procedures.

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- 5.10.4.2.14 To provide full technical support to the Planning Services Section on all preliminary site development plans; minor site development plans; preliminary subdivision plats; zoning and planned unit development related applications; variances to subdivision engineering and environmental issues; and other matters presented in this Code.
- 5.10.4.2.15 To administer and manage the section, provide technical guidance and staff supervision, and prepare the section budget.
- 5.10.4.2.16 To administer and process all requests for waiver and release from the concurrency management process.

SEC. 5.10.5 COMPLIANCE SERVICES SECTION MANAGER.

- 5.10.5.1 Creation and Appointment. The Compliance Services Section Manager shall be the section head of the Compliance Service Section of the Development Services Department and shall be appointed and serve at the pleasure of the County Manager.
- 5.10.5.2 Jurisdiction, Authority and Duties. In addition to the jurisdiction, authority and duties which may be conferred on the Compliance Services Section Manager by other provisions of the County Code of Collier County, the County Manager, or the Development Services Director, the Compliance Services Section Manager shall have the following jurisdiction, authority and duties:
- 5.10.5.2.1 To issue and revoke certificates of occupancy in accordance with the procedures of these regulations.
- 5.10.5.2.2 To enforce the provisions of this Code.
- 5.10.5.2.3 To administer and operate the contractor's licensing program.
- 5.10.5.2.4 To oversee the minimum housing code inspection program.
- 5.10.5.2.5 To provide permitted construction inspections for structural, electrical, mechanical, site engineering, zoning, engineering, and other technical codes.
- 5.10.5.2.6 To conduct code enforcement and licensing investigations.
- 5.10.5.2.7 To ensure that certain capital public facilities and projects are built according to plans and codes and to the contracted level of quality and within the time allowed.
- 5.10.5.2.8 To manage and administer the Compliance Services Section, provide technical assistance and staff supervision, and prepare the section budget.

DIV. 5.11 GROWTH PLANNING DEPARTMENT.**SEC. 5.11.1 GROWTH PLANNING DIRECTOR.**

- 5.11.1.1** Creation and appointment. The Growth Planning Director shall be the department head of the Growth Planning Department and shall be appointed by and serve at the pleasure of the County Manager.
- 5.11.1.2** Jurisdiction, authority and duties. In addition to the jurisdiction, authority and duties which may be conferred upon the Growth Planning Director by other provisions of the County Code of Collier County, or the County Manager, the Growth Planning Director shall have the following jurisdiction, authority and duties:
- 5.11.1.2.1** To assist the Board of County Commissioners and Planning Commission in the review of applications for amendments to the text of the Collier County Growth Management Plan.
- 5.11.1.2.2** To assist the Board of County Commissioners and Planning Commission in the review of applications for amendments to the Future Land Use Map of the Collier County Growth Management Plan.
- 5.11.1.2.3** To accept, review and render interpretations to the text of the Collier County Growth Management Plan and to the boundaries of the Future Land Use Map.
- 5.11.1.2.4** To undertake long range comprehensive planning responsibilities and special studies including sector planning.
- 5.11.1.2.5** To review bi-annually the Collier County Growth Management Plan and the Land Development Code and recommend amendments to the text to the Planning Commission and the Board of County Commissioners.
- 5.11.1.2.6** To review bi-annually the Future Land Use Map of the Collier County Growth Management Plan and make recommendations for amendments to the Planning Commission and the Board of County Commissioners.
- 5.11.1.2.7** To maintain the Future Land Use Map of the Collier County Growth Management Plan.
- 5.11.1.2.8** To update annually and maintain land use, demographic, and economic data.
- 5.11.1.2.9** To provide permanent and seasonal population estimates and projections for the County.
- 5.11.1.2.10** To prepare and present the Planning Commission and the Board of County Commissioners implementation programs, studies, regulations, and the like required by the Growth Management Plan.
- 5.11.1.2.11** To coordinate with other Departments and Divisions of the County government in order to implement the Growth Management Plan.

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- 5.11.1.2.12** To provide intergovernmental coordination with federal, state, regional, municipal, and county governments and agencies.
- 5.11.1.2.13** To administer, manage, monitor and implement the zoning reevaluation ordinance and program.
- 5.11.1.2.14** To provide the Community Development Services Administrator with reports, recommendations or other assistance with respect to the matters assigned by the Community Development Services Administrator to the Growth Planning Director.

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DIV. 5.12 HOUSING AND URBAN IMPROVEMENT DEPARTMENT.**SEC. 5.12.1 HOUSING AND URBAN IMPROVEMENT DIRECTOR.**

- 5.12.1.1** Creation and Appointment. The Housing and Urban Improvement Director shall be the department head of the Housing and Urban Improvement Department and shall be appointed by and serve at the pleasure of the County Manager.
- 5.12.1.2** Jurisdiction, authority and duties. In addition to the jurisdiction, authority and duties which may be conferred upon the Housing and Urban Improvement Director by other provisions of the County Code of Collier County, the Housing and Urban Improvement Director shall have the following jurisdiction, authority and duties:
- 5.12.1.2.1** To serve as staff to the Board of County Commissioners and Planning Commission in review of applications for affordable housing density bonus.
- 5.12.1.2.2** To administer, manage, monitor and implement the affordable housing density bonus regulations and associated programs.
- 5.12.1.2.3** To administer programs for affordable housing, moderate, low and very low income households, and other affordable housing incentive programs.
- 5.12.1.2.4** To provide the Community Development Services Administrator with reports, recommendations or other assistance with respect to the matters assigned by the Community Development Services Administrator to the Housing and Urban Improvement Director.

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DIV. 5.13 ENVIRONMENTAL ADVISORY BOARD.**SEC. 5.13.1 ESTABLISHMENT OF THE ENVIRONMENTAL ADVISORY BOARD; ABOLISHMENT OF THE WMAB AND EAC.**

5.13.1.1 There is hereby established "The Environmental Advisory Board" which shall herein be referred to as the EAB.

5.13.1.2 The Environmental Advisory Council (EAC) and the Water Management Advisory Board (WMAB) are hereby abolished as of one hundred eighty (180) days after the effective date of this Code or the first meeting of the Environmental Advisory Board (EAB), whichever occurs earlier. At the date and time of the first meeting of the EAB as provided herein all matters then still pending before the EAC and WMAB ipso facto shall be transferred to the EAB and shall be the first matters of consideration by the EAB.

SEC. 5.13.2 AUTHORITY, FUNCTIONS, POWERS AND DUTIES.

5.13.2.1 The EAB obtains its jurisdiction, powers, and limits of authority from the Board of County Commissioners, hereinafter referred to as the Board, and pursuant to this Code, shall act in an advisory capacity to the Board in matters dealing with the review and evaluation of specific zoning and development petitions and their impact on the regulation, control, management, use or exploitation of any or all natural resources of or within Collier County.

5.13.2.2 The EAB will function to:

5.13.2.2.1 Review and recommend stipulations addressing the preservation, conservation, protection, management and beneficial use of the County's physical and biological natural resources (atmospheric, terrestrial, aquatic and hydrologic) for petitions and/or plans for selected development orders, including but not limited to Rezones, Developments of Regional Impact, Provisional Use, Subdivision Master Plans and Planned Unit Development Amendments that are directed to the EAB by County staff, the Board or the provisions of this Code.

5.13.2.3 The powers and duties of the EAB are as follows:

5.13.2.3.1 Implement the provisions of the Conservation and Coastal Management Element of the County's Comprehensive Plan during the review process for development petitions and/or plans.

5.13.2.3.2 Participate in the review and recommendation process for excavations as provided for in Div. 3.5.

5.13.2.3.3 Assist in the implementation of any new programs, ordinances and/or policies created through the Environmental Policy Technical Advisory Board and adopted by the Board of County Commissioners which deal with the conservation, management and protection of air, land, water and natural resources and environmental quality in Collier County.

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5.13.2.3.4 Provide an appeals forum and process to hear disputes between County staff and applicants concerning land development projects and recommend proposed stipulations for project approval or grounds for project denial for Board consideration.

5.13.2.3.5 Function as an Environmental Impact Statement (EIS) appeal board pursuant to Div. 3.8.

SEC. 5.13.3 MEMBERSHIP.

5.13.3.1. Seven (7) members of the EAB shall be appointed by and serve at the pleasure of the Board. Appointment to the EAB shall be by resolution of the Board and shall set forth the date of appointment and the term of office.

5.13.3.2 Vacancies on the EAB shall be publicized in a publication of general circulation within the County, and vacancy notices shall be posted in the County libraries and County Courthouse. Along with the applicant responses, the Board's staff shall provide the Board with a list outlining the qualifications and demographic background of each candidate, including the present members seeking reappointment.

5.13.3.3 Members shall be permanent residents and electors of Collier County and should be reputable and active in community service.

5.13.3.4 The primary consideration in appointing EAB members shall be to provide the Board with technical expertise necessary to effectively accomplish the EAB's purpose. Members shall demonstrate evidence of expertise in one or more of the following areas related to environmental protection and natural resources management: Air Quality, Biology (including any of the sub-disciplines such as botany, ecology, zoology, etc.), Coastal Processes, Estuarine Processes, Hazardous Waste, Hydrogeology, Hydrology, Hydraulics, Land Use Law, Land Use Planning, Pollution Control, Solid Waste, Stormwater Management, Water Resources, Wildlife Management, or other representative areas deemed appropriate by the Board such as, but not limited to, a representative of the development community.

5.13.3.5 The initial terms of office of the members of the EAB shall be as follows:

5.13.3.5.1 Two (2) members will serve until September 30, 1992;

5.13.3.5.2 Two (2) members will serve until September 30, 1993;

5.13.3.5.3 Two (2) members will serve until September 30, 1994;

5.13.3.5.4 Two (2) members will serve until September 30, 1995.

After the initial term of appointment, each appointment or reappointment shall be for a term of four (4) years. All terms of office shall expire on the 30th day of September. Terms of office shall be limited to one term unless waived by the Board by a unanimous vote. A member may be reappointed by the Board for only one (1) successive term and shall apply with other applicants. Terms shall be staggered so that no more than a minority of such members' appointments will expire in any one (1) year.

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5.13.3.6 Any member of the EAB may be removed from office by a majority vote of the Board.

5.13.3.7 Members shall be automatically removed if they are absent from two consecutive meetings without a satisfactory excuse or if they are absent from more than one-fourth of the meetings in a given fiscal year. Members shall be deemed absent from a meeting when they are not present during at least 75% of the meeting.

SEC. 5.13.4 OFFICERS AND SUPPORT STAFF.

5.13.4.1 The officers of the EAB shall be a Chairman and a Vice-Chairman. Officers' terms shall be for one (1) year, with eligibility for re-election. The Chairman and Vice-Chairman shall be elected for a majority vote at the organizational meeting and thereafter at the first regular meeting of the EAB in October of each year.

5.13.4.2 The Chairman shall preside at all meetings of the EAB. The Vice-Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman. In case of removal, resignation or death of the Chairman, the Vice-Chairman shall perform such duties as are imposed on the Chairman until such time as the EAB shall elect a new Chairman. Should the offices of Chairman and/or Vice-Chairman become vacant, the EAB shall elect a successor from its membership at the next regular meeting. Such election shall be for the unexpired term of said office.

5.13.4.3 Professional support staff for the EAB shall be provided by the Project Review Services Section of the Development Services Department and such other County staff from elsewhere within the County Government as may, from time to time, be requested by the EAB and deemed necessary by the County Manager.

SEC. 5.13.5 MEETINGS, QUORUM AND RULES OF PROCEDURE.

5.13.5.1 Regular meetings of the EAB shall be held on the 1st Wednesday of each month at 9:00 A.M., in the Commissioner's Meeting Room, 3rd Floor, Building "F", Collier County Government Complex, Naples, Collier County, Florida. Special meetings of the EAB may be called by the Chairman or by a majority of the membership.

5.13.5.2 A simple majority of the appointed members of the EAB shall constitute a quorum for the purpose of conducting business. An affirmative vote of four (4) or more members shall be necessary in order to take official action, regardless of whether four (4) or more members of the EAB are present at a meeting.

5.13.5.3 The EAB shall, by majority vote of the entire membership, adopt rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings and determinations. The EAB may establish subcommittees comprised solely of its membership to facilitate its functions. Meetings of the subcommittees shall conform to the same public notice requirements as that of the EAB.

5.13.5.4 At the regular meetings of the EAB, the following shall be the order of business:

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- 5.13.5.4.1 Roll Call
- 5.13.5.4.2 Approval of the Minutes of Previous Meeting
- 5.13.5.4.3 Old Business
- 5.13.5.4.4 New Business
- 5.13.5.4.5 Public Comments
- 5.13.5.4.6 Adjournment

Items shall come before the EAB as scheduled on the Project Review Services support staff prepared agenda unless a specific request arises which justifies deviation by the EAB.

SEC. 5.13.6 SCOPE OF LAND DEVELOPMENT PROJECT REVIEWS.

The Environmental Advisory Board shall review all land development petitions which require an Environmental Impact Statement (EIS), all Developments of Regional Impact (DRI), lands with Special Treatment (ST) or Area of Critical State Concern/Special Treatment zoning overlays, areas of the County covered by interlocal agreements, any petitions which cannot be resolved between the applicant and staff and which is requested to be heard by the Environmental Advisory Board by either party and any petition which requires approval of the Collier County Planning Commission or the Board of County Commissioners and staff receives a request for the petition to be heard by the Environmental Advisory Board from the chairman of the Environmental Advisory Board or chairman of the Board of County Commissioners.

SEC. 5.13.7 APPEAL.

Any person aggrieved by the decision of the County Manager regarding any section of Div. 5.13 may file a written request for appeal, not later than ten (10) days after said decision, with the Environmental Advisory Board. The Environmental Advisory Board will notify the aggrieved person and the County Manager of the date, time and place that such appeal shall be heard; such notification will be given twenty-one (21) days prior to the hearing unless all parties waive this requirement. The appeal will be heard by the Environmental Advisory Board within sixty (60) days of the submission of the appeal. Ten (10) days prior to the hearing the aggrieved person shall submit to the Environmental Advisory Board and to the County Manager copies of the data and information he intends to use in his appeal. Upon conclusion of the hearing the Environmental Advisory Board will submit to the Board of County Commissioners its facts, findings and recommendations. The Board of County Commissioners, in regular session, will make the final decision to affirm, overrule or modify the decision of the County Manager in light of the recommendations of the Environmental Advisory Board.

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SEC. 5.13.8 REIMBURSEMENT OF EXPENSES.

Members of the EAB shall serve without compensation, but shall be entitled to receive reimbursement for expenses reasonably incurred in the performance of their duties upon prior approval of the Board of County Commissioners.

SEC. 5.13.9 REVIEW PROCESS.

This Board shall be reviewed for major accomplishments and whether the Board is serving the purpose for which it was created once every four (4) years commencing with 1995, in accordance with the procedures contained in Collier County Ordinance No. 86-41.

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DIV. 5.14 HISTORIC/ARCHAEOLOGICAL PRESERVATION BOARD.

SEC. 5.14.1 CREATION. There is hereby created an Historic/Archaeological Preservation Board, hereinafter referred to as the "Preservation Board," as an advisory board to the Board of County Commissioners for Collier County, Florida.

SEC. 5.14.2 POWER, AUTHORITY AND JURISDICTION. The Preservation Board is vested with the power, authority, and jurisdiction to designate, regulate, and administer historical and archaeological resources in Collier County, as set forth by this division, under the direct jurisdiction and control of the Board of County Commissioners.

SEC. 5.14.3 MEMBERSHIP. The Preservation Board shall consist of seven (7) members appointed by the Board of county commissioners. Each member of the Preservation Board shall hold office only so long as he or she is a resident of Collier County, Florida. Appointments shall be made by resolution of the Board of County Commissioners on the basis of a potential member's involvement in community issues, integrity, experience, and interest in the field of historical and archaeological preservation.

5.14.3.1 The Board of County Commissioners shall appoint one member from each of the following categories:

1. History;
2. Archaeology;
3. Real Estate, Land Development, or Finance;
4. Architecture, Engineering, Building Construction, & Landscape Architecture;
5. Law or Urban Planning.

The two remaining positions shall be filled by citizens at large.

5.14.3.2 All members of the Preservation Board must comply with the financial disclosure laws of the State of Florida.

5.14.3.3 Initially, two members shall be appointed to one-year terms; two members shall be appointed to two year terms and three members shall be appointed to three year terms. After initial appointments, all appointments shall be made for three years. A Preservation Board member shall be eligible for reappointment, but shall be limited to two consecutive terms. Members of the Preservation Board shall serve without compensation. Prior to the expiration of his or her term, a member of the Preservation Board may be removed from office by a majority vote of the Board of County Commissioners. A Member of the Preservation Board shall be automatically removed if he is absent from two consecutive meetings without a satisfactory excuse or in the alternative if he is absent from more than one-fourth of the meetings in a given fiscal year provided that the Preservation Board has met at least eight times in the given fiscal year. Members shall be deemed absent from a meeting when they are not present during at least 75% of the meeting. The Board of County Commissioners shall fill the vacancy by appointment.

SEC. 5.14.4 ORGANIZATION.

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- 5.14.4.1** The members of the Preservation Board shall elect a chairman and a vice-chairman for a one-year term each. The chairman shall preside at all meetings and shall have the right to vote. The vice-chairman shall preside in the absence of the chairman. The chairman and vice-chairman may be re-elected for an additional one year term each, but may not serve for more than two consecutive years.
- 5.14.4.2** Collier County shall provide adequate staff to allow the Preservation Board to perform its duties. Staff shall consist of at least one staff person from Community Development Services Division and one clerical person who shall be responsible for recording and transcribing the minutes of all meetings of the Preservation Board.
- 5.14.4.3** All meetings of the Preservation Board shall be open to the public. A public record of the Preservation Board's minutes and resolutions shall be maintained and made available for inspection by the public.
- 5.14.4.4** The Preservation Board shall meet at least once per month, at a date and time to be decided by the Preservation Board, unless there is no business pending before the Preservation Board. Regardless of the lack of pending business the Preservation Board shall meet at least four (4) times during any calendar year.
- 5.14.4.5** The Preservation Board's meeting agenda shall be published the Sunday prior to the scheduled meeting in a newspaper of general paid circulation in the county and of general interest and readership in the Community. The ad may be placed where other legal notices appear.
- SEC. 5.14.5** **POWERS AND DUTIES.** The Preservation Board shall have the following powers and duties:
- 5.14.5.1** To propose rules and procedures to implement the provisions of this Division to the Board of County Commissioners;
- 5.14.5.2** To create a map delineating the areas of archaeological and historical significance which shall be subject to approval, by resolution, of the Board of County commissioners. This map shall be known as "The Map of Areas of Historical/Archaeological Probability" and shall be completed within one year from the date of the first meeting of the Preservation Board;
- 5.14.5.3** Maintain and update the Map of Areas of Historical/Archaeological Probability at intervals not to exceed five years. All subsequent changes to the map shall be subject to approval by the Board of County Commissioners;
- 5.14.5.4** To designate specific sites, structures, districts, buildings, and properties as historically and/or archaeologically significant in accordance with Section Eight of this Division;
- 5.14.5.5** To seek assistance and advise on technical related matters requiring professional expertise.
- 5.14.5.6** To maintain a master file of sites, districts, structured, buildings, and properties designated as historically significant; and maintain a separate master file of sites designated as archaeologically

significant;

- 5.14.5.7 To prepare and recommend to the Board of County Commissioners financial and technical incentive programs to further historic and archaeological preservation;
- 5.14.5.8 To increase the awareness of historic and archaeological preservation and its community benefits by Promoting public education programs;
- 5.14.5.9 To apply for, in the name of Collier County only, grant assistance from state, federal or private sources for the purpose of furthering historic and archaeological preservation subject to approval of the Board of County Commissioners.
- 5.14.5.10 To review the appropriateness of applying for the designation as a Certified Local Government (Section 5 C.F.R., Title 36, Part 61) on behalf of Collier County;
- 5.14.5.11 Upon Collier County's designation as a Certified Local Government, to review and make recommendations concerning National Register of Historic Places nomination proposals to the Florida Review Board;
- 5.14.5.12 To identify criteria for determining the potential location of historical/archaeological sites which shall be used by Project Review Services during site inspection.
- 5.14.5.13 To design an application for the Certificate of Appropriateness;
- 5.14.5.14 To issue Certificates of Appropriateness based on criteria outlined in the U.S. Secretary of the Interior's "Standards for Rehabilitation" 36 C.F.R. 67 (1983), as amended, and incorporated by reference herein.
- 5.14.5.15 To design an application for an Historical/Archaeological Survey and Assessment waiver request.
- 5.14.5.16 Review appeals for Historical/Archaeological Survey and Assessment waiver requests denied by the Community Development Services Administrator or his designee;
- 5.14.5.17 To design an application for designation of specific sites, districts, structures, buildings, and properties as historically/archaeologically significant.
- 5.14.5.18 To perform any other function or duty assigned by the County Commission.

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ARTICLE 6
DEFINITIONS

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DIV. 6.1 RULES OF CONSTRUCTION.

SEC. 6.1.1 **GENERALLY.** In construction and interpretation of the language of these regulations, the rules established in this division shall be observed unless such construction would be inconsistent with the manifest intent of the Board of County Commissioners as expressed in the Collier County Growth Management Plan, or an element or portion thereof, adopted pursuant to Chapters 163 and 186, Florida Statutes (1986) and Rules 9J-5 and 9J-24, F.A.C. The rules of construction and definitions established herein shall not be applied to any express provisions excluding such construction, or where the subject matter or context of such section is repugnant thereto.

All provisions, terms, phrases and expressions contained in these regulations shall be liberally construed in order that the true intent and meaning of the Board of County Commissioners may be fully carried out. Terms used in these regulations, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of this state for the same terms.

In the interpretation and application of any provision of these regulations, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of these regulations, the Growth Management Plan, or any other law or regulation in effect in Collier County, Florida, imposes greater restrictions upon the subject matter than any other provision of these regulations, the Growth Management Plan, or any other law or regulation in effect in Collier County, Florida, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

In all circumstances, the provisions of these regulations shall be interpreted and construed to be consistent with the Growth Management Plan. Where any provision(s) of these regulations are determined to be in conflict with the Growth Management Plan, the Growth Management Plan shall control.

SEC. 6.1.2 **TEXT.** In case of any difference of meaning or implication between the text of this Code and any figure, the text shall control.

SEC. 6.1.3 **COMPUTATION OF TIME.** The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.

SEC. 6.1.4 **DAY.** The word "day" shall mean a calendar day.

SEC. 6.1.5 **DELEGATION OF AUTHORITY.** Whenever a provision appears which requires or designates the head of a department or some other County officer or employee to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

SEC. 6.1.6 **GENDER.** Words importing the masculine gender shall be construed to include the feminine and neuter.

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- SEC. 6.1.7 **MONTH.** The word "month" shall mean 30 calendar days, unless a calendar month is indicated.
- SEC. 6.1.8 **NON-TECHNICAL AND TECHNICAL WORDS.** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- SEC. 6.1.9 **NUMBER.** A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number shall be deemed to include any single person or thing.
- SEC. 6.1.10 **SHALL, MAY.** The word "shall" is mandatory; "may" is permissive.
- SEC. 6.1.11 **TENSE.** Words used in the past or present tense include the future as well as the past or present.
- SEC. 6.1.12 **WEEK.** The word "week" shall be construed to mean seven (7) calendar days.
- SEC. 6.1.13 **WRITTEN or IN WRITING.** The term "written" or "in writing" shall be construed to include any representation of words, letters or figures whether by printing or other form or method of writing.
- SEC. 6.1.14 **YEAR.** The word "year" shall mean 365 calendar days, unless a fiscal year is indicated, or unless a calendar year is indicated.

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DIV 6.2 ABBREVIATIONS.

<u>ADT:</u>	Average Daily Trips
<u>ART:</u>	Article
<u>ASHTO:</u>	American Association of State Highway and Transportation Officials
<u>ASTM:</u>	The American Society for Testing and Materials
<u>BOA:</u>	Collier County Building Board of Adjustments and Appeals
<u>BCC:</u>	Collier County Board of County Commissioners
<u>BZA:</u>	Collier County Board of Zoning Appeals
<u>CCPC:</u>	Collier County Planning Commission
<u>DIV:</u>	Division
<u>DO:</u>	Development Order
<u>DRI:</u>	Development of Regional Impact
<u>DSD:</u>	Collier County Development Services Director
<u>EAB:</u>	Collier County Environmental Advisory Board
<u>FDOT:</u>	Florida Department of Transportation
<u>FEMA/FIRM:</u>	Federal Emergency Management Act/Federal Insurance Rate Map
<u>FLDO:</u>	Final Local Development Order
<u>FSP:</u>	Final Subdivision Plat
<u>GMD:</u>	Collier County Growth Management Director
<u>GMP:</u>	Collier County Growth Management Plan
<u>GPD:</u>	Collier County Growth Planning Director
<u>LDC:</u>	Collier County Land Development Code
<u>LDR:</u>	Land Development Regulation
<u>NOAA:</u>	National Oceanic and Atmospheric Administration
<u>PSP:</u>	Preliminary Subdivision Plat
<u>SDP:</u>	Site Development Plan
<u>SEC:</u>	Section

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DIV 6.3. DEFINITIONS.

AASHTO: The American Association of State Highway and Transportation Officials. [SEE DIV. 3.2]

Above Mean Sea Level (AMSL): The most common height or altitude reference used for flying and flight procedures usually measured in feet.

Abutting Property or Adjacent Property: Properties having a boundary line or a portion of a boundary line in common with no intervening public street, easement (excluding utilities) or right-of-way. [SEE DIV. 3.2]

Acceptable Environmental Alteration: Any proposed site alteration or development that safeguards the environmental quality of the subject area or adjoining or interrelated regions. [SEE DIV. 3.7 through 3.14]

Access: The principal means of ingress and egress to a lot from a publicly dedicated right-of-way or via additional public or private right-of-way. [SEE DIV. 3.2]

Access Waterways: A waterway which is developed or constructed in conjunction with the division of real property for the purpose of providing access by water to lots within a subdivision. [SEE DIV. 3.2]

Accessory Use or Structure: A use or structure of a nature customarily incidental and subordinate to the principal use or structure and, unless otherwise provided, on the same premises. On the same premises with respect to accessory use and structure shall be construed to mean on the same lot or on a contiguous lot in the same ownership and zoning district. Where a building is attached to the principal building, it shall be considered a part thereof, and not an accessory building, except as provided in Div. 2.6, Supplemental District Regulations. The facility serving malt, vinous, or alcoholic beverages shall be deemed an accessory use for a motel, hotel, boatel, private club, country club, yacht club, restaurant, bowling alley, or golf club provided all other applicable requirements of State law and County regulations are met.

Administrator: The Administrator of the Division of Community Development Services of Collier County, Florida.

Adult Congregate Living Facility (ACLF): Any building(s), section of a building, distinct part of a building, residence, private home, boarding home, or other place, whether operated for profit or not, which undertakes through its ownership or management to provide for a period exceeding twenty-four (24) hours, housing, food service, and one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services and to provide limited nursing services, when specifically licensed to do so pursuant to Florida Statute 400.407. The facility shall be licensed and approved as such by Florida Department of Health and Rehabilitative Services. A facility offering personal services or limited nursing services for fewer than four adults is within the meaning of this definition if it formally or

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informally advertises to or solicits the public for residents or referrals and holds itself out to the public to be an establishment which regularly provides such services.

Advertising Structure: Any structure erected for advertising purposes with or without any advertisement displayed thereon, situated upon or attached to real property, upon which any poster, bill, printing, painting, device or other advertisement may be placed; provided, however, that said term shall not include buildings. [SEE DIV. 2.5]

Advisory Board: See Environmental Advisory Board. [SEE DIV. 3.5 and DIV. 5.14]

Affordable Housing: A residential dwelling unit with a monthly rent or monthly mortgage payment, including property taxes and insurance, not in excess of one-twelfth (1/12) of 30 percent of an amount which represents 50 percent (for very low income), 80 percent (for low income), or 100 percent (for moderate income) of the median adjusted gross annual income for the household as published annually by the U.S. Department of Housing and Urban Development within the Naples Metropolitan Statistical Area (MSA). [SEE SEC. 2.7.7]

Affordable Housing Density Bonus ("AHDB"): An award of a number of residential dwelling units per gross acre in a development which allows the base density to be increased by density bonuses related to the provision of affordable housing. The AHDB may add up to eight (8) dwelling units per gross acre to the base density of four (4) dwelling units per gross acre, for a total of twelve (12) dwelling units per gross acre, minus any density reduction, in the Urban Designated Areas. When the AHDB is combined with the base density and other density bonuses or density reductions, the total density shall in no event exceed sixteen (16) dwelling units per gross acre. [SEE SEC. 2.7.7]

Affordable Housing Density Bonus ("AHDB") Program: The program which implements the affordable housing density bonus provisions of the Collier County Growth Management Plan through the use of 1) an Affordable Housing Density Bonus Rating System, and 2) an Affordable Housing Density Bonus Monitoring Program. The purpose of the AHDB program is to allow for the provision of affordable housing (moderate, low, and very low income) in Collier County, Florida, by permitting housing developments to exceed the base density limitations of the Growth Management Plan, and to ensure that the AHDB program is properly implemented, monitored and enforced. [SEE SEC. 2.7.7]

Affordable Housing Density Bonus ("AHDB") Rating System: The system generally referred to in the Growth Management Plan that establishes the additional number of residential units per gross acre over the base density minus any density reductions that may be permitted within Urban Designated Areas identified on the Future Land Use Map depending on the affordable housing characteristics of the development. The AHDB rating system is more refined through the terms of this Ordinance. [SEE SEC. 2.7.7]

Affordable Housing Owner-Occupied Unit: Affordable housing in the form of a residential dwelling unit solely for occupancy and fee simple ownership by a moderate, low, or very low income household under the provisions of the Affordable Housing Density Bonus Program. [SEE SEC. 2.7.7]

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Affordable Housing Rental Unit: Affordable housing in the form of a residential dwelling unit solely for lease or rent designated and reserved for occupancy by a moderate, low, or very low income households under the provisions of the Affordable Housing Density Bonus Program in exchange for the payment of rent to the owner or operator of the unit or development. [SEE SEC. 2.7.7]

Alley: A public or approved private way which affords only a secondary means of access to abutting property and which is not intended for general traffic circulation.

Alter (Historical/Archaeological): Any material change to the external or internal features of a building, structure or property. [SEE SEC. 2.2.25]

Alteration, Building or Structural: Any change in size, shape, occupancy, character, or use of a building or structure.

Annual Update and Inventory Report or AUIR: The County report on public facilities described in Sec. 3.15.3.2. [SEE DIV. 3.15]

Annulus or Annular Space: Any artificially created void existing between a well casing or liner pipe and a borehole wall or the space between two casings or liner pipes. [SEE DIV. 3.6]

Antenna Structure: A base, stand, or other method of stabilizing an antenna, but the primary purpose is other than raising the height of an antenna.

Applicant: The owner of record of property, or his authorized agent, making a submission to Collier County pursuant to this Code.

Application for Development Approval: An application submitted to Collier County requesting the approval of a Development Order. [SEE DIV. 3.15]

Approved Materials (Well Construction): The materials defined in Chapter 40E-3, of the Florida Administrative Code, and as otherwise specified in this Code. [SEE DIV. 3.6]

Aquaculture: The cultivation of marine or aquatic species (fresh or salt water) under either natural or artificial conditions.

Aquifer: A geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield useful quantities of ground water to wells and springs. [SEE DIV. 3.6]

Area of Environmental Sensitivity: An area where environmental quality may be highly susceptible to degradation and where alteration may cause predictable losses of natural resources. [SEE DIV. 3.7 through 3.14]

Arterial: See Street, Arterial.

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Artifact: Relics, specimens, or objects of historical, prehistorical, archaeological, or anthropological nature which may be found on, above or below the surface of the earth, which may have a scientific or historic value as objects of antiquity, aboriginal relics or as anthropological specimens, including but not limited to aboriginal and non aboriginal ceramics, worked stone, shell, bone, teeth, horn, metal coins, glass, beads, and brick/building material. [SEE SEC. 2.2.25]

Artificial Light: Any source of light emanating from a manmade device, including but not limited to, incandescent mercury vapor, metal halide, or sodium lamps, flashlights, spotlights, street lights, vehicular lights, construction or security lights, fires.

Associated Burial Artifact: Any object intentionally buried with human remains, as a memorial to the deceased, a marker, monument, or the like. [SEE SEC. 2.2.25]

ASTM: The American Society for Testing and Materials. [SEE DIV. 3.2]

Authorized Agent: Any person authorized in writing by the owner of record to act on the behalf of the owner of record of a particular parcel of land.

Average Daily Trips (ADT): A weighted average of the number of vehicle trips or trip ends per unit of independent variable (e.g. trip ends per occupied dwelling unit or employee) using a site's driveway(s). The weighted average rate is calculated by summing all trips or trip ends and all independent trip variable units where paired data are available, and then dividing the sum of the trip ends by the sum of the independent variable units.

Base Density: The number of residential dwelling units per gross acre permitted in the Urban Designated Areas as identified on the Future Land Use Map pursuant to the Density Rating System of the Future Land Use Element. Within the Urban Designated Areas, a base level density of four (4) residential dwelling units is permitted. Density may be decreased or increased based on any location and project characteristics. [SEE SEC. 2.7.7]

Beach: That area of unconsolidated material that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of storm waves).

Beach Clearing, Mechanical: Use of a vehicle and rake or drag of any sort, to scrape debris from the beach in the nesting zone.

Bed and Breakfast Residence: An owner-occupied single-family home where short-term lodging rooms and meals, at least breakfast, are provided to travelers.

Bentonite Clay: Specially processed coarse ground, non-drilling mud grade bentonite used in grouting and plugging wells. [SEE DIV. 3.6]

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Bicycle Path: That portion of a street, crosswalkway and the like, paved or otherwise, intended for the use of bicycles, and if properly sized, for pedestrians. [SEE DIV. 3.2]

Blaster: An individual employed by a User who detonates or otherwise effects the explosion of an explosive or who is in immediate personal charge and supervision of one or more other persons engaged in such activity. [SEE DIV. 3.4]

Block: The length of a street between the intersections of that street with two other streets. A block, according to the context, may also be a parcel or parcels of land surrounded by public streets (other than alleys) or other physical barriers such as a watercourse. [SEE DIV. 3.2]

Board: See Board of County Commissioners.

Board of County Commissioners: The Board of County Commissioners of Collier County, Florida. [SEE SEC. 2.2.25]

Boat Dock: A walkway protruding into a waterway which provides access to a moored boat. [SEE SEC. 2.6.21]

Boatel: A facility offering transient lodging accommodations normally on a daily rate for boat travelers. These accommodations include wet boat slips, where guests may or may not sleep on their boat, that are normally combined with a hotel/motel and its accessory uses, such as a restaurant.

Boathouse, Commercial: A building where boats are housed, launched, hauled, repaired, serviced, maintained or stored.

Boathouse, Private: An accessory use to a residential structure(s) adjacent to a waterway, providing space for the housing of a boat and accessories customary thereto. A private boathouse may not be used for the purpose of human habitation. [SEE SEC. 2.6.21]

Boat Shelter: A roofed structure adjacent to a waterway, open on all sides and providing covered protection to a boat.

Boat Yard and Ways: A premises or site used as a commercial establishment for the provision of all such facilities as are customary and necessary to the construction, reconstruction, repair, maintenance or sale of boats, marine engines or marine equipment and supplies of all kinds including, but not limited to, rental of covered or uncovered boat slips or dock space or enclosed dry storage space or marine railways or lifting or launching services, and for dredge or barge dockage and storage.

Bottle Club: A private establishment where patrons may purchase bottles of liquor or bring their own and keep them for consumption after legal closing hours.

Buildable Area: The portion of a lot or parcel remaining after required yards have been provided. Buildings may be placed in any part of the buildable area, but limitations on the percentage of the

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lot that may be covered by buildings may require open space within the buildable area.

Building: Any structure, either temporary or permanent, having a roof impervious to weather, and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This definition shall include tents, awnings, cabanas, or vehicles situated on private property and serving in any way the function of a building, but does not include screened enclosures not having a roof impervious to weather.

Building Facade: That portion of any exterior elevation of a building extending from finished grade to the top of the parapet wall or eaves and extends the entire width of the building elevation.

Building Height of: The vertical distance measured from the first finished floor to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. Where minimum floor elevations in flood prone areas have been established by law, the building height shall be measured from such required minimum floor elevations. (See Sec. 2.6.3, "Exclusions from Height Limits" and "Off-Street Parking Within a Building".)

Building Line: The lines established by law, beyond which the building shall not extend, except where provided by law. [SEE DIV. 3.2]

Building Site: A building site is the part or portion of a lot or lots used for a structure, the total area of which site is ascribed to the building or structure for compliance with this Land Development Code. [SEE DIV. 3.2]

Bulk Permit (Signs): A permit issued for any number of political signs.

Bulkhead: A retainer wall or structure designed to prevent erosion of land by water action. [SEE DIV. 3.2]

Bulkhead Line: A fixed line established in or along the Gulf of Mexico, a river, watercourse, or other body of water, in order to fix and establish the distance from the shoreline within which filling may be permitted and bulkheads constructed. [SEE DIV. 3.2]

Camping Cabin: A wooden structure designed as a detached recreational and/or campground living unit within a TTRVC Park and which is dependent upon the TTRVC Park's central water, shower, toilet, and recreational facilities. [SEE SEC. 2.2.11]

Campsite Lot: Shall mean an area of land where recreation vehicles supported by a fixed motor vehicle wheel base and includes but is not limited to travel trailers, camping trailer, truck camper, motor home, van conversions, each of which shall not exceed two hundred and forty (240 square feet) may be parked for periods of time as herein regulated. [SEE SEC. 2.2.11]

Camping Trailer: Is a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use. [SEE SEC. 2.2.11]

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Canopy: A permanent roof structure that does not project over public property, which may be freestanding, attached to a building, or supported in whole or in part by a building.

Capital Drainage Facilities: The planning of, engineering for, acquisition of land for, or the construction of drainage and water management facilities necessary for proposed development to meet the LOS for Drainage Facilities. [SEE DIV. 3.15]

Capital Park Facilities: The planning of, engineering for, acquisition of land for, or construction of buildings and park equipment necessary to meet the LOS for Park Facilities. [SEE DIV. 3.15]

Capital Road Facilities or Capital Road Improvement: The transportation planning for, right-of-way acquisition for, engineering for, and construction of any project eligible for inclusion as a road project in the road component of the CIE of the Collier County Growth Management Plan or the Five Year Florida Department of Transportation Plan. [SEE DIV. 3.15]

Capital Potable Water Facilities: The planning of, engineering for, acquisition of land for, or construction of potable water facilities necessary to meet the LOS for Potable Water Facilities. [SEE DIV. 3.15]

Capital Sanitary Sewer Facilities: The planning of, engineering for, acquisition of land for, or construction of sanitary sewer facilities necessary to meet the LOS for Sanitary Sewer Facilities. [SEE DIV. 3.15]

Capital Solid Waste Facilities: The planning of, engineering for, acquisition of land for, or construction of solid waste facilities necessary to meet the LOS for Solid Waste Facilities. [SEE DIV. 3.15]

Care Unit: A residential treatment facility, other than a nursing home, where, for compensation, (if applicable), persons receive food, lodging and some form of on-site therapeutic care on a daily basis. This type of care may involve psychiatric, psychological, medical, physiological therapies, behavior modification and other such services. This type of facility shall contain fifteen (15) or more residents, plus resident supervisors, and shall permit all of the list of uses as permitted by Group Care Facilities (Category I and Category II (i.e., adult congregate living facilities, foster care facilities, the developmentally disabled, crisis and attention care, displaced adult care, homeless shelters, mental health care, offender halfway houses, spouse abuse care, substance abuse care, and youth shelters)). [SEE SEC. 2.6.26]

Carport: An accessory structure, consisting of a roof and supporting members such as columns or beams, not enclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor-driven vehicles.

CCPC: Collier County Planning Commission.

Casing Diameter or Diameter of Casing (Well Construction): The largest inside diameter of the final casing. [SEE DIV. 3.6]

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Cemetery: An area of land set apart for the sole purpose of the burial of bodies or remains of dead persons or animals and for the erection of customary markers, monuments, and mausoleums.

Centerline: A line running parallel to the two edges of a right-of-way located, in general, halfway between the extreme edges of official on platted rights-of-way. [SEE DIV. 3.2]

Central Sewer Facilities: See Sewerage System, Central.

Central Water Facilities: See Water Facilities, Central.

Certificate of Appropriateness: Certificates issued by the Preservation Board for sites, structures, buildings, districts, and properties designated as historical/archaeologically significant. [SEE SEC. 2.2.25]

Certified Archaeologist: An Archaeologist who meets the professional qualifications standards outlined in the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (Federal Register) 51(46):8248-82 52, March 10, 1986). [SEE SEC. 2.2.25]

Certified Survey: Certified survey, map of survey, sketch of survey, plat of survey, right-of-way survey, or other similar titles shall mean any drawing of a parcel or tract of real property used for the purpose of depicting the results of a field survey. Each survey drawing shall state the type of survey it depicts as defined in Rule 21 HH-6, Minimum Technical Standards, and be certified professional land surveyor. [SEE DIV. 3.2]

Change of Occupancy: The discontinuance of an existing use and the substitution thereof of a use of a different kind or class. Change of occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

Child Care Center: An establishment which provides for the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his individual needs, and for which a payment, fee or grant is made for care. This definition includes such terms as day nurseries, day care service, day care agency, nursery school, or play school. The term does not include summer camps or family day care homes.

Church or Place of Religious Worship: An institution that people regularly attend to participate in or hold religious services and other related religious activities. Other religious activities that may be conducted by churches or places of worship include on site child care for use during religious services, and studies involving religious instruction, but shall not include schools, temporary or permanent dwellings, or other activities not directly related to religious practices.

Climb Gradient: An aircraft instrument departure procedure requiring adherence to a minimum climb slope or grade expressed in feet per nautical mile.

Clinic, Medical or Dental: See Office, Medical/Clinic.

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Clinics, Veterinary: Any structure or premises used primarily and essentially for the medical and surgical care of ill, injured, or disabled animals other than humans.

Club, Private: Those associations and organizations of a civic, fraternal or social character not operated or maintained for profit, and to which there is no unrestricted public access or use. The term "private club" shall not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.

Cluster Development: A design technique allowed within residential districts by conditional use. This form of development employs a more compact arrangement of dwelling units by allowing for reductions in the standard lot requirements of the applicable zoning district, with the difference between the reduced lot size and the standard lot requirement being placed in common open space. [SEE SEC. 2.6.27]

Coastal Area Planning District: All of the unincorporated portions of Collier County except the following areas: Township 46 South, Ranges 28 East, 29 East and 30 East; Township 47 South, Ranges 27 East, 29 East and 30 East; Township 48 South, Ranges 29 East and 30 East; Township 49 South, Ranges 29 East through 34 East; Township 47 South, Range 28 East, Sections 29, 30, 31, 32, 33 and that portion of Sections 28, 34, and 27, lying southwest of Oil Well Grade Road (SR-858), Township 48 South, Range 27 East, Sections 7 through 36, Township 48 South, Range 28 East, Section 4, 5, 6, 7, 9, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, 34, and that portion of Sections 3 and 10 lying south of South, Range 28 East, Sections 3, 4, 5, 6, 7, 9, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34.

Coastal Construction Control Line (CCCL): The Collier County Coastal Construction Control Line as depicted on the State of Florida Department of Natural Resources, Division of Beaches and Shores, March, 1985, Aerial Map as adopted in Collier County Ordinance 80-19 (1980), or any subsequent modifications.

Collector: See Streets, Minor Collector, and Streets, Major Collector.

Commercial Equipment: Any equipment commonly used in a commercial business, i.e., contractors equipment, earth moving machinery, utility trailers, and devices used for the transportation of equipment, materials or merchandise. [SEE SEC. 2.6.7]

Commercial Excavations: Any excavation wherein the excavated material is removed from the subject property, for whatever purpose, or where the disturbed area of the excavation exceeds one (1) acre. [SEE DIV. 3.4]

Commercial Vehicle: Any vehicle that has rated load capacity of more than one (1) ton and is used in conjunction with a commercial or business activity. [SEE SEC. 2.6.7]

Completely Enclosed: A space enclosed by walls and a roof, party walls, pierced only by windows and normal entrance or exit doors.

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Comprehensive Plan: A plan that meets the requirements of Secs. 163.3177 and 163.3178, Fla. Stat., and may mean the Collier County Growth Management Plan, where appropriate.

Conditional Use: A use that would not be appropriate generally or without restriction throughout a zoning district, but which if controlled as to number, area, location, or relation to the neighborhood would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general welfare. Such uses may be permissible in a zoning classification or a district as a conditional use if specific provision for such a conditional use is made in this Land Development Code.

Condominium: That form of ownership of real property which is created pursuant to the provisions of Ch. 718, Fla. Stat., under which units or improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in common elements.

Conservation Area: A parcel containing an archaeological site, a native habitat, either wetland or upland, or a threatened or endangered species, which shall be subject to a limited development compatible with conservation of the natural resources therein. A conservation easement for such area shall be granted to Collier County with no responsibility for maintenance, or to an adjacent property owners association or other appropriate group with the responsibility for maintenance and compliance with the terms of the dedication, as stated on the final subdivision plat. [SEE DIV. 3.2]

Conservation Easement: An easement granted for limited use purpose maintaining in perpetuity a conservation or preserve area, and for which a dedication shall be granted. [SEE DIV. 3.2]

Construction, Actual: The placing of construction materials in a permanent position and fastened in a permanent manner; except that where demolition, excavation or removal of an existing structure has been substantially begun preparatory to imminent new construction, such excavation, demolition, or removal shall be deemed to be actual construction, provided that work shall be continuously carried on until the completion of the new construction involved. Actual construction shall include only that begun and carried on under a valid building permit.

Contiguous Property: See Abutting Property.

Contractor (Well Construction): Any person licensed by the South Florida Water Management District, in accordance with Chapter 17-20, Florida Administrative Code, or its successor, and any subsequent County license, who is engaged in the business of construction, repair, or abandonment of wells. [SEE DIV. 3.6]

Contributing Project (Historical/Archaeological): Any development project which contains known and recorded Historical/Archaeological Resources. [SEE SEC. 2.2.25]

Copy: The letters, text or other graphics which compose the message displayed upon the sign surface area.

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County: Either a) The County of Collier, Florida; or b) The County Manager or his designee or any other authorized County agency or official designated by the Collier County Board of County Commissioners as the authority charged with the administration and enforcement of applicable provisions of this Code. [SEE DIV. 3.6]

County Manager: That person appointed by the Board of County Commissioners to be the chief administrative official of the County, or his designee. [SEE DIV. 3.7 through 3.14]

County Projects: The construction of any County government project. [SEE SEC. 2.2.25]

Court: An open space, other than a required yard, on the same lot with a building which is bounded on two (2) or more sides by the walls of such building. A court may contain shrubs, statuary, trees and yard furniture. An interior court is a court enclosed on all sides by the walls of a building or by walls and lot lines on which walls are permitted. An exterior court is a court opening on any front, side or rear yard.

Crosswalk: A right-of-way within a block dedicated to the public use, ten (10) feet or more in width, intended primarily for pedestrians and from which motor propelled vehicles are excluded and as additionally defined in 316.003(6)(a) and (b), Florida Statutes. [SEE DIV. 3.2]

Cul-de-sac or Dead End Street: A minor street with only one outlet terminating at one end with a circular turn around. [SEE DIV. 3.2]

Daylight Hours: The period of time between thirty (30) minutes after sunrise to thirty (30) minutes before sunset. [SEE DIV. 3.4]

Decision Height: The height at which a pilot must decide, during an Instrument Landing System (ILS) approach, to either continue the approach or to execute a missed approach.

Deficient Road Segment: A County or State road segment on the Major Road Network System that either:

- a. has an adopted LOS "C" peak season, peak hour, that has operated below LOS "C" peak season, peak hour, based on the Annual Update and Inventory Report ("AUIR"); or
- b. has an adopted LOS "D" peak season, peak hour, that has operated below LOS "D" peak season, peak hour, for two (2) years or more based on the AUIR; or
- c. has an adopted LOS "D" peak season, peak hour, that is operating below LOS "E", peak season, peak hour, based on the AUIR; or
- d. has an adopted LOS "E" peak season, peak hour, that is operating worse than LOS "E" peak season, peak hour, based on the AUIR.

[SEE DIV. 3.15]

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Delicatessen: A service facility where foods such as meats, sandwiches, cheeses, salads and fish are prepared and sold or where these foods are sold in a ready-to-eat state normally for off-premises consumption. On-site consumption is allowed as an accessory use where the seating is provided for 10 customers or less. Customer seating above 10 would make the business a restaurant.

Demolition: The complete or substantial removal or destruction of any historic or archaeological sites, districts, structures, buildings or property. [SEE SEC. 2.2.25]

Density, Residential: The number of residential dwelling units permitted per gross acre of land and determined by dividing the number of units by the total area of residential land within the boundaries of a lot or parcel but not including land within a Planned Unit Development that is to be used for commercial or industrial uses.

DER: The Florida Department of Environmental Regulation. [SEE DIV. 3.6]

Detoxification Center: A medical facility open twenty-four (24) hours per day meeting comparable standards to a hospital or nursing home. Such facility shall be for the temporary emergency shelter of intoxicated persons, or those persons suffering from alcoholism, drug abuse or other similar condition for the purpose of detoxification.

Developer: Any person, including a governmental agency, or his designated agents, successors, or assigns, undertaking any development as defined in this Code.

Development: Has the meaning given it in Sec. 380.04, Fla. Stat. [SEE DIV. 3.15]

Development and Production, Oil and Gas Field: Activities and facilities involved in developing petroleum and natural gas resources following successful exploration as defined by or used in the context of Florida Statutes and Administrative Code, which may include the construction of all-weather access roads and pads, development drilling, installation of crude oil pipelines, flowlines and gathering lines, in-field separation and temporary housing facilities for personnel requisite to the operation of these facilities and activities.

Development, Infill: A parcel not less than two (2) acres in size, that due to its location and relationship to other developed parcels or parcels approved for development, may require special design standards for development ensuring its compatibility. Such design standards may include adjustments to yards, height, size of structure, landscaping and buffering, and conformance with a common architectural theme.

Development, New (Sea Turtles): New construction of buildings, parking lots, boardwalks, and other types of construction and remodeling of existing structures when such remodeling includes alteration of exterior lighting. (DIV. 3.10)

Development, SDP: The act, process, or result of improvement of property, or placing buildings and/or structures on a lot or parcel of land. SDP Development shall include multi-family residential, commercial, institutional and industrial projects. Projects which do not affect existing

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circulation, parking, building arrangements, drainage, landscaping, buffering and other SDP considerations, or, may be subject to Subdivision Regulations, shall be exempt from Div. 3.3. [SEE DIV. 3.3]

Development Agreement. Has the meaning contemplated in Sec. 163.3220 et seq., Fla. Stat.

Development Order: Any order, permit, determination, or action granting, denying, or granting with conditions an application for any final local development order, building permit, temporary use permit, temporary construction and development permit, sign permit, well permit, spot survey, electrical permit, plumbing permit, occupational license, boat dock permit, HVAC permit, septic tank permit, right-of-way permit, blasting permit, excavation permit, construction approval for infrastructure (including water, sewer, grading, paving), approved development of regional impact (DRI), zoning ordinance amendment, comprehensive plan amendment, flood variance, coastal construction control line variance, tree removal permits, site development plan approval, subdivision approval (including plats, plans, variances, and amendments), rezoning, PUD amendment, certification, conditional use (provisional use), variance, or any other official action of Collier County having the effect of permitting development as defined in this Code.

Development Plan: A graphic representation along with supportive information and data depicting the intended development. [SEE DIV. 3.7 through 3.14]

Dewatering: The use of wells or other such equipment to temporarily lower a water level as may be necessary during construction activities. [SEE DIV. 3.6]

DSD: The Development Services Director. [SEE DIV. 3.5]

Disturbance: Any action or activity which will change or cause to change the location, physical condition or status of an historic or archaeological site, structure, building or property. [SEE SEC. 2.2.25]

Dock Facility: Any structure constructed in or over a waterway for the purpose of mooring a boat. This includes docks, mooring pilings and the like. This does not include boat houses or boat shelters.

Dormitory Housing: A room or rooms, partitioned or open, which may or may not provide cooking facilities and provides sleeping quarters for a number of unrelated persons. Dormitory housing shall meet all applicable requirements of the Collier County Plumbing, Electrical and Building Codes as well as the Collier County Minimum Housing Code.

Driller (Well Construction): A person who is actively engaged in the business of drilling, constructing, repairing, or abandoning wells. [SEE DIV. 3.6]

Dripline: A vertical line extending from the outermost branching of a tree or plant to the ground. [SEE DIV. 3.7 through 3.14]

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Drive-In Bank or Financial Institution: A drive-in bank or financial institution provides drive-in teller service, where the patron makes withdrawals or deposits or receives other financial services without departing from his vehicle.

Drive-In Theater: A place of outdoor assembly used for the showing of plays, operas, motion pictures, and similar forms of entertainment which is designed to permit the audiences to view the performance from vehicles parked within the theater enclosure.

Drive Shoe (Well Construction): Any device specifically designed, fabricated, and installed to protect the end of a well casing or liner pipe from collapse or other damage while the casing or liner pipe is being driven into place in a well. [SEE DIV. 3.6]

Drive-Through or Drive-Up Business: An establishment that includes a drive-up or drive thru service facility or offers curbside service where patrons do not leave their cars to purchase goods, food and services.

Driveway: An accessway with the sole purpose of providing access to private lots. The elimination of through traffic and the geometric design of the driveway are means to promote safety and to create a desirable residential neighborhood.

Dune, Sand: The mound or dune of sand typically formed along and landward of the line of highest gulf wave action and where such line is clearly defined and undisturbed typically forms the vegetation line. For the purposes of this Code the dune extends landward of mean high water to the toe of the back dune and may or may not be vegetated. In any area where there is no clearly marked vegetation line it is considered to be the average of the lines of vegetation on each side of the area to establish a line of constant elevation reached by the highest waves. Such line shall not be affected by occasional sprigs of grass seaward of the dune or artificial fill, turf or other artificial changes in the natural vegetation or elevation. [SEE DIV. 3.7 through 3.14]

Duplex: See Dwelling, Two-Family or Duplex.

Dwelling: Any building, or part thereof, intended, designed, used or occupied in whole or in part as the residence or living quarters of one or more persons, permanently or temporarily, continuously or transiently, with cooking and sanitary facilities.

Dwelling, Duplex: A single, freestanding, conventional building on a single lot, which contains only two (2) dwelling units and is intended, designed, used and occupied as two (2) dwelling units under single ownership, or where each dwelling unit is separately owned or leased but the lot is held under common ownership.

Dwelling, Garden Apartment: A dwelling unit which is accessed from an interior common space in a building consisting of more than one dwelling unit which may contain dwelling units in a vertical arrangement.

Dwelling, Multiple-Family: A group of three or more dwelling units within a single conventional building, attached side by side, or one above another, or both, and wherein each dwelling unit

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may be individually owned or leased but the land on which the building is located is under common or single ownership.

For purposes of determining whether a lot is in multiple-family dwelling use, the following considerations shall apply:

- a. Multiple-family dwelling uses may involve dwelling units intended to be rented and maintained under central ownership and management, or cooperative apartments, condominiums, and the like.
- b. Where an undivided lot contains more than one building and the buildings are not so located that lots and yards conforming to requirements for single or multiple-family dwellings in the district could be provided, the lot shall be considered to be in multiple-family dwelling use if there are three (3) or more dwelling units on the lot, even though the individual buildings may each contain less than three (3) dwelling units.
- c. Guest houses and servants' quarters shall not be considered as dwelling units in the computation of Subsection b above.
- d. Any multiple-family dwelling in which dwelling units are available for rental for periods of less than one week shall be considered a tourist home, a motel, motor hotel, or hotel, as the case may be, and shall only be permitted in districts where specifically designated.
- e. For the purpose of this Land Development Code, Time Share Estate Facilities shall be considered as intended primarily for transient occupancy and shall only be permitted in districts where specifically designated.

Dwelling, Rowhouse: See Dwelling Townhouses.

Dwelling, Single Family Attached: See Dwelling, Townhouse.

Dwelling, Single-Family or One-Family: A building which 1) contains only one (1) dwelling unit; 2) is intended; designed, used and occupied by no more than one (1) family; 3) meets the minimum width across any front, side or rear elevation of twenty-four (24) feet; and 4) meets the minimum floor area and maximum height requirements of this Code. The following conditions are as much a part of the definitions as the principal definition:

- a. The dwelling shall comply with the minimum square footage requirements for single-family dwellings of this Code for the district in which it is located.
- b. The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the County Health Department.
- c. The term single-family dwelling may include manufactured homes when placed on permanent foundation. Manufactured homes must meet minimum width, minimum square footage, maximum height and all other requirements applicable to on-site built dwellings.

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- d. On-site built as well as manufactured homes must be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code.
- e. In the event that a dwelling is a mobile home, it must comply with minimum width and minimum square footage and must be secured to the premises by an anchoring system or device complying with the rules and regulations of the Florida Mobile Home Commission. Each mobile home shall be installed with the wheels under carriage or chassis.

Dwelling, Townhouse: A group of three (3) or more dwelling units attached to each other by a common wall or roof wherein each unit has direct exterior access and no unit is located above another, and each unit is completely separated from any other(s) by a rated fire wall or a fire and sound resistant enclosed separation or space, and wherein each dwelling unit is on a separate lot under separate ownership.

Dwelling, Two-Family: A single, freestanding, conventional building intended, designed, used and occupied as two (2) dwelling units attached by a common wall or roof, but wherein each unit is located on a separate lot under separate ownership.

Dwelling Unit: A room or rooms connected together, constituting a separate, independent housekeeping establishment for no more than one (1) family, for owner occupancy, or for rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure. A dwelling unit contains sleeping and sanitary facilities and only one (1) primary kitchen.

Easement: An interest in land owned by another that entitles its holder to a specific limited use or enjoyment. [SEE DIV. 3.2]

Effective Radius (Communication Towers): A radius of 6 miles from a respective tower unless a lesser radius has been approved.

Endangered Species: As listed by the U.S. Department of Interior Fish and Wildlife Service.

Engineer: A person registered in the State of Florida under Chapter 471, Florida Statutes, to engage in the practice of engineering.

Environmental Advisory Board: Advisory Board to the Board of County Commissioners, dealing with review and evaluation of specific zoning and development petitions and their impact on the regulation, control, management use or exploitation of any or all natural resources of or within Collier County. [SEE DIV. 3.7 through 3.14 and DIV. 5.13]

Environmental Quality: The character or degree of excellence or degradation in the total essential natural resources of the area as measured by the findings and standards of the physical, natural, and social sciences, the arts and technology, and the quantitative guidelines of Federal, State and County governments. [SEE DIV. 3.7 THROUGH 3.14]

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Erected: Built, constructed, reconstructed, moved upon, or any physical operation on the premises required for building. Excavation, fill, drainage, demolition of an existing structure, and the like shall be considered part of erection. (See Construction, Actual.)

Essential Services: Services designed and operated to provide water, sewer, gas, telephone, electricity, cable television or communications to the general public by providers which have been approved and authorized according to laws having appropriate jurisdiction. [SEE SEC. 2.6.9]

Excavation: The removal of any material to a depth greater than 3 feet below existing grade over any area or 1 foot below existing grade over an area greater than 10,000 square feet. [SEE DIV. 3.5]

Exotic Vegetation: The entire plant, or any part thereof, including seeds, of the following:

- Earleaf Acacia (*Acacia auriculiformis*)
- Australian Pine (*Casuarina* spp.)
- Melaleuca (*Melaleuca* spp.)
- Catclaw Mimosa (*Mimosa pigra*)
- Downy Rosemyrtle (*Rhodomyrtus tomentosa*)
- Brazilian Pepper (*Schinus terebinthifolius*)
- Java Plum (*Syzygium cumini*)

[SEE DIV. 3.7 through 3.14]

Exploration, Oil and Gas: Activities and facilities involved in the search for and subsequent production testing and field delineation of discovered petroleum and natural gas resources as defined by or used in the context of Florida Statutes and Administrative Code, which may include geophysical exploration activities and surveys, construction of temporary access roads and pads, exploratory drilling and the in-field separation and removal of test production.

Family: One (1) or more natural persons occupying a single dwelling unit, provided that, unless all members are related by law, blood, adoption, or marriage, no such family shall contain over four (4) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a separate or additional family or families. The term family shall not be construed to mean a fraternity, sorority, club, monastery or convent, or institutional group.

Family Care Facility: A residential facility designed to be occupied by not more than six (6) residents, plus supervisors, and constitutes a single dwelling unit (i.e., adult congregate living facilities, foster care facilities, and the developmentally disabled, but not uses listed under Group Care Facility (Category)). This use shall be applicable to single-family dwelling units and mobile homes. [SEE SEC. 2.6.26]

Family Day Care Home: An occupied residence in which child care is regularly provided and for which a payment, fee, or grant is received for any of the children given care, whether or not

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the facility is operated for profit. A family day care home shall be allowed to provide care for one of the following groups of children:

- (a) A family day care home may care for a maximum of five (5) preschool children from more than one unrelated family and a maximum of five (5) elementary school siblings of the preschoolers in care after school hours. The maximum number of five preschool children includes preschool children in the home and preschool children received for day care who are not related to the resident caregiver. The total number of children in the home may not exceed ten (10) under this paragraph.
- (b) When the home is licensed and provisions are made for substitute care, a family day care home may care for a maximum of five (5) preschool children from more than one unrelated family, a maximum of three (3) elementary school siblings of the preschool children receiving care after school hours and a maximum of two (2) elementary school children unrelated to the preschool children in care after school hours. The maximum number of five (5) preschool children includes preschool children in the home and preschool children received for day care who are not related to the resident caregiver. The total number of children in the home may not exceed ten (10) children.
- (c) When the home is licensed and provisions are made for substitute care, a family day care home may care for a maximum number of seven (7) elementary school children from more than one unrelated family receiving care after school hours. Preschool children shall not be in care in the home. The total number of elementary school children in the home may not exceed seven under this paragraph.

The family day care home shall be a permitted activity within a residential district. Family day care home shall be required to receive any required licensing or registration, as applicable by the Department of Health and Rehabilitative Services or any other state agency having the authority to regulate such homes.

Family Income: Annual income derived from all sources, as defined in 24 CFR 813.102, including wages and salaries, overtime pay, commissions, fees, tips, gifts and bonuses, interest and dividends, benefits such as payment from social security, annuities, insurance, retirement funds, pension, disability or death benefits and other similar type, alimony, child support, and welfare assistance payments. [SEE SEC. 2.7.7]

Final Development Order: A final local development order or a final DRI development order.

Final DRI Development Order: A development order, as amended from time to time, adopted by the Board of County Commissioners of Collier County and approved by the State pursuant to Sec. 380.06, Fla. Stat., notice of which is recorded pursuant to Sec. 380.06(15)(f), Fla. Stat.

Final Local Development Order: Any valid, unexpired building permit issued by the County.

Fish Camp: A temporary use, chicken hut style structure, typically harboring the following characteristics: elevated on pilings, open-sided, without utilities such as water, sewer, and electric

lines or septic tanks, constructed with little to no disturbance of surrounding biological communities, associated with waterfront areas, with a maximum construction footprint of one thousand (1000) square feet and one (1) associated access dock. All waste collection facilities must be designed for a temporary gathering only, e.g., a portable toilet with wastes removed for proper disposal.

Flags: Devices generally made of flexible materials, such as cloth, paper, or plastic, and displayed on strings, poles or the like. This definition does not include the flag of any city, county, state or country. [SEE DIV. 2.5]

Flagging (Sea Turtles): The clear delineation of a sea turtle nest by placing three or more stakes in the ground around, but not in, the nest and connecting the stakes with colored surveyor flagging tape. [SEE DIV. 3.10]

Floodplain: Low-lying land that will be covered by the flood waters as a result of a one hundred (100) year storm event. The land may be within the floodway of a natural stream, slough, canal or within the area(s) defined on the Flood Insurance Rate Map (FIRM) by the Federal Emergency Management Agency (FEMA). [SEE DIV. 3.2]

Floodlight: Reflector type light fixture which is attached directly to a building and which is unshielded.

Floor Area: The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of common walls separating two buildings, excluding attic areas with a headroom of less than seven (7) feet, enclosed or unenclosed stairs or fire escapes, elevator structures, cooling towers, areas devoted to air conditioning, ventilating or heating or other building machinery and equipment, parking structures, and crawl space where the ceiling is not more than an average of forty-eight (48) inches above the general finished grade level of the adjacent portion of the lot, except as may be otherwise indicated in relation to particular districts and uses.

Floor Area Ratio: The quotient resulting from dividing the floor area of a building by the area of the lot on which the building is located.

Frontage: The length of the property line of any one premises along a street on which it borders.

Frontage of a Building: See Building Frontage.

Frontage of a Lot: See Lot Frontage.

Gang Well: A system where two (2) or more waterwells are coupled together with a common header or manifold. [SEE DIV. 3.6]

Garage, Parking: A building or portion thereof designed or used for temporary parking of motor vehicles, and within which gasoline and oils may be sold only to parking patrons of the garage.

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Garage, Private: An accessory structure designed or used for inside parking of private passenger vehicles, recreation vehicles, or boats, solely by the occupants of the main building. A private garage attached to or a part of the main structure is to be considered part of the main building. There can be no public shop or mechanical service in connection with a private garage.

Garage, Repair: A building or portion thereof, other than a private, storage, or parking garage or automobile service station, designed or used for repairing, equipping, or servicing of motor vehicles. Such garages may also be used for hiring, renting, or selling of motor vehicles.

Garage, Storage: A building or portion thereof designed and used primarily for the storage of motor vehicles or boats, and within which temporary parking may also be permitted.

Grade: An established elevation.

Growth Management Director or GMP: The Growth Management Director or his designee. [SBB DIV. 3.15]

Growth Management Plan or GMP: The most recently adopted and effective Comprehensive Plan of Collier County, as amended from time to time.

Groundcover: Plants, other than turfgrass, normally reaching an average maximum height of not more than twenty-four (24) inches at maturity. [SEE SEC. 2.4]

Ground Water: Any water which may be drawn from the ground. [SEE DIV. 3.6]

Group Care Facility: A type of facility, which provides a living environment for seven (7) to fourteen (14) residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

- a. **Category I:** A Group Care Facility designed to accommodate seven (7) to fourteen (14) cared for residents, plus resident supervisors (i.e., adult congregate living facilities, foster care facilities, and the developmentally disabled).
- b. **Category II:** A Group Care Facility designed to accommodate cared for residents, plus resident supervisors. This type of facility offers a higher level of personal and therapeutic care than a Category I facility (i.e., crisis and attention care, displaced adult care, homeless shelters, mental health care, offender halfway houses, spouse abuse care, substance abuse care, and youth shelters).

[SEE SEC. 2.6.26]

Grout: A mixture of water, Portland cement (American Concrete Institute type I, II or type III, or any other types of cement approved by the County), and other additives listed under Section 4.0 (21), or other additives approved by the County. Grout composition shall not exceed six (6) gallons of water per cubic foot of cement. [SEE DIV. 3.6]

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Group Home: A building used as a dwelling for a group of unrelated persons living together in a family living environment as a unit under the supervision of a local or state agency. Such facility includes the term "foster care home". The facility shall meet the physical, emotional and social needs of the persons in the home. [SEE SEC. 2.6.26]

Group Housing: Housing structures designed to meet the special needs (such as housing, health, and socialization) of certain segments of the population, such as youth, the elderly, or the developmentally disabled. Group housing refers to the following types of structures: Family Care Facilities, Group Care Facilities (Category I and Category II), Care Units, and Nursing Homes. [SEE SEC. 2.6.26]

Group Housing Unit: A room or rooms connected together, constituting a separate, independent housekeeping establishment and physically separated from any other rooms or group housing units, which may be in the same structure, with or without complete kitchen facilities, and containing sleeping facilities and sanitary facilities. A group housing unit is applicable to the following types of structures: Family Care Facilities, Group Care Facilities (Category I and Category II), Care Units, and Nursing Homes. [SEE SEC. 2.6.26]

Guest House or Cottage: An accessory dwelling unit which might or might not include cooking facilities, which is incorporated, attached to, or detached from a principal dwelling; and which is used exclusively for the non-commercial (non-rental) accommodation of friends or relatives of the occupant or owner of the principal dwelling. Guest houses or cottages are not permitted in development that is receiving an AHDB. [SEE SEC. 2.6.14 and 2.7.7]

Handler (Blasting): An individual who assists the User or blaster and who is approved by the User or blaster to handle but not to purchase, possess or detonate explosives. [SEE DIV. 3.4]

Health Department: The Collier County Health Department.

Hedge: A landscape barrier consisting of a continuous, dense planting of shrubs.

Height of a Building: See Building, Height of.

Highway: Any public thoroughfare (federal, state or local), the principal purpose of which is to afford primary access to the general area in which it is located. [SEE DIV. 3.2]

Historical/Archaeological Building, Property, Site, or Structure: Any building, property, site, or structure designated pursuant to Section 2.2.25. [SEE SEC. 2.2.25]

Historical/Archaeological District: Any district designated pursuant to Section 8 of this Ordinance and is a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or properties united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. [SEE SEC. 2.2.25]

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Historic/Archaeological Preservation Board: That advisory board appointed by the Board of County Commissioners having the authority, powers, and duties specified herein. [SEE SEC. 2.2.25 and DIV. 5.14]

Historic/Archaeological Resource: An individual specific location, real or personal property indigenous to Collier County, Florida, which contains information on local history or prehistory including, but not limited to, structures, monuments, memorials, native American Indian habitations and mounds, ceremonial sites, abandoned settlements, "lost" historic and prehistoric cemeteries, unmarked burials, artifacts, treasure trove, ships, their cargo, parts and fittings, and any other objects of antiquity relating to the history, prehistory, government or culture of Collier County, Florida. [SEE SEC. 2.2.25]

Historical and Archaeological Survey and Assessment: The Historic/Archaeological Survey and Assessment to be completed by a Certified Archaeologist according to guidelines established by Section Seven of this Ordinance. [SEE SEC. 2.2.25]

Home for the Aged: A facility for the care of the aged with routine nursing and/or medical care and supervision provided. A home for the aged is in the nature of a nursing home, but with clientele restricted to the aged. [SEE SEC. 2.6.26]

Home Occupation: An occupation conducted entirely in a dwelling unit in accordance with Sec. 2.6.20. [SEE SEC. 2.6.20]

Homeless Shelter: A type of facility which provides a living environment for people who lack a permanent residence, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

Horizontal Condominium Parcel: A condominium property, as defined in Sec. 718.103(11), Florida Statutes, as amended, which is subject to the exclusive operation and administration by a single condominium association; or a two dimensional condominium unit as defined in Sec. 718.103(23), Florida Statutes as amended, sometimes referred to as a land condominium; or any land comprising a "phase" as described in any original declaration of condominium, or an amendment thereto, as required by Sec. 718.403, Florida Statutes, as amended. [SEE DIV. 3.2 and Definition of Subdivision]

Horizontal Cooperative Parcel: A cooperative property, as defined in Sec. 719.103(11), Florida Statutes, as amended which is subject to the exclusive operation and administration by a single condominium association, or

A two dimensional cooperative unit as defined in Sec. 719.103(14), Florida Statutes, as amended, sometimes referred to as a land condominium, or

Any land comprising a "phase" as described in any original declaration of cooperative, or an amendment thereto, as required by Sec. 719.403 Florida Statutes, as amended. [SEE DIV. 3.2 and definition of Subdivision]

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Hospice: An institution designed to provide comfort and relief for the emotional and physical needs of the terminally ill.

Hospital: A building or group of buildings having facilities for over-night care of one or more human patients, providing services to in-patients and medical care to the sick and injured, or medical centers which offer primary and urgent care treatment for all types of injuries and traumas (such as the Marco Urgent Care and Golden Gate Urgent Care facilities), and which may include as related facilities laboratories, out-patient services, training facilities, central service facilities and staff facilities; provided, however, that any related facility shall be incidental and subordinate to principal hospital or medical center use and operation. A hospital is an institutional use under these zoning regulations.

Hotel: A facility offering transient lodging accommodations normally on a daily rate to the general public and typically providing accessory uses, such as: restaurants, meeting rooms and recreational facilities. Hotels are different from motels, in that each room does not have a separate entry directly from the outside of the building but rather entry is gained through the interior of the building through a lobby. For the purposes of calculating residential density each guest room shall be considered a dwelling unit.

Hotel or Motel Unit: A hotel or motel unit is a unit designed for transient occupancy and utilized for rental purposes only. A hotel or motel unit may have cooking or eating facilities. A hotel or motel unit shall contain bathing and sanitary facilities.

Household: The same as "Family." [SEE SEC. 2.7.7]

Household Income: The same as "Family Income." [SEE SEC. 2.7.7]

Hydraulic Elevator Shaft: A hole drilled beneath the earth surface to provide for the movement of hydraulic elevator rams. [SEE DIV. 3.6]

Hunting Cabin: A temporary structure or shelter used primarily during the hunting seasons, and which shall not be designed or intended to be used as a permanent residence or structure.

Impact Statement: A statement describing the affect of the proposed development upon the economic, social, environmental and physical resources of the County and the area proposed for development. [SEE DIV. 3.2]

Improvement Plans: All written detailed plans, technical specifications, engineering reports, design computations, construction plans and drawings, proposed plats, permit applications and other documents and items necessary to permit the proper and complete review and approval of a submission for the development of property. [SEE DIV. 3.2]

Industry or Industrial: A use for the purpose of basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use for the purpose of the storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive

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conditions; also a use for the purpose of the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Inspection Port: Any opening not less than three-quarters (3/4) inch in diameter through which unobstructed access to the inside of the casing can be obtained for measuring water levels. Inspection ports shall be threaded openings temporarily sealed with a removable watertight plug. [SEE DIV. 3.6]

Institution: An established organization or foundation, dedicated to public service.

Integrated Phased Development: A development plan which has established the following development criteria pursuant to Sec. 3.2.7.4:

- a. Identification of the initial subdivision phase and the balance of the proposed additional phases;
- b. Established density and intensity of the overall development and each individual proposed phase;
- c. Delineation of environmentally sensitive areas and provisions for their preservation or mitigation;
- d. Delineation of the extent of external buffering for the overall integrated development;
- e. Assurance of the provisions of adequate access and extension of infrastructure for the initial phase and to subsequent phases; and
- f. Assurance for the provision of adequate public facilities and services based upon the established density and intensity of the overall development in accordance with applicable Collier County ordinances.

[SEE DIV. 3.2]

Inundation: Water in motion or standing or ponded water of sufficient depth to damage property due to the mere presence of water or the deposit of silt or which may be a nuisance, hazard or health problem. [SEE DIV. 3.2]

Kenneling: An establishment licensed to operate a facility housing dogs, cats, or other household pets of the keeping of more than three (3) dogs, six (6) months or older, on premises used for residential purposes, or the keeping of more than two (2) dogs on property used for industrial or commercial security purposes.

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Land: The earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

Land Development Regulations or Land Development Code: Ordinances enacted by the Board of County Commissioners of Collier County pursuant to Sec. 163.3161 et. seq., Fla. Stat., for the regulation of development, and includes any zoning, subdivision, impact fee, building construction, or sign regulations, or any other regulations controlling the development of land, and where appropriate, this Code.

Landscape Architect: A person licensed to practice landscape architecture within the State of Florida.

Landscape Buffer: An area of land which is required to be set aside along the perimeter of a lot in which landscaping (existing, relocated or introduced) is used to provide a transition between, and to reduce the undesirable or incompatible impacts between differing land uses. [SEE DIV. 2.4]

Landscaping: Any combination of living plants and non-living landscape materials. [SEE DIV. 2.4]

Landscaping, Cultivated: Any landscaping that is installed, planted, sown, improved by labor, etc., and that is not naturally occurring. [SEE DIV. 2.4]

LBR: Limerock Bearing Ratio; test method for determining soilbearing values, as set forth in Section 6-5.4 of Florida D.O.T. Standard Specifications, latest published edition. [SEE DIV. 3.2]

Lease With Option to Purchase: Affordable housing in the form of an Affordable Housing Owner-Occupied Unit where all or part of lease or rental payments are contractually applied to the purchase price. In this regard, both the lease or rental payments and the ultimate purchase price of the unit shall meet the definition of affordable housing. However, the unit shall otherwise be treated the same as an Affordable Housing Owner-Occupied Unit. [SEE SEC. 2.7.7]

Legal Holiday: Includes New Year's Day, Martin Luther King Holiday, Presidents Day (Observed), Memorial Day (Observed), Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day.

Level day/night: A day/night 24 hour average sound level, in decibels, obtained after addition of 10 decibels to sound levels occurring during the night time period from 10 p.m. to 7 a.m.

Level of Service (LOS): An indicator of the extent or degree of service provided by, or proposed to be provided by a Public Facility based on and related to the operational characteristics of the Public Facility, as adopted in the Collier County Growth Management Plan. LOS shall indicate the capacity per unit of demand for each Public Facility. [SEE DIV. 3.15]

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Liner Pipe: A metallic or nonmetallic pipe which is installed either within the outer casing to improve, repair, or protect the outer casing or below the outer casing to seal off caving material which may be encountered in the open hole of the well. [SEE DIV. 3.6]

Loading Space, Off-Street: A space logically and conveniently located for pickups and/or deliveries or for loading and/or unloading, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. [DIV. 2.3]

Looting, pillaging, vandalizing, or desecration of historic and archaeological sites or properties: The unlawful examination, excavation, removal, disturbance or exportation of an historic or archaeological Site, structure, building, or property, artifact, human burials, human skeletal remains or associated burial artifacts, found upon or within any public or private land including submerged lands. [SEE SEC. 2.2.25]

LOS for Capital Drainage Facilities: Varies among 1) new or existing capital drainage facilities owned or operated by a local government or other public entity, 2) existing capital drainage facilities owned or operated by private persons, and 3) new capital drainage facilities owned or operated by private persons. For those capital drainage facilities (publicly or privately owned) that are in existence on the effective date of this ordinance and for those new capital drainage facilities owned or operated by a local government or other public entity, the LOS is the existing LOS to be identified (by design storm return frequency event) pursuant to the completion of the Collier County Water Management Master Plan. For new capital drainage facilities owned or operated by private persons, the LOS is identified in the Drainage Sub-element and Capital Improvement Element Policy 1.1.5.A.3 (present requirements are a 25-year, 3-day storm event) and is based on those standards and requirements for renewal and approval of drainage and stormwater management plans established in the Collier County Water Management Policy Ordinance, Ord. No. 74-50, as amended or succeeded, which is incorporated herein by reference. [SEE DIV. 3.15]

LOS for Capital Park Facilities: 2.9412 acres per 1,000 persons for regional park land; 1.2882 acres per/1,000 persons for community park land; and \$122 of capital investment per capita (at current cost) for recreational facilities. [SEE DIV. 3.15]

LOS for Capital Potable Water Facilities: Varies between public water systems and private water systems. For public water systems, the LOS is 135 gallons per capita per day (gpcd), plus 21% for non-residential development (except in the Marco Water and Sewer District), making the LOS 163 gpcd. The LOS in the Marco Water and Sewer District is 200 gpcd (with no 21% adjustment). For private potable water systems, the LOS is as follows, except that approved private wells are exempt from these LOS requirements:

<u>Type of Establishment</u>	<u>Gallons Per Day (GPD)</u>
Airports	
(a) per passenger	5
(b) add per employee	20
Barber and beauty shops (per chair)	100

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<u>Type of Establishment</u>	<u>Gallons Per Day (GPD)</u>
Bowling alleys (toilet wastes only per lane)	100
Country Club	
(a) per resident member	100
(b) per member present	25
(c) per employee	20
Dentist Offices	
(a) per wet chair	200
(b) per non-wet chair	50
Doctors offices (per doctor)	250
Factories, exclusive of industrial wastes (gallons per person per shift)	
(a) no showers provided	20
(b) showers provided	35
Food Service Operations	
(a) ordinary restaurant (per seat)	50
(b) 24 hour restaurant (per seat)	75
(c) single service articles only (per person)	25
(d) bar and cocktail lounge (per person)	30
(e) drive-in restaurant (per car space)	50
(f) carry out only	
1. per 100 square feet of floor space	50
2. add per employee	20
(g) Institutions (per meal)	5
Hotels and motels	
(a) regular (per room)	150
(b) resort hotels, camps, cottages (per person)	75
(c) add for establishments with self service laundry facilities (per machine)	400
Office building (per employee per 8 hour shift)	20
Service stations (per water Closet and per urinal)	250
Shopping centers without food or laundry (per square foot of floor space)	0.1
Stadiums, race tracks, ball parks (per seat)	5
Stores per square foot of floor space	0.1
Theaters	
(a) indoor, auditoriums (per seat)	5

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<u>Type of Establishment</u>	<u>Gallons Per Day (GPD)</u>
(b) outdoor, drive-ins (per space)	10
Trailer/Mobile Home Park (per trailer space)	200
Travel trailer/recreational vehicle park	
(a) Travel trailer (overnight), without water and sewer hookup (per trailer space)	75
(b) Travel trailer (overnight), with water and sewer hook-ups (per trailer space).	100
Swimming and bathing facilities, public (per person)	10
Churches (per seat)	3
Hospitals (per bed)	200
Nursing, rest homes (per bed)	100
Parks, public picnic	
(a) with toilets only (per person)	5
(b) with bathhouse, showers and toilets (per person)	10
Public institutions other than schools and hospitals (per person)	100
Schools (per student)	
(a) day-type	15
(b) add for showers	5
(c) add for cafeteria	5
(d) add for day school workers	15
(e) boarding-type	75
Work/Construction camps	
Semi-permanent (per worker)	50
Residences	
(a) Single or multiple family (per dwelling unit)	
1 bedroom and 600 square feet or less heated or cooled area	150
bedrooms and 601 - 1000 square feet heated or cooled area	300
3 bedrooms and 1001 - 2000 square feet heated or cooled area	450
4 or more bedrooms and more than 2000 square feet heated or cooled area	600
(b) Other (per occupant)	75

[SEE DIV. 3.15]


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LOS for Capital Road Facilities: On the Major Road Network System varies depending on the type of road, and is based on a defined peak season, peak hour. The LOS on the following County roads is LOS "E" peak season, peak hour:

Road	Segment
Airport Road	Pine Ridge Road to Golden Gate Parkway
Golden Gate Parkway	Airport Road to Santa Barbara Boulevard
Goodlette-Frank Road	Pine Ridge Road to Golden Gate Parkway
Goodlette-Frank Road	Golden Gate Parkway to U.S. 41
Pine Ridge Road	Airport Road to I-75.

On all other County roads on the Major Road Network System, the LOS is "D" peak season, peak hour; however such a County road segment may operate at LOS "E," peak season, peak hour, for a period not to exceed two (2) fiscal years so as to provide Collier County time to make the Capital Road Improvements needed to restore the road to LOS "D" peak season, peak hour, or better.

The LOS on State and Federal roads shall be as follows based on peak season, peak hour:

Road	Rural Area	Urbanized Area
I-75	C	D
U.S. 41	C	D
S.R. 84	D	D
S.R. 951	-	E
S.R. 29	C	-
S.R. 82	C	-

[SEE DIV. 3.15]

LOS for Capital Sanitary Sewer Facilities: Varies between public sanitary sewer systems and private sanitary sewer systems. The LOS for public sanitary sewer systems is 100 gallons per capita per day (gpcd), plus 21% for non-residential development, making the LOS 121 gpcd.

The LOS for private sanitary sewer systems is as required by the State of Florida in Chapter 10-D-6, F.A.C. These standards vary according to the type of land use. They are as follows, except that approved private septic systems are exempt from these LOS requirements:

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<u>Type of Establishment</u>	<u>Gallons Per Day (GPD)</u>
Airports	
(a) per passenger	5
(b) add per employee	20
Barber and beauty shops (per chair)	100
Bowling alleys (toilet wastes only per lane)	100
Country Club	
(a) per resident member	100
(b) per member present	25
(c) per employee	20
Dentist Offices	
(a) per wet chair	200
(b) per non-wet chair	50
Doctors offices (per doctor)	250
Factories, exclusive of industrial wastes (gallons per person per shift)	
(a) no showers provided	20
(b) showers provided	35
Food Service Operations	
(a) ordinary restaurant (per seat)	50
(b) 24 hour restaurant (per seat)	75
(c) single service articles only (per person)	25
(d) bar and cocktail lounge (per person)	30
(e) drive-in restaurant (per car space)	50
(f) carry out only	
1. per 100 square feet of floor space	50
2. add per employee	20
Hotels and motels	
(a) regular (per room)	100
(b) resort hotels, camps, cottages (per person)	75
(c) add for establishments with self service laundry facilities (per machine)	400
Office building (per worker)	20
Service stations (per bay)	500
Shopping centers without food or laundry (per square foot of floor space)	0.1
Stadiums, race tracks, ball parks (per seat)	5
Stores (without food service)	
(a) private toilets, for employees only (per employee)	20
(b) public toilets (per square foot of floor space)	0.1

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<u>Type of Establishment</u>	<u>Gallons Per Day (GPD)</u>
Theaters	
(a) indoor, auditoriums (per seat)	5
(b) outdoor, drive-ins (per space)	10
Trailer/Mobile Home Park (per trailer space)	200
Travel trailer/recreational vehicle park	
(a) Travel trailer (overnight), without water and sewer hookup (per trailer space)	50
(b) Travel trailer (overnight), with water and sewer hook-ups (per trailer space).	100
Swimming and bathing facilities, public (per person)	10
Churches (per seat)	3
Hospitals (per bed)	200
Nursing, rest homes (per person)	100
Parks, public picnic	
(a) with toilets only (per person)	5
(b) with bathhouse, showers and toilets (per person)	10
Public institutions other than schools and hospitals (per person)	100
Schools (per student)	
(a) day-type	15
(b) add for showers	5
(c) add for cafeteria	5
(d) add for day school workers	15
(e) boarding-type	75
Work/Construction camps	
Semi-permanent (per worker)	50
Residences	
(a) single family (per bedroom)	150
(b) apartment (per bedroom)	150
(c) mobile home not in a trailer park (per bedroom)	150
(d) other (per occupant)	75

[SEE DIV. 3.15]

LOS for Capital Solid Waste Facilities: Requires sufficient capital solid waste facilities to dispose of 1.55 tons of solid waste per capita per year. In addition, the LOS requires two (2) years of landfill lined cell disposal capacity at present fill rates and ten (10) years of landfill raw land capacity at present fill rates. [SEE DIV. 3.15]


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LOS "C" peak season, peak hour: Is in the range of stable flow, but marks the beginning of the range of flow in which the operation of individual users becomes significantly affected by interactions with others in the traffic stream. The selection of speed is affected by the presence of others, and maneuvering within the traffic stream requires substantial vigilance on the part of the user. The general level of comfort and convenience declines noticeably at this level. LOS "C" peak season, peak hour, is based on the thirtieth (30th) highest hourly traffic volumes during a calendar year for the various types of Roads defined by Special Report 209, "Highway Capacity Manual," Transportation Research Board, National Research Council, Washington, D.C., 1985, or subsequent revisions thereto. [SEE DIV. 3.15]

LOS "D" peak season, peak hour: Represents a high-density, but stable, flow. Speed and freedom to maneuver are severely restricted, and the driver or pedestrian experiences a generally poor level of comfort and convenience. Small increases in traffic flow will generally cause operational problems at this level. LOS "D" peak season, peak hour, is based on the thirtieth (30th) highest hourly traffic volumes during a calendar year for the various types of Roads defined by Special Report 209, "Highway Capacity Manual," Transportation Research Board, National Research Council, Washington, D.C., 1985, or subsequent revisions thereto. [SEE DIV. 3.15]

LOS "E" peak season, peak hour: Represents operating conditions at or near capacity. All speeds are significantly reduced. Freedom to maneuver is difficult. Comfort and convenience is extremely poor, and motorist frustration is generally high. LOS "E" peak season, peak hour, is based on the thirtieth (30th) highest hourly traffic volumes during a calendar year for the various types of Roads defined by Special Report 209, "Highway Capacity Manual," Transportation Research Board, National Research Council, Washington, D.C., 1985, or subsequent revisions thereto. [SEE DIV. 3.15]

Lot: See Lot of Record.

Lot, Corner: A lot located at the intersection of two or more streets. A lot abutting a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot Coverage:

Lot Frontage: The front of an interior lot is construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets are to be considered frontage, and yards shall be as set out in this Unified Land Development Code.

Lot, Interior: A lot other than a corner lot, with only one frontage on a street.

Lot Measurement, Depth: Depth of a lot is considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

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Lot Measurement. Width: Width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with the street line) and the rearmost points of the side lot lines in the rear, provided however, that the width between the side lines at their foremost points in the front shall not be less than eighty (80%) percent of the required lot width, except in the case of lots on the turning circle of a cul-de-sac when the 80% requirement shall not apply. The minimum lot width on a cul-de-sac shall be figured by drawing a straight line at the chord, then drawing a straight line parallel to it at the required setback line for that particular zoning district. That new established line shall meet the minimum lot width of that district.

Lot of Record: A lot of record is (1) a lot which is part of a subdivision recorded in the Public Records of Collier County, Florida; or (2) a lot, parcel, or the least fractional unit of land or water under common ownership which has limited fixed boundaries, described by metes and bounds or other specific legal description, the description of which has been so recorded in the Public Records of Collier County, Florida, on or before the effective date of this Land Development Code; or (3) a lot, parcel, or the least fractional unit of land or water under common ownership which has limited fixed boundaries, for which an agreement for deed was executed prior to October 14, 1974 if within the Coastal Area Planning District, and January 5, 1982 if presently within or previously within the Immokalee Area Planning District prior to May 1, 1979.

Lot of Record. Non-Conforming: See Non-Conforming Lot of Record.

Lot. Through: A lot other than a corner lot, with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Low Income: The total annual adjusted gross family income which is within the range from 51-80 percent, inclusive, of the median annual adjusted gross income as published annually by the U.S. Department of Housing and Urban Development, for households within the Naples Metropolitan Statistical Area (MSA). [SEE SEC. 2.7.7]

Low Profile Luminaire: Light fixture set on a base which raises the source of the light no higher than forty-eight (48) inches off the ground, and designed in such a way that light is directed downward from a hooded light source.

Major Recreational Equipment: Boats and boat trailers, travel trailer, pickup campers or coaches (designed to be mounted on motorized vehicles), motorized dwellings or motor homes over twenty (20) feet in length, tent trailers, popout campers, houseboats, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. [SEE SEC. 2.6.7]

Major Road Network System: All arterial and collector roads within the total unincorporated Collier County. The Major Road Network System is depicted in the Traffic Circulation Element of the Collier County Growth Management Plan. [SEE DIV. 3.15]

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Major Site Development Plan Review: A plan submission involving a two-step review process which requires the review and approval of a Preliminary SDP prior to the submission of a Final SDP. [SEE DIV. 3.3]

Mansard Roof: A roof that has two (2) slopes on all four sides, with the lower slope steeper than the upper. [SEE DIV. 2.5]

Manual on Uniform Traffic Control Devices: Latest edition of manual issued by the Florida Department of Transportation.

Map: A representation on a plane surface, at an established scale, of the physical features (natural, artificial or both) of a part or the whole of the earth's surface. A map may emphasize, generalize or omit the representation of certain features to satisfy specific requirements. [SEE DIV. 3.2]

Map of Areas of Historical/Archaeological Probability: The official map created by the Preservation Board and adopted by the Board of County Commissioners delineating areas and sites and potential areas and sites of historical/archaeological significance. [SEE SEC. 2.2.25]

Marina: A boating facility, chiefly for recreational boating, located on navigable water frontage, and providing all or any combination of the following: boat slips or dockage, dry boat storage, small boat hauling or launching facilities, marine fuel and lubricants, marine supplies, bait and fishing equipment, restaurants, boat and boat motor sales, and rentals. Minor boat, rigging and motor repair which is incidental to the principal marina use is generally allowed as an accessory use. However, no dredge, barge or other work-dockage or service is permitted, and no boat construction or reconstruction is permitted. A boat sales lot is not a marina.

Mariculture: The development of the resources of the sea, especially with reference to food.

Marquee: A roofing structure projecting over an entrance of a building.

Mean High Water Line: The intersection of the tidal plane of mean high water with the shore as established by the Florida Coastal Mapping Act of 1974, Chapter 74-56, Laws of Florida.

Metropolitan Statistical Area (MSA): As defined by the U.S. Census, one or more entire counties economically and socially integrated that have a large population center which meets the following criteria:

- a. One central city with 50,000 inhabitants or more; or
- b. A central city with a least 25,000 inhabitants provided:
- c. That the city's population taken together with that of contiguous places totals at least 50,000 inhabitants and constitutes for general economic and social purposes a single community; and

- d. That the county or counties in which these places are located have at least 75,000 inhabitants.

[SEE SEC. 2.7.7]

Minimum Descent Altitude (MDA): The lowest above mean sea level (AMSL) altitude to which descent is authorized on final approach or during circling-to-land maneuvering in execution of a Standard Instrument Approach Procedure (SIAP) where electronic glide slope is not provided.

Minimum Obstruction Clearance Altitude (MOCA): The lowest published altitude between radio fixes on Federal variable omni-directional range (VOR) airways, off-airways routes, or route segments that meets obstruction clearance requirements for the entire route segment and assures acceptable navigational signal coverage only within 22 miles of a VOR.

Minimum Vectoring Altitude (MVA): The lowest above mean sea level (AMSL) altitude at which aircraft operating on Instrument Flight Rules (IFR) will be vectored by a radar controller, except when otherwise authorized for radar approaches, departures or missed approaches.

Minor Site Development Plan Review: A plan submission involving a one-step review process. [SEE DIV. 3.3]

Mixed Use: A development made up of a combination of uses usually found in separate districts. Examples of mixed uses may include: two or more types of residential dwelling units; or combinations of residential, commercial, industrial or institutional land uses. All uses must be in conformance with the Future Land Use Element of the Growth Management Plan.

Mobile Home: A detached dwelling unit with all of the following characteristics: (a) designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; (b) designed for transportation after fabrication on streets or highways on its own wheels, and (c) arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connection to utilities and the like. A travel trailer is not to be considered as a mobile home.

The structure shall be transportable in one (1) or more sections and is certified to be in conformity with the Mobile Home Safety and Construction Standards of the United States Department of Housing and Urban Development, or its successors agency, and the standards of Sec. 320.823, Florida Statutes, as amended. Mobile homes are built on an integrated chassis and designed to be used as a dwelling unit when connected to County utilities. A mobile home includes the plumbing, heating, air-conditioning and electrical systems contained therein.

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Mobile Home Park: The premises where mobile homes are parked for nontransient living or sleeping purposes and where sites or lots are set aside or offered for lease or rent for use by mobile homes for living or sleeping purposes, including any land, building, structure, or facility used by occupants of mobile homes on such premises.

Mobile Home Site: A lot or parcel of ground within a mobile home park or subdivision, designated for the accommodation of not more than one mobile home.

Mobile Home Subdivision: The premises where mobile homes are parked for non-transient living or sleeping purposes and where lots are set aside or offered for sale for use by mobile homes for living or sleeping purposes in accordance with the Unified Land Development Code, including any land, building, structure, or facility used by occupants of mobile homes on such premises.

Model or Model Home: A structure used on a temporary basis exclusively for the demonstration and sale of dwellings or units within a development under construction. Models shall not be occupied as a dwelling unit and shall be governed by the requirements and restrictions set forth within Sec. 2.6.33, Temporary Use Permits. [SEE SEC. 2.6.33]

Model Sales Center: An area identified for the temporary use of models and/or model sales offices.

Model Sales Office: A structure used on a temporary basis for the demonstration and sale of dwellings or units which may or may not be within the development it is located. Model sales offices shall not be occupied as a dwelling unit. Commercial activities within the model sales office shall be restricted to sales, marketing, and administrative functions of the development in which it is located, or adjacent development under the same control. Model sales offices shall be governed by the requirements and restrictions set forth within Sec. 2.6.33, Temporary Use Permits. [SEE SEC. 2.6.33]

Moderate Income: The total annual adjusted gross household income which is within the range from 81-100 percent, inclusive of the median annual adjusted gross income, as published annually by the U.S. Department of Housing and Urban Development, for households within the Naples Metropolitan Statistical Area (MSA). [SEE SEC. 2.7.7]

Modular Home: A dwelling unit, constructed as a total entity or in parts of a total entity, which is constructed other than on the building site and which is then moved to and erected on the building site. A modular home must be constructed to meet the standards of all Collier County construction codes and to the standards set by the State of Florida for such construction. A mobile home is not to be considered a modular home unless its maker's name appears on the approved listing of such construction in the State of Florida. (This listing is available in the Collier County Building Department.)

Monitoring Well: A well used primarily to monitor hydrologic parameters such as water levels or water quality. [SEE DIV. 3.6]

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Motel (Motor Hotel, Motor Lodge, Tourist Court): A facility offering transient lodging accommodations normally on a daily basis and at a daily rate for automobile travelers and typically providing parking adjacent to each sleeping room. Accessory uses may be provided, such as: restaurants, meeting rooms and recreational facilities. Motels are different from hotels, in that each motel room has a separate entry directly from the outside of the building while hotel guests gain entry to their rooms through the interior of the building through a lobby. For the purposes of calculating residential density each guest room shall be considered a dwelling unit.

Motor Home: A vehicular unit which does not exceed the length and limitations provided in Sec. 316.515, Florida Statutes, is built on a self-propelled motor vehicle chassis, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.

Mulch: Non-living organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.

Multi-Family Housing: See Multiple-Family Dwelling.

Multiple Occupancy: A parcel of property, or parcel of contiguous properties, existing as a unified or coordinated project, with a building or buildings housing more than one occupant. [SEE DIV. 2.5]

N.G.V.D.: National Geodetic Vertical Datum - 1929, as established by N.O.A.A. which is adjusted and published from time to time. The most current adjustment shall apply with respect to this Code. [SEE DIV. 3.2]

National Register of Historic Places: The federal listing maintained by the U.S. Department of the Interior of buildings, sites, structures, properties and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966, as amended. [SEE SEC. 2.2.25]

Neat Cement Grout: Grout without addition of sand but may include bentonite (not to exceed 5 lbs per 94 lb sack of cement), calcium chloride (not to exceed 3 lbs per 94 lb sack of cement) or retarder (not to exceed 1 lb per 94 lb sack of cement), or other admixtures approved by the County to reduce permeability or shrinkage, increase fluidity, adjust slurry weight and/or control set time. Neat cement grout composition shall not exceed six (6) gallons of water per cubic foot of cement. [SEE DIV. 3.6]

Neighboring Property (Blasting): A property contiguous or near enough to the blasting site that it would be expected to receive vibrations in excess of allowable requirements set forth by this Code or otherwise be damaged due to effects from the blasting activities. [SEE DIV. 3.4]

Nesting Season (Sea Turtles): The sea turtle nesting period between May 1 and October 31. [SEE DIV. 3.10]

Nesting Zone (Sea Turtles): The region extending from the mean high tide mark to 100 feet landward of the beginning of the dune vegetation line. For beaches without dune vegetation, the nesting zone will extend 300 feet landward of mean high tide. [SEE DIV. 3.10]

Noise Reduction (NR): Reduction in sound level decibels between two designated locations or rooms for a stated frequency or band.

Noise Zones: Areas within specific airport Ldn noise contour lines in which land use should be limited to activities that are not noise sensitive, or where appropriate sound level reduction measures for construction or certain buildings may be required for land uses which are otherwise normally acceptable.

Non-Conforming Lot of Record: Any lawful lot or parcel which was recorded, or for which an agreement for deed was executed, prior to the effective date of this Code, and which lot or parcel does not meet the minimum width and lot area requirements as a result of the passage of this Code shall be considered as a legal non-conforming lot and shall be eligible for the issuance of a building permit provided all the other requirements of this Code and the Florida Statutes are met. This definition also includes any lot or parcel made non-conforming by a rezoning initiated by Collier County to implement the Zoning Reevaluation Ordinance 90-23 (1990).

Non-Precision Instrument Runway: A runway having an instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision instrument approach facilities are planned or indicated on an appropriate civil or military airport planning document.

Nonstandard Take-Off Minimums: Conditions of existing weather required for take-off at an airport which exceed the standards prescribed in Federal Aviation Regulations Part 91.

Nursery School: See Child Care Center.

Nursery, Plant: Any lot, structure or premises used as an enterprise for the purpose of growing or keeping of plants for sale or resale.

Nursing Home, Rest Home or Extended Care Facility: See Adult Congregate Living Facility (ACLF).

Observation Well: A well used primarily to observe the elevation of the water table or potentiometric surface or to determine water quality in the aquifer. [SEE DIV. 3.6]

Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations. It is a characteristic that retail or wholesale goods are not shown to or delivered from the premises to customers or delivered from the premises to a customer.

Office, Medical/Clinic: Office space utilized for administering human medical and health related services, including outpatient clinics incidental to such offices. Medical office uses shall include medical doctors, dentists, psychiatrists, optometrists, osteopaths, chiropractors, naturopaths, nurse practitioners, health maintenance organizations and similar professional and group practices, which are regulated by the State of Florida.

Open Space: Unoccupied space which is not used for buildings or structures and which is open to the sky. On improved lots, open space is the area between and around structures, including recreation areas.

Open Space, Common: Open space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development.

Open Space, Usable: Active or passive recreation areas such as playgrounds, golf courses, beach frontage, waterways, lagoons, flood plains, nature trails and other similar open spaces. Open space areas shall also include those areas set aside for preservation of native vegetation and landscape areas. Open water area beyond the perimeter of the site, street right-of-way except where dedicated or donated for public use, driveways, off street parking areas, and off street loading areas shall not be counted in determining usable open space.

Ordinary Repairs or maintenance: The work done to prevent deterioration, decay, or damage to a building or structure, or any part thereof, by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage. [SEE SEC. 2.2.25]

Owner of Record: The current title holder or owner as reflected on the current Collier County tax rolls. [SEE SEC. 2.2.25]

Package Store: A place where alcoholic beverages are dispensed or sold in containers for consumption off the premises.

Parcel or Parcel of land: A lot. [SEE SEC. 2.7.7]

Park Model Travel Trailer: A transportable unit which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface or the exterior stud walls at the level of maximum dimensions, not including any bay window does not exceed 480 square feet. [SEE SEC. 2.2.11]

Parking Area - Off-Street: An area for the temporary storage and parking of motor vehicles including the area required for adequate maneuvering space, access aisles, or drives thereto. [SEE DIV. 2.3]

Parking Space, Off-Street: A space adequate for parking an automotive vehicle with room for opening doors on both sides. [SEE DIV. 2.3]

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Parking, Stacked: The parking of motor vehicles in such a manner that parked vehicles may not have direct access to the public right-of-way or open and unobstructed internal access drives to and from the public right-of-way without moving one or more adjacent vehicles. [SEE DIV. 2.3]

Patio: An unroofed projection from the outside wall of a building, without any form of enclosure other than open mesh screening.

Person: An individual, corporation, governmental agency, business, estate, trust, partnership, firm, joint venture, syndicate, fiduciary, society, organization, association, two (2) or more persons having a joint or common interest, or any other entity, and its designated agents, successors or assigns.

Plat: A map depicting the division or subdivision of land into lots, blocks, parcels, tracts, or other portions thereof, however, the same may be designated, prepared in accordance with the provisions of this Code and those of any applicable law, which shall be recorded. [SEE DIV. 3.2]

Plat, Final Subdivision: A finished map of a subdivision accurately complying with all legal requirements of Chapter 177, Florida Statutes, as amended, and the requirements of this Code which shall be recorded. [SEE DIV. 3.2]

Plat of Record: A plat which conforms to the requirements of the applicable laws of the State of Florida and the County, which has been accepted by the Board of County Commissioners and placed in the official records of Collier County. [SEE DIV. 3.2]

Plat, Preliminary Subdivision: A preliminary map of a subdivision accurately showing all legal requirements of this Code. [SEE DIV. 3.2]

Pole Lighting: Light fixture set on a base or pole which raises the source of the light higher than forty-eight (48) inches off the ground.

Porch: A roofed-over space, with the roof impervious to weather, attached to the outside of an exterior wall of a building, which has no enclosure other than the exterior walls of such building. Open mesh screening with a roof impervious to weather shall not be considered an enclosure.

Potentially Deficient Road Segment: Either:

- a. A County or State road segment on the Major Road Network System whose adopted LOS standard is LOS "C" or LOS "D", peak season, peak hour, that is presently operating at its adopted LOS, or whose adopted LOS is LOS "D" peak season, peak hour, and has operated at LOS "E" peak season, peak hour, for two (2) years or less, based on the AUIR. A potentially deficient road segment which has an adopted LOS "D" peak season, peak hour, may operate at LOS "E", peak season, peak hour, for two (2) fiscal years before it shall become a deficient road segment; or
- b. A County or State road segment on the Major Road Network System whose adopted LOS standard is "E", peak season, peak hour, that is presently operating at LOS "E" peak

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season, peak hour, based on the AUIR. [SEE DIV. 3.15]

Precision Instrument Runway: A runway having an instrument approach procedure utilizing an Instrument Landing System (ILS), Microwave Landing System (MLS), or a Precision Approach Radar (PAR) including a runway for which such a system is planned and is so indicated on an approved civil or military airport layout plan; other FAA planning documents, or comparable military service planning documents.

Preliminary Site Development Plan: A set of proposed plans, together with narrative information and data that illustrates and describes how the proposed project addresses zoning, planning and site design considerations. [SEE DIV. 3.3]

Preliminary survey: A field check within a project's boundaries to evaluate the area for potential historical/archaeological sites, buildings, structures, properties, and districts. [SEE SEC. 2.2.25]

Preserve Area: A parcel containing an archeological site, or native habitat, either wetland or upland or threatened or endangered species, which shall be preserved in its natural state in perpetuity, with no alteration, save the removal of exotics. [SEE DIV. 3.2]

Preserve Setback: The difference measured from the boundary of a conservation easement or platted preserve tract in which no principal structure may be constructed. [SEE DIV. 3.2]

Principal Use: The primary use existing or permitted upon a parcel of land. [SEE DIV. 2.5]

Private Club: See Club, Private.

Private Water System Wells: A source of water for human consumption and other domestic purposes used only by single family residences, duplexes and multiple family units of four (4) or less. [SEE DIV. 3.6]

Production Well: A water well but specifically excludes a test hole, an observation well or a monitoring well. [SEE DIV. 3.6]

Property: A lot.

Property Owners' Association: An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants for maintenance and ownership agreements through which each owner of a portion of a subdivision, be it a lot, property or any other interest, is automatically a member as a condition of ownership, and each such member is subject to charge or assessment for a pro-rated share of expenses of the association which may become a lien against the lot, property or other interest of the member. As used within this code, the term "Property Owners Association" includes a "community association" as defined in Sec. 468.431(1), Florida Statutes (1989), as amended, as well as any other organization or association which would fall within the statutory definition of "community association" but for the fact that what the property operates or serves is not residential. [SEE DIV. 3.2]

Protected Vegetation: Any living, woody plant (trees, shrubs and groundcovers). [SEE DIV. 3.7 through 3.14]

Public Facilities: Capital drainage facilities, capital park facilities; capital potable water facilities, capital road facilities, capital sanitary sewer facilities, and capital solid waste facilities. [SEE DIV. 3.15]

Public Resource: Land, air, water and wildlife which is part of the public domain or which is within the realm embracing inherent rights that belong to the community at large and in which the community shares the rights and benefits of such resources.

Public Utility: Any facility for rendering electrical, gas, communications, transportation, water supply, sewage disposal, drainage, garbage or refuse disposal, fire protection service, cable television, or the like to the general public. [SEE DIV. 3.2]

Public Water Supply Well: A well constructed for the purpose of supplying water to a public water system. [SEE DIV. 3.6]

Public Water System: A system for the provision to the public of piped water for human consumption, if such a system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. [SEE DIV. 3.6]

Reconstruct: The physical rebuilding of a portion of a building or structure. [SEE SEC. 2.2.25]

Record Improvement Plans: Plans revised and corrected during or after project construction to display as-built conditions, revision or changes to the approved plans which occurred during the construction period, and all final constructed conditions, elevations, grades, slopes, and the like for the improvements constructed. [SEE DIV. 3.2]

Recycling: The recovery of useful materials from the waste stream and reintroduction of such materials into the production stream via a three stage process consisting of 1) reclaiming materials; 2) processing reclaimed materials; and 3) manufacturing products using reclaimed and processed materials.

Relocate a Building or Structure: The physical moving of a building or structure from one geographic site to another. [SEE SEC. 2.2.25]

Removal of Exotic Vegetation: The physical killing or destruction of Exotic Vegetation this may include approved herbiciding with the dead vegetation remaining in place. [SEE DIV. 3.7 through 3.14]

Research Laboratory: A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

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